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The Bench

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CELEBRATING OUR

25th

ANNIVERSARY



SPECIAL
HISTORY
ISSUE



PRESIDENT'S MESSAGE

The Honorable Deanell R. Tacha

The articles in this issue inspire me. Mr. Dewsnup, Professor Cohn, and Justice Holland all speak powerfully about an organization founded and built upon an ideal. It is an ideal that has been nurtured by volunteerism, dedication, and a tireless commitment to a profession enriched by these values.

Built on the contributions of so many dedicated lawyers and judges, the American Inns of Court has an interesting history. As Ralph Dewsnup so ably states it, "each person has his or her own take on who did what and how things happened." This is as it should be.

Organizations are built upon the aspirations and motivation of great leaders. Each person has a somewhat different vantage point from which to view the history. As each person tells the story of the Inns, that history will inform the future in a rich variety of ways.

From my vantage point, the history of the American Inns of Court is a dual history. On the one hand, it is the story of each Inn, one at a time, beginning with American Inn of Court I under the leadership of Judge Sherman Christensen. Each Inn was developed through the leadership of local lawyers and judges who believed in the ideal and gave of themselves to ensure their Inn succeeded. The other story traces the development of a national organization that would bind together the American Inns of Court. Twenty-five years ago, the leadership of Chief Justice Warren Burger, Judge Clifford Wallace, Judge Sherman Christensen, Professor Sherman Cohn, Judge Howard Markey, and so many others mentioned in these articles gave life to this fledgling movement. Both stories are important and both will be remembered quite differently by the participants. I have had the great privilege of watching and participating in Inn development at both the local and national levels. Indeed, because of my history with the American Inns of Court, I can contribute to the telling of both stories.

My involvement with the national movement began on March 7, 1990, when I was privileged to sit on a three-judge panel with Judge Sherman Christensen of Utah. Judge Christensen was, without question, one of my models of professionalism, civility, and ethics. He was a gentle man—a man of measured words, kind and thoughtful demeanor; and a powerful legal intellect. At the conclusion of arguments that day, Judge Christensen drew me aside and suggested that I should become better acquainted with the American Inns of Court movement. As it happened, on that

particular day, we had observed lawyers who demonstrated both the best and the worst of professional attributes in the law. Judge Christensen used this as an opportunity to point out the importance of the American Inns of Court movement—its ideals, aspirations, and the powerful effect that it could have on the legal profession. By using the lawyers who appeared before us that day as examples, he traced the significant history of the movement that is so well described in the articles written by Ralph Dewsnup and Professor Sherman Cohn.

That conversation had a profound impact on me. In addition to being one of the founders of the movement, he was my own mentor. Through his example and a fortuitous teaching moment, Judge Christensen subtly placed on my shoulders a mantle of responsibility to care for the future of the legal profession through the American Inns of Court. So, when Judge Patrick Higginbotham called me a few years later to inquire whether I would be willing to serve on the national board of trustees, I could only hear the voice of my friend and beloved colleague, Sherman Christensen. I, like all the other national leaders of the movement, agreed to take on that responsibility in order to continue a very important legacy for the legal profession.

When I joined the board of trustees, the American Inns of Court movement was maturing. Professor Sherman Cohn had led the effort to revise the bylaws to provide more geographic representation, broaden the scope of leadership, and institute governance and administrative measures that would be most appropriate for this rapidly growing national movement. Thus, just a few years before I came on the board of trustees, the American Inn of Court movement established the thoughtful structure that is in place today. The board of trustees sets policy for the organization, but the day-to-day administrative work is done most ably by retired Admiral Don Stumbaugh and his staff. The work of this national staff has made possible much of the remarkable progress that has been realized in the last decade.

The change in structure conceived by Professor Sherman Cohn and carried out so ably by Judge Patrick Higginbotham, inspired a rapidly growing number of Inns. The expansion of national and international programs, the building of an endowment through aggressive private fundraising, the stable budgetary basis, and the effective administrative model

Indeed, the powerful impact of local lawyers, young and old, influencing each other and sharing the vision of a profession that is civil, ethical, professional, and idealistic has built the American Inns of Court movement for twenty-five years and will sustain and enrich the movement far into the future.

have all become hallmarks of the American Inns of Court. Justice Randy Holland, during his tenure as president, followed his predecessors' excellent example in constantly advancing the vision of a dedicated board of trustees and overseeing the daily implementation of this vision by Admiral Stumbaugh and his staff. The American Inns of Court Foundation now mirrors the organizational structure of most successful nonprofit entities while, at the same time, perpetuating the ideals of those early founders. Now, as I work closely with the board and the staff, I am deeply grateful to those whose leadership enabled the transition to a mature national organization.

My perspective on the American Inns of Court, like everyone's, also has a very local dimension. At almost exactly the same time that Judge Christensen spoke to me about the American Inns of Court movement, a local lawyer, Jim Postma, who had been my mentor for many years came to me with a proposal to begin an American Inn of Court in Lawrence, Kansas. Jim Postma's career reflected the highest ideal of the American lawyer: He was a tireless servant of those who could not afford legal services. When I first met him, I was director of the University of Kansas Legal Aid Clinic. Jim Postma was the president of the board. When I began my work as director of the Legal Aid Clinic, he sat down with me and talked about what students should learn about professionalism, ethics, civility, and their pro bono obligations to the community.

Having modeled these values throughout his career in Lawrence, Kansas, Mr. Postma found yet another opportunity to further the ideals of the legal profession. He had followed from afar the development of the national movement and believed that we must found an American Inn of Court in Lawrence, Kansas. Although the bar in Lawrence, Kansas is not large and everyone is acquainted with each other, Jim Postma saw the importance of providing opportunities for contact among senior lawyers, junior lawyers, judges, and students. Early in his career, he worked for one of the first judges in this small town where the Civil War took such a dreadful toll. He wanted to name the Inn for that early courageous judge. So, under the great leadership of my friend, Mr. Postma, the Judge Hugh Means American Inn of Court was chartered on June

22, 1992. My Inn thrives today with a constant influx of new lawyers and the steady guidance of many senior lawyers and judges. My Inn is like most in the country: federal judges, state judges, senior practicing attorneys, new members of the bar, and students all joining together once a month for stimulating programs, an opportunity for dialogue, and a recommitment to the highest ideals of the profession. Though Jim Postma died a few years ago, I still hear whispers in my soul from both him and Judge Sherman Christensen.

It is those whispers in the soul that I hope you will hear as you read the stories that are contained in this edition of *The Benchers*. These are the stories of a profession that aspires to be better; to be more civilized, to be more professional, and to be committed to the ethical standards upon which the American Inns of Court movement was founded. These are the whispers of people like Chief Justice Warren Burger and those visionary founders 25 years ago. The challenges we confront today are not greatly different from those the founding members confronted. We are only as strong as our idealism. We are only as effective as our dedication and volunteerism inspire us to be. We are dependent upon the advocacy and commitment of our local membership.

The two stories—the local and the national—will continue to develop. As we look to the future, we all share a responsibility to spread the movement by forming new Inns. In addition, although we are in much stronger financial position than we were in the early days, all of us who work at the national level must utilize resources effectively to serve the needs of local Inns. I am grateful to all the leaders who came before—the Sherman Christensen's and Jim Postma's, who have inspired each Inn member. You—today's Inn members—will surely add your own names to the history of the American Inns of Court. Indeed, the powerful impact of local lawyers, young and old, influencing each other and sharing the vision of a profession that is civil, ethical, professional, and idealistic has built the American Inns of Court movement for 25 years and will sustain and enrich the movement far into the future. ♦



the GENESIS

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BY R A L P H L . D E W S N U P

Over the years it has been fascinating for me to hear different accounts of the origin of the American Inns of Court. Each person has his or her own take on who did what and how things happened. There are many versions of the story, each one bearing only partial resemblance to the others. I have heard Harold G. Christensen, the first president of the first American Inn of Court, lament that there was a general misunderstanding about the way things came together.² He was fond of saying that the movement known as the American Inns of Court “did not spring forth fully developed, like Athena from the head of Zeus.” Rather, it evolved, over time (and is still evolving), thanks to the efforts, support and enthusiasm of many people. Its origin is much more involved (with drama, excitement, failures and successes) than a short article can convey.³ I can only hope to give a summary that will coincide with the memories of those who were there at various times, playing central roles in the founding of this organization, which has done so much to reclaim the law as a profession.

It is a matter of history that before he became Chief Justice, Warren E. Burger, then judge of the U.S. Court of Appeals for the D.C. Circuit, expressed his wish that law students would receive more exposure to the practical aspects of legal practice during their law school years.⁴ In 1966 he encouraged and endorsed a program sponsored by the legal fraternity, Phi Alpha Delta, in which chapters called “Inns of Court” were established in several law schools. These chapters sought to encourage professionalism and ethics through sponsorship of a series of seminars. However, the success of the endeavor was spotty.

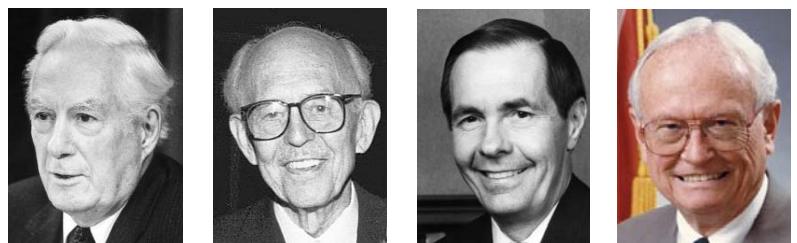
One person whose concerns for the lack of practical skills among trial lawyers ran parallel to those of Judge Burger was a U.S. District Court Judge in Utah named A. Sherman Christensen. Judge Christensen had urged a more practical approach to legal education in a letter to the dean of the University of Utah Law School in 1966.⁵ When it appeared that his suggestions were being underemphasized, he reiterated them to the Utah dean the next year accompanied by a copy of a speech that Judge Burger gave to the American College of Trial Lawyers in which he called for the establishment of a legal apprentice program in

law schools. Still nothing significant happened. Inertial power being what it is, perhaps Judge Christensen decided to try a different approach. When he learned in 1971 that a new law school was to be established at Brigham Young University in Provo, Utah (approximately 45 miles south of the University of Utah), he wrote to its president, Ernest L. Wilkinson, to make suggestions about not neglecting the practical aspects of legal education at the new school. He similarly pressed his views on Wilkinson’s successor, Dallin H. Oaks, and on the newly announced law school dean, Rex E. Lee.⁶

Lee gave Christensen the opportunity to tell the new faculty about his ideas for a curriculum that placed greater emphasis on legal advocacy. Their reception of his suggestions was tepid. After all, they had to worry about things like accreditation. Striking out into new territory was risky business for a new law school. However, perhaps in an effort to still the incessant voice of this not-so-quiet crusader, Lee invited Judge Christensen to teach a trial advocacy seminar. There, he could help at least some of the students to understand principles of courtroom advocacy that he felt were so sorely lacking among recent law school graduates.

I was privileged to be one of the third-year students in Judge Christensen’s trial advocacy seminar in 1976. I was too naive to appreciate what was going on. I did not understand what a rare treat it was to have a federal judge as a law professor. What I did understand was that we were given a chance to draft real pleadings, motions, and memoranda. We discussed things like what to wear, where to stand, how to address the court, how to make objections, how to conduct direct and cross-examination, and how to do a summation. We visited a courtroom and imagined ourselves in the crucible. He emphasized professionalism, courtesy and legal excellence. Each student prepared a paper on some

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Left to right—Chief Justice Warren E. Burger, Judge A. Sherman Christensen, Rex E. Lee, and Harold G. Christensen.

aspect of advocacy. I later learned that Judge Christensen hoped to develop a jurisprudence of advocacy. All of this was but a prelude to the founding of the American Inns of Court.

In 1977, Warren Burger, now Chief Justice of the United States, led a delegation of lawyers and judges on a visit to the English Inns of Court in London as part of an Anglo-American Exchange. Burger was so impressed with the trial skills and techniques of the advocates before the bar that he asked one of the members of the U.S. delegation, Judge J. Clifford Wallace, of the U.S. Court of Appeals for the Ninth Circuit, to explore ways to promote adoption of some British training methods and means in the U.S. legal

“...Ethics ought to permeate the whole educational process. Since it doesn't, and maybe as a practical matter can't, I think this program can really have an impact. This, I think would ultimately result in having the people who take part in the program go out in the practice and five, six, ten years later participate as practitioners and later for some as judges, with increased effectiveness and benefit.”

—Chief Justice Warren E. Burger

system, particularly as concerned revitalization of the Phi Alpha Delta program. Wallace circulated a “think piece” with some ideas and tried to keep the matter on the Chief Justice’s radar screen. He may have been a catalyst for what happened next.

On the morning of August 1, 1979, BYU Law School Dean Rex Lee received a phone call from Chief Justice Burger asking that he and BYU President Dallin H. Oaks join him for lunch at the mountain cabin of his friend O.C. Tanner, where he was staying. Oaks and Lee made the drive to the banks of the Weber River near Provo, Utah, where they were met by the Chief Justice, dressed in shorts. He proceeded to don an apron and prepare lunch for them all the while discussing his concerns over the lack of advocacy skills. The conversation included discussion of an idea that he had for the infant BYU Law School to undertake a “pilot” program that would combine the standards proposed by the recently concluded Devitt

Committee of the U.S. Judicial Conference in combination with Phi Alpha Delta’s “Inns of Court.”⁷ He proposed the creation of some new ‘Inns of Court’ for that purpose. His ideas were clearly embryonic and included a suggestion to load students onto buses to make field trips to courtrooms, etc. I can imagine Oaks and Lee raising an eyebrow or two. However, he was the Chief Justice, and there was a need to improve trial advocacy. They would see what they could do.

Rex Lee said later that as the Chief Justice talked about doing something to inculcate practical trial experiences, he thought of Judge A. Sherman Christensen. The stars were lining up! Lee soon invited Christensen to spearhead the effort to see if the Chief Justice’s general ideas could be made a specific reality. Although Christensen was seventy-four years old at the time and in spite of his professed ignorance of how either the English Inns or the Phi Alpha Delta “Inns” worked, he said “yes.” Lee assigned four third-year law students to assist him.⁸ Their research into the structure and activities of the English Inns provided fodder for lengthy discussions that took place over the next few months about how to proceed with this new project.⁹

They hashed and rehashed the obstacles that separated the English experience from what might be practically achievable in the United States. They conferred as well as corresponded with Judge J. Clifford Wallace, who encouraged their undertaking. They read papers that had been published by legal scholars and discussed what they thought would work and what would not. By December, they had hammered out a draft of a plan to implement the first Inn of Court of its kind. The plan is much too long to restate here. However, it contains a solid skeleton for the Inn structure that exists today. It speaks of establishing an “amalgam” of the members of “the bar, the bench and students” to improve legal advocacy. It emphasizes “proficiency, skills and general excellence” and encourages “courtesy, consideration and friendliness.” In language that aptly describes Christensen’s attitude toward the profession it also states, as one of its many objectives, that the Inn is “to renew and inspire joy and zest in trial practice as a work worthy of constant effort and learning as well as of love, as inspired by the ideal of service.”¹⁰

When it came time to pick a name for this “Inn,” Lee

and the students thought it should be named after Christensen. The modest Christensen insisted that it be named after Lee. The stalemate was broken when it was agreed to name it "American Inn of Court I." As Christensen later wrote, this allowed for a II, III, IV, etc. He clearly envisioned growth of the idea.

In late December 1979, I was sitting at my desk when the receptionist said that I had a call from a "Sherman Christensen." I gulped before picking up the phone. Not many second year lawyers get unsolicited calls from federal judges. He called me by my first name and said that he and others were about to engage in an experiment in legal education and that I was invited to participate. Was I interested? I thought it over for about a second and said "yes." He said I would be receiving material in the mail in a few days. It consisted of an application for membership in an "Inn of Court" and an invitation to an organizing meeting to be held in the form of a dinner in Provo, Utah. The date selected was February 12, 1980.

