

# American College of Trial Lawyers

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SUMMER BULLETIN

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## Human Rights In Britain: A European View

**If there is a system for the administration of justice which is recognizably superior to yours, you are under a clear obligation to embrace it, says Honorary Fellow LORD JUSTICE TASKER WATKINS, V.C.**

It was unthinkable 25 years ago that any British Judge would have contemplated addressing the subject of human rights in Britain. It had not occurred to anyone except possibly a few who felt hard done by or the small band of activists who wished to see another Bill of Rights on the Statute Book that anyone in Britain was denied a human right so as to give him a legitimate grievance of a denial of justice. "Trust the Judges," was the cry, and always has been the cry, and generally speaking it would appear the Judges are trusted.

But suddenly there crept upon us in the United Kingdom an extra territorial Court which dealt exclusively in human rights and to whose decisions we rather slowly began to appreciate we had to pay heed. Gradually it dawned upon us that an alien Court was at work to which our fellow countrymen were learning to resort more and more to establish what they contended was a denial to them of a human right.

The concept of human rights is not new, still less is the idea that it should be embodied in a single statement of general principle. Those of us brought up in the tradition of the common law think at once of the Magna Carta of 1215 and the Bill of Rights of 1689. In the United States you have that which Britain does not, the written Constitution, which includes statements of minimum rights against which the individual and the Courts contest the acts of your governments and other legislatures.

It is not surprising that the aims and principles to which all of us aspire should somewhere or other be expressed in a kind of declaration. 210 years ago the descendants of your forbearers in Europe were contemplating following a path which you then embarked upon. Although we have often followed in your footsteps, we are as yet far from contemplating taking part in the creation of a United States of Europe modeled upon your design in the United States of America. Nevertheless the history of Europe this century has given us all reason to question the part which nationalism and unqualified national self-interest have played in the affairs of men. Two world wars and untold suffering have recast the map of Europe and have caused Europeans to consider, not so much how disputes between states might be regulated, but rather how on the one hand those states might work together to their mutual benefit, and, on the other, how the rights of their peoples

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# American College of Trial Lawyers BULLETIN

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1895—1982

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might be better safeguarded from the wicked violations of them. It was this as much as anything which brought about the origins of the second World War. The anxieties to be rid of so much injustice led in the years following 1945 to the establishment of two separate and entirely different institutions, the European Economic Community or E.E.C., and the Council of Europe.

The E.E.C. as its name suggests is essentially concerned with economics, and is devoted to promoting the economic interests of its members. It was established by the Treaty of Rome. Originally only six countries belonged to it and gradually it expanded. Britain joined it, not without much pain, not without much thought. What has happened since that time is that our economic affairs have become more and more intertwined and governed by the Articles of the Treaty of Rome which are enforced by the Court at Luxembourg. That Court has been in existence for a very considerable time and it deals with infringements of the laws of the economic community. Courts all over the community are supposed, when a point of law arises which appears to conflict with some article or another in the Treaty or with some provision which is the result of deliberation of the Joint Committee of Ministers, to refer the point to the Court at Luxembourg before its resolution by the Domestic Court.

In Western Europe it was decided after 1945, in accordance with the Charter with the United Nations, that there should be a Convention and a document was drawn up called the European Convention of Human Rights. In 1953 Britain subscribed to that Convention. This was not a matter which was ever put to a referendum. It was not even a matter which was debated in Parliament, either in the House of Commons or in the House of Lords. It was a matter determined as an executive decision by the government of the day. The then Lord Chancellor was extremely disenchanted with the Cabinet which was contemplating signing the Treaty which would have brought us into this Convention. The Chancellor said we were not prepared to encourage our European friends to jeopardize our whole system of law which we laboriously built up over the centuries in favor of some half-baked scheme to be administered by some unknown Court. That was the frosty and hostile welcome which this Convention had at the highest point of Britain's Judiciary at that time. Nonetheless, it was decided that Britain should sign this Treaty and become subject to the Convention of Human Rights.

