

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

THE ENGLISH INNS OF COURT

The American Inns of Court are modeled upon the English Inns of Court. English barristers -- lawyers who can appear in English courts -- belong to one of four Inns of Court: Gray's Inn, Lincoln's Inn, the Inner Temple, and the Middle Temple.

"Gray's Inn for walks,
Lincoln's for your call,
the Inner for a garden,
And the Middle for its Hall."

The Inns of Court are ancient, unincorporated bodies of lawyers. For five centuries and more, the Inns have had the power to call to the Bar those of their members who have duly qualified for the rank of Barrister-at-Law. With the power of call goes the power to disbar and punish for misconduct, a power which has had to be exercised only infrequently. In modern times, education for call to the Bar and discipline are largely the business of joint bodies, but the four Inns of Court -- Gray's Inn, Lincoln's Inn, the Inner Temple, and the Middle Temple -- remain distinct, as friendly rivals, each with its own property, duties, and functions. Robert Megarry, An Introduction To Lincoln's Inn (hereinafter, "Megarry").

Gray's Inn

Gray's Inn was formerly the London palace of Lord Gray and is located north of High Holborn Street. "Holborn" refers to the Hole Bourne, a stream which was a tributary of the Fleet River (and, ultimately, the Thames). The Honorable Society of Gray's Inn traces its history to the de Grey family. Many members of the de Grey family were associated with the law. For example, Walter de Grey was Lord Chancellor in 1206-14.

Gray's Inn rose to prominence during the reign of Elizabeth I (1558-1603). Members of the Inn still refer to "Good Queen Bess" with fondness and affection. Shakespeare's Comedy of Errors was first performed in the Hall of Grey's Inn in 1594.

Distinguished members and honorary members of Gray's Inn include Sir William Gascoigne, Lord Chief Justice in the reign of King Henry V, Sir Francis Bacon, later Lord Verulam, Lord Chancellor (and inventor of the scientific method); Lord Macaulay, poet and man of letters; Edward Heath; Sir Winston

Churchill; Franklin D. Roosevelt, President of the United States (1932-45); and H.R.H. Charles, Prince of Wales. The current Lord Chancellor, Lord Elwyn-Jones, is a member of Gray's Inn.

Lincoln's Inn

Lincoln's Inn was formerly the London palace of the Earl of Lincoln. Lincoln's Inn occupies eleven acres in central London, and is situated in the rectangle formed by High Holborn Street on the north, Corey Street and the Royal Courts of Justice on the south, Chancery Lane on the east and Lincoln's Inn Fields on the west. The Old Bailey is less than half a mile to the east.

Lincoln's Inn, by tradition, is the oldest of the four Inns of Court. The Inn's formal records, contained in the "Black Books" (so called because of their black covers), go back continuously to 1422.

Some scholars think that the Ordinance of Edward I made in 1292 enabled and inspired the founding of the Inns. That Ordinance placed both branches of the legal profession -- the barristers and the solicitors -- under the control of the judges, and "hastened the end of the clergy as lawyer's in the King's courts." Megarry. The new breed of professional lawyers that began to emerge, "needed places where they could congregate, and where apprentices could be housed." Id. The Inns of Court met those needs.

Distinguished members of Lincoln's Inn include Sir Thomas More (a man for all seasons); Sir Matthew Hale (who entered as a student in 1626); Earl of Mansfield (called to the Bar in 1730); and Lords Brougham, Eldon, and Erskine. Other famous members of Lincoln's Inn include John Donne, Horace Walpole, William Penn, William Pitt, Dwight Eisenhower, and Dean Acheson.

Inner Temple

The Inner Temple is situated in central London, and occupies a large area of land bounded by Fleet Street on the north and Victoria Embankment on the south. The Inner Temple, or "Inner", occupies the long deserted premises of the Knights Templar, an order of chivalry that flourished during the Crusades. The Crusades were military - religious expeditions that Europeans made to the "Holy Lands" -- Jerusalem and other Islamic territories. Those expeditions figure prominently in the legends of Richard the Lion Hearted, Ivanhoe, and Robin Hood, and in the traditions of the Inner and Middle Temples.

Distinguished members of the Inner Temple include Sir Edward Coke, the

father of the common law; Geoffrey Chaucer; and James Boswell, biographer and friend of Dr. Johnson.

The Inner Temple also figures prominently in fiction and literature. Horace Rumpole is a member of the Temple. Some of the action in a Sherlock Holmes story, A Scandal In Bohemia, takes place in the Inner Temple.

Middle Temple

The Middle Temple occupies the same general area as the Inner Temple, and shares a common origin with the Inner. One commentator has described the Middle Temple as "a beautiful bride" and the Inner as "her dull husband". See Timothy Tyndale Daniell, The Lawyers (hereinafter "Daniell").

The Temple divided into two separate societies in approximately 1500. In the nearly five hundred years since the division, the Middle Temple has produced some great and distinguished lawyers: Sir William Blackstone, author of the "Commentaries"; Lord Chancellors Clarendon, Somers, Hardwicke, Eldon, Finlay, Sankey, and Jowitt; and Lords Chief Justices Cockburn, Coleridge, and Reading. See Daniell. Other famous members include Charles Dickens, Sir Francis Drake, Sir Walter Raleigh, Sir Humphrey Gilbert (of Gilbert & Sullivan), and Edmund Burke. Burke wrote "it is not what a lawyer tells me I may do, but what humanity, reason and justice, tell me I ought to do." Id.

* * *

The education of an English barrister is very different from that of an American lawyer. Barristers earn an academic law degree (or its equivalent), and then take the Bar Vocational Course (BVC) at the Inns of Court School of Law in London. Among other things, the BVC affords would-be barristers the opportunity to debate, to moot (hold mock trials), to attend court, and to marshall ("shadow" a judge).

The one year BVC prepares the students for the next step in the education of a barrister, the pupillage. Barristers practice in sets of "chambers", not law firms. Many of the chambers are physically located at the Inns of Court. The pupillage is a series of two or three six month internships -- or "sixes" -- in different sets of chambers.

Pupilages are difficult and demanding. Pupils are assigned to one or more pupilmasters or pupilmistresses, experienced barristers who organize training, allocate work and assess the performance of the prospective barristers. The first

"six" consists of watching and helping more experienced barristers, doing legal research and drafting documents. At the end of the first "six," the pupil receives a certificate authorizing him to take on work of his own.

The transition to the second "six" is significant and quite daunting. This is where you start to build your own reputation. You have cases of your own, clients of your own, court appearances of your own resulting in cases won and lost. http://www.oneline.co.uk/bar/becoming_a_barrister/pupillage.html

Pupils compete to obtain junior tenancy in chambers. The competition is fierce. Only about sixty percent (60%) of the students who obtain a pupillage secure a tenancy. Those who succeed become "juniors".

Junior barristers handle small cases on their own and occasionally assist senior barristers in large, important cases. The senior, first chair barristers are referred to (in the context of the case) as "leaders" and "lead" the junior barristers.

After several years of practice, a junior barrister may apply to the Lord Chancellor's office to become a Queen's Counsel, or "Q.C.". Q.C.s are senior barristers, specialists in litigation, and the lawyers most likely to be appointed to senior judgeships. A barrister who becomes a Q.C. is said to "take silk" because Q.C.s wear silk robes rather than the cloth robe of the junior barristers. Q.C.s are also called "silks".

The highest rank of membership in the Inns of Court is the "Bencher", or Master of the Bench. The Benchers are the governing body of the Inn. They meet periodically as a body in Council. Benchers are elected by the Council. It is customary to elect (i) all members of the Inn appointed to high judicial office, (ii) most practicing Q.C.s of more than five or six years standing in silk, and (iii) a few distinguished "juniors" (no matter what their age or years of practice).

Benchers take precedence in the Inn according to the order of their call to the bench, "irrespective of any office or honor they may hold." <http://qqq.online.co.uk/bar/lincolns/history/benchers.html>. As a consequence, an ordinary lawyer can be senior to a judge, a prime minister or even a Royal Bencher (a member of the royal family who is called to the Bench).



15 of 100 DOCUMENTS

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Article: Birth of the American Inns of Court

NAME: By Judge J. Clifford Wallace*

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LEXISNEXIS SUMMARY:

... Rather than the lecture/seminar approach often used in the United States, I preferred the collegial approach of the English Inns. ... The Proposal outlines how the Inns function to this day - it became the constitution of the American Inns of Court. ... I stated in my report: "This Phi Alpha Delta program, though commendable, appears to be essentially a continuing education of the bar, directed towards advocates. ... On September 26, 1977, I suggested to Mark Cannon that it would be better to hold up launching the Inns of Court program until the Devitt Committee report was finalized. ... Professor Pixton continues: By the first of August 1979 the matter had apparently percolated enough, and the possibilities of Wallace's proposal had become compelling enough, that when Chief Justice Burger found occasion to travel to Utah for other business he contacted Dallin Oaks and Rex Lee and extended to them the invitation to implement the "Inns of Court" concept, and to test its viability in a charter or pilot program sponsored by Brigham Young University's J. ... Minor differences in application can be easily accomplished as the teaching model for the Inns of Court program is adapted to the local legal culture. ... My international experience has led me to conclude that in very few countries is there a successful emphasis on learning skills of advocacy and decorum.

TEXT:

[*109]

A special history issue of "The Benchers," the magazine of the American Inns of Court, caught my attention. It indicated there was a celebration of the Inns' 25th anniversary. In the lead piece entitled "the Genesis," the author indicated that he was fascinated "to hear different accounts of the origin of the American Inns of Court." n1 That there are different accounts may be true, but there were only two people present when the idea was first discussed: Chief Justice Warren Burger and I. I think it appropriate to tell what occurred.