At the organizing meeting I learned that the "members" who had agreed to participate in the "experiment" included twelve of the most outstanding senior lawyers in our state as well as twelve junior lawyers, twelve law students and two law professors from BYU Law School. There were also seven judges, state as well as federal (both trial and appellate). Honorary memberships were bestowed on dignitaries including Judge Clifford Wallace, who was the evening's featured speaker; and on the presidents and the law school deans from the University of Utah and Brigham Young University.

After the fashion of the English Inns of Court, the chief executive officer of this "American" Inn was to be its "treasurer." However, due to the potential for misunderstanding if a judge were to hold such a title (with its accompanying connotations of fundraising), alternative offices were created. In the end, the American tradition of having a "president" as the CEO was followed, with a secretary-treasurer selected to administer finances. To ensure ongoing involvement of judges, the title of "counselor" was created. Thus, the three-member leadership of today's Inn of Court was born. The first "President" was Harold G. (Hal) Christensen.¹¹ Treasurer was M. Dayle Jeffs. Counselor was Judge A. Sherman Christensen.¹²

At the organizing meeting Judge Christensen discussed the proposed charter of the Inn and invited written

comments and suggestions. I took his request to heart and naively (but gamely) submitted a long list of proposed modifications, not realizing that the charter was the work of months of thought. Not only did Judge Christensen not take offense at my proposals, but he embraced them and invited me to participate as a member (token young lawyer?) on the Executive Committee of the Inn as programs were planned and carried out. What an experience it proved to be! Our Inn meetings were planned over sandwiches and soft drinks in Judge Christensen's chambers.

Over the course of the year, the presentation method that is largely in place today evolved. We tried lectures, panel discussions, and other CLE-type techniques to

“Conceivably the time might come when every dedicated trial attorney, trial judge or trial-oriented student seeking this special measure of balance and perception for participating in the processes of justice could have the opportunity for an Inn experience.”

—Judge A. Sherman Christensen

introduce advocacy topics. Our most successful programs occurred when practitioners would illustrate a topic (jury selection, opening statements, direct and cross examination, summation, etc.) by putting on a short demonstration (often juxtaposing "proper" with "improper" techniques) followed by lively discussion and critique by the rest of the Inn. An hour or so of presentation would be followed by refreshments and mingling. Programs eventually became more creative and elaborate, sometimes incorporating important topics of the day or historical legal events and issues. Many Inns decided to incorporate a dinner into their regular monthly meetings. One of the chief concerns that Christensen repeated many times was that American Inns of Court had to do much more than just provide another type of continuing legal education. Otherwise, there would be no reason for them to exist.

In the summer following the first academic year of American Inn of Court I operation, Judge Christensen

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undertook a trip to England at his own expense to visit leaders of the English Inns of Court and learn from them. Whatever skepticism they may have felt at this upstart enterprise was suppressed enough that the indefatigable Christensen returned brimming with enthusiasm as well as some new suggestions for Inn operation. Based on his recommendations, Inn I adopted a *pupillage* program to better emphasize the importance of mentoring. A new classification of Inn members was also instituted. Whereas the first members of Inn I had all been called simply “members,” now the charter was amended to call the senior members (judges, lawyers and law professors) of the Inn “Masters of the Bench” or “Benchers.” Those who had been practicing for more than three years but had not attained “Bencher” status, were called “Barristers.” The students and beginning lawyers were called “Pupils.” Monthly Inn programs were

organized and presented by pupillage groups formed of Benchers, Barristers and Pupils.

Judge Christensen felt that although there was much to be learned from the English system, it was important that any system of

American Inns develop

its own traditions and distinct identity. To that end he commissioned his

daughter, who was the art director of a magazine, to design an Inn insignia to capture the essence of the Inn purpose. The “logo” that is in use today contains the word “Excellentia” in an effort to express in a word what American Inns of Court should stand for. Membership certificates were printed using the American Inns of Court crest and were issued to the initial group of initiates.

By the end of 1980, Judge Christensen saw that there was enough interest in Utah to form a second Inn of Court. The name was simple enough, American Inn of Court II. This new Inn would affiliate with the University of Utah Law School. It even received some funding in the form of a small grant from the Utah State Bar. Some of the members of Inn I formed it. Then Inn I took on additional members to replace its losses. More judges became involved. A new set of students was selected. Judge Christensen even formed an Inter-Organization Council of the American Inns of Court to foster growth of Inns and encourage adherence to the vision and concept of Inn I. I was present during the meetings with Judge Christensen and his colleagues of the federal bench, Judge Aldon J. Anderson, Judge Bruce S. Jenkins and Judge David K. Winder, as well as leading members of the Utah State Bar where decisions were made to move forward with this new Inn. Utah Supreme Court Chief Justice Gordon R. Hall, Professor Ronald N. Boyce and attorneys J. Thomas Greene, Carmen Kipp and Stephen B. Nebeker, played important roles in organizing this second Inn.

Once there were two Inns, Judge Christensen felt there was a need to create an organ for communication of matters common to them both. He knocked out a newsletter, typing it himself on a portable typewriter that he owned. He made copies at his own expense and distributed them among members of the two Inns. It was complete with pithy observations and quotes that he put in a segment that he called “Inns and Outs.” He enlisted my help for the next issue or two (published intermittently) and then turned the project over to me. For a time, under the authority of the Inter-Organization Council, I was the sole copywriter, editor, occasional photographer and publisher of the newsletter. Eventually, I engaged the services of a layout artist and the publication was improved and rechristened *The Bencher*, the name that it bears today. The senior partner of the law firm where I worked, W. Eugene Hansen, gave his total support, financially and otherwise, to my involvement in the movement.



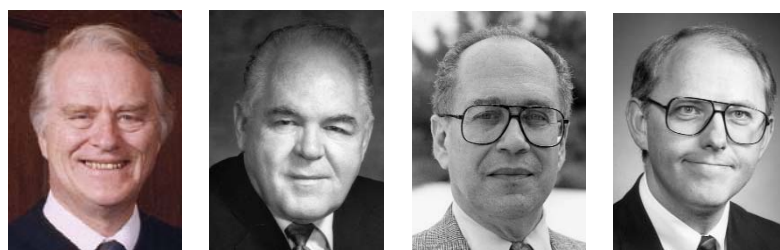
Evolution—The Bencher as it appeared in January 1986 and November 2001 and in its current format.

Judge Christensen kept Judge Clifford Wallace fully apprised of developments that were taking place and hoped that Wallace would continue to lend his prestige and support to the Inn project. He was sent copies of all correspondence and reports and served, in many ways, as Judge Christensen's liaison with Chief Justice Burger. They came to feel that developments were positive enough that it was time for broader publicity. Judge Wallace, therefore, wrote an article that was published in the journal of the American Bar Association, that told of the "experiment" being conducted in Utah.¹³ He invited interested persons to contact Judge Christensen.

The Wallace article caught the attention of several people. Christensen fielded inquiries from many judges and attorneys and, at his own expense, sent them information that included a sample charter and other organization papers. Federal Judge William C. Keady, from Oxford Mississippi, was interested enough that he spearheaded the organization of American Inn of Court III in association with the University of Mississippi Law School. Attorney Albert I. Moon, Jr., from Hawaii, having had a positive experience in Judge Christensen's courtroom years earlier, made inquiry himself. He persuaded Federal Judge Samuel P. King to support the organization of a similar Inn in Honolulu, and American Inn of Court IV was born.

In an effort to make Inn information more available, Judge Christensen wrote an article that was published in *Federal Rules Decisions* in 1982 called "The Concept and Organization of an American Inn of Court: Putting a Little More 'English' on American Legal Education."¹⁴ More interest in the idea was generated, and Judge Christensen received numerous additional inquiries. He responded to each one personally, sending copies of informational materials that he had put together.

A valuable contact that was made during this time was with Peter W. Murphy, a British barrister and member of the Middle Temple Inn of Court in London. Murphy was practicing law in San Francisco and was affiliated with a social organization of expatriate British lawyers called the Inns of Court Society. Murphy's insights into the role that Inns of Court played in legal education were of great interest to Christensen. Christensen's plans for adapting the strengths of the English Inns into the American legal system likewise intrigued Murphy. An ongoing correspondence was initiated that seemed, for a time, as if it might result in a new American Inn of Court in San Francisco. It wasn't to be—at least, not yet.



Left to right—Judge Aldon J. Anderson, Judge Howard T. Markey, Professor Sherman L. Cohn, and Ralph L. Dewsnap.

One other inquiry, among the many that proved pivotal in the overall history of the American Inns of Court, came from a Georgetown Law Student named Kent A. Jordan, now a federal district court judge in Delaware. After completing his first year of law school, Jordan was clerking for his attorney brother in Salt Lake City, when he came across the ABA Journal article by Judge Wallace. He was bold enough to contact Judge Christensen to find out about this new idea and was granted an extended audience with Christensen. He left the meeting loaded down with materials to share with the administrators at Georgetown.

When Jordan returned to school, his persistence in seeking support for the program eventually put him in touch with Professor Sherman Cohn who studied the materials, talked with Christensen by phone and, with the support of the law school Dean, agreed to try to get something going at Georgetown. A series of fortuitous circumstances put both Cohn and Jordan in touch with Judge Howard T. Markey, Chief Judge of the Court of Appeals for the Federal Circuit. Markey had heard about the Inns of Court from both the Chief Justice and from the Chief's administrative assistant, Dr. Mark Cannon. He was enthusiastic about the program and got on board to help organize another American Inn of Court. (This was the sixth Inn, a fifth having been formed in Brooklyn a short time before.)

By this time, the volume of interest being generated across the country started to overwhelm Judge Christensen. He was still paying all of the expenses and handling all of the correspondence himself, believing that treating the program as an expense of the court system was not officially approved. I remember vividly being called by Christensen one morning to come to his chambers on a matter of Inn of Court business. I walked the block or so to get there and found the judge in an uncharacteristically somber mood. In my naiveté I had supposed that the surge of interest in the fledgling movement was good

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Members of the Ad Hoc committee at the October 1983 meeting. Seated from left to right are Joseph Spaniol, Professor Harry G. English, Ralph L. Dewsnap, Harold G. Christensen, and Peter W. Murphy. Standing from left to right are M. Dayle Jeffs, Judge A. Sherman Christensen, Professor Sherman L. Cohn, Kent A. Jordan, Judge Robert F. Peckham, Judge Samuel P. King, Albert I. Moon, Jr., Judge Howard T. Markey, Judge Marvin E. Aspen, Judge Mark A. Constantino, Judge Aldon J. Anderson, and J. Thomas Greene.

news. He confided that he had been trying to get some indication of where the Chief Justice stood on developments. He expressed concern that, unless something more concrete than mere expressions of encouragement was forthcoming, the movement was going to sputter to an end. He told me that he had written to Chief Justice Burger to recommend a course of action some time ago but that he had not heard back from him. He seemed frustrated and sad. I suppose he wanted to prepare me for the disappointment that, to him, must have seemed inevitable.

It seems like it was only a few days later that I got a phone call from Judge Christensen. His tone of voice was decidedly more upbeat than it had been at our last meeting. He said he had just heard from the Chief Justice, who had expressed enthusiasm for the way that things were going and said that he intended to appoint an ad hoc committee of the United States Judicial Conference to study and develop the American Inns of Court concept. He had asked Christensen for the names of persons that should be invited to serve on the committee. I knew nothing of how such things worked. What I gathered was that Christensen intended to nominate several of the people who had worked with him on Inns, including me. He added, however, that given the probable small size of the committee and my relative youth and inexperience at the bar, I would probably not be appointed. At that point, it didn't matter to me. The U.S. Judicial Conference was not an

entity that I knew anything about. All I knew was that the life of the American Inns of Court had been extended. That was wonderful news!

In September 1983, my newly hired secretary brought the mail into my office with special reverence. She said I had received a very important letter and was impressed that such a communiqué would come to me. When I saw the letter from the Chief Justice of the United States, I assured her that this was not a regular occurrence. The letter announced the formation of the Ad Hoc Committee and invited me to serve on it. The first meeting of the committee was set for October 26, 1983, in Washington, D.C. I hastily wrote the Chief Justice my letter of acceptance.

The first meeting of the Ad Hoc Committee was convened in the West Conference Room of the Supreme Court of the United States. It was the first time that most of us would know who our committee-mates were to be. I don't think I was the only one to be a bit dazzled by our surroundings. Even seasoned judges had not been in the inner sanctums of the Supreme Court building. Besides myself, those present included Judge Christensen, who had been appointed chairman of our committee as well as Judges Aldon J. Anderson, Howard T. Markey, William C. Keady, Samuel P. King, Robert F. Peckham, Marvin E. Aspen, Bruce S. Jenkins, and Mark Costantino; Professors Sherman L. Cohn and Harry G. English; attorneys Peter W. Murphy, Albert I. Moon, Jr., Harold G. Christensen and M. Dayle Jeffs; and law student Kent A. Jordan.

In addition to committee members, Judge J. Clifford Wallace and Solicitor General Rex Lee were present, as was the Chief Justice's administrative assistant, Dr. Mark Cannon. Each gave brief remarks, reminding us that this was a rare event—full of great potential. The Chief Justice himself spent time with the committee to offer words of encouragement, even hosting us at a luncheon in the Justices' private dining room.

Among the activities of the first meeting of the Ad Hoc Committee was the presentation of reports from committee members about the activities of each of the Inns with which they were associated. Each person

had a different story to tell. Judge Christensen's steady hand was deftly inserted to keep us from trying to define the Inns of Court as a law school extension or a CLE program or an apprenticeship plan or even a transplantation of English methods. His vision was clear. This was something new, different and unique in the annals of American law.

At the end of the first day of meetings, Judge Christensen appointed a subcommittee consisting of myself, Peter Murphy and Judge Howard Markey to draft a statement of objectives for the committee. We were to have the objectives written by the next day. As daunting as the task seemed to me, Judge Markey seemed to have a vision of what should happen. He told Peter and me to meet him in the morning so we could discharge our duty. And, thanks to the judge, discharge it we did.

The next morning, I acted as scribe while Judge Markey, in effect, dictated a rather complete statement that, with a few suggestions from Peter, and even fewer from me, was presented to the whole committee by nine o'clock. After review and discussion, our draft statement was unanimously adopted in the form of a thirteen paragraph resolution. That became our charter to guide the work of the committee over the next two years.

Shortly after the first meeting, Judge Susan H. Black from the Middle District of Florida (now a member of the U.S. Court of Appeals for the 11th Circuit) was invited to join the Ad Hoc Committee. Then, following a committee meeting in San Diego in February of the next year, Federal Judge William B. Enright, who had organized an Inn there and had applied for a charter, was likewise asked to lend his considerable leadership abilities and enthusiasm for the movement by becoming a member of the committee. Both were instrumental in the establishment of Inns and in the development of the fledgling movement.

Never in my professional life have I had the privilege and pleasure of working with a group that was more unselfishly dedicated to a cause than were the members of the Ad Hoc Committee. Personal agendas, if they ever existed, were laid aside. Work assignments were completed on time. Disagreements were resolved. Personality differences were overlooked. We moved forward, as one body, to answer numerous questions: How big should an Inn be? What should be the criteria for Inn membership? What categories of membership should there be? How many persons in each membership category should be in a single Inn? How many Inns

“Never in my professional life have I had the privilege and pleasure of working with a group that was more unselfishly dedicated to a cause than were the members of the Ad Hoc Committee.”

—Ralph L. Dewsnup

should there be? How should an Inn be started? Should there be a national umbrella organization? If so, what form should it have? What should be the relationship of local Inns to a national structure? How should individual Inns be financed? How should a national organization be financed? What should be the respective roles of judges, experienced lawyers, less experienced lawyers, law professors and law students within an Inn? How often should local Inn meetings be held? What should be accomplished in local Inn meetings? How often should national meetings be held? What should national meetings consist of? What kind of leeway could or should be given to a local Inn to deviate from national guidelines? How should national guidelines be promulgated? What should be the leadership structure of a national organization? How should national leaders be selected? And so forth.