Britain's Parliament has never had the opportunity of debating whether or not we should subject ourselves to the authority of this Court which sits in Strasbourg. By now almost the whole of Europe has signed the Convention. 400 million people are subject to the decisions of this Court. The rights have been declared by the Convention. The right of life. The right to liberty and security of persons. The right to fair administration of justice. The right to marry and found a family. The right to leave a country, including one's own, and to enter. Those and many other rights found expression in this Convention. But it has to be said that the notion of looking at a Convention and turning that into a decision of a Court was novel to us and remains a novelty. We are most used to construing a statute, you your Constitution. We have no written constitution to construe, nevertheless we proceed to judicial decision bound by legal precedent or by the construction we put upon an act of Parliament. But this Court at Strasbourg comes to a decision more as a matter of policy than out of a construction of a point of law, and this approach is, of course, fundamental. It divides us. It makes us extremely suspicious of this new authority and we are not minded to welcome it with open arms.

This Court has a Commission, the Commission of Human Rights, which is a kind of filter. If a man or woman in any one of the constituent states feels that human rights have been denied, he or she is able to apply to the Commission for a hearing and ultimately to the Court of Human Rights in Strasbourg. If the Commission finds that the complaint is justifiable then it gives

leave for a hearing to take place before the Court, unless the country from which the subject emanates and the subject himself come to an accord, come, in the expression of the Convention, to a friendly settlement. There have been settlements; not all of them have been friendly. After all, when a person is declared by the Commission to have been denied a human right and the state has to pay him a large sum of money to buy him off, so to speak, friendly settlement is hardly the expression one would use about that kind of settlement.

When the applicant has passed the first post of the Commission, he gets a hearing if there is no settlement and then the lawyers assemble. There's legal aid available, taken out of the funds of the Council of Europe given for the purpose of this process. The Attorney General or Solicitor General of Britain goes to Europe to represent the state and that happens in other states of Europe, of course, and lawyers from all these countries attend. The Judges are not, so far as one knows, judicial figures or have not been judicial figures in their own country. In the case of Britain, no Judge has ever gone from the Bench to serve upon the Court at Strasbourg. That doesn't mean to say that it ill reflects upon the person Britain has there who once was the legal advisor to our Foreign Office. Nonetheless it is questionable whether there is true judicial calibre upon the Court in Strasbourg.

Generally speaking countries regard the very act of signing the Treaty as an obligation upon them to enforce in their own country the decision of the Court at Strasbourg, but enforcing the decisions of this Court has been a difficulty.

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### **"THIS COURT AT STRASBURG COMES TO A DECISION MORE AS A MATTER OF POLICY THAN OUT OF A CONSTRUCTION OF A POINT OF LAW."**

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Some examples of what has happened in the field of human rights as a consequence of the people of Great Britain applying to this Court for redress are as follows. In the early 1960's a large company called Distillers put the drug Thalidomide upon the market. It was prescribed for expectant mothers, a number of whom gave birth afterwards to children with very severe deformities. It was devastating for the parents and eventually actions were started against this company for damages. While those actions were still pending, the Sunday Times newspaper took it upon itself to publish articles, not only upon the history of the drug, but also of expressions of opinion of the parents, of experts, and so on. If the articles had been allowed to go on, one might very well have had the spectacle in Britain of trial by newspaper, and trial by television, something which we

resolutely set our faces against. Consequently the Distillers company sought an injunction from the Court and got it. It went to the Court of Appeal presided over by Lord Denning. The Times newspaper succeeded there. They then proceeded to the House of Lords which overruled the Court of Appeal, saying in effect that what was likely to happen was that the trial of the issues of the great civil actions over this drug Thalidomide would be severely prejudiced if the Times newspaper was permitted to go on publishing the articles which were, of course, already in writing and available for publication. The Times paper went off to Strasbourg and that Court eventually came to the conclusion that Britain was in breach of one of the fundamental freedoms. In this case, it was the freedom to express publicly a grievance and that overrode the necessity to avoid trial by newspaper or by television in the public interest. The result was that not only did the Sunday Times have the declaration they sought from that Court, but they were also awarded their costs. The effect was that for the first time in history, Britain's House of Lords had been overruled. So far as was known only almighty God had reserved that privilege to Himself previously.

