

*ACTEC*

The History of the  
American College of Trust and Estate Counsel

*The ACTEC Historical Commission*

J. Pennington Straus, Chair

Joe C. Foster, Jr.

Bjarne Johnson

J. Stanley Mullin

Edward B. Winn

The History of the American College of Trust and Estate Counsel  
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The American College of Trust and Estate Counsel  
3415 South Sepulveda Boulevard, Suite 330  
Los Angeles, California 90034-6060  
Phone: (310) 398-1888  
Fax: (310) 572-7280  
E-mail: [info@actec.org](mailto:info@actec.org)  
Web site: [www.actec.org](http://www.actec.org)

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## INTRODUCTION

The American College of Trust and Estate Counsel was founded in 1949. In anticipation of its 50th anniversary in 1999, then-President Rodney Houghton in 1992 established the Historical Commission to bring together the College's history during its first 50 years. J. Pennington Straus was appointed as Chair and so served until his death in 1996. The history is not chronological but rather reflects the evolution of various aspects of the College, including its meeting structure, publications, work with the Uniform Probate Code and with tax legislation, the Foundation, its committee structure and other areas. Each chapter represents the writing style of the author or authors of that chapter. Some portions of the history were written several years ago and do not reflect most recent developments. The history includes brief summaries of developments during the terms of office of many past presidents.

*Charles A. Collier, Jr.  
April 1999*



## DEDICATION

The history of the American College of Trust and Estate Counsel is dedicated to J. Pennington Straus, who served as Chair of the Historical Commission from 1992 until his death in 1996. He served for 21 years as Chair of the Joint Editorial Board, Uniform Probate Code, representing the College, and served the College as President in 1970-71. He had been a member of the College since 1960.



## FOREWORD

The Historical Commission appointed by Rodney N. Houghton, President of ACTEC during the 1991-92 college year, consisted originally of four members: J. Pennington Straus, J. Stanley Mullin, Edward B. Winn and Bjarne Johnson. The instructions were to “write the history of the College.” It was a big order. We were each assigned different portions of our history, the areas with which we were most familiar. Our principal sources of information were the official minutes of meetings maintained by our national offices in Los Angeles, the *Newsletter*, which later became *Probate Notes* and later still *ACTEC Notes*, personal files, interviews with Fellows, including our living past presidents and our own memories, which some readers may find are not infallible.

The ACTEC Historical Commission



# **I**N THE BEGINNING ■

*by J. Stanley Mullin*

We are writing this history in the last decade of the 20th century, a decade of electronic wizardry, large government, large deficits, large law firms and some very large headaches.

But what was it like when this organization began its life nearly fifty years ago with the prosaic name of “Probate Attorneys Association”?

## **GAIL B. MCKAY AND THE EARLY YEARS**

Life then was far different. In 1947, Gail B. McKay began his efforts to organize a group of attorneys specializing in probate practice who might look to each other for assistance in handling estates. The country was just emerging from a long period of adversity: World War II had raged from 1939 to 1945; it had been preceded by the deep recession of 1930 through 1936, which, in turn, was preceded by World War I, 1914 to 1919.

The legal profession then was largely dominated by single practitioners and very small law firms, which most often consisted of “general practitioners.” It was not an era of specialization. Lawyers were able to handle all matters relating to small businesses (partnerships and corporations), real estate problems, wills and family matters. Wills led to probate and provided a substantial practice for attorneys in their later years, if they had gained the confidence and trust of their clients.

During the years before and for the first decade after World War II, there were few organizations of specialists in the law. There were some related to insurance law, since insurance companies needed to know qualified lawyers in every jurisdiction in which policies were written. (Times have changed.

Membership in the American Bar Association in 1998 topped 400,500,<sup>1</sup> compared with just over 42,000 in 1949. Today, 54 percent of lawyers practice in firms of over 6 lawyers. And, with the growing complexity of our society and legal system, the practice of law now involves a high degree of specialization: within the ABA are 23 sections, three divisions, six forums and more than 80 commissions, standing and special committees, forums and task forces, each drawing membership from lawyers with common professional interests.)