For the first eight months of operation of the Ad Hoc Committee, Judge Christensen set the agenda and presided over its meetings. But on July 21, 1984, at the age of 79, he announced his retirement from the post and the appointment of his long-time colleague, Judge Aldon J. Anderson, to succeed him. It is no criticism of Judge Anderson to tell of the general sadness that attended the announcement of Christensen's departure. He had, almost single-handedly, served as the chief architect and builder of the American Inns of Court during the infancy of the organization. He was not only respected by committee members but had become beloved. His personal sacrifices and dedication had carved a stone out of the mountain that had begun to roll forth. Committee members were committed to finish the job that he started.

Within the next year, Judge Anderson guided the committee to complete its work, and a report was submitted to the Judicial Conference in 1985 that ultimately resulted in the creation of the American Inns of Court Foundation as a District of Columbia non-profit, tax-exempt corporation. Signing the

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The organizational meeting of the Foundation occurred in Salt Lake City, Utah, in June 1985. By then, there were eight operating American Inns.

B Y S H E R M A N L . C O H N

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As Ralph Dewsnup, in the first part of this informal history of the American Inns of Court noted, I first heard of the American Inn concept in the fall of 1982 when Kent A. Jordan, then beginning his second year at Georgetown Law Center, came into my office with information and enthusiasm about the concept. At first I laid it aside, to read "some day," but Kent was both persistent and tactful. I finally read the material and telephoned Judge A. Sherman Christensen, whom I had met on two previous occasions, and found myself being persuaded by his logic and advocacy. With the help of Chief Judge Howard T. Markey, we started American Inn of Court VI in May 1983.

We of course knew that there were five additional American Inns, but had no concept of a national organization until, again like Ralph, I was amazed at receiving the invitation to the October 28, 1983, organizational meeting of the Ad Hoc Committee on the American Inns of Court. Ralph has set forth well the workings of the committee. The committee reported to the Judicial Conference of the United States and it approved the committee's recommendations that the American Inn concept was of value to the administration of justice, that there should be a national organization, and a proposal for that organization, which came to be chartered in the District of Columbia as the American Inns of Court Foundation.

The organizational meeting of the Foundation occurred in Salt Lake City, Utah, in June 1985. By then, there were eight operating American Inns of Court. (One had failed to coalesce and had collapsed; a few others were chartered but not yet organized) Approximately 20 people, representing those eight American Inns plus a few others in formation, attended the organizational meeting. Those 20 people elected a board of directors of seven: Judges Aldon Anderson, Susan Black, and William Enright; Professors Sherman L. Cohn and Peter Murphy;² and attorneys Harold Christensen and Albert Moon. The board in turn elected Judge Anderson as its chair: Ralph Dewsnup, while not on the board, was chosen as secretary to the board. The board was later expanded to include Ralph.

In May 1986, Judge Anderson resigned from the board for personal reasons after two years of chairing

the Ad Hoc Committee and the board. Chief Judge Howard Markey was elected in his place and was also elected as chair of the board, a position that he held until 1995. It was at this time that the Chairman's Award was established and presented in May 1986 to Judge Aldon J. Anderson in appreciation of his leadership to the American Inns of Court. The award was later renamed the A. Sherman Christensen Award in honor of Judge Christensen's leadership and commitment to the American Inns of Court.

As the Foundation had no funds, it was clear that fund-raising had to be an important role of the Foundation president. Therefore, the initial president could not be a judge. For that reason, I had the honor of being elected president. Professor Peter Murphy was elected as secretary-treasurer. As noted, the Foundation had no money, no office, no staff. Its initial office was in my office at Georgetown with my research assistant acting partially as staff.

What we did have, however, was the support of the Chief Justice of the United States. The Chief Justice continued the Ad Hoc Committee of the Judicial Conference until 1987, naming the seven of us as the members of that committee. The importance of that move was twofold. First, it helped to give the Foundation legitimacy. But, perhaps more significant,



The first Board of Trustees of the American Inns of Court sign the bylaws of the Foundation in Salt Lake City, Utah in June 1985. Seated is Judge Aldon J. Anderson and standing, from left to right, are Peter W. Murphy, Professor Sherman L. Cohn, Harold G. Christensen, Judge Susan H. Black, Albert I. Moon, Jr., and Judge William B. Enright.

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Richard M. Sangster and Michael G. Daigneault.

continuing the committee gave valuable financial support. As the Ad Hoc Committee, we could meet (as the Board of the Foundation) on a quarterly basis with expenses of the board and its secretary paid by the Administrative Office of the

United States Courts. Also, through the good offices of the Chief Justice, Joseph Spaniol of the staff of the Administrative Office rendered valuable assistance. The Administrative Office also paid for the printing of manuals on how to start and how to operate an American Inn of Court

As the Foundation had very little in the way of services to offer to the ongoing American Inns of Court, the board set the initial dues at \$250 per Inn. That brought in very little money, of course, so much attention had to be directed to money raising. My job was to approach whatever sources might be receptive. Two legal organizations stepped forward: the American Board of Trial Advocates (ABOTA) and the Association of Trial Lawyers of America (ATLA). Attempts to interest the American Bar Association and the American College of Trial Lawyers were unsuccessful. We also received significant financial assistance from the Foundations of Prudential, Alcoa, General Motors, Ford, Textron, among others, from West Publishing Company, Little, Brown & Company, the PMBR Bar Review, from several law firms, and from Obert C. Tanner, a Salt Lake City philanthropist. Many Inn members, led by the members of the board, made substantial personal contributions.

The ABOTA story is worth retelling. Judge Enright, a member of ABOTA, contacted the then president, Richard Sangster, a prominent San Francisco trial attorney, and convinced Sangster that this was an idea worth ABOTA's attention. As ABOTA was about to have a meeting in Washington, I invited President Sangster and others in ABOTA's leadership to meet with Chief Judge Markey and me in Judge Markey's chambers, for a discussion of the American Inn concept and its value to the profession. Later, it became my role to suggest financial support. Sangster was receptive, but of course had to work with his board. He invited me to their next board meeting in Boston. It turned out that I had not done my homework very well. In my presentation to the ABOTA board, I of course emphasized the support of Chief Justice Burger. What I should have known, but did not, was that ABOTA had an adamant view in favor

of keeping the civil jury as a strong and viable institution and viewed the Chief Justice as being in favor of cutting back, if not eliminating, civil jury trials, in emulation of the more "efficient" British system. Thus, I ran into an unexpected obstacle and found myself fairly well battered by the end of my allotted time. Sangster, to his credit, insisted that ABOTA make a commitment of \$10,000 a year support. He emerged victorious, though not without verbal bloodshed. The ABOTA financial support continued for several years and was crucial to the success of the American Inn of Court concept. Of course, all of the financial support was very important, but that first \$10,000 contribution of ABOTA stands out, because, as is set forth in the next paragraph, it permitted us to hire a most remarkable young man whose energy, commitment, and dedication were so very important to all that has flowed since.

By that time, we were up to 12 American Inns of Court. With the \$10,000 from ABOTA, we took the risk of hiring a fulltime employee. I had in mind an administrative-assistant level person. Georgetown agreed that I could hire that person on the Georgetown payroll so that fringe benefits would be available, though of course we would reimburse all costs. With the help of the Georgetown personnel office, we estimated that the cost would be about \$18-19,000 a year. When we began to seek out an applicant at that level, I received a phone call from a young man, Michael Daigneault, who told me of his interest in the position. When, at the end of the call, he spelled his distinctive name, I recognized that he had been a student of mine a few years before. When I noted that fact, he acknowledged that he was the same person and that he was an attorney with a significant law firm. I pointed out that this was a job for an administrative assistant at a salary far below what he had to be making. Daigneault insisted on coming in for an interview. At the interview he stated that he did not find law practice to his liking, he wanted to do something of value in life, and that he figured he could do so then—before he married and began raising a family—or he would have to wait until close to retirement age.

Daigneault came on board in April 1986 and proved invaluable. His first desk was in my office—a desk "borrowed" from elsewhere in the Law Center. Mike put in great energy and imagination in helping to create and run the organization. He also had the ability to reach out to other young people and motivate them to donate time and energy. By January 1988, we had need, and the resources, for a second employee.

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That necessitated a move into an office suite of an organization that ran other non-profit organizations. We rented space but also had available, for a fee, the use of other services. This arrangement satisfied our needs until further expansion of staff was indicated. It was then time to move to offices of our own in Alexandria, Virginia. Mike Daigneault took on more and more responsibility and eventually was named the first executive director of the Foundation—but I am getting ahead of the story.

The importance to the American Inns of Court of Chief Justice Burger and Chief Judge Howard Markey cannot be overstated. A good example was our Second Annual meeting, in May 1986. It was indicative of the support that proved so significant. In talking with Judge Markey, I raised the question of a dinner at the Supreme Court. Judge Markey picked up the telephone, reached Chief Justice Burger, made the request and received his approval to have the dinner in the Great Hall of the Supreme Court. We invited all of the then extant American Inns of Court, those who were interested in establishing new Inns, and representatives of our donors and potential donors. Because we did not expect to have enough persons to fill the Great Hall, we teamed with the Charles Fahy American Inn of Court, then the only Inn in Washington, D.C. Its members joined us in the Supreme Court for the Fahy Inn's closing dinner and even then we only half filled the Great Hall.

The Chief Justice agreed to be our speaker. When my wife and I arrived at the Court, we were told that the Chief Justice wanted to see us and we were escorted to his chambers. The Markeys soon joined us. The Chief Justice was quite concerned about speaking in the Great Hall because of its terrible acoustics. As we walked toward the reception (being held in one of the Court's conference rooms) we passed by the courtroom itself. The Chief Justice stopped suddenly and asked me whether I saw any reason that he could not give his talk in the courtroom. Of course, I had no reason that I would articulate, but thought to myself that I did not have the chutzpah to have suggested invading that sacred space. Judge Markey and I readily agreed and the Chief Justice went off to find a podium and microphone. Thus was born the tradition of the American Inns of Court dinner in the Great Hall and the speeches in the courtroom that continue to this day.

That first dinner was very important in so many ways. It conveyed to those who were thinking about starting



First row: Harold I. Braff, Joryn Jenkins, and James A. George, and second row Michael W. Coffield and Bruce Roger.

American Inns, as well as to our donors, that we truly had the active support of the highest pinnacle of the American legal system. The seating arrangements were handled with this in mind. Each table had at least one judge so that each of the persons who came would have a meaningful experience. The representatives of ABOTA, of course, were handled very delicately. The incoming president, Peter Watson of Denver, Colorado, was seated next to the Chief Justice. Whatever doubts he had concerning continued ABOTA support evaporated with the significance of the meeting and the dinner. Peter Watson became one of the strongest boosters of the American Inns of Court and, indeed, was instrumental in starting the first Inn in Denver.

The third annual conference was held in San Diego, California in 1987. By this time the number of Inns had climbed to 31 from the 12 that had existed at the end of 1985. The number of states with at least one Inn expanded from seven (plus the District of Columbia) to 20 (plus D.C.). One example illustrates the movement. The New Jersey court system had sent a senior staff person, Robert Lipscher, to the 1986 annual conference in Washington. He reported back favorably and New Jersey then appointed a state coordinating council chaired by the late William J. Brennan, III, along with Judges Harry A. Margolis and Howard Kestin. The three members of the New Jersey coordinating council attended the San Diego meeting to observe and to talk with those who were then involved. In a meeting with several of the other persons active on a national level, they asked some very tough and perceptive questions, but departed converted and enthusiastic. Shortly after

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that, they organized the Justice William J. Brennan, Jr., American Inn in northern New Jersey, recruiting outstanding lawyers and judges to its membership. At the organizational dinner, which I had the pleasure of attending, Justice Brennan was the honored guest and spoke most enthusiastically about the concept. During our private conversation before his speech, Justice Brennan indicated that he knew much from Chief Justice Burger but questioned me about many details. Thankfully, he was satisfied with the answers.

To demonstrate how the concept grew, one of the Masters recruited was Harold I. Braff, a trial lawyer from Livingston, New Jersey. After a year of activity in the Brennan Inn, Braff was named the chair of the New Jersey coordinating committee. He started on his own, a second Inn in northern New Jersey (remaining an active member of both Inns) and became a dynamic proselytizer throughout the state, sparking the creation of American Inn after American Inn. He also traveled to other states, as far away as North Dakota, when called upon for help.

Something similar happened in Florida. In spring 1987, Joryn Jenkins saw an ad in the Hillsboro County bar newsletter for members seeking to create an American Inn of Court in Tampa, Florida. By the time she contacted Peter Grilli, the organizer, there was no longer a vacancy. She then set about starting a second Inn in Tampa. Her enthusiasm led her then to use her contacts in the Florida State Bar to begin organizing Inns throughout the state.

There were others, of course. Jim George of Baton Rouge, Louisiana, used his bully pulpit as president of ABOTA a year or two after Peter Watson to speak on the subject throughout the country, as well as to organize several Inns in his home state. Mike Coffield of Chicago, undertook the organization of Inns in Illinois, Indiana, Wisconsin, and as far west as the Dakotas. Dick Sangster became a driving force in California. Bruce Roger did the same in Pennsylvania. Through the energy and time of these enthusiastic persons, among others, the number of American Inns of Court grew to the point that within a decade there were almost 300 nationwide.³

A part of our role, of course, was to appear before any audience that would hear us to explain the concept and invite participation. I appeared before several federal judicial circuit conferences and state bar meetings, the Conference of Chief Justices, the

governing boards or a membership convention of ABOTA, the Association of Trial Lawyers of America, the National Bar Association, the International Association of Insurance and Defense Council, and the Defense Research Institute, to name just a few. Although I was unable to speak to the leadership of the American College of Trial Lawyers, many individual members of the American College were active in their individual Inns and that number has vastly increased. The American Bar Association leadership also showed little interest, but the ABA works mainly through its subsidiary groups. Therefore, we made presentations to as many committees and sections as possible. The Judicial Administration Division, the Family Law Section, and the Litigation Section were particularly receptive. Some, such as the Commission on Professionalism gave the American Inn concept a strong endorsement that could be used in our promotional material. Others gave us room in their newsletters or magazines. The most tangible result, however, is that many of the listeners—some sooner, some later—became involved in helping to start Inns in their home communities.

The Young Lawyers Division of the ABA deserves special mention. Quite early that division formed an on-going committee, at first chaired by Keith Langley of Dallas, whose object was the formation of at least one American Inn of Court in each of the 50 states. That committee sponsored a program at the division annual meeting for several years and its members were highly effective in spreading the concept. The younger lawyers saw the potential and acted on it with significant results.

This travel to all corners of the nation, of course, took financial resources. As I noted earlier, the tie-in with the Judicial Conference of the United States and the Ad Hoc Committee on the American Inns of Court played a very important role until October 1987. Travel to circuit judicial conferences was done as Ad Hoc Committee business. Often persons, such as Jim George, traveled on behalf of organizations that they headed, and spoke on behalf of the American Inn of Court concept on the side. Very often these giving people paid for the trips out of their own pockets. Of course, they gave of their own time freely. There is no way to calculate the billable hours that were dedicated to this noble enterprise by Hal Braff, Mike Coffield, Jim George, Peter Murphy, Joryn Jenkins, Dick Sangster, Bruce Roger, and many others.

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Not all was smooth sailing, of course. First, there were the financial difficulties already mentioned. Once we had a staff, payroll needed to be met and after we left Georgetown for commercial quarters, rent needed to be paid. There were summers where we ran out of money and a bank loan was needed pending the receipt of fall dues. Since the Foundation had no credit on which to borrow, a cosigner was necessary. That was one of the honors that fell to the president.