In 1975 trade unions were able, because they were so powerful and the law did not deny them that power, to keep out of work in any industry anyone who did not belong to a trade union. British Rail, which is the equivalent of Amtrak, had three employees named Young, James and Webster. Each one of these men refused to join a trade union for various reasons. One had no religious attitude to adopt in respect of it. One was steadily independent and said he would choose to associate with whom he pleased and when he pleased. Another didn't like the fact that the funds of the union were used to support one political party and not another. These men tried to get relief in Britain's Courts and there was none for them there, so they went to Europe and they argued the matter past the Commission into the Court. The Court there declared that although it was necessary in a democratic society for the law of the land to be obeyed, the balance of public interest came down in favor of these men being compensated for their loss of employment as a result of not being able to work because of trade union hostility. What happened was Mr. Young obtained over 46,000 pounds compensation, Mr. James 18,000, and Mr. Webster 10,000. That was a very considerable achievement as a challenge to the all pervading power of the trade unions.

Then Great Britain had seven prisoners from various prisons who went to Europe complaining that their correspondence was subject to interference by prison governors and, in some instances, by the Home Secretary himself. The Court in Europe decided that it was wrong of prison governors to interfere as they did to such an extent with the correspondence of prisoners and accordingly they declared against it. Britain was also the subject of inquiry, at this Court, over telephone tapping. An antique dealer had been charged with handling stolen goods. He was acquitted, and somehow or other he discovered that his telephone had been tapped by the

police in the course of inquiries. He thought this was a gross intrusion upon his privacy and he went to the Court in England and asked for a declaration; none was forthcoming. Therefore he went to Europe and that Court found that the interference was not in accordance with the just law and was directly in breach of one of the fundamental freedoms under the Convention. Consequently Britain had to pass amending legislation to deal with the problem of telephone tapings.

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**“THE HISTORY OF EUROPE THIS CENTURY HAS GIVEN US ALL REASON TO QUESTION THE PART WHICH NATIONALISM . . . HAS PLAYED IN THE AFFAIRS OF MEN.”**

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One example of the cases which have gone from Britain to this Court is a pending one of very consuming importance. The rate at which appeals are coming into the Court of Appeal in England is increasing by ten to fourteen percent annually. These appeals are either against conviction or sentence. The United States does not have appeals against sentence, but Britain does, and in very substantial numbers. In order to keep some kind of control over the number of people tempted to appeal against their sentences, Britain has by regulation brought into being a process whereby we are able, during the course of what we call a frivolous application for leave to appeal, to declare that an applicant shall lose anything up to 56 days of remission for good conduct in prison. In that way we have been able to eliminate from the ultimate successful applications a very large number of frivolous applications and to keep in balance this very substantial body of our criminal jurisprudence. What is happening now, however, is that two men, two applicants, each of whom had their applications refused and each of whom were the recipients of loss of time, have gone to Europe and the Commission has said that they have a justifiable claim. There was no possibility of a friendly settlement, so the Court in Strasburg is presently about to deliberate the right for which these two applicants now claim they have been denied.

This case is of fundamental importance to us. If we do not keep in check, by the application of the award of loss of time, the spiral in applications to the Court of Appeal, their numbers will go up within six months by a hundred percent. Instead of having 8,500 appeals against sentence a year, we shall have something like 16,000. The burden of that upon our Courts would be absolutely intolerable, indeed, we could not bear it. And so we await with very considerable interest and some anxiety what is likely to happen in this European Court in the very near future. If the decision goes against us, then we shall need to go to Parliament and ask for legislation to do by statute that which by regulation we

now, in the interest of common justice, think is right.

Lastly there is an example which demonstrates that this European Court will accept anybody, prince and pauper. There are two forms of land tenure in Britain, freehold and leasehold. The sixth Duke of Westminster is reputedly the richest man in England. His fortune is derived in part from extensive property interests in Central London known as Belgravia. He owns The American Embassy. For many years it was a scandal that leaseholders, as their leases were running out, had no opportunity to buy their freehold unless the landlord voluntarily agreed. There was no compulsion by law upon the landlord to sell his freehold. By the Leasehold Reform Act of 1967 that right was given to leaseholders subject to certain safeguards for landlords. Between April 1979 and November 1983 the tenants of some 80 leasehold properties on the Westminster family's estate exercised their right to acquire such freeholds. The result was that the Duke was inundated with applications to sell the freeholds. The Duke could see what was about to happen. The greatly enhanced value of properties in London would enable the new freeholder to sell at a tremendous profit his flat or his house in Central London. The Duke didn't like that. He could get no relief at home, so he went to Europe. As was stated, prince and pauper alike, this Court is not in the least concerned who comes before it. But on this occasion the prince departed with his tail between his legs. The Court in Strasburg decided there would be no breach of a human right if a leaseholder under our Leasehold Reform Act demanded his freehold from the Duke of Westminster.