It is true that the term "Inns of Court" had been used in the United States in a variety of ways prior to 1977. Phi Alpha Delta had a program instituted by then Circuit Judge Burger. There was also an "Inn of Court" program in San Diego, California, and I suspect there may have been other programs in the United States using the "Inn of Court" designation. The use of the term "Inn of Court" was an attractive title for what was, generally speaking, a lecture, and sometimes question and answer, approach to providing education in trial practice.

But the new model was to form a different concept. Capturing the idea of the English Inns of Court was its unique feature. As I saw it, the idea would provide "three possible benefits that can improve the level of advocacy: (1) unique educational opportunities in trial techniques, (2) self-policing, and (3) peer group involvement to motivate improvement and stimulate discussion." n2 After observing the Inns in practice during the 1977 Anglo-American Legal Exchange and

coming to the conclusion, as outlined above, of how the idea might benefit the trial courts in the United States, I decided that I would discuss the issue with Chief Justice Burger.

The opportunity presented itself as we were assembling for the day's activities in London. A bus was parked in front of our hotel and some of us were [*110] on board waiting for the remaining members of our team. Chief Justice Burger, our team leader, and I were sitting together. It was then that I made my suggestion. The concept was, essentially, that we would adopt the core ideas of the English Inns of Court, but adapt them to fit American needs. n3

Rather than the lecture/seminar approach often used in the United States, I preferred the collegial approach of the English Inns. The participation of Benchers, senior Inn members appointed for making important contributions to the life of the Inn or the practice of law, is the key. Benchers relate their experiences in legal practice to younger Inn members, passing on to the new generation of barristers the decorum, civility, and professionalism standards necessary for a properly functioning bar. When I explained the idea, Chief Justice Burger agreed, asked me to pursue the possibility, and to let him know the results.

Some renditions of this event have Chief Justice Burger raising the issue with me. Interestingly, none cite a source for this assertion. I point this out only for historical accuracy. One of my role models, Harold B. Lee, taught that there is no limit to the amount of good you can do if you do not care who gets the credit.

Most histories of the American Inns of Court jump from the Anglo-American Legal Exchange of 1977 to August 2, 1979, when the Chief Justice asked then President Dallin Oaks of Brigham Young University and then Dean Rex Lee of its law school to form the needed pilot program to test the concept - which later became American Inns of Court. n4 What occurred between 1977 and 1979 was not only important to the successful formation of the entire concept, but it was also the period in which I was heavily involved, reporting to the Chief Justice directly or indirectly through his administrative assistant, Dr. Mark W. Cannon. n5 Much of this history is contained in *The American Inns of Court - Reclaiming a Noble Profession*, compiled and edited by Professor Paul B. Pixton at the suggestion of the American Inns of Court Foundation. n6 Because I allowed access to my files, that book contains much of the history I will describe.

The Chief Justice was keen that I look into the Phi Alpha Delta legal fraternity program, which he had inspired, as a possible model. As the Pixton [*111] history indicates, n7 I was not convinced that this model would capture the concept that I had earlier envisaged. While the program was excellent for what it was trying to do and had developed outstanding lecturers, it was not a vehicle that could, in my judgment, bring to the United States the basic conceptual design of the English Inn. As stated by Professor Pixton,

Nevertheless, the conversation with Judge J. Clifford Wallace may have helped further crystallize thoughts which were more than a decade old, and upon seeing in Wallace a federal judge who resonated enthusiastically to the idea, Burger urged him to explore the possibilities. n8

In the months after I returned from England, I was busy investigating how the concept might be formalized. In so doing, I talked with and wrote letters to many friends, acquaintances, and others in the law field to present the new concept to them. I was surprised at the volume of negative responses. But, then again, this was a time of defensiveness. There was, in the minds of many, a perceived threat to the profession and to the curriculum independence of law schools. n9 Why was that?

The Chief Justice had appointed a Judicial Conference of the United States committee, "The Committee to Consider Standards for Admission to Practice in the Federal Courts," or, as it later became known, the "Devitt Committee," named after its Chairman, Chief Judge Edward J. Devitt of the U.S. District Court of Minnesota. That committee focused on improving trial court advocacy. Law schools were concerned about recommendations on curriculum; bar associations were concerned about restrictions on the lawyer's ability to practice in the federal court; and judges were less than fully supportive. As a member of that committee, I was well aware of the opposition to its purposes.

Chief Justice Burger, still thinking along the lines of the Phi Alpha Delta legal fraternity Inns of Court program, sent a letter on July 27, 1977 asking Robert E. Redding to contact me about the new initiative. n10 After studying that program, and while I thought it was helpful, I did not believe that it was a model capable of developing the small group, collegial concept, or one that could easily be implemented nationwide. By August 1977, having completed my discussions with judges, lawyers, law professors and others, and I was able to put my idea of the concept into writing in a brief statement entitled, "Inns of Court - A Proposal." n11

The proposal began with an assertion that the problem the Inns of Court would address was the inadequate performance of many lawyers in court. n12 The cause of the inadequacy was based on empirical research developed by the [*112] Federal Judicial Center for the Devitt Committee, n13 with which I agreed. The data demonstrated the cause to be lack of knowledge and failure to prepare to the best of ability. n14 I added to these my observed causal connection: lack of experience, inability to communicate persuasively, negative personal habits, and lack of industry and dedication generally. n15

These problems, it seemed to me, were best solved by an Inns of Court concept adapted specifically to address them, and these needs animated the idea I proposed: small collegial groups with continuous interaction to pass on skills, knowledge, dedication, civility, and the like, from seniors to juniors. n16 The solution required that many small Inns be organized to meet local needs. The Proposal outlines how the Inns function to this day - it became the constitution of the American Inns of Court.

The Proposal was sent to all of the people with whom I had spoken, plus others. The commentators were then able to respond to a distinct, written proposal rather than merely responding to a concept. With few exceptions, the responses were positive. n17 Earlier negative concerns were largely answered, as they saw the limited scope but vast potential of the idea. The lingering doubts came largely from those involved in other lawyer education programs, but clearly neither Chief Justice Burger nor I saw the Inns of Court program in my Proposal as one that would absorb existing programs. n18 As I saw it, the American Inns of Court program could be successful and find its own place in the social organization of the bar so long as it fulfilled an important unmet need.

While responses to the Proposal were arriving, it was time to report to the Chief Justice, and I did so in my September 9, 1977 letter, which included a copy of the Proposal. n19 During the time I had the assignment, I reported to the Chief Justice generally on the contacts I had made and the responses I had received. n20 Because the Chief Justice had specifically mentioned that I should look at the Phi Alpha Delta program, I reported that I had done so. I realized that he had been focusing on that program and I hoped that he would see the broader concept. I stated in my report: "This [Phi Alpha Delta] program, though commendable, appears to be essentially a continuing education of the bar, directed towards advocates. In addition, it is substantially limited in that it does [*113] not have a nationwide scope." n21 I then stated my recommendation: the investigation has been sufficient to take the next step, trying my collegial concept out.

"It would be my suggestion that a pilot [program] or two or three be established and if successful, that the program be proposed as a joint bar association-judiciary-law school effort... I am still convinced that the prime success factor will be the magnetic effect of the best trial lawyers and all of the judges involved meeting in small groups with trial lawyers who wish to improve and law students who wish to become trial lawyers." n22

Eventually this was the concept that was adopted. The Pixton history states:

If the Phi Alpha Delta approach to implementation represented the extent of Burger's thinking in mid-to late-1977, then Judge J. Clifford Wallace must clearly be given credit for conceiving it in larger terms. Moreover, although the Chief Justice had presumably discussed Judge Wallace's proposal with Mark Cannon (and perhaps had even read the brief "think piece"), he may not have immediately comprehended Wallace's shift in concept. n23

I subsequently expressed my concern in a letter to Mark Cannon that perhaps the Chief Justice feels the program should be a debating society to improve skills of lawyers while on their feet. n24 I compared that with the more expanded program that I had in mind. Mark Cannon responded that the Chief Justice would be open to my approach. n25

However, there was another hitch in launching the program. As indicated earlier, the Devitt Committee was proceeding with its investigation, and I was heavily involved with the Committee. On September 26, 1977, I suggested to Mark Cannon that it would be better to hold up launching the Inns of Court program until the Devitt Committee report was finalized. n26 As I saw it, this would provide two benefits: for one, the Devitt Committee investigation would be finalized and there would no longer be speculation about its recommendations, which had worked against advancing the Inns of Court proposal, and two, many of the findings of the Devitt Committee report could best be addressed by an Inns of Court program. The result was a long delay until March 1978, when the Devitt Committee report was filed. n27 However, the delay was, in my judgment, necessary for a successful project. The groundwork was laid. As Professor

Pixton correctly summarized, "It seems apparent, then, that by late September 1977 Judge Wallace was advocating the establishment of a pilot program (or several) from which data could be gathered which would assist in evaluating the plausibility of implementing the "Inns of Court' idea on a larger, [*114] national scale." n28

Between that time and the formation of the first Inn, I worked with the many individuals who were interested in the program. The plan was to continue to secure interest, especially from lawyer associations and law schools, until the Devitt Committee report was completed and a pilot Inn or Inns established.