One of the issues concerned dues. As has been noted, since the national organization had very little to offer to the American Inns once they were started, we set the dues at \$250.00 per American Inn. That proved to be much too low to sustain the organization. We moved dues up a bit, but feared moving them up too far. On this issue, the board was not of a single mind. Professor Peter Murphy favored moving to dues for each individual member, arguing that that would give each individual member a personal stake in the national movement. Professor Murphy also argued that to set the dues to the point that they should be to sustain the national organization would make it too expensive for smaller Inns. While acknowledging that Professor Murphy's points were quite valid, some of us saw individual dues and the problem of collection as an administrative nightmare, leading to greater costs than rewards. This issue was debated over a significant period of time, with much good discussion, until there emerged a union of the two ideas: dues were to be based on the number of individuals within an Inn, but the dues were to be assessed collectively upon each Inn as an entity. The concept worked without any complaint coming from the individual Inns.

Occasionally, groups of organizers would take the American Inns of Court concept, including the manual on how to start and operate an Inn and other help, and then see no reason to continue to be a member of the national organization. Appeals to a perceived obligation to help the rest of the profession outside of their communities fell on deaf ears. Thankfully, these exceptions were rare and some of those groups that opted out in the early years have now returned to the fold as fully chartered American Inns of Court.

A problem that arose quite early concerned whether it was to be a *sine qua non* that each Inn was to have law-student members. The first six American Inns of Court to be organized had law students and law students were clearly a focus of Chief Justice Burger's interest. Indeed, his first attempt at doing something to

improve the profession, the Inns of Court concept through the Phi Alpha Delta legal fraternity (noted by Ralph Dewsnap, *supra*) was aimed solely at law students. Judge Christensen's statement of the essence of an American Inn of Court included that this was, as Ralph reports, an "amalgam... of the bar, the bench, and students." Federal Judge William Enright of San Diego, in applying for an American Inn of Court charter; however, stated that his group did not want to include law students; rather, they wanted to include beginning lawyers in their place. Judge Richard Lavine of Los Angeles, working on starting still another American Inn of Court, stated that his group agreed. Chief Judge Howard Markey argued strenuously for what he termed the "traditional mode" of including law students. Judge Christensen, in a very impassioned speech to the Ad Hoc Committee while he was still chair, argued that we must make the tent big enough for all models. As long as we were striving to increase the skills, the ethics, the civility, the professionalism of the legal profession, whether an Inn included law students or young, neophyte lawyers was of no moment, Christensen asserted. That won the day.

Another problem arose concerning whether the American Inns of Court would take a public position on issues of concern to the profession. This question came first from ABOTA. As has been noted, ABOTA strongly believes in the jury system and particularly the civil jury system, which it considered to be under grave threat. When we were seeking ABOTA financial support, some of the ABOTA leadership wanted the American Inns of Court to adopt an official and public position supporting the continuation of the civil jury system as it has always been. We knew, however, that this was just the nose of the camel trying to get under the tent. Once the Inns took a public position on one legal issue, we would be faced with others. To succeed, the American Inns of Court had to focus solely upon its mission: the fostering of skills, ethics, civility, and professionalism and eschew all issues that did not fit squarely within that mission. It was my task to explain this to the board of ABOTA and still ask for ABOTA's financial support, which indeed was forthcoming.

A similar problem arose from Chief Justice Burger. As is well known, the Chief Justice was unalterably opposed to advertising by lawyers. He tried hard to argue the American Bar Association into taking a position opposed to all advertising, but failed. He then

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The Right Honorable the Lord Bridge of Harwich, the Senior Law Lord of Great Britain represented the English Inns of Court in joining with Chief Justice Warren E. Burger in signing a "Declaration of Friendship" between the English Inns and the American Inns.

turned to the American Inns of Court. He urged that we adopt a policy that no lawyer who advertised or belonged to a law firm that advertised could be a member of an American Inn of Court. We knew that, if one gave an honest definition to what constitutes advertisements, we would lose almost all of our members should such a rule be adopted. But the Chief Justice was adamant.

Judge Markey and I told the Chief Justice that, in our opinion, it was much better to consider the issue in the context of a larger Creed of Professionalism than in isolation and that, therefore, we had appointed a committee to consider and draw up such a creed for the American Inns of Court. Judge Enright agreed to be the initial chair of the committee. The committee held "hearings" at annual meetings, prepared drafts, which were circulated to the various local Inns for comment, and then held hearings for more comments. This accomplished two purposes. First, on the positive side, the hearings and the discussion among the Inns were a real plus: it forced judges and lawyers to focus on what should be in a Creed of Professionalism for lawyers. Second, in a real sense, the process of consideration and discussion was worth more than the end product of the creed. One of our new trustees, Justice Randy J. Holland of the Delaware Supreme Court, was asked to inform Chief Justice Burger that we did not adopt a ban on members who advertised; and to make certain that Chief Justice Burger did not resign from the American Inns of Court. The process appeared to satisfy the Chief Justice, who remained an enthusiastic supporter of the movement throughout the rest of his life.

A third area of concern was the makeup of the national board. The American Inn concept began with heavy leadership involvement of the federal judiciary. Yet as time went on, it became clear that state judges were very important to the concept. Indeed, many Inns had no federal judges at all. At first, the only state judge on the national board was the president of the Conference of (state) Chief Justices, who served on the board ex-officio but rarely attended board meetings. When it became clear how important state judges were to the success of the concept, some of us began to be concerned about the lack of regular participation by state judges. Upon invitation, Judge Richard Lavine of the California Circuit Court in Los Angeles joined the board. In 1991 to begin a significant state-judge membership on the board.

One other issue arose: whether we would permit specialized American Inns of Court. The original concept, of course, was for members to be lawyers who actually tried cases in court. That was then expanded to include "litigators" who spend most if not all of their time in discovery and motion practice. The Inns, however, had trial lawyers and litigators from all areas of practice. Then we were approached with a group who wanted to start an Inn limited to litigators in a particular specialty. The first few were in the areas of tax litigation and of intellectual property litigation. The board debated this issue. Some supported staying with the original concept, which might be summarized that a trial lawyer can try any type of case and therefore specialized American Inns were outside the pale. The other view was that in litigation bar is in fact specialized and that it made sense that those who litigate against each other should break bread and discuss skills, ethics, civility and professionalism together. Once again the board agreed to depart from the details of the original concept. Today, there are many American Inns of Court specializing in family law, bankruptcy, military law, workers' compensation, white-collar crime, as well as intellectual property and taxation.

A significant factor has been our relations with the Inns of Court of the United Kingdom. As was noted by Ralph Dewsnup, the genesis of the concept came from Chief Justice Burger's interest in the English Inns of Court and how they trained barristers and set standards of ethics and civility that were almost universally followed. In 1988, The Right Honorable the Lord Bridge of Harwich, the Senior Law Lord of Great Britain came to Washington to speak at the American Inns of Court annual meeting.

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He also represented the English Inns of Court in joining with Chief Justice Burger (by then retired) in signing a "Declaration of Friendship" between the English Inns and the American Inns. From that time on, there has often been a speaker from the English bar or bench at an American Inns of Court annual conference.

In 1990, the speaker was The Right Honorable the Lord Goff of Chively, who had succeeded Lord Bridge as the Senior Law Lord. Lord Goff issued a challenge: if the British Inns would indict George Washington for treason, would the American Inns defend him. The challenge was accepted. Harold Braff of New Jersey and Michael Coffield of Chicago headed up a team of trial lawyers to defend our first president at a trial to be held in the Great Hall of Lincoln's Inn in London. Witnesses included George Washington, Thomas Jefferson, Benjamin Franklin, and Lord North. After a most interesting trial, a bench of three, two from England and one from the United States (Judge A. Sherman Christensen) unanimously acquitted President Washington.

Other contacts between the two organizations and their members include the Pegasus Scholarship Trust exchange program by which young British barristers come to the United States annually to visit American Inns of Court and learn about the American legal system. Young American Inn members in turn visit Great Britain to learn about the English legal system. A second international program, the Temple Bar Scholar program, was added in 1996 and will be discussed in the following article. Further, American Inn of Court members who are in Great Britain are welcomed to the English Inns to observe and to partake in meals.⁴

The Lewis F. Powell, Jr. Award for Professionalism and Ethics was established and was named in honor of Supreme Court Justice Lewis F. Powell, Jr., who received the first award at the annual meeting in June 1990. The award recognizes a person who has rendered exemplary service to the legal profession in the areas of legal excellence, professionalism, civility and ethics.

As we entered the 1990s with increased numbers of Inns—the 100th was chartered in 1990 and the 200th in 1993—it became clear that a restructuring was appropriate. Executive Director Michael Daigneault announced that it was time for him to move on. The board accepted his resignation with much regret, but also with much gratitude for Mike's devotion, energy, and tremendous giving of himself to make the concept succeed. A search resulted in the hiring of Don

Stumbaugh, retired Judge Advocate General of the Navy—a man of a different style, but as it turned out, much more suited to the need of the more mature organization.

It was also time to restructure the board. After a professional survey of members of local Inns, and much serious thought, the board was expanded, and regional elections of some board members was instituted. Young lawyers were guaranteed seats on the board. Some judges had a problem standing for contested election; so most judges were to be selected by the board itself. Public members were added, so that the thinking of those persons involved in business and pursuits other than the legal profession might bring a different perspective. It was also time to establish term limits for officers and for the president to change. Eleven years was enough for any organization or person.

These changes occurred gradually over a three-year period. Don Stumbaugh replaced Mike Daigneault in 1993. The board restructuring occurred in 1994. In 1995, coincident with the expiration of the term of Chief Judge Howard Markey, the position of chairman was abolished. The president changed in May 1996 when Judge Patrick Higginbotham of the U.S. Court of Appeals for the Fifth Circuit took the helm. The transition was over and a new phase was well under way.

This story cannot end without some words about Chief Judge Howard Markey. At each stage of the history of the American Inns of Court, we have been fortunate to have at least one most important person. First, of course, Chief Justice Burger, who gave birth to the general concept and without whose public support nothing would have happened. Then Judge J. Clifford Wallace who kept the idea alive, nurtured it, and encouraged the Chief Justice to do something to bring it to fruition. He was an essential transition figure. But then Judge A. Sherman Christensen took the embryonic ideas of the Chief Justice and of Judge Wallace and honed them into a workable reality. Without his vision and dedication, the embryonic ideas would have been just that: embryos without real existence. As Ralph Dewsnap has so well described, Judge Christensen gathered about him a troop of judges and lawyers willing to experiment, willing to make it happen. And he led them with a clear vision of where he was going.

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Priority was given to reaching not only established attorneys and judges, but also those individuals who were at the beginning of their legal careers.

BY RANDY J. HOLLAND

The first decade of the American Inns of Court Foundation drew to a close under the able leadership of Professor Sherman Cohn with a focus on the future. The hallmarks of 1994–95 for the American Inns of Court were the greater organizational responsibility that was necessitated by the movement's maturity, coupled with intensified outreach to American Inns, law schools and the wider legal community at home and abroad. Priority was given to reaching not only established attorneys and judges, but also those individuals who were at the beginning of their legal careers.

The 1994 annual meeting was the largest in American Inns of Court history, with 498 total attendees and guests. Participants included Attorney General Janet Reno, three associate justices of the U.S. Supreme Court, and 83 other panelists, moderators, and speakers. Live coverage was provided on C-SPAN cable television.

The American Inns of Court first joint venture with Lawyer's Cooperative Publishing resulted in release of the "Visions of Excellence" video series. The Law School Project—a three-year initiative to involve more law students, law professors and deans in the American Inns of Court—began. Corporate grants from Lawyer's Cooperative Publishing and Bancroft-Whitney, together with funding from the Culpepper Foundation and the Prudential Foundation, enabled the American Inns of Court to reach out to both affiliated and unaffiliated law schools. It also provided new tools for local Inn formation such as a lively videotape introduction to the American Inns of Court, a new information brochure, and an attractive portable exhibit booth. Nearly 500 member and non-member chapter authors also began work on the Federal Circuit Practice Guides and State Practice Guides. These American Inns of Court/Lawyer's Cooperative Publishing volumes placed a particular emphasis on legal ethics.

Collegial cooperation with other legal organizations increased. The American Inns of Court was present at the 1994 ABA Annual Meeting in New Orleans, the California Bar Annual Meeting in September, the National Conference of Bankruptcy Judges in October, the ABOTA Mid-Winter Meeting in January and the Florida Bar Annual Meeting in June. Closer ties with Phi Alpha Delta Law Fraternity were also explored.

In June 1994, after months of study and planning by the board and a professional management consultant, the member Inns voted extensive changes to the bylaws of the Foundation. The option of national membership was instituted for alumni of American Inns of Court as they rotated out of active Membership in their Inns. Another important organizational change was the expansion of the board of trustees to include eight regional trustees as well as two barristers and one associate trustee. This change in the board's composition provided the type of broad based Inn support that was needed by the maturing national movement. Trustee elections were held in late 1994. The newly constituted, 29-person board met for the first time at a weekend retreat in Williamsburg, Virginia.

The strategic planning committee held an historic meeting with American Inn Court founder Judge A. Sherman Christensen, in Utah in August 1994. The committee conducted a videotaped "interview" with Judge Christensen. This was the beginning of what has become an ongoing effort to preserve oral histories of the founders of the American Inns of Court.

The 1995 Annual Meeting was held in San Francisco in early May. Co-chairs Lenard G. Weiss and Raymond Erlach made the meeting one of the most successful in the organization's history. Highlights were barrister Sydney Kentridge's inspiring remarks at the English Luncheon and Justice Antonin Scalia's scholarly address on Saturday evening.

As a result of the Inn Development Committee's efforts, under the leadership of Harold I. Braff, and with support from the Foundation's Swing Harre, a record number—39— new American Inns of Court received charters and became part of the nationwide organization. Representatives of many of these new Inns accepted their charters at the Annual Meeting's Chartering Luncheon in San Francisco from Foundation President Sherman Cohn and Inn member Chief Justice Malcolm Lucas of the California Supreme Court. The formation of specialty Inns—family, labor and employment, bankruptcy and intellectual property law—grew at an increased pace. The number of new Inns affiliated with law schools also increased. Trustees Bruce E. Rodger and Justice Randy J. Holland were instrumental in seeing that an American Inn of Court charter was issued in all 50 states.

Continued on the next page.

the MOVEMENT matures



S. Robert Allcorn, John A. Jeanson, Jr., Vern D. Schooley, and Kevin F. Brady.

Member services were enhanced by increasing the publication of *The Bench* to a bi-monthly newsletter and by expanding the Programming Catalog. The *National Handbook and Membership Directory* sent to all members, including pupils, was redesigned to include more information about services and benefits.

In 1995, Dean Howard T. Markey stepped down as chairman of the board. The American Inns of Court Howard T. Markey Endowment Fund was established to carry on Judge Markey's abiding commitment to the work of the American Inns of Court. Non-dues income continued to be important to growth and stability. The 1994-95 Annual Campaign, ably led by co-chairs John A. Jeanson, Jr. and S. Robert Allcorn, became a fully organized grass roots campaign with a viable structure of local and regional coordinators whose efforts yielded the highest-ever totals for participation and overall annual fund raising. Trustee Vern D. Schooley and future trustee Kevin F. Brady set the standard in this important endeavor.

1995 also marked an expansion of the American Inn's involvement with the English Inns of Court and colleagues in other common law countries. The Pegasus Scholarship Trust exchange program also continued to be successful. In late May and early June, the American Inns of Court hosted a prestigious group of judges and attorneys from India and several other common law countries, laying the groundwork for future international exchanges. Discussions also began with the Temple Bar Foundation concerning an existing scholarship program for young American lawyers in London.