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**“NO ONE SHOULD BE SO ARROGANT AS TO ASSUME THAT THEY HAVE A PERFECT SYSTEM FOR THE ADMINISTRATION OF JUSTICE.”**

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That is how it stands in Europe now, but what of the future? Is this law of Europe to become part of British domestic law? A bill was introduced into Parliament a short time ago in order to bring that about. It was introduced unusually into the House of Lords. (Most of Britain's legislation is initiated in the House of Commons.) It was spoken to eloquently. It was seconded. But there are arch opponents of this Court in Europe. One has said that the Convention was framed in the words of the Treaty, vague and indefinite. European Courts, he said, including that in Strasburg, decide not by the words, but by what they think is the underlying policy. He went on to tell a story about a Moslem school teacher under the London Educational Authority who claimed under the Convention the freedom to manifest his religion as he thought best. The teacher

wanted to have Fridays off to go the Mosque because it took an hour to get to the Mosque and an hour to get back. The Convention's opponent went on to say that Britain will have a myriad of such cases should the Convention become part of English law.

This is one great debate, but only one, springing forth from this European Court. Taking part in this debate are several of Britain's very distinguished lawyers and jurists. There could hardly be a sharper divergence of opinion in the House of Lords regarding this Court. It cannot be forecast what will happen, but this must be said. No one should be so arrogant as to assume that they have a perfect system for the administration of jus-

tice. If there is something in another land which is recognizably superior to yours, and which more amply protects the freedoms of your people, then you are under a clear obligation to embrace it. Whether or not Britain is right and other countries are right to go on embracing this Convention is a debate which still rages.

*(These are excerpts from remarks delivered at the 1986 Spring Meeting by The Right Honorable Lord Justice Tassker Watkins, V.C., who was inducted into Honorary Fellowship in 1985 at the Annual Meeting in London. Senior Presiding Judge for England and Wales and Lord Justice of Appeal since 1980, Lord Justice Watkins is also a celebrated war hero having been awarded the Victoria Cross in 1944.)*

## Calendar of Events

### Special Meetings

- **June 11:** Georgia Fellows' Dinner; Savannah, Georgia
- **June 12:** Utah Fellows' Meeting; Salt Lake City, Utah
- **June 18:** Tennessee Fellows' Dinner; Nashville, Tennessee
- **June 20:** Florida Fellows' Annual Dinner; Orlando, Florida
- **June 20:** North Carolina Fellows' Social Meeting; Myrtle Beach, South Carolina
- **June 20-22:** New England, Atlantic Provinces, Quebec Fellows' Meeting; Cromwell, Connecticut
- **June 22-25:** Northwest Regional Meeting; Port Ludlow, Washington
- **June 27:** Northern California Fellows' Black Tie Dinner/Dance; San Francisco, California
- **July 4:** Utah Fellows' Breakfast; Sun Valley, Idaho
- **July 18-20:** Iowa, Minnesota, Nebraska, North Dakota, South Dakota Regional Meeting; Lake Okoboji, Iowa
- **Aug. 7-14:** ABA Annual Meeting; New York, New York
- **Aug. 9:** Annual Meeting and Banquet; New York, New York
- **Sept. 4-7:** Rocky Mountain States Regional Meeting; Kansas City, Missouri
- **Sept 5:** Illinois Fellows' Meeting; Skokie, Illinois
- **Sept. 10-11:** Wisconsin Fellows' Annual Fall Meeting; Stevens Point, Wisconsin
- **Sept. 17:** Michigan Fellows' Dinner; Detroit, Michigan
- **Oct. 1-3:** Eastern States/Provinces Chairmen's Workshop; White Sulphur Springs, West Virginia
- **Oct. 9-12:** Tri-State Regional Meeting; Ponte Vedra Beach, Florida
- **Oct. 15-19:** Southwest Regional Meeting; Laguna Niguel, California
- **Oct. 29 - Nov. 2:** Western States/Provinces Chairmen's Workshop; Napa, California