Professor Pixton continues:

By the first of August 1979 the matter had apparently percolated enough, and the possibilities of Wallace's proposal had become compelling enough, that when Chief Justice Burger found occasion to travel to Utah for other business he contacted Dallin Oaks and Rex Lee and extended to them the invitation to implement the "Inns of Court" concept, and to test its viability in a charter or pilot program sponsored by Brigham Young University's J. Reuben Clark School of Law. n29

The day after the proposal's pilot Inn was presented, the Chief Justice wrote to President Oaks and Dean Lee, indicating my connection with the program. n30 Because of this, I was involved with the initial planning of the first Inn of Court and worked closely with Judge A. Sherman Christensen on its development. From that point on, Judge Christensen took the leadership role in developing the pilot program, American Inn of Court I, as well as the expansion of the concept. n31 By 1982, Judge Christensen and I thought it was time to "go national," and I wrote an article for the American Bar Journal, which was published in March 1982. n32

My continuing involvement with the Inn program was primarily in working with Judge Christensen, keeping him advised of inquiries that had come to me from lawyers, judges, and law schools, discussing fairly frequently how the program was progressing, and working on impediments. But by then the program was launched, and I had no doubt about its success. There is no question of the program's success as there are now over 400 American Inns of Court spread throughout the United States.

Victor Hugo wrote: "There is one thing stronger than all of the armies of the world: an idea whose time has come." n33 The American Inns of Court was an idea whose time had come. But perhaps we have not yet witnessed the ultimate potential of the idea.

During the last three decades I have voluntarily assisted in the improvement of legal systems on every continent. That experience has extended [*115] to over fifty countries, plus contact with many more through international conferences. I have concluded that well-trained, effective, independent lawyers are indispensable to the development of the rule of law and the independence of the judiciary.

The rule of law - so vital for a fair, just, and democratic society - is enhanced by effective advocacy. It is through proper lawyer involvement that judges are best prepared to develop and adhere to a constant, just, and stable law that rules the conduct of people.

When lawyers are independent and strong enough to speak out in defense of a judiciary, there is a far better chance that the judiciary will be more independent. Lawyers as a group are in a better position than judges to defend the independence of the judges and lawyers.

Thus, the question is before all countries today: is there a way to develop well-trained, effective, and independent lawyers within the bounds of proper advocacy and decorum? Can a program be established to provide necessary experience to lawyers to accomplish this vital role?

The enormous success of the American Inns of Court leads me to believe that this model could, and should, be introduced in other countries. The idea of the more experienced practitioners and judges teaching advocacy skills to beginning and junior lawyers (and perhaps law students) could easily be adapted to meet the specific norms and needs of any legal culture.

One objection might be that most countries generally follow civil law traditions, while the Inns of Court were born in a common law country. But my experience has been that in this area of teaching courtroom skills, the methods are fairly generic. Minor differences in application can be easily accomplished as the teaching model for the Inns of Court

program is adapted to the local legal culture. The key to success is the same: judges and veteran lawyers passing on their experience to those who are new to the profession.

Is there a need? My international experience has led me to conclude that in very few countries is there a successful emphasis on learning skills of advocacy and decorum. While some countries require a post-law education, or a year-long, legal practice course, the vast majority send lawyers straight from the classroom into practice. An Inns of Court model, adapted to take into consideration the particular uniqueness of the legal culture, could provide the type of training that is often regrettably absent in legal education. The international expansion of the Inns of Court model could have a beneficial effect on the quality of advocacy worldwide.

How would it work? The success of the American Inns of Court can be attributed to the active participation of judges and senior lawyers who are interested in helping the profession. That is, these individuals are generous enough with their time to pass on skills and knowledge, thus returning to the profession in some measure the benefits that they have received. So the first step would be to engage those dedicated leaders who possess the necessary [*116] experience to pass on these skills to the next professional generation.

Second, a structure needs to be created. There are various models, all generally following the English Inn. However, some flexibility to meet needs is necessary. Information about various models can be secured from the American Inns of Court Foundation. n34

Third, designers should have in mind the importance of one-to-one teaching, which has proven to be the best teaching method. Thus, limiting membership in particular Inns is important. Thirty to forty members, made up of one-third judges and senior lawyers, and two-thirds junior or new lawyers (or law students), seems to be about right. Periodically, the two-thirds group will rotate out of the Inn as new candidates are invited to join. If the need is greater, an additional Inn is established.

Fourth, a pilot Inn of Court would be established to try out the teaching model. After it has proven successful, it can be replicated by other interested groups in the country.

In the long-term, I hope that each American Inn of Court will have a sister Inn of Court in another country, not unlike the City-to-City program developed over the last sixty years. This could provide a wide range of benefits that would enrich both Inns.

This essay was written to show how judges and lawyers in the United States adopted a principle found in England to develop a successful educational and mentorship for American lawyers. Documenting the United States's experience shows how the project was developed in one country, and offers some guidance for how similar programs might be developed in others. I urge that the American Inns of Court model, and its core mission to improve legal advocacy and lawyer performance, be adapted in other countries to strengthen the advocacy role of lawyers internationally.

Legal Topics:

For related research and practice materials, see the following legal topics:
 Antitrust & Trade Law Industry Regulation Professional Associations & Higher Education General Overview Civil Procedure Judicial Officers Judges General Overview Education Law Instruction Curricula Curriculum Committees

FOOTNOTES:

n1. Ralph L. Dewsnup, the Genesis, *The Bench* (September/October 2004).

n2. J. Clifford Wallace, *American Inns of Court: A Way to Improve Advocacy*, *American Bar Association Journal*, Mar. 1982, at 282.

n3. J. Clifford Wallace, *Inns of Court - A Proposal*, reprinted in Paul B. Pixton, *The American Inns of Court - Reclaiming a Noble Profession*, 21-22 (1997).

n4. See letter from Warren E. Burger, Chief Justice of the United States, to Dallin H. Oaks, President, Brigham Young University, and Rex E. Lee, Dean, J. Reuben Clark Law School (Aug. 2, 1979) reprinted in Pixton, *supra* note 3, at 8-9.

n5. See, e.g., letter from Mark W. Cannon, Administrative Assistant to the Chief Justice of the United States, to Judge J. Clifford Wallace, Circuit Judge, U.S. Court of Appeals for the Ninth Circuit (Aug. 26, 1977) (on file with author); letter from J. Clifford Wallace to Mark W. Cannon (Sept. 7, 1977) (on file with author); letter from J. Clifford Wallace to Warren E. Burger, Chief Justice of the United States (Sept. 9, 1977) (on file with author).

n6. See Pixton, *supra* note 3, at 18-42.

n7. See *id.* at 33, 38-39.

n8. *Id.* at 20.

n9. See *id.* at 32.

n10. See Pixton, *supra* note 3, at 23.

n11. See *id.* at 21-22.

n12. See *id.* at 21.

n13. See Anthony Partridge & G. Bermant, *The Quality of Advocacy in the Federal Courts: A Report to the Committee of the Judicial Conference of the United States to Consider Standards for Admission to Practice in the Federal Courts* (Aug. 1978), microformed on LLMC 95-303 (Law Library Microform Consortium).

n14. *Id.*

n15. See Pixton, *supra* note 3, at 21.

n16. See *id.* at 21-22.

n17. See *id.* at 24-26.

n18. See *id.* at 30.

n19. See *id.* at 32-33.

n20. See, e.g., letters from J. Clifford Wallace, *supra* note 5.

n21. *Id.* at 33.

n22. *Id.*

n23. Id. at 38.

n24. Letter from J. Clifford Wallace to Mark Cannon (Feb. 15, 1978) (on file with author).

n25. See Pixton, *supra* note 3, at 39.

n26. Id. at 35-36.

n27. Id. at 36, fn. 37.

n28. Id. at 36.

n29. Id. at 42.

n30. See letter from Chief Justice Warren E. Burger, *supra* note 4.

n31. See Pixton, *supra* note 3, at 53-62.

n32. Wallace, *supra* note 2.

n33. Translations differ, the probable origin is "On resiste a l'invasion des armees; on ne resiste pas a l'invasion des idees." Victor Hugo, *L'Histoire d'un crime*, "Conclusion-La Chute," chap. 10.

n34. American Inns of Court, 1229 King Street, Second Floor, Alexandria, Virginia 22314. Online at <http://www.innsofcourt.org>.



41 of 100 DOCUMENTS

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FEATURE: ENRICHED BY COLLEAGUES: HOW LAWYERS ARE LEARNING FROM EACH OTHER AND ENJOYING SOCIAL CAMARADERIE THROUGH MEMBERSHIP IN THE AMERICAN INNS OF COURT

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To comment on this article for publication in our next issue, please e-mail us at editor@pabar.org.

TEXT:

[*20] If I were to ask you how likely it would be to have a judge watch the movie *My Cousin Vinny* with you and then critique the courtroom scene where Marisa Tomei makes mincemeat of the prosecutor's expert, you'd probably say, "Not very." That very thing happened, however, not just with one judge, but with three, at a Cumberland County American Inn of Court [AIC] meeting last fall.

Surprised? I certainly was. If you're not a member of an inn, you may have the idea, as I did, that anything with a name like American Inns of Court is likely to be stuffy and pretentious, their meetings stultifying yawners. Intrigued, however, with its stated mission of improving collegiality and enhancing professionalism, I attended three AIC sessions and was thoroughly disabused of my error. Far from stiff and formal, these educational programs, while delivering a wealth of legal expertise and savvy hard to come by in other venues, laced the presentations with laughter, jibes, barbs and, when judges were present, unrecorded (I didn't say unrecordable) judicial opinions flying fast and furious.

First begun in 1980 under U.S. Supreme Court Chief Justice Warren Burger, the American Inns of Court concept was adopted from the pre-15th century British Inn of Court system, where the education and training of attorneys was a process of legal apprenticeship and mentoring done by more experienced lawyers. In the U.S., as preceptorships for novice lawyers became a thing of the past, there arose an obvious need to provide a way for attorneys to learn from the experience of wiser colleagues as well as to meet informally with judges and sometime-adversaries or competitors in a way that would foster common ideals and goals.