In most organizations, as in most families, there are cycles and seasons. For the American Inns of Court, 1995-96 brought a progression of seasons that were often exciting and sometimes sad. Viewed from the perspective of the 1995-96 annual fund campaign theme "Raising The Standard" members of American Inns of Court were poignantly reminded that they were standing on the shoulders of those who went before them. Three giants of the American legal system and the American Inns of Court movement passed from the scene. In the summer of 1995, death claimed Chief Justice Warren E. Burger. Without Chief Justice Burger's

determination and considerable influence, the American Inns of Court might have been easily dismissed at its inception. Chief Justice Burger summarized his pride in the organization that he inspired and worked to create as follows: "The American Inns of Court will remain the greatest legacy of my tenure as the Chief Justice of the United States." Judge Aldon Anderson and former Solicitor General Rex Lee, who helped shepherd the American Inns of Court from concept to reality, also died in the spring of 1996.

Just as we experienced these sad passages, new or revitalized programs challenged the American Inns of Court. One long-standing cooperative international legal exchange program had a "new beginning." The Pegasus Trust program was improved. During the summer of 1995, three young English barristers, Adam Korn, Patrick Green and Kerry Cox, spent a productive time with law firms in Wisconsin, Utah and Florida learning about American legal practices. Additionally, two American Inns of Court members, David Simon of Wisconsin and David Benfield of Massachusetts, spent three months in London learning about the English legal system.

The board of trustees also voted to take over a legal scholarship program previously run by the Temple Bar Foundation. Four Temple Bar scholars—clerks of federal circuit judges or U.S. Supreme Court justices—now travel to London each fall for a month's study under our auspices, with outstanding and indispensable cooperation from the prestigious Commercial Bar Association (COMBAR). Each year, the North American Committee of the Commercial Bar Association arranges placement of Temple Bar scholars in barristers' chambers.

Another "new beginning" was the Regional Workshop. The format was convenient and affordable Saturday work sessions for Inn leadership. The first regional workshop was held in Boston in April 1996 with the guidance of trustee Richard M. Gelb.

The American Inns of Court Professionalism Awards were also initiated to recognize lawyers and judges from each federal circuit who exhibited high levels of professionalism, civility, ethics and excellence. Trustee Judge Patrick Higginbotham presented the first award to James Coleman at the Fifth Circuit Judicial Conference.

Also in 1996, Judge A. Sherman Christensen, founder of the first American Inn of Court, died in Provo, Utah, on at the age of 91.

As the American Inns of Court Foundation began its second decade, a transition of another type was marked by the 1996 elections for the board of trustees and the first full-scale rotation of board officers. Professor Sherman Cohn, who served as the president of the American Inns of Court Foundation since it was chartered in 1985, stepped down as president in June. A tireless advocate for the unique experience that American Inns of Court provide to lawyers and judges, Professor Cohn propelled Chief Justice Burger and Judge Christensen's vision into fruition. Starting with 12 chartered Inns, Professor Cohn, during his 11 years as president, built the organization from the ground up. At the national conference black-tie gala in Tampa, everyone joined in a standing ovation saluting Professor Cohn's accomplishments.

The Honorable Patrick E. Higginbotham, a judge on the U.S. Court of Appeals for the Fifth Circuit, was elected president of the American Inns of Court Foundation by the board of trustees for a two-year term beginning July 1, 1996. Other officers were: Delaware Supreme Court Justice Randy J. Holland, vice president; Karen S. Crawford, secretary; and Ralph L. Dewsnup, treasurer. Professor Cohn and James A. George were elected to join the four officers on the executive committee of the board of trustees.

After nearly three years of study and deliberation, including discussions with Inn leaders and other members, the trustees of the American Inns of Court Foundation decided that it would be best to go to Inn members only once each year for financial support, and that support should be in the form of dues. Foundation President Judge Patrick E. Higginbotham, notified Inn presidents in February 1997 of the decision to end Annual Fund solicitations on June 30, 1997 and to increase national dues from \$35/person per year to \$50/person per year beginning July 1, 1997. This change proved to be very popular and led to what is now a continuing "era of good feeling" toward the Foundation by Inns.

In June 1997, 375 lawyers, judges and their guests convened on the Princeton University campus to share in the stimulating programs, elegant social affairs and beautiful collegiate setting that formed the National Conference. Through the combined efforts of the Inns in New Jersey in publishing a program guide, almost \$100,000 was donated to the Markey



Judge John M. Duhé, Jr., (left) of Lafayette, Louisiana accepts the American Inns of Court 300th charter from trustee James A. George.

Endowment Fund. A milestone in the history of the American Inns of Court movement was reached on June 19, 1997 in Lafayette, Louisiana when the American Inns of Court Foundation issued its 300th charter to the John M. Duhe, Jr. American Inn of Court. The occasion was symbolic of the dynamic vitality and growth of the American Inns of Court since the first Inn was started at Provo, Utah in 1980.

In conjunction with the October 1997 Leadership Dinner, the Foundation sponsored its first-ever Leadership Forum for members of the board of trustees, members of the leadership council, Professionalism Award winners, and a panel of leaders from various segments of the legal profession. Moderated by public trustees Charles M. Matthews and Ambassador Sol M. Linowitz, the forum discussion centered on three main topics—legal education, the transition from law school to practice, and the continuation of an emphasis on civility and ethics in the practice of law. In each area, a review of current issues, possible improvements and the role of the American Inns of Court led to a number of concrete suggestions for further study.

The beginning of important modifications in the Pegasus Trust international exchange program started in 1998. The program had traditionally relied on individual law firms to host English barristers visiting the United States. While the contribution of these firms had been invaluable, the financial burden placed on them by hosting scholars for three months was great. Working with one or two firms also provided a limited experience for visiting barristers. As a result of these considerations, starting in the summer of 1998, the Foundation decided

Continued on the next page.

the MOVEMENT *matures*

to place visiting English barristers with a host American Inn of Court, where they would become honorary members for the duration of their stay. The host Inn now arranges the Pegasus Trust scholars' activities for their three-month stay, including work with several law firms and judges and time spent at Inn meetings and law schools. Starting in 1999, the Foundation agreed to pay all of the costs associated with the Pegasus scholars' visits to the United States.

For several years, the American Inns of Court Foundation has been on the State Department's very short list of legal organizations asked to meet with judges and lawyers coming to the United States from countries with less developed legal systems. The Foundation office in Alexandria, Virginia continued to be a popular destination for foreign legal dignitaries and lawyers during their visits to the United States in 1998. Delegations of judges from Russia, Peru, China and Italy all visited the Foundation and met with its staff, learning more about the American Inns of Court and its role within the American legal system.

The president of the American Bar Association, in 1998, appointed a Commission on Evaluation of the Rules of Professional Conduct. Its charge was to examine the ABA Model Rules of Professional Conduct over a three-year period. Foundation President Higginbotham was appointed to serve as one of the commission members, in order to bring the American Inns of Court perspective to this important process.

Coinciding with the Leadership Dinner in October 1998 was the renaming of the National Courts Building in Washington, D.C. as the Howard T. Markey National Courts Building. The first chief judge of the U.S. Court of Appeals for the Federal Circuit, Judge Markey was an early leader within the American Inns of Court movement, serving by the appointment of Chief Justice Burger on the Ad Hoc Committee that recommended the formation of the national Foundation and later as Chair of its Board of Trustees. Also noteworthy at the October meeting was the election by the board of three eminent former trustees to the position of trustee emeritus: Professor Sherman L. Cohn, Ralph L. Dewsnup, and Judge Howard T. Markey. Election as a trustee emeritus honors former members of the board who have made an outstanding contribution to the governance of the American Inns of Court Foundation. Upon their election by the board, Professor Cohn, Mr. Dewsnup and Judge Markey joined Judge Aldon Anderson, Judge Susan Black, Chief Justice Warren Burger, Harold Christensen, Judge William Enright, and Albert Moon who had been previously designated trustees emeritus.

One of the central responsibilities of the national office of the American Inns of Court is to serve as the communications hub between and among members, Inns and the headquarters of the organization. For more than a year, the staff conducted formal and informal studies to determine how best to meet the various communications needs of a growing national organization. With the guidance and expertise of Deputy Executive Director David Akridge, the Foundation launched an American Inns of Court website www.innsofcourt.org. Helping the Foundation meet its second major goal—to facilitate exchange of ideas, experiences and ongoing education among members of the American Inns of Court—the website enables members and non-members alike to learn more about the movement. The Foundation was now also able to host websites for Inns and link them to the national site.

The publication of *Reclaiming a Noble Profession*, a thorough history of the conception and development of the American Inns of Court, highlighted 1999. It was the result of years of work by numerous individuals, notably Professor Paul B. Pixton of Brigham Young University. The book provided a complete account of



Judge Howard T. Markey (left) with Justice Anthony M. Kennedy at the annual Leadership Dinner held October 24, 1998 at the Supreme Court of the United States.

The 1998 National Conference was held in New Orleans. Judge Patrick Higginbotham and Justice Randy J. Holland were re-elected to two-year terms as president and vice president, respectively. Also elected as officers were secretary, Karen S. Crawford and treasurer, John C. Bales.

the events leading to the creation of the first American Inn of Court and follows the movement's progression through its early years. Also contributing to the success of this project were U.S. Supreme Court Justice Sandra Day O'Connor, who authored the book's foreword; and Kathryn Downing, then CEO of Matthew Bender & Company, through whose generosity the book was published. Copies of the book were sent to each Inn president, and to the law libraries of the 114 law schools that were affiliated with an Inn.

The 1999 National Conference in San Diego provided Inn members from around the country with the opportunity to exchange ideas and experiences, learn more about Inn development and administration, and discuss issues related to ethics and professionalism. The opening session of the conference entitled "What is Justice?" and featuring a presentation by actor Laurence Luckinbill as Clarence Darrow, proved inspiring to many attendees and sparked a lively debate on what constitutes justice. William Blair, QC a prominent English barrister and officer of Great Britain's Commercial Bar Association, gave an outstanding luncheon address that served as the catalyst to an enhanced and strengthened cooperative relationship between the American Inns of Court, the English Inns of Court, and COMBAR.

The board of trustees implemented two important membership policy changes to make the Inn of Court experience more widely available. Effective July 1, 1999 the limit on Inn size was removed, leaving the maximum manageable size decision to the individual Inns. In addition, participating third-year law students were allowed full membership without paying national dues. To enrich the quality of program materials available to Inns, the board of trustees also created the National Education Committee. The committee consisted of a mix of educational experts and program leaders from around the country and worked with the Foundation staff to assist Inns in program development and mentoring techniques.

A new staff position of External Affairs Coordinator was created to assist Inns in gaining more recognition in their communities, expand media relations, act as a liaison with other legal organizations, and increase the visibility of the American Inns of Court within the profession. Dick Page, who was previously the Assistant to Executive Director Don Stumbaugh, was selected to fill the new position.

During the year 1999–2000, the American Inns of Court noted with sadness the passage of three great men. Albert I. Moon, Jr., one of the founding fathers of the American Inns of Court movement, died in Glendale, California. Judge John Minor Wisdom, the 1991 recipient of the Lewis F. Powell, Jr. Award for Professionalism and Ethics, also passed away. The Honorable Giles S. Rich, the venerated judge of the U.S. Court of Appeals for the Federal Circuit, died at the age of 95. The Giles S. Rich American Inn of Court, an intellectual property Inn in Washington, DC is named in his honor.

The theme of the American Inns of Court 2000 National Leadership Conference, "Local Inn Leadership in the New Millennium" signaled a significant shift in the national conference paradigm. The change in format was prompted by the desire of Inn leaders around the country to provide members with better meetings, programs and mentoring techniques. The agenda of the conference was paced with substantive sessions addressing every aspect of successful Inn administration.

The four-year presidency of Judge Patrick Higginbotham came to a successful conclusion. The prior changes in the governance structure for the board of trustees had included provisions for limiting the term of office for the president to a maximum of four years. Higginbotham's tenure was marked by a substantial increase in the day-to-day management role of the Foundation's small but competent professional staff, under the superb leadership of its executive director, Admiral Don Stumbaugh. It was also highlighted by the establishment of the Professionalism Awards in most federal circuits. After a decade as the most rapidly growing legal organization in the country, Judge Higginbotham's initiatives provided Inns with the stability that was needed to ensure the continued vitality of a maturing national movement.

At its May 2000 meeting in Atlanta, the board of trustees elected Justice Randy J. Holland of the Delaware Supreme Court president of the American Inns of Court Foundation. Justice Holland had served on the American Inns of Court Foundation Board of Trustees since 1992 and as vice president since 1996. The trustees also elected other officers while in Atlanta: vice president, Harold I. Braff; secretary, Justice Ruth V. McGregor; and John C. Bales was re-elected treasurer.

Continued on the next page.

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Robert L. Hutton visits with Justice Sandra Day O'Connor in her chambers after receiving the first American Inns of Court Sandra Day O'Connor Award for Professional Service.

The Sandra Day O'Connor Award was established in commemoration of Justice O'Connor's long-time support of the American Inns of Court, and her exemplary professionalism, civility and pursuit of legal excellence. The

creation of the annual award was formally announced on October 13, 2000 at a luncheon in Washington, DC, sponsored by the American Inns of Court in honor of Justice O'Connor. The award is bestowed annually upon a member of the American Inns of Court who has been in practice for ten or fewer years for excellence in public interest or pro bono activities. Attorney Robert L. Hutton of Memphis, Tennessee was selected as the first recipient of the Sandra Day O'Connor Award for Professional Service. The award was presented at the 2001 National Leadership Conference in Denver, Colorado. Mr. Hutton was unanimously nominated for the award by the members of the Leo Bearman, Sr. American Inn of Court in Memphis.

During the closing decade of the twentieth century, the American Inns of Court continued to experience remarkable growth—in members, chapters and financial stability. The Foundation continued to develop and implement new strategies, programs and support tools to help make the Inn experience even more available and valuable. Beyond impressive numerical growth through the 1990's, the American Inns of Court experienced an increase in stature as a national organization. Highlighted by an increase in its international exchange programs as well as programs and cooperative projects with other local, regional and national organizations, the American Inns of Court secured its role as a vital force in shaping a culture of excellence in the practice of law.

Indicative of the growing national stature of the organization was a unanimous resolution adopted by the Conference of Chief Justices. The resolution stated

that the American Inns of Court "is a proven and effective method of integration of the law schools, the bench and the bar in the training of law students and young lawyers in their professional obligations." In that resolution, the Conference of Chief Justices urged "State courts to promote the mission of the Inns of Court and encourage members of the bench and bar to become actively involved in that movement." The Federal Judicial Conference and the Judicial Administration Division of the American Bar Association had passed similar resolutions in prior years. The Conference of State Chief Justices subsequently adopted "A National Action Plan on Lawyer Conduct and Professionalism." That action plan urged judges to promote mentoring programs for both new and established lawyers. The American Inns of Court was specifically identified as an organization that provides opportunities for developing mentoring relationships. The Delaware Supreme Court also recognized the American Inns of Court movement and influence of its ideals on the practice of law by asking each of the four Delaware Inns of Court to nominate a Pupil member to speak to the new admittees and their families at the new lawyers' admission ceremony held every December.

In April 2001, former President Gerald R. Ford was named an honorary member of the Grand Rapids American Inn of Court at a presentation ceremony in Grand Rapids, Michigan. It was the first designation of a U.S. President as an honorary member by an American Inn of Court. Ford was honored for his many years of leadership and professional achievements.

Continuing to pursue a more active involvement with the entire legal profession, the American Inns of Court has greatly increased its cooperative involvement with other legal organizations. Through local, regional and national participation in various bar associations' meetings and events, valuable alliances have been forged to the mutual benefit of the groups involved. For example, many Inns have traditionally put forth special efforts during the Law Day celebration. Inns have also participated in Justice Anthony Kennedy's Dialogue on Freedom in high schools.

Justice Sandra Day O'Connor and her husband John were honored guests of the Arizona American Inns of Court on January 30, 2002, at a gala banquet in Phoenix. The occasion for the banquet was the presentation of endowment funding by the Friends of Sandra

Day O'Connor Committee for the national Sandra Day O'Connor Award for Professional Service. The Friends of Sandra Day O'Connor Committee is a non-profit organization originated to raise funds to place a statue of Justice O'Connor in the new federal courthouse in Phoenix that bears her name. In keeping with the committee's purpose of honoring Justice O'Connor, and at the suggestion of trustee Ruth McGregor, excess funds from that project were donated to the American Inns of Court Foundation to help fund the American Inns of Court Sandra Day O'Connor Award for Professional Service.