- **Nov. 15:** Delaware Fellows' Dinner; Wilmington, Delaware
- **Nov. 20-23:** Board of Regents Meeting; Williamsburg, Virginia
- **Dec. 5:** Mississippi Fellows' Dinner; Jackson, Mississippi
- **Dec. 6:** Louisiana Fellows' Annual Dinner; New Orleans, Louisiana

### Spring & Annual Meetings

#### 1986

- **August 9:** Annual Meeting and Banquet; New York, New York

#### 1987

- **March 8-11:** Spring Meeting; Boca Raton, Florida
- **August 8:** Annual Meeting and Banquet; San Francisco, California

#### 1988

- **March 6-9:** Spring Meeting; Marriott's Desert Springs Resort & Spa; Palm Desert, California
- **August 6:** Annual Meeting and Banquet; Toronto, Ontario

# College News

## REPORT ON SPRING MEETING

The 1986 Spring Meeting of the College at the Hotel del Coronado in Coronado, California was an early sell-out and proved to be a professionally informative and socially gratifying experience for all who attended.

Immediately preceeding the Spring Meeting, the Board of Regents met in Laguna Niguel at the Ritz-Carlton Hotel. With the guidance of President Griffin Bell, the Board handled the business of the College, which included the approval of 218 new State and Province nominations for Fellowship and the reports of the various committees of the College. During Board week, the spouses were treated to an art presentation by Faye Hanger, which was very well received.

In Coronado more than 1000 attendees greeted such distinguished guests as Lord Justice Tasker Watkins, V.C. and Lady Eirwen Watkins. Lord Justice Watkins was inducted into the College as an Honorary Fellow last summer at the Annual Banquet in London and addressed the College during the Spring Meeting on the issue of "Human Rights in Britain: A European View." Eugene C. Thomas, President-Elect of the ABA, and Robert Wells, Q.C., President of the Canadian Bar Association, generously gave of their time to attend the Meeting and address the Fellows.

Arnold I. Burns, Associate Attorney General of the United States, reported on behalf of Attorney General Edwin Meese, III. Mr. Burns spoke about the progress the Justice Department has made with respect to the goals Attorney General Meese had presented at our 1985 Spring Meeting.

The Meeting's Professional Seminars covered such topics as "RICO-The Lawyers' Full Employment Act of the 80's," (Moderated by Fellow Harvey M. Silets with panelists Professor G. Robert Blakey from Notre Dame Law School and Barry Tarlow, Esquire, of Los Angeles); "SDI

- Star Wars: An Overview", presented by Norman Ralph Augustine, President and Chief Operating Officer of the Martin Marietta Corporation; "Complex Litigation in the Mass Tort Field: What Have We Learned and What Do We Foresee for the Future?" (Moderated by David R. Gross, FACTL, with panelists Sheila L. Birnbaum from the New York firm of Skadden, Arps, Slate, Meagher & Flom; Kenneth R. Feinberg of the Kaye, Scholer, Fierman, Hays & Handler firm, also of New York; Professor Francis McGovern of the University of Alabama in Birmingham; Hon. Jack B. Weinstein, Chief Judge, United States District Court, Eastern District of New York; and Lively M. Wilson, FACTL, from Louisville, Kentucky); and "Challenge to American Foreign Policy to the End of the Century" presented by The Honorable Lawrence S. Eagleburger, President of Kissinger Associates of New York.

Presentations were made of the winning teams of the National Moot Court Competition and National Trial Competition. The 1985 Samuel E. Gates Memorial Award was given to Professor Daniel J. Meador of the University of Virginia.

The final day of the Meeting saw Past President Leon Silverman present 63 Inductees for induction as Fellows of the College. Henry H. McVey, III, from Richmond, Virginia, responded on behalf of his induction class.