Gail B. McKay, who ultimately founded the Probate Attorneys Association in Los Angeles, felt that there was a need for a list, of broad geographical scope, of qualified probate lawyers who could be called upon by fellow lawyers for services in another jurisdiction when required. He envisioned an organization with one member, an attorney or a firm, in each city of the United States and abroad. It was to be international in character and mutual benefits were expected to flow from the exchange of business.

Mr. McKay was well-suited to the task. He had experience with various law lists, the American Counsel Association and the American Insurance Lawyers Association. His personality was warm, outgoing and enthusiastic. We have the word of one of the secretaries who worked for him early on that he was very easy and pleasant to work with, and that he was an optimist during the period of rather disappointing events that later transpired. Through it all, he persevered at his objective of making the organization succeed. Why Mr. McKay came to Los Angeles to embark upon his dream is not known to us, but very probably he was simply one of the great multitude who had some contact with California during the war years and later came to settle there.

At the outset, Mr. McKay sought out well-known Los Angeles attorney Harry Mabry, a man of known ability and expertise in the field of probate, particularly will contests. He also had broad acquaintances throughout the United States due to his activities within the American Bar Association.

Mr. Mabry saw the advantages of an organization of specialists and set out, with Mr. McKay's help, to ascertain what kind of reception such an organization might receive. One of his first acts was to write the American Bar Association Special Committee on Law Lists on May 15, 1947, to determine the requirements for approval and a certificate of compliance for the proposed new group of probate specialists.

To evaluate the reaction among probate attorneys, more than 300 letters were written to lawyers across the country. The response was entirely favorable, and on April 19, 1949, Mr. Mabry incorporated the Probate Attorneys Association as a nonprofit corporation with himself and two office associates as the original incorporators.

During the two-year period between May 1947 and April 1949, Mr. McKay did not receive any income from the Probate Attorneys Association, so he kept himself solvent by acting as an agent for a real estate broker. The quarters he occupied in this capacity later became the headquarters of the Probate Attorneys Association when it came into actual being.

At the first corporate organizational meeting in 1949, Mr. Mabry was elected Director, President and Treasurer. His two original associates resigned and John C. Clock, a leading attorney from Long Beach, California, and Don Adams, a well-established lawyer in Riverside, California, were named Director, and Vice President and Secretary, respectively. Two additional directors were appointed—Joe B. Houston of Tulsa, Oklahoma, and Stanley Rosewater of Omaha, Nebraska.

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<sup>1</sup>As of September 1998. Data obtained from the American Bar Association.

Apparently, these four gentlemen received no advance notice of their election as directors, but with the exception of Mr. Rosewater, they accepted the positions to which they were elected. Mr. Mabry also appointed an advisory committee of a dozen lawyers, but the duties of the Advisory Committee were not specified, nor is it known if they were ever advised or called upon to advise. The indefinite state of affairs is reflected in a letter from Mr. Adams to a lawyer in late 1949, in which Mr. Adams apologizes for his inability to answer questions about the new organization: "I am not as fully informed respecting all the details concerning this association as I should be, particularly since I am the secretary."

After the incorporation, two things occupied Mr. McKay. First, he set about to enlist as members those who had indicated approval of the concept in Mr. Mabry's earlier survey and any others recommended by that group. Second, he applied to the American Bar Association Committee on Law Lists for accreditation. This move almost brought the infant association to an early demise. The American Bar Association took exception to the bylaws of the organization, particularly the provision that stated that the association's purpose was an "interchange of law business," as well as the bylaw provision that created two categories of membership: 1) lawyers, and 2) officers of banks and trust officers. The Committee also found objectionable the self-laudatory biographical material to be printed in the new association's roster of members.

The American Bar Association Committee's position became quite adamant when Mr. McKay "jumped the gun" and inserted in the roster of members that the Association had, in fact, received a certificate of compliance from the American Bar Association. In any event, on April 19, 1949, the "Probate Attorneys Association" was born as a California non-profit corporation. After much correspondence over a period of two years (some of it quite heated, according to Mr. Clock), the Articles of Incorporation and Bylaws of the Association were amended in 1951 to delete the offensive words "the interchange of law business" and the reference to "officers of banks and trust officers" as a category of membership.