The Board of Trustees of the American Inns of Court held its bi-annual election of officers during a regular meeting in Seattle, Washington on May 16th, 2002. Re-elected to a two-year term as president was Justice Randy J. Holland of the Supreme Court of Delaware. Also elected were vice president, Donald G. Kempf, Jr.; secretary, Ruth V. McGregor; and treasurer, Deanell R. Tacha. Elected as at-large members of the executive committee were Andrew P. Napolitano and Wiley Y. Daniel. The board also voted to align the Regional Trustee positions geographically with the federal circuits and rename them Circuit Trustees.

Also at the May 2002 meeting, the board authorized the establishment of a separate corporation that would have the sole purpose of raising funds to support the American Inns of Court Foundation. That entity was named the American Inns of Court Endowment Fund. The initial directors were trustees Donald G. Kempf, Jr., Andrew P. Napolitano, and Charles H. Dick, Jr. Those directors then elected the following officers: president and Chief Operating Officer Rear Admiral Don Stumbaugh, JAGC, USN. (Ret.); and secretary and treasurer Kevin F. Brady.

The American Inns of Court Diversity Committee, chaired by former National Bar Association president and American Inns of Court trustee, Judge Wiley Daniel, and with the help of Judge Carl E. Stewart and external affairs coordinator Dick Page, created a demonstration program for the July National Bar Association's 77th Annual Convention in San Francisco. The presentation, "Summary Judgment Procedures in Race and Employment Discrimination Cases" was given the honor of being named as the convention's Presidential Showcase Program by NBA President Michael S. Rosier. The content was researched, documented and produced by Inn members working with NBA

members across the nation. The program session was well attended and proved to be a fitting introduction to the Inn's tradition of quality program presentation.

During a visit to Washington, DC, the officers and committee chairs of the British General Council of the Bar (known as the Bar Council) were honored at a special reception and luncheon sponsored by the American Inns of Court. The Bar Council, working with and through the four Inns of Court in London, is the policy and disciplinary body for all barristers in England and Wales. The event was held at the historic Cosmos Club in the nation's capital and hosted by former trustee Ambassador Sol M. Linowitz and American Inns of Court President, Justice Holland. Members of the board of trustees and leadership council welcomed the Bar Council's judges and barristers in the spirit of the Declaration of Friendship between the American and English Inns of Court.

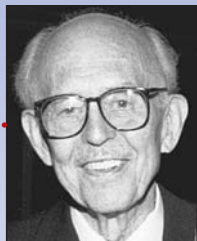
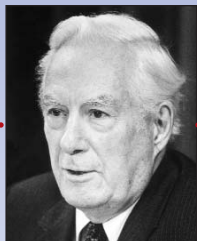
The Supreme Court of the United States was again the site of October's annual Celebration of Excellence. Following the traditional reception and formal dinner in the Great Hall, the assembled dignitaries and guests proceeded into the courtroom where Foundation president, Justice Randy Holland, on behalf of the American Inns of Court, and Chief Justice Ronan Keane of Ireland, on behalf of King's Inns in Dublin, signed a "Declaration of Friendship." The document formally establishes a bond of fraternity between the two groups

Continued on page 42.



Justice Randy Holland and Chief Justice Ronan Keane of Ireland sign a "Declaration of Friendship" between the American Inns of Court and King's Inns in Ireland on October 18, 2002 at the Supreme Court of the United States.

the TIMELINE



FEBRUARY 12, 1980—Upon the request of **Chief Justice Warren E. Burger** and under the direction of **Judge A. Sherman Christensen** the first meeting of **American Inn of Court I** is held in Provo, Utah

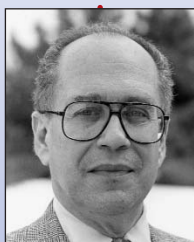
FEBRUARY 21, 1981—**American Inn of Court II** is organized in Salt Lake City, Utah.

1980

1985

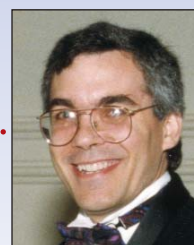


MAY 24, 1985—With 12 existing Inns, the **American Inn of Court Foundation** is **chartered** as a non-profit, tax-exempt organization in Washington, DC.



JUNE 21, 1985—The first meeting of the American Inns of Court Foundation Board of Trustees is held in Salt Lake City during which officers are elected. **Professor Sherman L. Cohn** is elected president of the Foundation.

JUNE 20, 1985—Representatives of the 12 existing Inns elect the first American Inns of Court **Board of Trustees** during a meeting at Brigham Young University in Salt Lake City, Utah.



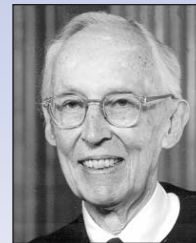
APRIL, 1986—Professor Cohn hires **Michael Daigneault** who later becomes the first executive director of the Foundation.



JANUARY, 1986—The first issue of **The Benchers** is published.



JUNE 10, 1988—**Chief Justice Warren E. Burger** for the American Inns of Court and **The Right Honourable The Lord Bridge of Harwich** representing the four English Inns of Court, sign the historic Declaration of Friendship.



June 4, 1990—The Lewis F. Powell, Jr. Award for Professionalism and Ethics is established and presented to retired Supreme Court **Justice Lewis F. Powell, Jr.** at the 6th Annual Meeting in Washington, DC



MAY 2, 1986—Outgoing Foundation chairman **Judge Aldon J. Anderson** receives the first Chairman's Award (later known as the A. Sherman Christensen Award).

1988—The board of trustees approves the creation of Inns that concentrate on specific areas of the law.

1988—The first **Programming Manual** is compiled and distributed to all Inns. The manual contained synopses of the most successful programs at each Inn..



1990—The **Pegasus Scholarship Trust** is expanded to include an Anglo-American exchange with young American Inns of Court members.

March 9, 1990—The Boston American Inn of Court becomes the milestone **100th chartered Inn.**

1990

the TIMELINE



1993—American Inn of Court Board of Trustees adopts a **Professional Creed**.



JULY 1, 1993—**Don Stumbaugh** becomes executive director of the Foundation.



1996—**James E. Coleman, Jr.** receives the first American Inns of Court Professionalism Award the 5th Circuit.

JULY 1994—Foundation begins first phase of "**The Law School Project**" in an effort to bring the American Inns of Court experience to more law schools.

1990

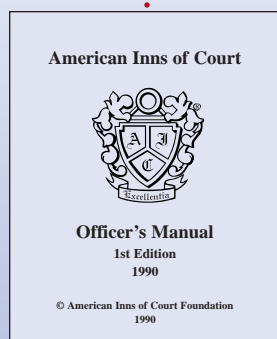
1995

MAY 9, 1993—The New York County Lawyers' Association American Inn of Court is chartered as the **200th Inn**.

AUGUST 4, 1994—American Inns of Court Foundation receives the **E. Smythe Gambrell Professionalism Award** presented by the ABA Standing Committee on Professionalism.



JULY 1, 1996—Judge **Patrick E. Higginbotham** becomes president of the Foundation.



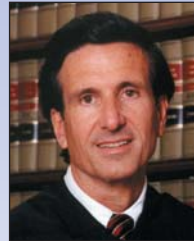
1990—The Foundation publishes its first **Officer's Manual**.



FEBRUARY 1996—The Foundation becomes affiliated with the **Temple Bar Foundation**, which sponsors young U.S. lawyers to participate in a month-long education program in London about the English legal system.



JUNE 19, 1997—The John M. Duhé, Jr. American Inn of Court of Lafayette, Louisiana is chartered as the **300th Inn**.

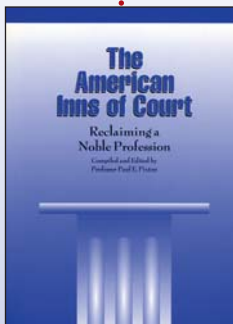


JULY 1, 2000—Justice **Randy J. Holland** becomes president of the Foundation.

APRIL 28, 2001—**Gerald R. Ford** is recognized as an honorary member of the Grand Rapids American Inn of Court, the first such designation of a former U.S. President.

2000

2005



1998—**Reclaiming a Noble Profession** by Paul B. Pixton, a thorough history of the conception and development of the American Inns of Court, is published by the Foundation.



MAY 2001—**Robert L. Hutton** receives the Foundation's first Sandra Day O'Connor Award for Professional Service.

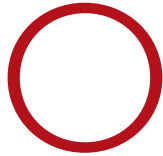
MAY 19-21, 2005—A celebration of the **25th Anniversary** of the first Inn and the 20th Anniversary of the Foundation will be held at the 2005 National Leadership Conference in Salt Lake City, Utah..



JULY 1, 2004—Judge **Deanell R. Tacha** becomes president of the Foundation.

American Inn of Court I

By M. Dayle Jeffs, Esquire



In August 1, 1979, Warren E. Burger, Chief Justice of the United States was vacationing at a cabin in the canyon near Sundance Ski Resort in Provo Canyon. He invited Dallin H. Oaks, the president of Brigham Young University and a former law clerk at the Supreme Court of the United States, and Rex E. Lee, then dean of the J. Reuben Clark Law School at Brigham Young University and also a former law clerk at the Supreme Court of the United States, to the cabin for a breakfast. Rex Lee reported to me that Justice Burger cooked them a hotcakes and egg breakfast at the cabin, while dressed in a sweat suit.

He discussed with them a concept about which he had been thinking for some years. He indicated it was brought to a head by a talk given at the American Bar Association Convention in which the speaker was critical of practitioners of law in their lack of professionalism, civility, and decorum in the courtroom. Chief Justice Burger wanted to foster a program that would encourage the highest levels of professionalism, competence and civility, and improve the highest traditions of the American legal system. He wanted a program to be developed that would be unique and not a supplement to other existing programs. He asked President Oaks and Dean Lee if they would undertake the encouragement of such a program.

In October 1979, Oaks and Lee asked U.S. District Judge A. Sherman Christensen to head up a pilot program with the sponsorship of the J. Reuben Clark Law School. Judge Christensen accepted the assignment and challenge that it provided. In connection with an Ad Hoc Committee of advisors, they exchanged some ideas for the pilot program.

Shortly thereafter, I was first introduced to the concept when a receptionist came into my office and said, "There is a Sherman Christensen out front. He does not have an appointment. Do you want to talk to him?" I got up from my desk and said, "Of course I do. He is a United States District Judge." I went out and ushered him into the office and we visited for a half an hour about the concept that he was putting together of the pilot program. He asked if I would serve as the first treasurer to the Inn. I would serve with the Master of the Bench and the Benchers who

would be the executive body to operate the American Inn of Court. Judge Christensen put together a nucleus of diverse experience with a direct interest in the trial process.

After that introduction, I then had the opportunity to meet with the judges and lawyers chosen by Judge Christensen to act as the first presiding body of the Inn. It was comprised of Judge Christensen as counselor to the Inn, and a group of six Benchers, including judges, lawyers, a law professor, and a law student. We met almost weekly for several months developing concepts and ideas of how this organization might become the answer to the problem described by Chief Justice Burger in his meeting with Oaks and Lee.

Each meeting was an open discussion, with guidance by Judge Christensen directing our efforts. We strived to develop an Americanized version of the English Inns of Court that could produce some of the mentoring, collegiality, and uniqueness that they possess. Judge Christensen indicated to us he felt the necessity of fitting the American Inn program into the established structure of American legal education, not as an alternative, but as a fine-tuning of trial lawyering. He felt it needed to be done flexibly and harmoniously, without undue diversion of time and resources. He reminded us that we should recognize the many programs already a part of the American legal education system in the forms of seminars, litigation organizations, workshops, lecture groups, etc. It was with that in mind that we tried to develop a program that was not parroting other programs, but was unique in its characteristics.

As we discussed the various possibilities for a format, we recognized that it was not possible to have the residential setting, with its collegiality and regular dining together; that was a part of the English Inns. We had to develop some adaptation that was more compatible with the American system, reflecting independence of practitioners and the bench.

On February 12, 1980, the first organizational meeting was held and a charter adopted. Student membership was drawn from the J. Reuben Clark Law School and under its sponsorship. The concepts that had been developed to that point were explained to the attorneys, judges, younger barristers, and student

members. Those who had applied for membership were invited to become a part of the initial pilot program. The logo was crafted under the direction of Judge Christensen to give it an appearance similar to an English coat of arms, featuring the word “excellencia” to indicate the ultimate goal the Inn.

During January and February of 1980, the concept of a demonstration or presentation followed by a critique seemed a viable choice. The first formal presentation meeting was March 18, 1980. The subject matter of the first meeting was jury voir dire. Four highly experienced trial lawyers presented it in a courtroom in demonstration form. Judge J. Robert Bullock, a member of the executive committee, was on the bench. The critique that followed was a lively discussion between the participating master lawyers. One took the view that he expected voir dire to be an opportunity to sell his case right up front to the jury. A contrary view was expressed by another master lawyer who said it improper to try to sell the jury on your case during voir dire, but should only be used to determine what potential jurors might be detrimental to your side of the case. Judge Bullock expressed his opinion that neither was the purpose. His purpose was, as quickly as possible, to find an impartial jury that could hear the issues to be tried. The critique that followed was a new experience for all of us, with a lively exchange of opinions from lawyers of varying degree of experience. The participation of six or seven judges, federal and state, both trial and appellate, added a new dimension to the critique.

The second presentation meeting of the Inn was on April 15, 1980, in which the demonstration presentation was on opening statements. A lively critique followed and we further learned of the value of the critique process as an evolving concept of the function of the Inn. During the summer of 1980, the executive committee and Judge Christensen as counselor to the Inn, continued to meet on a frequent basis to exchange views and ideas about how best to carry out the concepts that had been developed in the passage of the initial charter in February 1980.

I believe I would speak for all of those initial members of the Inn in saying that when we responded to the request of Judge Christensen, we did so with the expectation that we would be providing a service to strengthen the trial advocacy skills of third year law students and less experienced lawyers as a way of putting something back into the profession that had served us so well. By the end of the second formal

meeting, we were pleasantly surprised to find that the interchange in the critiques between judges and Masters of the Bench, as well as the questioning of the Barristers and law students provided a learning experience for all who participated. The sharing of ideas and experiences among the seasoned judges and lawyers who were the contributors to the Inn presentation was shown to be of vital interest and value to all participants and promoted the mutual development and strengthening to the process of justice generally.

Judge Christensen went to London and visited with the four English Inns of Court between October 5 and October 11, 1980. Following his return, he provided a 23-

Judge Christensen saw the American Inns of Court as a mechanism for developing professionalism, courtesy, and respect in the highest traditions of the English legal system.

page report of what he had learned about both the history and current functioning of the English Inns and the vital role that the exchange between judge members of the Inns of Court with master lawyers and students had in honing skills, techniques and respect for opponents. Judge Christensen also expressed his observations from his visit with the English Inns of Court of the brotherhood of the bar; mootings, debates, lectures, and tutorials that developed camaraderie not usually experienced in the American judicial system. He felt we should try to make our adaptation in the United States accomplish in some measure what he observed there about the necessary distance between the bench and bar; but with an easygoing equality between members, that promotes an interchange of ideas and enable members to learn from each other.

Judge Christensen saw the American Inns of Court as a mechanism for developing professionalism, courtesy, and respect in the highest traditions of the English legal system.

With the input from the executive committee, a revised charter was passed at a meeting of the Inn on

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January 6, 1981. The new charter included the concept of pupillages, the tenure of the various classes of members of the Inn, and the composition of an executive committee. Judge Christensen had found that the concept of pupillages, indigenous to the English Inns, had a particularly vital role in the mentoring of students and younger barristers.