This 36th Spring Meeting of the American College of Trial Lawyers proved not only to be enjoyable, but also emphasized the fact that the College is growing and meeting attendance has kept pace with this growth. Because of the overwhelming registration response and space limitations, not all who wanted to attend this meeting were able to do so. For future meetings of the College it is suggested that early response to registration will help assure your reservation.

## PREVIEW OF THE 1986 ANNUAL MEETING

Plan now to attend the Annual Meeting and Banquet which are scheduled for Saturday, August 9 at The Waldorf=Astoria, New York, New York. There will be a Reception for new Inductees, State and Province Chairmen, the Board of Regents and Past Presidents commencing at 12:00 Noon in the Palm Room followed by a Luncheon at 1:00 p.m. on the Starlight Roof. The spouses of the Board of Regents and Past Presidents will greet the spouses of the Inductees at a 12:00 Noon Reception and Luncheon in the John Jacob Astor Salon.

The evening's formal attire events will commence at 7:00 p.m. with a Reception for all Fellows and guests followed by Dinner at 8:00 p.m. in the Grand Ballroom. After dinner, Peter Duchin and his Orchestra will provide music for dancing, while those who like to sing can stop by the Sing-Along Piano Bar.

Meeting registration forms have been mailed to all Fellows and should be returned promptly. ABA hotel registration forms have previously been mailed by the ABA. The hotel registration form should be mailed directly to the ABA, and replacement forms can be obtained through them.

## CANADIAN FELLOW HONORED IN BERLIN

Canadian Fellow Claude R. Thomson, Q.C. of Toronto, Ontario received the distinguished World Lawyer Award at the 1985 World Law ceremonies in Berlin. Mr. Thomson who is the Immediate Past President of the Canadian Bar Association, addressed jurists, government officials, and lawyers from more than 85 countries at the opening event of the World Conference on World Law held biennially in different countries.

Starting in 1977 in Madrid, the World Center on Peace Through Law, which sponsors the World Con-

**IN MEMORIAM  
FRANK G. RAICHLE**



**(1898-1986)**

How is it possible in a few sentences to do honor or justice or begin to touch on the greatness of our friend, Frank Raichle.

His remarkable life began in the age of McKinley and lasted into the days of Ronald Reagan. In his youth, when he boxed under the improbable name of Kid Gavilan, he was headed for a career in the Army, having gained an appointment to West Point. However, a chance attendance at a murder trial started him on a career in the law. He was educated in Buffalo, New York and came to the Bar in 1920. He was a teacher, a prosecutor and a renowned trial lawyer, whose practice ran from anti-trust cases to the defense of some of the important criminal cases of our time. He represented unions, professional sports teams, newspapers, alleged Mafioso, the indigent, and the affluent. He was properly recognized as a leader of the American trial bar when in 1967, after serving as Regent for the State of New York, he was elected President of the American College of Trial Lawyers.

In 1938 when Buffalo was plagued by scandal, corruption, bribery, and assorted venality, then Governor Lehman of New York called on Frank Raichle, who was named Special Assistant District Attorney for Erie County. His efforts as an advocate led to the indictment of over half a hundred persons and many corporations. Thirteen municipal malefactors, including the mayor and top police officers of Buffalo, were convicted and served prison terms. Twenty years later his fame and pre-eminent position as a trial lawyer caused Chief Justice Earl Warren to name him to a special committee to establish uniform rules of evidence for the Federal Courts.

There are few trial lawyers, if any, who begin to match the breadth of his wide ranging trial experience. No specialist in any one branch, he tried civil and criminal cases from New York to California, in police courts, jury trials, commissions, before appellate tribunals, including the Supreme Court of the United States. Twice he defended with brilliance an unpopular political defendant and ultimately secured a proper acquittal against a determined prosecutor intent upon a conviction. He was at home in bankruptcy proceedings as well as corporate matters. But first, foremost, and always, he was the consummate trial lawyer. He was a devastating and witty cross-examiner. When he summed up a case, the word would go around the court house and there was standing room only in the court room to hear him speak.

His personal life with his beloved and outspoken Gladys, his Boston-bred wife of 53 years, was happy and brought to each of them great fulfillment and a devoted circle of friends. Gladys was a low handicap golfer and Frank was heard to remark that her ability to drive a ball twice as far as he could was very bad for family discipline.