In retrospect, it appears that more than two or three years were wasted trying to pursue the certification as an ABA-approved law list. Once the organization embarked on a program to improve probate practice and to standardize probate procedures wherever possible, including support of the proposed Uniform Probate Code, it was on the road to respectability.

The length of time spent on the law list problem put a severe damper on the association's membership drive. Although Mr. McKay optimistically claimed 1,200 members in 500 cities, it is fair to state that this may have been a complete illusion. Members were accepted without too much inquiry as to the quality of their probate practice, and it appears that initiation fees and dues were whatever Mr. McKay thought the particular applicant for membership might be willing to pay. The financial standing of the association was so poor that in December 1951, Mr. McKay's modest salary had not been paid in full, nor had any tax returns been filed on behalf of the association. When he discovered this, Mr. Clock hired Price, Waterhouse (probably at his own expense) to examine the records of the association, prepare tax returns for 1949 through 1951, prepare a budget and recommend a schedule of fixed fees for membership. Mr. McKay's salary arrears were not to be paid in full for almost a decade.

Because of the press of his active trial practice, and perhaps because of the dispute with the American Bar Association Committee on law lists, Mr. Mabry had disappeared from the organization by 1950. Although he was the organizer and first President of the Probate Attorneys Association, he has never been recognized in the published list of past presidents.

One of the more colorful figures in law practice in Los Angeles, Harry Mabry was a sole practitioner and was still in active practice when he died at 85 years of age. A specialist in will contests for the greater part of his career, he was not unwilling to publicize in newspapers the actions that he filed and

the victories he obtained. He was well-known among the lawyers in Los Angeles for his style, which was extremely aggressive, if not abrasive. One lawyer who knew Harry Mabry well called him a “madman,” an “angry” man, who was given to insulting other lawyers in his zeal to promote his clients' causes. Outside the courtroom, he was articulate and soft-spoken. He was proud of his law school alma mater, Yale, as well as his presidency of a variety of organizations connected with Yale, and his interest in writing and composing music.

As Mr. Mabry's role diminished, Mr. Clock assumed the burden of resolving the conflict with the ABA and straightening out the economic problems of the association.

## THE 1950s

In 1951, Harrison Ryon of Santa Barbara and Richard Gandy of Santa Monica were appointed as directors to fill the vacancy on the board caused by the resignation of Mr. Mabry and the absence of Mr. Rosewater (who had been named a director but never accepted). Mr. Gandy's participation in the affairs of the Association did not last too long before he passed away under circumstances not much favored by lawyers—he died of a gunshot wound inflicted in his office by the irate husband of a lady client. Any contributions Harrison Ryon may have made to the organization are undocumented; although he was named on the letterhead and was very helpful to the repute of the organization, there is no evidence that he actually participated in directing the affairs of the Association.

In 1952, the letterhead of the Association identifies a new Board of Directors:

Joe B. Houston, President	Tulsa, Oklahoma
Leon Schaeffler, Vice President	New York, New York
Donald G. Adams, Secretary	Riverside, California
John B. Clock	Long Beach, California
Harrison L. Divelbess	Phoenix, Arizona
Warren L. Jones	Jacksonville, Florida
John J. Winger	Kansas City, Missouri

The same letterhead listed an “advisory committee” of 34 lawyers, including gentlemen from Lima, Peru; Vancouver, British Columbia; Athens, Greece; Delhi, India; and Zurich, Switzerland. How many of these “advisors” were ever knowledgeable of their appointment or in any way active in the association is an unanswered question.

Several of these gentlemen deserve further mention. John G. Clock was a leading lawyer in Long Beach and represented substantial clients. Despite the difficulties of the first half-dozen years, he “stayed with the ship,” which was floundering. He certainly did not do it for the publicity, which he did not need; in fact, he possibly risked his excellent reputation by his association with the struggling organization.

Joe B. Houston of Tulsa, Oklahoma, also brought to the organization an excellent reputation. We can attribute the organization's modest success by 1955 to the presidencies of Mr. Clock and Mr. Houston.