The Cumberland County AIC has been in existence since 1996 and meets seven times a year at Penn State's Dickinson School of Law. Like all inns, it requires active participation of its members, which it assembles into "pupillage teams," members of which present an educational program following the social portion of the meeting. A pupillage team consists of Masters of the Bench, lawyers or judges with more than 20 years of experience; Barristers, 10-20 years; Associates, fewer than 10 years; and Pupils, students, in this case from Dickinson and Widener. (Because each inn may set its own standards on the number of years required for each category, the ones I give here are for the Cumberland County chapter.) Each team is responsible for presenting one program a year; the team selects the topic, decides on a format and, if necessary, writes a script.

So how do you get three judges to watch movie courtroom scenes? You make the movies part of the educational portion of an AIC program on cross-examination called "The Good, the Bad and the Ugly." It's a far cry from the dry, academic discussions on evidence we all remember from law school. The night I attended, it was easy to get focused on the task at hand as the lights dimmed and we began watching excerpts from *The Verdict*, *My Cousin Vinny* and *The Winslow Boy*, the latter a British movie about a lawyer who has to determine whether his 14-year-old client was involved in a boarding school theft.

As each vignette ended, it was analyzed. [*21] Does an accused criminal's acceptance of a proffered loophole indicate guilt? What's the best way to use an admission made on direct? How do you discredit or impeach this witness? What rules of cross were broken in these movies? What effect did the attorney's courtroom position have on the witness? On the jury? With each succeeding movie, the discussion became livelier. The three judges present, U.S. Middle District Judge Sylvia H. Rambo and Cumberland County Judges Edgar B. Bayley and Kevin A. Hess, showing no judicial restraint, joined in.

As one judge explained in no uncertain terms what would have happened and what would and would not have been permitted in that judge's courtroom, others vociferously, if respectfully, dissented. Where else could you get this combination of entertainment and inside information for the price of dinner?

The Cumberland County AIC has been exceptionally graced with judges, having five as current members. The other two are J. Michael Eakin, a former state Superior Court judge, now a justice of the Pennsylvania Supreme Court, and Edward Guido, another Cumberland County judge, both of whom were absent the night I attended. Two of the judges, Hess and Guido, have served as president. The current president, Marlin McCaleb, finds that the AIC meets a real need. "In the late '60s, when I graduated from law school, there were only about 50 lawyers in the county. At that time it was common practice for many of the older lawyers to meet for lunch. For younger lawyers, sitting down with them was an invaluable way to learn the nuts and bolts of practice. Nowadays, with 250 to 300 lawyers in the county, that's no longer feasible. I think it's a great idea to have an organization set up where we can pick each other's brains and learn from what others have done. Even though I'm supposed to be one of the older ones now, I still find myself getting something out of every program, coming away knowing something I didn't before."

McCaleb says he's very happy with the way the inn has turned out. "I would recommend it to anyone," he adds.

Tim McMahan of Harrisburg's Marshall, Dennehey, Warner, Coleman & Goggin concurs. Originally recruited by an early member, he was fascinated by the idea of a forum where you could talk to judges and lawyers in a non-adversarial way, letting your hair down and really enjoying their company. "The inn has consistently exceeded my expectations," he says. "I belong to a variety of organizations, some more rewarding than others, but the inn is the most satisfying, year in and year out. The members seem to recognize that if it's going to work, each of us has to accept responsibility for making it a good experience. We take seriously the opportunity to present to each other, with the attitude, 'I enjoyed your program, now it's my turn.'"

What he likes most is that, unlike most CLE, inn programs are interactive. "It's a [*22] chance to address issues seriously and still have a lot of fun," he says. "The programs are successful because we can choose something we're interested in, like the mock hearing on Daubert [junk science] issues our team put together, learn from and teach each other, and have a good time doing it." With a busy litigation practice in Harrisburg, McMahan has had to move mountains on more than one occasion to get to the meeting in Carlisle, but he says he's never had a bad experience, always thinking at the end, "I'm really glad I came."

My other visit was to the James S. Bowman AIC in Harrisburg. Ostensibly targeted toward state administrative law--the only one in the country so targeted--it draws members from all areas of practice. Think admin law is dry? Not when you're playing "Administrative Law Survivor," a clever creation termed "a reality-based show about who gets to go home a loser." Ordinarily, jurisdictional issues, state vs. local authority, delegation of authority and executive vs. legislative authority can be pretty arcane, but not when they're preceded by a very funny skit, full of wonderfully self-deprecating humor about the legal profession, hosted by a "Spiritual Guide" attempting to initiate a very backward law student (a "Lowly Seeker of Knowledge") into the mysteries of the separation of powers. In true "Survivor" form, each "Tribal Council" first discussed the four actual Commonwealth Court cases presented and then voted. Losers were not, however, booted out. How could this be boring when one of the issues involved the constitutionality of President George W. Bush's appointment of our former governor, Tom Ridge, as director of the Office of Homeland Security?

Harrisburg attorney C. Grainger Bowman had this to say about the inn named for his uncle, first Commonwealth Court President Judge James S. Bowman: "Administrative law, as a body of law, took on its form and substance only in

mid-20th century American jurisprudence as the federal and state governments probed the extent and proper limits of the state/citizen relationship. We know that public bodies serve on some occasions as regulators, on some occasions as adjudicators, on some occasions as bodies that exercise police powers. Concomitantly, courts had to stretch their jurisprudential neurons to explain the role of the executive, legislative and judicial branches in relation to the new kids on the block, namely the administrative agencies.

"This is exciting and relatively new stuff; it is the kind of stuff that lawyers crave," says Bowman.

At the Bowman chapter, it's clear that administrative law is exciting, and it's even more fun when you play administrative "Legal Jeopardy," which they do once a year, or serve up the wry wit and creativity that results when you mix legal education with the spicy entertainment value of a musical or TV show format. That formula may be one of the many reasons the inns, which began with only 12 charters, have grown so rapidly. As of the end of 2001, there were about 320 chapters nationally, with some 23,000 members. Their national administrative body, the AIC Foundation, makes yearly awards for leadership and recognizes lawyers and judges who have been exceptional in promoting the AIC goals of legal excellence, [*23] civility, professionalism and ethics. It also presents awards for the 10 best programs nationally, the most creative program and the best-researched program. As you can imagine, the competition is fierce.

There was a consistent theme I heard as I talked to lawyers from these two AICs. What they get from membership is unique: collegiality, fun and professional growth. Kevin J. McKeon of Harrisburg's Malatesta Hawke & McKeon L.L.P. says, "There's a huge social and experiential component that you really miss in practice and can't get any other way."

A preview of coming attractions at the Bowman chapter made this clear. It included some luncheon meetings arranged by Commonwealth Court Prothonotary Daniel R. Schuckers with the heads of various agencies and/or courts. These opportunities to meet with people from the Board of Finance and Revenue, the Labor Relations Board, the Environmental Hearing Board, the Public Utility Commission, the Workers' Compensation Appeal Board and with Commonwealth Court Judge Dante Pellegrini are invaluable for attorneys likely to practice before them. "Not only are you getting to know both younger and older members of the profession, but you can meet lawyers from other firms, the government sector, agencies, the Office of Attorney General and appellate courts outside the formal agency or courtroom setting," said McKeon. "After meeting Dan Schuckers at an inn event, you're going to be a lot more comfortable calling him the next day to ask him a procedural question."

McKeon, who clerked for the late Judge Bowman, thinks the judge would be pleased that lawyers are getting together and discussing developments in administrative law. "He had a love for the area of government-related law. I think he'd be proud to have his name associated with the inn and be happy that we're continuing a tradition he began of maintaining the interest and the scholarship in this area," McKeon said.

One of the Bowman chapter's founding members and now its membership director is Harrisburg telecommunications attorney Amy Putnam. "We worked very hard to create in Harrisburg what the inns stood for--outreach and inclusiveness," she says. "We looked for professionals who treat each other well and who are interested in education. We wanted it to be balanced--Masters/Barristers/Associates, men/women and minorities, government/private sectors, representation of agencies and a variety of practice areas so we're all exposed to new things." Another founding member, Theodore A. Adler of Camp Hill's Reager and Adler P.C., adds, "The inn plays an important social function of getting lawyers together where they can have different opinions but have a civil discourse about it."

Both the Cumberland County and James Bowman chapters had a social hour with refreshments beforehand. The programs each took about an hour and a half, followed by dinner, the former at Dickinson's Cafe Per Se, the latter at the Dauphin County Bar Association building. I found there's often as much, if not more, benefit from the social component as there is from the program. The social hour is informal, while dinners are usually grouped by pupillage teams. It's here that referral and mentoring networks and even life-long relationships can begin, grow and [*24] expand, as introductions, good-natured bantering, invaluable tips and useful gossip take place.

Pennsylvania has 24 AIC chapters. A few focus on a particular area such as intellectual property, family law or environmental law, but the majority do not. Membership is generally by recruitment into the various categories but can also be by self-referral. If you want to join, just ask. Each chapter has bylaws covering acceptance, which may be limited by the constraints imposed by balance among membership categories. Applicants may be put in a queue for upcoming space.

Think you'd like to join but don't have anything near you? Consider starting one of your own. There is lots of help available on the Web at www.innsocourt.org. Even better, name the inn to honor an outstanding lawyer or judge you feel should be remembered for his or her contributions. Many of the Pennsylvania inns are named for those who have left an indelible mark on the legal profession.