His candor and integrity were as legendary as his wit. A law school dean met him at a Bar meeting and told him that he was the greatest lawyer there was and the dean would be pleased to have any suggestions from Frank as to how the dean might improve the quality of legal education at his school. Frank thought about it for a minute, looked at him with that mischievous grin, and said, "There is one solution. Close the school."

He was a great raconteur and told stories about his trials and his life in and out of court, about his partner Bill Donovan, his client Roy Cohn, and his views of people and places and all matter of things.

What we will always carry in our memories of Frank is the manner in which he rejoiced in life, in his partners, his colleagues at the Bar and his friends across the country who loved him. He brought total integrity, great humor, and wise counsel to every situation no matter how difficult. He was a renowned, noble courtroom warrior who, in Kipling's words, knew that it was a lawyer's life to meet with triumph and disaster and to treat those two imposters just the same.

Frank Raichle was a leader of the American trial bar, a great friend, a kind and gentle man, who brought honor and distinction to the profession he loved, and to us, his friends. We shall not see his like again.

ferences, has recognized one individual annually with its World Lawyer Award. Chairman of the 1985 ceremonies was ACTL Past President Bernard G. Segal of Philadelphia, Pennsylvania.

## IN MEMORIAM

The College regrets the passing of two of its distinguished Honorary Fellows, the Rt. Hon. Lord Kenneth Diplock and Associate Justice Potter Stewart, who were both elected to Honorary Fellowship in 1963.

### RT. HON. LORD KENNETH DIPLOCK, 1907-1985

Lord Diplock died Monday, October 14, 1985 at 78 years of age. He was born in 1907 and was educated at Whitgift University in Oxford. He became a Barrister at Middle Temple in 1932 and was elevated to the Bench in 1956. He served his country during World War II from 1939 to 1945, the majority of his service being in the Royal Air Force. The College was fortunate to have Lord Diplock as one of its guests of honor at the 1985 Annual Meeting in London.

### ASSOCIATE JUSTICE POTTER STEWART, 1915-1985

Justice Potter Stewart died December 7, 1985 at the age of 70. He served as an Associate Justice of the Supreme Court of the United States from 1958 to 1981, when he retired. He was educated at Hotchkiss School in Lakeville, Connecticut and obtained his law degree from Yale Law School. This was followed by a one year Fellowship to Cambridge. He was a partner in the firm of Dinsmore, Shohl, Sawyer & Dinsmore of Cincinnati, Ohio before being named in 1954 as a Judge for the United States Court of Appeals for the 6th Circuit. He held this post until his appointment to the Supreme Court in 1958.

## SAMUEL E. GATES LITIGATION AWARD

During the meeting in Coronado, the College awarded the 1986 Samuel E. Gates Litigation Award to Professor Daniel J. Meador of Richmond, Virginia.

Currently the James Monroe Professor of Law at the University of Virginia, Professor Meador was presented the Award by Andrew C. Hartzell, Jr., FACTL, Chairman of the Gates Award Committee. Mr. Hartzell cited Professor Meador's leadership in promoting legislative changes to improve the judicial process, including efforts that led to the establishment of the United States Court of Appeals for the Federal Circuit, his organization of a group of scholars, judges and lawyers that became the Council on the Role of the Courts in American Society, and his initiation and direction of a graduate program for appellate judges at the University of Virginia.

The Award is presented annually to a lawyer whose work has made significant contributions to the improvement of the litigation process in the United States.

## COMPETITION WINNERS

Presentations were made at the Spring Meeting in Coronado, California of the 1985 National Moot Court Competition winning team from the University of Oklahoma. The team was comprised of William G. Bernhardt, Teresa S. Collett and C. Kevin Morrison. The Best Oral Advocate, William G. Bernhardt, responded on behalf of his teammates.

Also introduced were the members of the 1985 winning team of the National Trial Competition, Jerry Galow, Paul Heard and Robert Lapin, from the University of Texas. Addressing the Fellows on his team's behalf was Jerry Galow, recipient of the George A. Spiegelberg Award for the Best Oral Advocate.