We then discussed generally how pupillages might work under an Americanized version of an Inn of Court program. With Judge Christensen's guidance, we decided how it might work in our program.

It was our observation during the first year and a half of the Inn's organization that there was no other forum in the profession that gave the opportunity for a free and frank discussion of techniques, principles, and issues, while maintaining a respectful interchange between the participants. As Judge Christensen said, "the critique portion of each monthly meeting should be jealously guarded for ample input of all present, especially the judges, so that practitioners and students alike may gain from the perceptions that only a judge can have." He opined that this process would be a further opportunity for the bench to learn from counsel new perceptions and ways to improve court administration and courtroom manners.

By this time, the development of the American Inn of Court concept had evolved sufficiently to engender substantial interest in organizing a second American Inn of Court to accommodate students from the University of Utah College of Law. An organizational meeting was held on February 20, 1981 in Salt Lake City, using the revised charter format that had been adopted in January 1981, by American Inn of Court I.

Shortly thereafter, it was decided by the executive committee of American Inn of Court I to structure the format in a manner more familiar to American judges and lawyers. The organizational structure was thus changed to include a president of the Inn, counselor to the Inn, treasurer, and executive committee.

It was a remarkable experience to work in those formative years with Judge Christensen and to observe his vision, attention to detail, commitment, dedication and guidance, while listening to the views of others. It resulted in an organization that provides a unique legal experience for students, young lawyers, and even experienced lawyers and judges.

As a follow-up comment, in 1983, Chief Justice Warren E. Burger formed the Ad Hoc Committee of the Judicial Conference of the United States on the American Inns of Court consisting of 17 judges, law professors, and lawyers, all of whom who had been and were involved in the development of the first seven American Inns of Court.

The first meeting of the Ad Hoc Committee was held in the West Conference Room of the Supreme Court of the United States. We were told at that time that it was the first committee of the Judicial Conference that had been permitted to hold its meetings in the Supreme Court conference room. The chairman of the Ad Hoc Committee was Judge A. Sherman Christensen. At the first meeting, Rex Lee attended as the Solicitor General of the United States. He and Judge Christensen were sitting at the head table of a T-shaped long conference table. The remaining 16 members of the Ad Hoc Committee were sitting on the two sides of the long leg of the conference table.

After we had been in session for approximately an hour discussing the charge we had been given by the Chief Justice, he came into the room at the far end in a pair of gray sweats, as he had been jogging. He came to the head table and sat next to Judge Christensen and spoke to us for about 45 minutes about his aspirations, desires, and hopes for strengthening and improving the judicial system. He got up to leave and as he got near the door on the opposite side from where he had entered, the committee gave him a standing ovation. He turned and came back to the table and since I was closest to the place from which he was coming, symbolic of a shaking of the hands of the rest, he grasped my hand in a firm handshake and with tears streaming down his face told us that "it may well be that this American Inn of Court will be the greatest contribution that I have made to the judicial system during my life." He then left the conference room and allowed us to continue with our deliberations and assignments with the Ad Hoc Committee.

It has truly been a remarkable and wonderful experience to have been associated with the American Inns of Court for more than 24 years.

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Has the American Inns of Court Movement Had An Influence on the Legal Profession as a Whole?

By Francis G.X. Pileggi, Esquire

CELEBRATING OUR
25th
ANNIVERSARY

This is a short collection of comments from a select group of members of the bench and bar throughout the country who were asked whether they thought the American Inns of Court movement over the last 25 years has had any impact on the legal profession as a whole in America. This does not purport to be a scientific sampling or a complete cross-section of the legal profession, but rather is intended more in the nature of an anecdotal summary of interviews from people across the country that are familiar with the American Inns of Court, as well as some lawyers that are not involved actively with Inns.

Whatever influence the American Inns of Court movement has had on the legal profession over the last 25 years, we should be able to agree that more work is needed, at least in the area of professionalism. For example, in the July/August 2004 issue of *The Bench*, Judge Deanell Tacha referred to a *National Law Journal* study that found over 50% of the attorneys surveyed used the word "obnoxious" to describe their colleagues, suggesting a lack of civility is still a problem. A quick review of the latest edition of the *ABA/BNA Lawyers' Manual on Professional Conduct* also supports the view that the legal profession is still in need of much improvement.

From a strictly mathematical point-of-view, with over one million lawyers in the United States and the current members of the American Inns of Court being only about 25,000, less than 10% of the total number of current U.S. lawyers have directly participated in the American Inns of Court (even if alumni of the Inns—which may increase the total to 75,000—are included). Of course it would be hard to measure with precision what the influence of the Inns of Court in America has been, beyond a mere numerical computation, but the sheer statistics dictate less of an influence than that of the Inns of Court counterparts in London where membership is universal and mandatory.

In this collection of anecdotal insights about the influence of the American Inns of Court on the legal profession over the last 25 years, the most practical approach to measure the impact of the Inns of Court is on a geographic basis, not only state by state, but depending on the size of the state, within parts of each state.

Other articles in this issue of *The Bench* describe in great detail the origin of the American Inns of Court and the goals and principles on which the Inns are based. One of the features of the Inns, in its effort to promote professionalism, civility, competence and collegiality, is the small group nature of the experience promoted by the American Inns of Court. As Dean Robert K. Walsh of Wake Forest University School of Law noted in a Fall 2003 article for the *North Carolina State Bar Journal*, one of the benefits of the small group atmosphere of the Inns of Court is that you get to know other lawyers and judges on a personal level and "it is harder to be uncivil to someone you really know." As U.S. Supreme Court Justice Sandra Day O'Connor was quoted as saying several years ago: "I have been privileged to dine at several Inns of Court, both in London and here in the United States, and to see first hand the healthy interaction of bench and bar, which occurs throughout the year through the mechanism of the Inns. This is an interaction we both need, for we rely on each other a great deal."

The influence of the American Inns of Court on the legal profession varies widely from community to community. For example, in Wilmington, Delaware, Kevin Brady, Esquire, a former trustee of the American Inns of Court, estimates that approximately 50% of the 3,000 or so members of the Delaware Bar (only about 2/3 of whom actively practice in Delaware), have been members—or are members—of the five separate American Inns of Court in that state, at one time or another. On a practical level, Richard DiLiberto, Esquire, a partner at a prominent Delaware firm, recalls interviewing with his current firm while in law school and the chairman (at the time) of his firm, recalling Rick's fine performance during a local Inn program that the chairman had observed. However, Liam Murphy, Esquire, formerly of Wilmington, Delaware, now practicing in a small city in central New York State, observes that the American Inns of Court are hardly known, if at all, where he currently practices.

In the Spring 2004 issue of *Litigation*, the Journal of the American Bar Association's Section of Litigation, Judge Jed Rakoff of the U.S. District Court for the Southern District of New York observes many examples of

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declining professionalism and declining ethics especially related to pretrial litigation tactics. He gave the example of two major law firms who paid \$51 million and \$41 million respectively to settle charges that their reply to a government audit purposely concealed responsive information. *Id.* at 6. He also recounted the case of a partner in a large Chicago firm who billed 6,000 hours a year for each of four years, which worked out to over 16 billable hours per day for 365 days per year. Until he was caught, he was widely admired for his “work ethic.” *Id.* Presumably the influence of the American Inns of Court was not sufficient to avoid those examples of problems in the profession; but it is not realistic to expect the Inns to be a panacea.

It may be impossible to eliminate entirely from our profession the lack of civility and lack of professionalism. Regardless of how many American Inns of Court there might be in the future, there will always be lawyers who do not follow the rules and some of them will still succeed, either in spite of—or because of—their hardball tactics. So too, there will always be judges who, either because they do not want to get involved in the policing of pre-trial tactics or do not want to spend the time to deal with it; will “by default” encourage repeat offenders who use Rambo tactics and engage in sharp practices if the net result is that they prevail, especially when engaged in tactics that someone or “the other side,” perhaps following the principles espoused by the American Inns of Court, would not want to reciprocate.

Notwithstanding resolutions from the Judicial Conference of the United States as well as the National Conference of Chief Justices and the Judicial Administration Division of the American Bar Association, supporting the ideals and standards promoted by the American Inns of Court, it should not be a surprise that even Inn members, as fallible human beings, can often themselves fail to uphold the highest standards of professionalism and civility.

Judge Carl E. Stewart of the Fifth Circuit Court of Appeals recently observed by phone from Shreveport, Louisiana, that he encourages all of his law clerks to participate in the American Inns of Court. Over the years, this must have a positive influence at least on that group of new lawyers who otherwise would not have had the same “support network” and positive standard of reference early in their careers. Judge Pauline Newman of the U.S. Court of Appeals for the Federal Circuit has observed: “Judges bear a special responsibility for supporting the Inns, not only in

principle but with their time and participation. It is the presence of judges that draws the leaders of the bar, sustaining the vertical integration that is unique to the Inns. And benefits inure to the judges as well as to the practitioners, for we have few occasions to meet together in professional friendship. As a mechanism for preserving the values on which the practice of law was founded, I have come upon no substitute for the Inns of Court.”

The insights of those I have interviewed across the country for this article are consistent with the feeling of retired Alabama Justice Hugh Maddox when he stated: “The American Inns of Court is a great organization for the legal profession. I shall always remember the first American Inns of Court conference that I attended in Washington, D.C. The spirit of that meeting caused me to say to myself: ‘I am proud to be a lawyer!’” In those communities where an American Inn of Court has infiltrated the legal profession, the views of Bruce Rodger of Media, Pennsylvania, are shared by many. Bruce observed that: “I have personally witnessed the beneficial effects of the American Inns of Court in the community where I practice. The members of our Inn inspire, motivate, educate and support each other; and as a result we are better lawyers, judges and people. Our Inn is not the only organization working for the betterment of our professional community, but it is the best one.” That is not to say that members of a particular Inn are immune from engaging in the worst abuses of our profession, but the evidence supports that the risk of such behavior is reduced.

Karen Crawford of San Diego has seen the impact in two different cities as a result of the American Inns of Court movement. She started an American Inn of Court when she moved to Pittsburgh and noticed a profound influence that the membership in the Inns had on those who participated. However, for those lawyers and judges who did not participate, and who did not follow the principles espoused by the American Inns of Court, the continuing challenge for members will always be to “not give in” to the temptation to “reply in kind,” to Rambo tactics, even when they appear to succeed and when they are tacitly endorsed by judges who do not penalize that type of behavior. Karen noted how much it helped her in her career by learning from other lawyers and judges and creating bonds in non-adversarial settings.

By "breaking bread" on a regular basis with other lawyers, it reduces the likelihood that you would engage in sharp practices with someone whom you will see on a casual basis frequently and in a professional group that specifically frowns on certain behavior. This should be seen in contrast to the anonymity that may be found in a large bar association in which the likelihood of repeatedly crossing paths with someone more than once is rather remote.

Michael W. Coffield of Chicago, has found that the most notable influence that the American Inns of Court movement has had can be found among smaller firms and younger lawyers. He does not believe that the American Inns of Court have infiltrated larger firms and larger cities as much as it has smaller firms in suburban cities. He notes that the greatest abuses and violations of civility and professionalism are most often noted in pre-trial discovery and deposition tactics, which have a tendency to be more prevalent in larger cities with larger firms and

larger cases in which the stakes may be higher. Mike notes that for almost 20 years since the beginning of the American Inns of Court movement, there was no chapter in Manhattan and he suggests that it may be the nature of the Inn that creates a smaller atmosphere that promotes development of personal working relationships and collegiality, and that makes it more challenging to inculcate into a larger bar association and larger firms.

In sum, even if the influence of the American Inns of Court on the legal profession has been limited, it has had a positive effect, and the more members of the profession who participate in the future, the better our profession will be.

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incorporation papers were Chief Justice Warren E. Burger, U.S. Solicitor General Rex E. Lee and Senior U.S. District Court Judge A. Sherman Christensen, three people without whose vision, support, enthusiasm and hard work, the American Inns of Court would never have come into being. All of them have since passed on. But I can safely say that, notwithstanding the talent, experience, vision and enthusiasm of these extraordinary individuals, none of them ever imagined that the American Inns of Court would become what they are today. For that part of the story, we are indebted to others whose stories are told elsewhere in this issue. My only hope is that we do not drop the torch that has been passed to us, but that we hold it high—very high indeed. ♦

1. Ralph L. Dewsnup, an attorney practicing in Salt Lake City, Utah, was a charter member of American Inn of Court I in 1980 and a member of its first executive committee. He served as editor of *The Bench* and its predecessor publication, 1982-1990; as a member of the U.S. Judicial Conference Ad Hoc Committee on American Inns of Court, 1983-1985; as secretary to the Board of Trustees of the American Inns of Court Foundation, 1985-1996; as treasurer of the American Inns of Court Foundation, 1996-1998; as trustee of the American Inns of Court Foundation, 1988-1998; and as president of the Aldon J. Anderson American Inn of Court (VII), 1991-1992. He received the Foundation's A. Sherman Christensen Award in the Supreme Court of the United States in 1992. He is now an emeritus trustee of the American Inns of Court Foundation and an active member of the Aldon J. Anderson American Inn of Court (VII) in Salt Lake City.
2. Harold G. Christensen is an attorney in Salt Lake City, Utah. He was a charter member and president of American Inn of Court I beginning in 1980; was a member of the U.S. Judicial Conference Ad Hoc Committee on American Inns of Court, 1983-1985; and was a charter trustee on the first Board of Trustees of the American Inns of Court Foundation. He is now an emeritus trustee of the American Inns of Court Foundation and is an emeritus member of the A. Sherman Christensen American Inn of Court (I). He served as Assistant Attorney General of the United States in the Reagan and Bush administrations.
3. Most of the history of which I write is something that I experienced firsthand or heard from the lips of those who lived it. Many other people were participants in the early history of the American Inns of Court movement who may have different perspectives and recollections than my own. I still have boxes of documents that chronicle the early history of the American Inns of Court movement. Additional accounts of the events that I describe may be found in Paul E. Pixton, *The American Inns of Court: Reclaiming a Noble Profession* (1997) (published by Matthew Bender); A. Sherman Christensen, "The Concept and Organization of an American Inn of Court: Putting a Little More 'English' on American Legal Education," 93 F.R.D. 807 (1982); Transcript of Interview with A. Sherman Christensen conducted by the AICF Strategic Planning Committee at Brigham Young University on August 20, 1994, copy in the possession of the author; A. Sherman Christensen, *Persons and Processes, An Anecdotal View of Federal Judicial Administration, 1954 to 1991* (1993), (unpublished manuscript in the possession of the author).
4. See speech given to the American College of Trial Lawyers on April 11, 1967, published in Warren E. Burger, *Delivery of Justice: Proposals for Changes to Improve the Administration of Justice*, (College of William and Mary Press and West Publishing Co., St Paul, Minn. 1990) 157.
5. Letter to Dean Samuel D. Thurman dated May 31, 1966, as quoted in A. Sherman Christensen, *Persons and Processes*, *supra* note 3, at 240. Judge Christensen had seen the low level of practical understanding that law school graduates had of court room decorum, procedure and principles of advocacy.
6. Before his appointment as BYU President in 1971, Oaks had served as acting dean of the University of Chicago Law School and as executive director of the American Bar Foundation. After he left the presidency of BYU he served as an associate justice of the Utah Supreme Court from 1980 to 1984. Rex E. Lee later became head of the Civil Division of the U.S. Department of Justice, then Solicitor General of the United States. He became president of Brigham Young University in 1989.
7. The Judicial Conference of the United States' Committee to Consider Standards for Admission to Practice in the Federal Courts was chaired by Judge Edward Devitt and became known as the Devitt Committee. It issued recommendations in 1978 and 1979 that generated national attention.
8. Assigned to assist Christensen were William H. Orton (later elected to Congress from the State of Utah), Vaughn Crawford, Denver C. Snuffer and Michael S. Eldredge.
9. Christensen, *Principles and Processes*, *supra* note 3, at 245.
10. Pixton, *supra* note 3, at 71-72.
11. Hal Christensen's original title was "Master of the Bench." The members of the Executive Committee of the Inn were called "Benchers." Finally, it was decided that senior experienced members of the Inn would be called Masters of the Bench or "Benchers."
12. The executive committee of the Inn included federal judge Aldon J. Anderson, state judges J. Robert Bullock and Christine M. Durham, law professor James E. Sabine, attorney Ralph L. Dewsnup, and law student William H. Orton.
13. J. Clifford Wallace, "American Inns of Court: A Way to Improve Advocacy," 68 A.B.A.J. 282 (March 1982).
14. 93 F.R.D. 801 (1982).