While a prior AIC cap of 80 members per inn has been removed, both the Cumberland County and Bowman inns have chosen to keep their caps, seeing them as important to preserving the benefits of small pupillage teams as well as to maintaining a group size where you can get to know nearly everyone. There is no limit, however, to the number of inns that can exist in a geographic area. That's good news for anyone looking for camaraderie, mentoring, enjoyable continuing education and an opportunity to elevate the profession. As the AIC Foundation states, "The American Inns of Court is a pathway that leads to continual professional self-improvement. It's a forum, outside the courtroom, where judges and lawyers can meet to discuss issues of concern. And most important of all, the American Inns of Court is a demonstration of your commitment to reclaim our noble profession."

Leaving aside occasional ennui from too-lengthy historical reviews and the inevitable good ol' boy eruptions associated with any gathering of lawyers, I can't think of a better opportunity for professional growth and friendship than your local Inn of Court.

As Tim McMahon observes, "A lot of lawyers think they're too busy to join, but you come away enriched rather than burdened." Where else can you look forward, as Grainger Bowman says, to "meeting lawyers and judges of all ages to discuss the ideas and ideals of the law and to eat and drink as friends"? You can't get much better than a monthly evening of good food, stimulating companionship, a clever movie excerpt, skit or game *and*--for most programs--CLE credit.

Legal Topics:

For related research and practice materials, see the following legal topics:

Governments
Local Governments
Administrative Boards
Workers' Compensation & SSDI
Administrative Proceedings
Hearings & Review
Workers' Compensation & SSDI
Administrative Proceedings
Judicial Review
General Overview

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13 of 100 DOCUMENTS

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Speech: Middle Temple, the Inns of Court and the Present Structure of the English Legal System*

* This speech was given at the Oklahoma City University School of Law on the evenings of October 26 and 27, 2005.

NAME: Lord Justice Scott Baker**

BIO: ** The Rt. Hon. Sir Scott Baker was called to the Bar in Middle Temple in 1961, was Master of the Bench in 1985, and was Treasurer in 2004. He was appointed to the Queen's Counsel in 1978, and appointed a High Court Judge in 1988. He has been serving as a Lord Justice in the Court of Appeal since 2002.

LEXISNEXIS SUMMARY:

... I hope you will find it interesting if I say a word or two about the history of the Inns of Court and the Middle Temple in particular, touching on "the American connection." ... Every barrister must belong to one of the four Inns of Court. ... It is easier to change from solicitor to barrister, and vice versa, than it used to be. ... Barristers who practice in the provinces, especially those far from London who have local chambers, tend to see very little of their Inn of Court unless and until elected a bencher much later in life. England and Wales are divided into six circuits and each of the circuits arranges further education for barristers on similar lines to the Inns of Court in London. ... They have always had a separate legal system. ... Then, in the spring of 2007, it will be time to celebrate the 400th anniversary of the Jamestown settlement. ... I understand that the American Inns of Court concept had its genesis in London in 1979 during an Anglo-American exchange. ... Although he was concerned with the profession as a whole, his efforts were primarily directed to the solicitors' profession, to a lesser extent to barristers, and only incidentally to the Inns of Court. ...

TEXT:

[*81]

I. Introduction

I would like to begin by saying what an enormous thrill and pleasure it is to my wife Joy and I to come to Oklahoma, where we have never been before, to see and learn about this part of your country and to be so royally entertained by you.

Our two great democracies have many similarities in our legal systems; we have similar problems to tackle. I mention, in particular, the evil of terrorism of which I spoke on Monday. It can, I think, only be to our mutual advantage if we meet regularly and exchange knowledge, views, and experiences.

This week's visit would not have occurred but for two things. The first is that the idea came from Bill Paul and was followed up by his unstinting energy, organization, and enthusiasm, which led to bringing on board others through whose generosity and efforts the project became a reality. Our warm thanks go to the Holloway Inn, the Ruth Bader Ginsburg Inn and all the individuals who have made our visit possible.

What, you may ask, is the second thing but for which this visit would not have occurred? Here we have to go rather further back in time to the fifteenth and sixteenth centuries in fact and the amazing connection that [*82] came to arise between America and the Middle Temple. I hope you will find it interesting if I say a word or two about the history of the Inns of Court and the Middle Temple in particular, touching on "the American connection." But first, can I say how glad I am that our link with America is maintained at the present time.

II. Overview of the Profession

In England we have a split legal profession; there are solicitors and barristers. Historically, most of the advocacy in the higher courts has been done by barristers, as well as a good deal in the lower courts and tribunals. There are far fewer barristers than solicitors. When I started at the Bar in 1961, there were barely 2,000 barristers, but the numbers were rising fast because of legal aid that was suddenly becoming readily available. Now the number has risen so that there were over 11,500 at the end of last year.

But legal aid or, more broadly, the public funding of litigation, is now costing the country a fortune. Successive governments have tried to tackle the problem and, in the recent past, there have been some very stringent cuts and restrictions imposed. There is a real threat to the livelihood of those who practice in the criminal defense field. In the civil field, mediation is the order of the day as the cost of litigation has tended to price some civil litigants out of the courts. Many barristers are training and qualifying as mediators.

The practicing Bar operates on what we call a "chambers system," so that a group of barristers practice from the same premises as if they are partners, but in fact they are not. They share their overheads, often on a basis that bears some relationship to their earnings, but ultimately it is each man or woman for himself and each one's income depends on the individual's skill and industry.

The chambers system, requiring each practicing barrister to belong to a set of chambers, has been a cornerstone in passing on to each new generation the ethics of the profession and the code of behavior expected in the courts. It may sound surprising, but quite frequently the prosecution and defense barrister in a case will come from the same chambers.

Whilst the hub of the justice system is in London, and the four Inns of Court are in London, there are sets of barristers' chambers in all the larger provincial centres and some of the smaller ones. Provincial sets of chambers have tended to mushroom in recent years, although some local [*83] bars like Manchester and Birmingham have always been strong.

In days gone by, local justice in the higher courts was dispensed at "quarter sessions" held in each county or substantial town four times a year. The really serious cases, murder and the like, were tried at Assizes in each county town with a High Court judge going around the circuit from one county to the next, initially by horse and carriage. Since 1971 all this has gone and all criminal cases that are too serious to be tried in the Magistrate's Court are tried in the Crown Court located in larger towns up and down the country.

The administration of chambers is conducted by what used to be called a barrister's clerk or clerks, but now more often called an administrator. His job is to run the chambers, get the work in, and try to deploy it between the various members of his chambers, so that if somebody is not available he tries to persuade the client, usually through the solicitor, to brief somebody else in the same chambers.

In the 1930s chambers were much smaller. The man in perhaps the greatest demand was Mr. Norman Birkett K.C., who later was one of the two British judges at the war crimes trials in Nuremberg after the war. The briefs used to come flooding in marked with his name "Mr. Norman Birkett, K.C." Far less successful, and always on the lookout for work Mr. Birkett could not take, was Mr. John Flowers K.C. On one occasion it is said a brief came in marked with the name Mr. Norman Birkett, K.C. and underneath: "No Flowers by request."

Every barrister must belong to one of the four Inns of Court. Unless he switched from being a solicitor, he will have joined his Inn as a student and then been called to the Bar by the treasurer of his Inn. It is easier to change from solicitor to barrister, and vice versa, than it used to be. When I was treasurer last year I called a number of former solicitors to the Bar.

Barristers who practice in the provinces, especially those far from London who have local chambers, tend to see very little of their Inn of Court unless and until elected a bencher much later in life. England and Wales are divided into six circuits and each of the circuits arranges further education for barristers on similar lines to the Inns of Court in London.

III. History of the Inns

There are, as you are aware, four Inns of Court serving England and Wales: Middle Temple, Inner Temple, Lincoln's Inn, and Gray's Inn. [*84] Historically, Lincoln's Inn has had the strongest links to the Courts of Chancery and even today they are the Inn most closely linked to the Chancery Division of the High Court. But there is no longer any real rhyme or reason about what type of practitioner belongs to each Inn and nowadays several of the Chancery judges are benchers of other Inns.

The origins of each of the Inns go back many centuries. The Middle and Inner Temples stand to the south of the law courts, close to the river Thames. Lincoln's Inn and Gray's Inn are to the north of the law courts. There used to be two more Inns, one in Fleet Street and one in Chancery Lane, used by the Serjeants-at-law. They merged in 1758. Serjeant-at-law constituted the highest order of counsel at the English and Irish Bar. Sir Edward Coke said the title had been introduced into England by William the Conqueror. It is said that until 1845 Serjeants-at-law enjoyed a valuable monopoly of practice. For at least 600 years the judges of the King's Bench and Common Pleas were always Serjeants, but by the Judicature Act 1873 this qualification was abolished. In 1877 the Society of Serjeants was dissolved and the one remaining Serjeants' Inn sold and its proceeds divided among existing Serjeants. The Order is now extinct. The Order of Serjeants in Ireland outlasted their English counterparts by several decades, but they too are now no more.

The Middle and Inner Temple, so far as their histories can be traced, have always been separate societies. The Middle Temple has been on the same site since the 1340s, following the return of the Royal Courts from York to London. The earliest recorded Middle Templar, a man called Hawkford, is named in the roll of Serjeants appointed by Richard II in 1387.

The Temple had been the seat in England of the Knights Templar on whose suppression it passed with other of their possessions to the Crown and, after an interval of some years, to the Knights Hospitallers of St. John of Jerusalem.

Some thirteen houses, built just to the north of the church by Roger Blom, a former nuncius of the Templars, were let to certain professors of the common law not later than 1326. Notwithstanding the ravages of fire and popular commotion, there is evidence that by the reigns of Edward III and Richard II, the Temple had become the residence of the legal communities, and it has been so ever since.