## ROSTER

Address change forms will be mailed to all Fellows in late June. These forms should be filled out and promptly returned to the National Office if there is a change in your 1987 Roster listing. Please note that the Roster now contains a section listing the areas of jurisdiction of each Regent as well as a list of the State and Province Chairmen.

## EMIL GUMPERT AWARD

Campbell University School of Law, Buies Creek, North Carolina, has been named the 1986 recipient of the Emil Gumpert Award.

The Award began in 1975 in honor of Honorable Emil Gumpert, Chancellor-Founder of the American College of Trial Lawyers. It is given to institutions which have been deemed by the College to have outstanding programs in trial advocacy.

Campbell University established its School of Law in 1976 with the determination that it would be a different kind of law school, a laboratory that would provide educational and economic models for American legal education.

Dean F. Leary Davis supervises the School of Law at Campbell University. Its Trial Advocacy Program was designed and is led by Professor Robert A. Jenkins.

## REMINDER

THE  
1986 ANNUAL  
MEETING & BANQUET  
THE  
WALDORF=ASTORIA  
NEW YORK, NEW YORK  
AUGUST 9, 1986

# President's Report



Griffin  
Bell

The 1986 Spring Meeting in Coronado was a resounding success with more than 1000 members and spouses attending at the Hotel del Coronado.

Your President-Elect, R. Harvey Chappell, Jr., did an excellent job in preparing an outstanding, professional program, and we thank him and all the speakers for their contributions to the Meeting.

We greatly regret not being able to accommodate all Fellows who wished to attend this meeting. The hotel was booked six years ago, and it was anticipated that the space would meet our 1986 needs. This may be a recurring problem, given the size of the College. The Board of Regents will consider the location, size, format, and timing of our future meetings at a special meeting to be held in November of this year.

In April I appointed a Task Force on Litigation Issues to make inquiry into the pressing problems which have arisen in our tort litigation process. The Task Force is chaired by President-Elect R. Harvey Chappell, Jr., and the members are R. Byron Attridge, David E.

Beckwith, Thomas E. Deacy, Jr., Wayne Fisher, Erwin N. Griswold, David R. Gross, John M. Harrington, Jr., William Bruce Hoff, Jr., Ronald L. Olson, Charles C. Parlin, Jr., Charles B. Renfrew, and Julian O. von Kalinowski.

The charge of the Task Force is to stay within the parameters of the public interest in (1) defining the issues and determining what position, if any, the College should take in the short term as it relates to proposals before the Congress and the legislatures of the various states on the general subject of tort law reform, and (2) recommending to the College the steps to be taken in the long term to determine and define the College's position with respect to maintaining our tort system on an adversarial basis.

I have requested that the Task Force make a preliminary report to the Board of Regents by the meeting on August 8, 1986.

Meanwhile, a special committee on the Federal Rules of Evidence is being appointed to work with the Federal Rules Committee on the same subject matter and will begin reviewing the rules at an early date.

All of the College committees have been updated within the past year, with some being eliminated and others being revitalized.

Your Board of Regents will meet in special session in November, 1986 to address a special agenda regarding the growth and development of the College. Various research subcommittees of the Board will make reports to the full Board on issues regarding College and Regents' meetings, College Headquarters and Staff, Publications,

Finances, and Governance of the College, among other topics.

As a first step toward what is hoped will be a more efficient organization, we have reconstituted the territories of the several Regents with the result that after August the selection will coincide with the Federal Circuits in the United States. What to do about Regent representation in Canada will be addressed at the November meeting, but for the present the Canadian Fellows are being included in the territories of the Regents represented in the First, Eighth, and Northern Ninth Circuits.

By now you will have received information on the 1986 Annual Banquet and Meeting scheduled for New York City, August 9, 1986. The Banquet will be held in the Grand Ballroom of The Waldorf=Astoria Hotel.

The Chief Justice of Canada, The Right Honorable Mr. Justice R. G. Brian Dickson, P.C., will be presented Honorary Fellowship at this meeting. The induction ceremony for new Fellows will also occur at the Annual Banquet.

Following the Reception and Banquet, Peter Duchin and his Orchestra will play for your dancing and listening pleasure.

It has been a great privilege and honor to serve as your President, and I look forward to seeing you in New York in August.

*Griffin Bell*  
Griffin Bell