But then it came time to make it all happen on a national level. That is where Judge Markey played his essential role. He too had the vision and the drive. But he also had valuable contacts. He knew the entire Supreme Court intimately. He could call up the Chief Justice and ask for and obtain the Great Hall for a dinner. When Justice William Brennan, who was slated to speak at lunch at an American Inn of Court annual conference, had a mild stroke and understandably had to withdraw from speaking the next day, it was Judge Markey who could, and did, call Justice Sandra Day O'Connor, and obtain from her the willingness to speak, with one day's notice. Judge Markey sat on each of the thirteen federal circuit courts of appeals. As the most senior federal circuit chief judge, he was the chair pro tem of the U.S. Judicial Conference. He knew judges, federal and state, all over the country—and he called on them to become involved in the American Inn of Court movement. And they responded.

Judge Markey, a retired Air Force General, ran board meetings with military precision. They started on time. The agenda was covered. Each person who wanted to speak, had his or her say, and decisions were reached. Meetings ended on time, or early. This characteristic made meetings actually pleasant as well as efficient. Judge Markey was a great storyteller. He could warm up any audience. And when it was necessary to fill in awaiting a major speaker, no one was better than Judge Markey. I cannot recall all the circumstances, but I do recall telling Judge Markey on some national occasion that I needed him to entertain the audience for a half hour. He did; they loved it.

Behind the scenes, Judge Markey was a tremendous person of ideas. He insisted that we stay true to our mission and directed us toward that mission. Yet, he was most practical in how to achieve our goals. The goal was the important thing; many a detail gave way to move forward toward the goal. Judge Markey spoke poetic

prose. He wrote as he spoke, smoothly and easily. Many a document was just dictated, page after page.

In short, Judge Markey was a worthy successor to Judge Christensen in leading the American Inns of Court through its phase of entry onto the national scene. It was my great honor to work with this remarkable man, as it was to work with Judge Christensen, Chief Justice Burger, and a board of outstanding judges and lawyers who really care about the American legal system and profession. That is what the American Inns of Court are about. ♦

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1. Sherman L. Cohn, Professor of Law at Georgetown University Law Center in Washington, D.C., was a charter member of the Charles Fahy American Inn of Court (Inn VI) in 1983 and its first secretary. He later served a term as its president. He served as a member of the U.S. Judicial Conference Ad Hoc Committee on American Inns of Court, 1983–1987; as a trustee of the American Inns of Court Foundation and as the Foundation's first President, 1985–1996. He received the Foundation's A. Sherman Christensen Award in the Supreme Court of the United States in 1990. He is now an emeritus trustee of the American Inns of Court Foundation and an emeritus Benchler of the Charles Fahy American Inn of Court. Before joining the faculty of the Georgetown University Law Center, Professor Cohn served as law clerk to the late Charles Fahy of the U.S. Court of Appeals for the District of Columbia Circuit, 1957–1958, and as an attorney and assistant chief of the Appellate Section, Civil Division, U.S. Department of Justice, 1958–1965.
 2. Peter Murphy had moved from California to Texas and joined the faculty of South Texas College of Law.
 3. While I have named several individuals in this context and in others, this is not meant to slight others. The names that I put forth are meant as illustration of the breadth of the enthusiastic interest and dedication of so very many people.
 4. A similar agreement was entered into with the one Inn of Court in Dublin, Ireland, Kings Inns, in 2003.

Holland Elected Honorary Benchers of Lincoln's Inn

Former American Inns of Court president, Justice Randy J. Holland of Delaware, has been elected an Honorary Master of the Bench of Lincoln's Inn in London. The announcement was made in London in March of this year.

Justice Holland's selection was not only a distinct honor for him, but for the American Inns of Court as well. Honorary Benchers are persons of distinction selected from around the world. The only other American jurists to be so honored by Lincoln's Inn are Justices Ruth Bader Ginsberg and John Paul Stevens of the Supreme Court of the United States.

William Blair, QC, president of the Commercial Bar Association in London and Benchers of Lincoln's Inn, praised Justice Holland for his reputation as a jurist in the Lincoln's Inn announcement, and particularly cited his work as president of the American Inns of Court for the past four years. "We feel that this is an important mark of friendship between the Inns of Court in England and the American Inns of Court," Mr. Blair said. "What is most gratifying for us is that the common aims of the organizations are ethics, civility, professionalism and legal excellence—which are surely more necessary now than ever..."

Lincoln's Inn is one of the four Inns of Court in London. The Inns are ancient unincorporated bodies of lawyers that for many centuries have had the power to call to the Bar those of their members who have duly qualified for the rank or degree of Barrister-at-Law. With the power of call goes a power to disbar or otherwise punish for misconduct, a power that has had to be exercised only infrequently. In modern times, much of the process of education for call to the Bar and of discipline has been carried out by joint bodies.

The four Inns, Lincoln's Inn, Inner Temple, Middle Temple and Gray's Inn, remain distinct, however, each with its own property, duties and functions.

Lincoln's Inn is ancient. Its formal records,

contained in the "Black Books" (so called for their black covers) go back continuously to 1422. This is nearly 80 years earlier than any other Inn (Middle Temple 1501, Inner Temple 1505 and Gray's Inn 1569). It is clear from the Black Books that Lincoln's Inn had been in existence for some time when the written record commenced. Sir Thomas More, eventually Lord Chancellor of England, was admitted to Lincoln's Inn in 1496. The chapel bell at Lincoln's Inn came from Spain in 1596 as part of the spoils of Cadiz. When John Donne was Preacher to Lincoln's Inn in 1624, he wrote his famous poem about "for whom the bell tolls."

There are grounds for saying that an Ordinance of Edward I made in 1292 was in part responsible for the founding of all the Inns. That Ordinance placed both branches of the profession (barristers and solicitors as they would be called today) under the control of the judges and hastened the end of the clergy as lawyers in the King's courts. The new breed of professional lawyers that began to emerge needed places where they could congregate and where apprentices could be housed.

It was probably early in the 14th century that the Inns first took shape. "Inn" then meant a town house or mansion, and in particular a mansion used as a hostel for students. Lincoln's Inn probably takes its name from Henry de Lacy, third Earl of Lincoln, who died in 1311. It is from the Earl's coat of arms that the lion in the Inn's coat of arms is derived. Whatever their origins, the Inns, once established, came to provide all that was needed for practice at the Bar. There were chambers in which to live and work, a hall in which to eat and drink, a chapel or church in which to pray, and a library in which to consult law books. Although few barristers live in the Inns today, the picture remains unaltered in its essentials.

Justice Holland placed special emphasis on cooperation between the American Inns and Inns in Great Britain and Ireland during his tenure as president. He accompanied the Temple Bar Scholars to London each fall to introduce them to "legal London" and delivered the prestigious Commercial Bar Association Lecture in London two years ago. In 2002 Justice Holland joined The Honorable Mr. Justice Ronan Keane of Ireland in signing a "Declaration of Friendship" between the American Inns and King's Inns in Dublin at the Supreme Court of the United States. It mirrored a similar declaration signed in 1988 by Chief Justice Warren Burger and The Right Honourable The Lord Bridge of Harwich pledging friendship between the English Inns and the American Inns. ♦

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Members of the Honourable Society of Lincoln's Inn: Justice Stevens, Justice Ginsburg and Justice Randy Holland (of the Supreme Court of Delaware) in the West Conference Room of the Supreme Court of the United States on May 19, 2004.

Here's another good way to leave your mark on history!

Hon. Winthrop
 Maria Hall
 Geo. Walton.

John Hooper
 Joseph Hewes
 John Penn

Edward Rutledge Jr.

Thos. Maynard Jr.
 Thomas Lynch Jr.
 Arthur Middleton

George Wythe
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 Th. Jefferson
 Wm. Harrison
 Th. Nelson Jr.
 Francis Lightfoot Lee
 Carter Braxton

Robt. Morris
 Rufus Smith
 Prof. Franklin
 John Morton
 Geo. Clymer
 Jas. Smith
 Geo. Taylor
 James Wilson
 Geo. Ross
 Caesar Rodney
 John
 Thos. Mifflin

Rich. Smith
 Jas. Witherspoon
 Jas. Hopkinson
 John Aikin
 Abner Clark

John Adams
 Wm. Wadsworth
 Saml. Adams
 John Adams
 Robt. Treat
 Elbridge Gerry
 Stephen
 William
 Roger Sherman
 Saml. Huntington
 Wm. Livingston
 Oliver Wolcott
 Nathaniel

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and provides mutual visitation between King's Inns and the American Inns of Court. The document is similar to the Declaration of Friendship signed in 1988 by Chief Justice Warren Burger and Lord Bridge of Harwich, which linked the American Inns and the English Inns.

In May 2003 Inn leaders convened in Philadelphia, Pennsylvania for the National Leadership Conference, which was a resounding success. Leaders of Inns from around the country attended over a dozen practical sessions designed to improve every facet of Inn operation and administration.

The highlight of the conference was Friday's night's dinner in the Liberty Ballroom. Justice Sandra Day O'Connor was the evening's featured speaker. Justice O'Connor shared some of her very warm and personal, often humorous, insights and encouraged the leaders and members of the American Inns of Court in their contributions to restoring the principles of civility, ethics and professionalism to the practice of law and the administration of justice.

The results of the first comprehensive demographic analysis of the American Inns of Court were presented to the Board of Trustees during the National Leadership Conference in Philadelphia. The report documented that nearly half of the nation's federal judges and over a fourth of all state judges are active or alumni members of the American Inns of Court. Over 24,000 judges, practitioners and law students are currently active Inn members and another 51,000 are alumni. There were 334 chartered Inns in the United States and the District of Columbia. Of those, 168 were affiliated with 126 of the nation's law schools. Thirty-nine Inns specialize in one of 14 specific practice areas.

At its May 2003 meeting, the board voted to increase annual dues to cover inflation since 1997. Effective July 1, 2003, the dues for active members became \$60 per year. At the recommendation of the Long Range Planning Committee the board also voted to endow the awards programs of the Foundation in an effort to reduce pressure on dues income. The trustees decided to attempt to raise the necessary endowment funds themselves before engaging any professional assistance.

The Board of Trustees of the American Inns of Court Foundation announced the Warren E. Burger Writing Prize at the Supreme Court of the United States on October 11, 2003. This writing competition was designed to encourage outstanding scholarship "promoting the ideals of excellence, civility, ethics and professionalism within the legal profession," the core mission of the American Inns of Court. Judges, lawyers, scholars and other authors were invited to participate in the competition by submitting original, unpublished essays on a topic of their choice addressing issues of

legal excellence, civility, ethics and professionalism. A distinguished national panel of judges will decide the winning entry. The author of the winning submission will receive a cash prize of \$5,000 and the winning essay will be published in the *University of South Carolina Law Review*. The Warren E. Burger Prize will be presented to the author at the American Inns of Court annual Celebration of Excellence.

The 2004 National Leadership Conference was held in Kansas City. At its May 2004 meeting held in conjunction with the conference, the board elected as president Chief Judge Deanell Tacha of the U.S. Court of Appeals for the Tenth Circuit. Re-elected as vice president was Donald G. Kempf, Jr.; elected as secretary was Judge William C. Koch, Jr. and as treasurer was Michael A. McConnell. Kim M. Hunter and Justice Ruth V. McGregor were elected to the executive committee.

The Foundation concluded its 19th year by reaching a net worth of more than \$2 million for the first time. This remarkable accomplishment is attributable to the excellent stewardship of the trustees and the exceptional management skills of Executive Director Don Stumbaugh. When Admiral Stumbaugh became the Executive Director eleven years earlier, the Foundation had a negative net worth.

The tenure of President Randy J. Holland marked the end of an era. As a trustee since 1992, Justice Holland served as the institutional memory between a board he joined that was comprised of the movement's founders and the succession of remarkable Trustee members that followed. Justice Holland's presidency was marked by a significant increase in the national and international stature of the American Inns of Court. Professionalism awards were established and presented in almost every federal circuit, frequently with the assistance of a justice of the Supreme Court of the United States. During his presidency, Justice Holland visited more than 100 local Inns, traveled to over forty states, and made several trips to visit with the English Inns in London. Although Justice Holland has left the board, he will continue to be involved with the American Inns of Court's participation in the 2007 Jamestown Celebration and the Chief Justice John Marshall Education Project. ♦

The third president of the American Inns of Court, Justice Randy J. Holland of the Delaware Supreme Court, has served on the Board of Trustees of the American Inns of Court Foundation since 1992, including four years as vice president and four years as president. In 1990, Justice Holland was a founding member of the Terry-Carey American Inn of Court in Milford, Delaware and continues to be an active and vital leader of the Inns of Court movement. Justice Holland was recently elected an honorary Master of the Bench by Lincoln's Inn in London, England.

Coming Attractions:

The American Inns of Court 2005 National Leadership Conference & 25th Anniversary Celebration

May 19–21 ■ Snowbird Resort
Salt Lake City, Utah



Please join us in Salt Lake City for the
2005 National Leadership Conference and
our 25th Anniversary Celebration.



CELEBRATING OUR
25th
ANNIVERSARY

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The Bencher is a bi-monthly magazine that reports on news, activities and events of the American Inns of Court. Articles or news items for publication in *The Bencher* must be submitted to the editor. All submissions will be reviewed for suitability. If a submission is chosen for publication, it may be edited for content or to fit in the space available. *The Bencher* accepts paid advertising. The presence of advertising in no way implies that the American Inns of Court Foundation either has any relationship with the advertiser or endorses the product or service advertised, unless so indicated in the body of the advertisement or elsewhere. Address changes should be made online at www.innsofcourt.org or directed to Latasha Macon-Taylor at lmaylor@innsofcourt.org. Please submit content to Rita Denniston Zimmerman, Editor, 1229 King St., 2nd Floor, Alexandria, VA 22314, (703) 684-3590, ext. 103 or via email to rzimmerman@innsofcourt.org.

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The Bencher Needs YOU!

Each issue of *The Bencher* carries a special theme such as Ethics, Mentoring, Program Development and other relevant topics. With our thematic format, Inn members are encouraged to submit articles of either their own writing or articles from bar journals and other publications for reprint in *The Bencher*.

Articles should be between 1,000 and 2,500 words in length, and bear the author's name and contact information, or the name, issue date and contact information of the publication in which it appeared. Submissions may be philosophic, personal, factual, historic, or how-to and should convey the goals and ideals of the American Inns of Court movement. All authors and publications will be credited for their work. Quotations, sources and excerpts should be cited for reference, but not in the format of footnotes. Submissions are subject to editing for length and content by an editorial review panel.

Original articles should be submitted in electronic format (preferably MS-Word); and previously published articles should be submitted in the original printed version if possible. The American Inns of Court will obtain all permissions for publication of all submissions.

Submissions should be sent to Rita Zimmerman, Publications Coordinator; American Inns of Court, 1229 King St., 2nd Floor, Alexandria, VA 22314 or email her at rzimmerman@innsofcourt.org.

Upcoming Themes & Deadlines

Issue	Theme	Articles Due
January/February 2005	Mentoring	November 5, 2004
March/April 2005	Lifestyle	January 7, 2005
May/June 2005	Program Development	March 4, 2005
July/August 2005	Civility	May 6, 2005
September/October 2005	Ethics	July 8, 2005

The Bencher

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