The two societies continued as tenants of the Knights Hospitallers of St. John until the dissolution of the order in 1539. They then became lessees of the Crown and so remained until 1608 when James I made a [*85] grant by letters patent to the Benchers of the respective societies. The letters patent described the Middle and Inner Temple as: "'Being two out of those four colleges the most famous of all Europe' for the study of the law."

The present buildings in the Temple, which is the generic description of the area covered by the Middle and Inner Temple, have been almost wholly erected since the reign of Elizabeth I or the Great Fire of London, in which most of the Inner Temple perished. The notable exceptions are: the Temple Church and the Middle Temple Hall.

The Temple Church has been in the joint occupation of the Middle and Inner Temple from time immemorial. The pews face each other rather than the altar. Middle Temple takes the northern half and Inner Temple the southern half of the church. At the western end is the Round Church, consecrated in 1185 by Heraclius, the Patriarch of Jerusalem, who was unsuccessfully trying to persuade Henry II to lead a crusade. It is the largest and most complete of the four remaining round churches in England. It is built on the plan of the Church of the Holy Sepulchre in Jerusalem and narrowly escaped the ravages of the Great Fire of London in 1666. It shows early signs of gothic architecture in England. In former times, lawyers awaited their clients for consultations in the Round Church just as Serjeants-at-law went to St. Paul's Cathedral, where each had a pillar assigned to him.

The King's Inn in Dublin closely resembles the English Inns of Court. Ireland is much more similar in this respect to England than Scotland, who does not have an Inn of Court, but has a corporation known as the Faculty of Advocates. They have always had a separate legal system. The partition of Ireland took place in 1921, with the creation of the Irish Free State. Since then, the legal systems of England and Eire have been entirely separate; albeit the latter has been greatly influenced by the historical connection with England.

The second notable exception is the Middle Temple Hall. It is one of the most stately of existing Elizabethan buildings. Commenced in about 1562, it was completed ten years later. At the eastern end is a richly carved wooden screen which was shattered by a land mine in World War II, but the wreckage was painstakingly collected, put in sacks and the screen was re-erected after the war. Mercifully, the rest of the hall remained unscathed. It was reopened by Queen Elizabeth, the Queen Mother who was then the Queen, as Treasurer of Middle Temple, in July 1949. She was

Royal Bencher from the mid-1940's until she died. She [*86] was a great friend of the Middle Temple and its Benchers and dined annually with us at what was called the Family Dinner even after she was 100 years old. The head porter of the Inn received an invitation to her funeral at Westminster Abbey and could be seen in a photograph on the front page of the Times newspaper sitting in a prime position.

The Hall, which owes its existence to the inspiration and efforts of Edmund Plowden, (known to American lawyers for his celebrated law reports - the first private reports ever published), has been the scene of numerous historic events, including the entertainment of monarchs from Elizabeth I onwards and, most notably, the first ever performance of Shakespeare's Twelfth Night. It was performed by Shakespeare's own company on Candlemas Day, February 2, 1602. The 400th anniversary of its first performance was celebrated three and one half years ago by a series of repeat performances by the Shakespeare Globe Company. Needless to say, every performance was a sell out.

There is much of historic interest in the Hall. The High Table, which is on the dais at the western end of the Hall, under the portrait of Charles I attributed to Van Dyck, was made from a single oak tree from Windsor Great Forest presented to Middle Temple by Queen Elizabeth I. It is almost thirty feet long and was made from four planks sawn from that oak, which was floated down the river Thames to the site of the Hall, then being constructed. It has never left the Hall within which it was made. Our Victorian forbearers, perhaps with less of a sense of history than some of us have today, saw fit to add a four foot extension to it.

Below the High Table stands a small table, known as the cupboard, whose top was made from a hatch cover from the Golden Hind, the famous ship in which Sir Francis Drake sailed round the world. It is at this table that barristers called to the Bar by the Middle Temple sign the roll of barristers of the Inn.

In Tudor and Jacobean times, the Inns of Court were recognized as the third university of England (see the observation of Sir Edward Coke in 1602). They were, accordingly, attended by a much wider group than just aspiring lawyers. An impressive procession of Elizabeth courtiers, statesmen, poets, soldiers, and navigators appear among those admitted members of the Middle Temple in the sixteenth century. These include Walter Raleigh and his half brother Adrian Gilbert.

IV. The American Connection

It is at this point that I digress to say a word about the Middle [*87] Temple's remarkable connection with America and the influence of our Inn's members on your history. Sir Francis Drake visited Middle Temple Hall on August 4, 1586. He had just returned from bringing Raleigh's Roanoke settlers back from Virginia, including their governor Sir Ralph Lane who was a Middle Templar. It is believed that the American Middle Temple connection was the reason for Drake's visit to the Middle Temple.

As most students know, Virginia was the first permanent English settlement in North America. From 1583 to 1588, attempts had been made by Sir Walter Raleigh and others to establish colonies on the coast of what is now North Carolina. They failed and the only result was the naming of the country Virginia in honour of Queen Elizabeth. But glowing accounts were brought back by the early adventurers, and in 1606 an expedition was sent out by the Virginia Company. It was chartered with rights of settlement between latitudes 34 [degrees] and 41 [degrees]. It landed at Jamestown on May 14, 1607, and the rest, as they say, is history. Gosnold, a Middle Templar, was a party to founding the first successful settlement at Jamestown. He had already discovered Cape Cod and Martha's Vineyard in 1602.

Several Middle Templars were members of the council of the Virginia Company. These included Sir John Popham, Sir Edwin Sandys, Richard Martin, and Sir Stephen Powell. Sandys not only had a lot to do with procuring the incorporation of the Virginia Company, he was the draftsman of the Virginia Charter of 1606, which gave colonists "all the liberties, franchises and immunities of English subjects." Later he foresaw that any successful settlement of English people in America depended on entrusting the colonists with some measure of political control. He worked away at this over the following years and this led to The Great Charter in 1618. Under it, the first representative government of North America was established the following year and with it freedom of speech, equality before the law, and trial by jury - three fundamentals of modern democracy.

I mentioned a moment ago Sir Walter Raleigh's half brother Adrian Gilbert. It was under his patent that John Davis made his discovery of the Northwest Passage.

An interesting sideline is that in 1584 Philip Amadas was, according to Middle Temple records, fined for having failed to pay his dues at the time he was away captaining one of Raleigh's ships on the Roanoke expedition. In the days before electronic transfer, I suppose, he should [*88] have paid up before he went.

You may be interested to know that next spring the Middle Temple has plans afoot to celebrate the 400th anniversary of the Virginia Charter. Then, in the spring of 2007, it will be time to celebrate the 400th anniversary of the Jamestown settlement.

The political unrest of the seventeenth century is reflected in Middle Temple's haul of traitors: Raleigh, executed in 1618; Henry Percy, the fourth Earl of Northumberland, sentenced to life imprisonment following the gun powder plot to blow up the House of Commons in November 1605 (he served fifteen years in the Tower of London); and other courtiers whose star had waned in the new reign. Then there were the two Winter brothers, hung, drawn, and quartered for their role in the gun powder plot; William Gay who drafted and signed Charles' death warrant; three others who were signatories to it; and two who officiated at the trial.

From the 1750s to 1787 there was a remarkable growth in the number of members of the Middle Temple from North America. It is, I think, widely recognized that the ethical and legal principles on which the American colonies justified their severance from their Mother Country had been learned by their young lawyers in the English Inns of Court. This included a highly developed and vigilant sense of constitutional morality. Several Middle Templars played a leading role in the American Revolution, in drafting the Constitution of the newly independent United States, and in filling judicial and administrative posts. These included: Peyton Randolph, first President of the Continental Congress; John Dickinson, originator of the phrase "no taxation without representation" and drafter of the Articles of Confederation; and John Laurens, Washington's ADC.

When the Declaration of Independence was adopted by a congress of the thirteen colonies on July 4, 1776, it was signed by no less than five Middle Templars, all destined to occupy high positions in the United States. They were: Edward Rutledge, Governor of South Carolina, 1798; Thomas Heyward, Jr., Judge of the High Court of South Carolina, 1778; Thomas McKean, President of Delaware, 1777, Chief Justice of Pennsylvania, 1777, Governor of Pennsylvania, 1799; and Thomas Lynch, Jr. and Arthur Middleton, both distinguished office holders in South Carolina.

John Rutledge was the chairman of the drafting committee of the Constitution and there were seven Middle Temple signatories to that [*89] document: William Livingstone, John Blair (no relation of Tony), John Dickinson, John Rutledge, Charles Cotesworth Pinckney, Charles Jared Ingersoll, and Charles Pinckney.

Middle Templars were also closely involved in drafting a number of state constitutions. Not all Middle Templars were in sympathy with the American revolutionaries. There were many loyalists, and the British general Sir Banastre Tarleton was a Middle Templar.

Bill Paul is the latest in a series of Honorary Benchers of the Middle Temple who have maintained ties between Middle Temple and the United States. This particular link goes back 100 years (not, I hasten to add, Bill Paul). The American Ambassador in London from 1899 to 1905 was the Honourable Joseph H. Choate. He had previously been President of the American Bar Association. He was elected an Honorary Bencher in 1905, the first non-British subject ever to be elected an Honorary Bencher of any Inn.

Other distinguished Americans followed, one of whom was Chief Justice William Howard Taft. He had been the twenty-seventh President of the United States from 1909-1913, President of the American Bar Association in 1913-1914, and was appointed Chief Justice in 1921. There is a nice story about his call to the Bench, the ceremony of induction for new benchers whether honorary or otherwise. The new bencher sits at the top of the Middle Temple Hall, immediately below the High Table and waits for the procession of benchers to pass up the Hall to their seats on the High Table. Then comes the time honoured invitation addressed to him by the Butler of the Middle Temple: "With the compliments of Master Treasurer and the Masters of the Bench, will you please take your seat at the high table."