Leon Schaeffler of New York City was a very hard worker for the organization and was its first representative on the East Coast. He instituted the “studies” correlating the probate law of the various states and the fee schedules of the states; he also instituted the *Newsletter* (later renamed *Probate Notes*, then *ACTEC Notes*). These publications have remained the core of the work of the organization, along with the annual and semi-annual meetings. In an oral interview, Mr. Schaeffler recounted a meeting he

hosted in New York City to introduce a group of probate specialists to the Probate Attorneys Association, and his effort to enlist Joseph Trachtman. This was a step that, we shall later see, brought about a major change in the character of the organization, as well as its geographical representation.

In 1954, the Board of Directors increased its membership to 12 directors. It lost more of its “West Coast” appearance and became more geographically dispersed with the election of the following Board of Directors:

S. W. Brethorst	Seattle, Washington
John C. Clock	Long Beach, California
Warren L. Jones	Jacksonville, Florida
Miller Manier	Nashville, Tennessee
Malcolm L. Monroe	New Orleans, Louisiana
R. V. Nichols	Fort Worth, Texas
Ivan Robinette	Phoenix, Arizona
Leon Schaeffler	New York, New York
V.C. Shuttleworth	Cedar Rapids, Iowa
Amos L. Taylor	Boston, Massachusetts
Henry W. Toll	Denver, Colorado
George J. Winger	Kansas City, Missouri

Despite the setbacks and precarious condition of the association (the membership was down to 548 in 1955), its potential was recognized by the men mentioned above; they knew that the association should not be tied to the principle of economic reciprocity in business dealings, but should carry out its avowed purpose of enlisting the very best legal talent available to improve probate practice. Under their direction, the digests of each state's probate laws were expanded and made more reliable and the *Newsletter* was printed and widely distributed. These efforts gave credence and respectability to the association.

Between 1955 and 1959, the caliber of the membership improved greatly. Procedures for admittance were instituted and uniformly followed, and at the annual meeting in Miami, Florida in 1959, when the Association had 655 members, the decision was made to change the name of the association to “The American College of Probate Counsel” and to change the name of the Board of Directors to “Board of Regents.” Mr. Schaeffler, when asked how this change in titles came about, responded, “Oh, it was very simple, the new titles sounded more respectable—after all, colleges have boards of regents and colleges are well thought of.” Miller Manier of Nashville, Tennessee, who was to become president in 1957, called the change of titles by Leon Schaeffler as “bold and brilliant,” and it certainly was, as it heralded the beginning of a new era for the association.

Miller Manier saw that the first problem was to get the organization into the black. This would require controlling Gail McKay's loose manner of handling finances. He admired McKay as the idea man, the law list man, but he felt that McKay's practice of quoting different prices for different members was wrong. Mr. Manier also felt that it was necessary to put a damper on McKay's view that the association was a business, rather than an organization of like-minded specialists in probate law. According to Manier, the organization was “a real mess—the worst I've ever seen in all my born days—but some good could come of it.”

## **THE 1960s**

With the arrival of the 1960s, the struggling association received an infusion of new blood, as a number of lawyers with experience in building the Section of Real Property, Probate and Trust Law of

the American Bar Association became members. It is interesting to note the number of former chairs of the American Bar Association Section of Real Property, Probate and Trust Law who later became presidents of the American College of Probate Counsel:

Joseph Trachtman	1966-67
Daniel Schuyler	1968-69
J. Pennington Straus	1970-71
Harrison Durand	1973-74
Edward B. Winn	1974-75
William P. Cantwell	1975-76
J. Nicholas Schriver, Jr.	1976-77
Malcolm A. Moore	1981-82
Rudolph G. Schwartz	1982-83
J. Thomas Eubank	1984-85
Jackson M. Bruce, Jr.	1994-95
L. Henry Gissel, Jr.	1995-96

John A. Wallace also served in both capacities, but he served first as president of ACTEC (1987-88) and later as chair of the ABA Real Property, Probate and Trust Law Section.

Certainly the College has had a great number of excellent presidents who shared the trauma and the work of putting their shoulders to the wheel to advance the College, and the above listing is not meant at all to slight them. It is intended only to identify a basic change in the thrust of the organization beyond the old “probate practice” and toward its new and more esoteric problems dealing with the government's continuing effort to take away by taxation at death more of each citizen's estate.