While waiting there, the Chief Justice turned to a member of the Inn sitting nearby and said: "I feel strangely moved, finding myself sitting here in the home of the Blackstone in the very cradle of the Common Law of England and of America."

Customarily, the American Ambassador in London has been elected an Honorary Bencher and there have been other distinguished Americans including Mr. Justice Robert Jackson of the Supreme Court of the United States, who was chief counsel for the United States at the Nuremberg trials, and Chief Justices Warren Burger and William Rehnquist. Following the latter's death on 3 September last, I understand your new Chief Justice John Roberts has been invited to become an Honorary Master of the Middle Temple Bench.

[*90] I understand that the American Inns of Court concept had its genesis in London in 1979 during an Anglo-American exchange. Chief Justice Warren Burger and Judge Clifford Wallace of the Ninth Circuit Court of Appeals

and some others were apparently impressed by what they saw and heard in our Inns of Court. The idea was born to convey some of the good features of the English Inns of Court across the Atlantic and into your very different system of legal education and training.

Thoughts moved very quickly into action and in no time Inns of Court had sprung up in Salt Lake City, Hawaii, Mississippi, Brooklyn, Washington, D.C. and elsewhere. As I understand it, within a year or two the American Inns of Court Foundation had been formed and a very formidable Board of Trustees had, and still has today, starting with Warren Burger and William Rehnquist. It is obvious that the concept was an immediate success and I understand there are in the United States today something like 350 Inns of Court. I am sure you have found, as we in the United Kingdom have found, that collegiality leads to a desire on the part of individuals to be better skilled and to practice at a greater level of ethical awareness.

I have no doubt that it is to our mutual benefit that we should meet regularly and exchange our views and experiences.

V. The Inns of Court Today

The Inns have five main functions today. These are: (1) to provide and administer property for barristers and residents; (2) to provide law libraries and common rooms for their members; (3) to provide meals, social and collegiate events for their members; (4) to provide advocacy training for students and the newer barristers; and (5) to provide scholarships and bursaries for students and young barristers.

Let me say a word about each. The Middle Temple has a substantial property estate mostly within the area of the Temple and much of it on land given by Royal Charter, which cannot be sold. Most of our estate is rented by barristers' chambers, but there are residential flats on the upper floors. The presence of residents within the Inn is an important factor in collegiality and creating a family atmosphere. We also have, as a result of generous benefactors, some accommodation to let for students.

Recently the Middle Temple purchased and developed five buildings opposite the law courts into a state of the art new set of chambers at a cost of £ 12 million. We have a magnificent law library notable for its American section with an exceptionally comprehensive collection of [*91] American law reports, textbooks, and papers. In building this up we have been greatly assisted by the generosity of American members of the Inn. The library was rebuilt in 1958. Its predecessor had been destroyed by a German bomb during World War II.

Advocacy training has in recent years been a growth area. We are moving towards a Faculty of Advocacy with a Director of Advocacy in overall charge. Invaluable service as trainers is given by barristers and judges, many of whom give up a great deal of time entirely free of charge at evenings and weekends. Continuing professional education generally is another area in which Middle Temple has become increasingly involved, laying on lectures by high profile speakers on a wide range of subjects followed by a reception afterwards at which Bench, Bar, and students can mingle and exchange views.

It has always been difficult for the student and young barrister to make a start and never more so than today with little or no prospect of public funding. The generosity of benefactors and major appeals from time to time have resulted in a scholarship fund that enables us to pay out around £ 1 million per annum in scholarships. Any profit the Inn makes is ploughed into this fund. It sounds like a lot of money, but is still far short of what we would like to be paying out to meet the needs of the next generation.

The legal profession in England was subject to a major review last year by Sir David Clementi, an accountant and former deputy governor of the Bank of England. Although he was concerned with the profession as a whole, his efforts were primarily directed to the solicitors' profession, to a lesser extent to barristers, and only incidentally to the Inns of Court.

His overriding concern was whether the profession was properly accountable to the public it served. He has made recommendations that regulatory functions in running the profession should be properly accounted for to independent persons and that there should be transparency.

The Bar Council is required to separate its trade union functions from its regulatory functions. Although it, rather than the Inns, regulate barristers, the Inns have an important role to play in looking after students, teaching advocacy, and providing further education as well as maintaining collegiality. They are the foundation stone on which the ethics

and spirit of the profession is based. They have been in existence for hundreds of years and, provided they adapt to meet changing [*92] conditions, there is every reason to believe they will continue to exist for many more.

VI. Conclusion

It will be a great pleasure to report when I return to London next week that our friends at the American Inns of Court are in good health. While there are people like Bill Paul around, and the others of you who have so generously organized this visit, I am quite sure that our common bond is in good hands and will continue to be nurtured.

Legal Topics:

For related research and practice materials, see the following legal topics:
GovernmentsCourtsJudges



15 of 100 DOCUMENTS

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TITLE: Walk Through History in Legal London: Barrister's guidebook to Inns of Court district speaks to shared heritage

AUTHOR: James Podgers

TEXT:

London has not always been a lawyer's town--only for about the past 800 years.

It was in the 13th century that lawyers began congregating near the Temple Church, just north of the River Thames. The church had been built 100 years earlier for the Knights Templar, an order that participated in the first Crusades.

And it was the neighborhood surrounding the Temple Church that eventually became home to the four major Inns of Court--Lincoln's Inn, Inner Temple, Middle Temple and Gray's Inn--where lawyers have lived, trained, been called to the bar as barristers, kept offices and maintained their societies since before 1600.

Steeped in Tradition

If there is a spiritual wellspring of legal practice in Britain and the United States, it is that ancient neighborhood of London, which also is home to the Royal Courts of Justice and London's criminal courts in Old Bailey.

In those surroundings, "You cannot escape the binding together of tradition, heritage and literature that impact the practice of law," says Andrew Goodman, a London barrister and historian of British courts.

American lawyers often feel the spiritual pull of this little realm just as much as their British colleagues. "For American lawyers," Goodman says, "it is our shared heritage that is extremely important. There is a well-defined and shared Anglo-American jurisprudence."

ABA members will have the opportunity to visit the legendary sites of London's legal quarter when the association gathers July 15-20 for the London Sessions of the 2000 annual meeting. The meeting will convene in London after July 6-12 sessions in New York City.

One of the highlights of the London Sessions will be a reception at the Inner and Middle temples (so named for their relative proximity to the old City of London boundaries) on July 18. Tours of the Inns of Court also will be on the entertainment program for the meeting.

When it comes to legal London, Goodman may be one of the most qualified authorities to tell American lawyers where to go.

Goodman is publishing a detailed London guidebook tailored to lawyers that will be published in conjunction with the annual meeting. Titled *Lawyers' London*, it is broken into a number of chapters, each describing a separate walk in parts of London that should be of special interest to lawyers.

Goodman says he wrote the book "with one eye on what American lawyers would like to know about our legal history and traditions, and how they came about."

Lawyers' London will be sold at bookstores throughout London during the annual meeting, but it also is available at a reduced prepublication price of \$ 35 from Blackstone Press, Aldine Place, London W12 8AA, United Kingdom, or on the Internet (www.blackstonepress.com).

As the leading city of England and, later, the British Empire, London was a natural incubator of the legal profession, Goodman says. By the height of the Elizabethan era in 1600, the Inns of Court were not only the leading centers of the legal profession but were at the heart of London's social scene.

Queen Elizabeth I often dined at Middle Temple and Gray's Inn, and several of her legendary "sea dogs"--mariners such as John Frobisher and Sir Francis Drake--were closely associated with the inns. Members of the Middle Temple still dine on tables made from wood presented by the queen; and a hatch cover from the Golden Hinde, the ship in which Drake circumnavigated the world, still does duty as a serving table.

William Shakespeare was a denizen of London's legal neighborhood, according to Goodman and other experts, and *Twelfth Night* was given at least one early performance at Middle Temple Hall (legend long held that Queen Elizabeth attended).

Geographically, the historical lawyer's London is a compact district, hugging the north bank of the Thames along Fleet Street toward St. Paul's Cathedral to the east. And while that area is, like the rest of London, packed with historical sites, architectural gems and, of course, pubs, the highlights can be visited in a long day, Goodman says.

That ideal free day would start, Goodman says, with an early walk or tour through the area where the adjoining Middle and Inner temples are. One of the highlights of this district is the Temple Church itself.

The visitor departing the Temple district onto Fleet Street comes face to face with the Royal Courts of Justice, the leading civil courts in London. The Royal Courts are almost entirely open to the public, and it is easy to sit in on proceedings. A display of legal garb can be viewed on the upper floor.

One thing American litigators will notice quickly, Goodman says, is that English courts are "very quiet. It's very easy to fall asleep in an English court. I've done it myself, although not standing up."

The back door of the Royal Courts of Justice leads to Lincoln's Inn, probably the oldest of the inns. Along the way are the chambers of Sir Thomas More and Wildy's bookshop, which has been in the same location for hundreds of years.

Architectural Highlights

Leaving Lincoln's Inn by way of Chancery Lane brings the visitor to the Southampton Buildings and nearby Staple Inn, a rare survivor of the smaller inns that once occupied the neighborhood and an outstanding example of Elizabethan and Georgian architecture.

Nearby are the London Silver Vaults, where 40-50 booths sell antique silver. East of the Inns of Court along Fleet Street and up Ludgate Hill is the Old Bailey, which has public galleries.

Just beyond the Old Bailey is St. Paul's Cathedral, but there are numerous other historic and architecturally significant churches in the neighborhood, says Goodman, including the baroque St. Mary Le Strand; St. Clement Danes, which has become an informal chapel for Royal Air Force members; St. Dunstan-in-the-West; and St. Brides, which along with St. Clement Danes was designed by Christopher Wren.

But amid the magnificent architecture and impressive history contained in legal London, Goodman says the atmosphere of the old district can be its most memorable characteristic. Walking along Middle Temple Lane or Inner Temple Lane, he says, particularly as evening comes on, "You come into this perfectly quiet, tranquil area you didn't imagine was there. It is an oasis of peace."

GRAPHIC: Photo, ANDREW GOODMAN wrote the book on historic, law-related sights that American lawyers might be interested in seeing while in London during the 2000 annual meeting, ABAJ/STEPHEN HYDE



30 of 100 DOCUMENTS

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OF INTEREST: A MATTER OF CIVILITY: AMERICAN INNS OF COURT STRIVE TO SHAPE A CULTURE OF EXCELLENCE IN JURISPRUDENCE

By Naseem Stecker

Naseem Stecker is a staff writer for the Michigan Bar Journal.

TEXT:

[*24] Once a month they meet to break bread, discuss the law, and hold programs on ethics, civility, and professionalism. These are standards that have caused consternation and dismay in the legal community because of their absence in the day-to-day conduct of many practitioners. Judges, lawyers, and law students interact at these meetings with one primary aim: to reclaim the noble profession of law by shaping a culture of excellence through the American Inns of Court.

Dating back to an English tradition from the 13th century, the Inns of Court movement has been gaining momentum in this country. With 308 chapters nationwide and 6 in Michigan, the American Inns of Court actively involve more than 20,000 bench and bar members as well as third-year law students. All actively strive to develop a deeper sense of professionalism and to build a more insightful awareness of ethical standards.

"Participants of the program invariably learn the value of proper behavior and how its advantages tend to flow in a lot of different ways," said Professor Gary Maveal, Inn administrator at the University of Detroit Mercy, which is the oldest chapter in Michigan. "We see civility as not just a concern but a major problem, and something needs to be done to impart some lessons, some standards where the disciplinary rules don't go far enough. There is no rule against being rude to a fellow lawyer. At one level we're simply trying to enhance the climate for practicing law, to make it a better place to be earning a living."

Most Inns concentrate on issues surrounding civil and criminal litigation practice and include attorneys from a number of specialties. The Detroit chapter has about 40 members. It was founded in 1984 by Judge Julian A. Cook Jr. Membership, as in the other Inns, is made up of four categories--masters of the bench, barristers, associates, and pupils. Masters of the bench are judges, experienced lawyers, and law professors; barristers are lawyers with lesser seniority but who have several years of experience. Associates are lawyers who do not meet the minimum requirement for barristers; pupils are third-year law students.

Teams are made up of members from each category so that the less experienced members can learn from the more experienced attorneys and judges who act as mentors. Each team conducts one program for the Inn each year. At the Detroit chapter, where students are the target trainees, topics covered range from subjects like witness interviewing and selection and apology in litigation, to alternative dispute resolution, civility and discovery, and ethics and professional responsibility.

"In a typical year's programming, we seek to explore litigation in all its aspects in a progressive way so that most years we would begin with an initial client consultation, an initial client interview, or a drafting exercise of a preliminary claim or complaint. We follow the progression of a single case or several hypotheticals throughout the litigation sequence of pleading/discovery and then a mediation or ADR session and finally a court presentation or a post trial motion," Maveal explained.

The president of the chapter, Judge Patrick J. Duggan, said the program "provides [*25] young lawyers and students an opportunity to learn how the system works, and to really see the nuts and bolts of practice which they don't get in the classroom Standing up there arguing a motion, questioning a witness, is something you never learn until you do it."

According to Judge Duggan, there is a tremendous improvement in the students between the start and the end of the program. "If all the lawyers that appeared before me came as prepared as they are, it would be a delight! It doesn't happen. We cover that a lot in our sessions--about how important it is to be prepared. They also hear about this thing called respect. Judges learn quickly who the good lawyers are that can be trusted. Lawyers can build themselves a reputation because it really pays off," Duggan added. On civility, the judge suggests more socializing among lawyers so that they can get to know each other better. "I guarantee you that they would not file nasty motions against the other person. It's just a matter of them getting to know one another. I think that would decrease the lack of civility."

A recurring theme each year is the nurturing of interpersonal relationships, which Professor Maveal says is a practical skill not emphasized in most law schools. "Although we can't do a whole lot in a couple of hours, students are sensitized to skills that they will need to work on when they become lawyers. The fact is that success and satisfaction in litigation practice requires much more than sheer knowledge of 'the law.' We urge all of our members to apply the Golden Rule to their work. Success in dealing with adversaries, as well as witnesses and government officials, is generally more likely if you employ honesty, politeness, and tact. Those interpersonal skills are the type of things we do emphasize from month to month in our meetings," Maveal said.

Amy Johnston, a litigator in Royal Oak, was once a pupil in the Detroit chapter. "I was involved in a case concerning the Whistleblowers' Act. Specifically, it was my responsibility to interview a potential plaintiff who provided some 'unethical' information. The focus of the session was on the advice to provide, if any, to the potential client and the development of an attorney-client relationship. After the mock interview occurred, the masters and barristers critiqued my performance and offered suggestions on future interviews of potential clients. Although my current practice of civil defense litigation representing corporations and large companies was not directly affected by the plaintiff interview, the ethical discussions taught me how to handle certain situations with any client."

Johnston, who is now a barrister herself, considers the American Inns of Court the most worthwhile activity for any lawyer or student interested in litigation because it provides a forum for direct interaction between the pupils, barristers, and masters. "At times the pupils learn from colloquy among the masters and barristers on various topics. In fact, on many occasions, the lawyers and judges recount specific instances, without names of parties, which relate to the topics discussed and explain how issues were resolved. This enables the pupils to gain insight and knowledge that could only otherwise be obtained by pure experience," Johnston said.

Johnston added that at times pupils have a very utopian vision of lawyers in general and particularly trial practice. "I try to impart a more realistic view of litigation," she said. "An excellent litigator does not need to engage in unethical or unprofessional behavior to win the case. In my experience, the direct opposite is true: more commonly those who prevail are the professional, civil, and ethical lawyers."

The other Inns of Court in Michigan are located in Flint, East Lansing, Oakland County, and in Lansing. Not all Inns involve the training of law students. Grand Rapids, which does not have a law school, has an Inn program that is five years old. The founding president of the Grand Rapids chapter is Stephen Bransdorfer.

"This program has been very effective. It has brought together lawyers and judges, both young and old, so that they can have an opportunity without courtroom pressures to discuss the problems of improving the legal system in their own locality as well as nationally." Bransdorfer, himself, was formerly trustee of the Inns of Court National Foundation. He has also served as president of the State Bar of Michigan.

In April, the Grand Rapids chapter became the first Inn in the country to designate a President of the United States as an honorary member. Former President Gerald R. Ford, who practiced as a lawyer in Grand Rapids, was chosen for this honor for his leadership and professional achievements. Bransdorfer pointed out some interesting connections. Former Chief Justice of the United States Supreme Court Warren E. Burger, who swore in President Ford when he be-

came president, is credited with being a founder of the Inns of Court movement in this country. "That was very special for President Ford, and he was a friend of Chief Justice Burger," Bransdorfer added.

To form an Inns of Court chapter, all it takes is for one or more lawyers or judges to express an interest. That interest can be directly communicated to any other chapter or by calling (703) 684-3590. More information can also be accessed on the Web at www.innsforcourt.org.

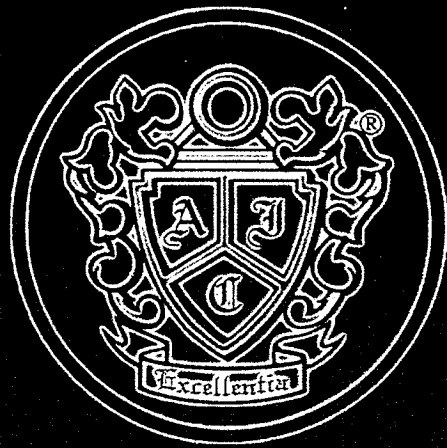
Legal Topics:

For related research and practice materials, see the following legal topics:

Civil ProcedureCounselGeneral OverviewCivil ProcedureJudicial OfficersJudgesGeneral Overview

GRAPHIC:

PHOTO 1, From left to right: Frederick Dilley, former president of the Grand Rapids chapter and then president of the Grand Rapids Bar Association; Hon. Patricia Gardner, Kent County probate judge and president of the chapter; Stephen C. Bransdorfer, founding president of the chapter and former trustee of the National Inns of Court Foundation; former President Gerald Ford receiving a plaque commemorating his designation as an honorary member of the Grand Rapids Chapter of the American Inns of Court; and Hon. Hugh Brenneman, former president of the chapter; PHOTO 2, Left: Professor Gary Maveal of the University of Detroit Mercy and Hon. Patrick Duggan, president of the Detroit chapter.



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GENESIS

Over the years
it has been fascinating for me
to hear different accounts
of the origin of the
American Inns of Court.

BY RALPH L. DEWSNUP

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. Inertia—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

Continued on the next page.



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

the GENESIS

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

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

“...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

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

Continued on the next page.

the GENESIS

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.



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

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.

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

Continued on the next page.

the GENESIS



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. Dewsnup, 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

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—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

Continued on page 38.