Thus, in the 1960s and continuing to the present, the College has devoted more and more of its time and attention to work involving the taxation of estates in an endeavor to save taxes by estate planning, rather than to simply partake in the probate of estates and the administration of trusts.

#### **GLEANINGS FROM THE EARLY *NEWSLETTER***

Volume I, No. 1, of the *Newsletter* was issued in March of 1961 by the hardworking and inventive Leon Schaefer during his three-year term as president. He declared it a “vehicle for dissemination” of brief articles in the area of “trust and estate law.” How forward-thinking he was, almost thirty years before the name of the organization was changed to “American College of Trust and Estate Counsel.”

In October 1962, President Eugene Glenn declared that the “College has now reached maturity and growing pains are about over.” Membership had reached 866; 21 members were from Canada and from other foreign countries.

In his last *Newsletter* of February 1963, President Glenn acknowledged again that the College had reached maturity, but he also stated that there remained the continuing problem of establishing the proper membership standards.

In October 1963, President Harry Jack urged the development of local or regional meetings of the College, as the cost of attending a national meeting of short duration might be too expensive for many members. President Jack had the privilege of presiding over the first mid-year meeting at the College, which was held concurrently with the American Bar Association meeting in New Orleans in 1964. Thus, the College took another step forward, from holding one brief “national” meeting a year to two.

In October 1966, President Joseph Trachtman, in announcing that the membership of the College had exceeded 1,000, posed the question, "Should there be a limitation in the number of members?" This remains a recurring question, debated annually, down to the present day. Later, President Cantwell was to ask the question another way: "Are we a college or a club?"

In April 1969, President Schuyler called attention to the fact that the Treasury's tax proposals required a lawyer to review each and every will he had ever drawn.

At the spouses program at the mid-winter meeting of 1969, the featured speaker was Professor Alan Polaski, whose dissertation was entitled "Community Property for Common Law Wives." After the presentation, when questioned about the title, Professor Polaski said, "I'll not try that again!"

## **THE 1970s**

The mid-winter meeting of 1973 was held in Hawaii, and it was the first time ever that a meeting of the College was held apart from the American Bar Association meeting. It drew, as might be expected, the highest registration in its history. The following year, 1974, the mid-winter meeting was held in Mexico City. In 1975 it was held in San Juan, Puerto Rico; in 1976 at Hilton Head Island, Georgia. Truly, the College was off and running; erudite, but in truly pleasant surroundings.

In the spring of 1974, Gail B. McKay, who had "invented" the American College of Probate Counsel, was laid to rest. Over a span of 25 years, he had seen it through its rocky beginning and watched it gradually grow to become the highly respected American College of Probate Counsel, which counted some of the best trust and estate specialists in the United States among its Fellows. He had held the title of Executive Secretary for the first 25 years of the association's existence.<sup>2</sup>

With the death of Joseph Trachtman on October 15, 1975, it may be said that the days of the "beginning" were over. The American College of Probate Counsel had become strong, mature and experienced, and was the source of an extraordinary amount of valuable information to all practitioners in the field of trusts, estates and wills.

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<sup>2</sup>According to Edward B. Winn's account in the Spring 1975 issue of *Probate Notes*, "At the annual meeting on August 8, 1975, Joseph Trachtman reported in detail on a project to honor the memory of one of the College's founders, Gail B. McKay, by selective acquisition of books by the College and placement under book plates in the name of the College in certain law school libraries in line with recommendations made by an outstanding committee, including, in addition to Judge Al Clapp, Louis Auchincloss (the author), and Henry Ess (a trustee of the William Nelson Cromwell Foundation) and the following librarians: Prof. Julius J. Marke of NYU, Arthur Charpentier of Yale Law School and Marian G. Gallagher of the University of Washington. The Regents approved the report and authorized an appropriation of \$10,000 for the following year."

# **J**OE TRACHTMAN, THE NEW YORK LAWYER ■

*by Harrison P. Durand<sup>3</sup> and J. Pennington Straus<sup>4</sup>*

No one did more to improve the quality and reputation of the American College of Probate Counsel than Joseph Trachtman.

Born in Philadelphia, he graduated from South Philadelphia High School and then the University of Pennsylvania, where he received his A.B. in 1922. He thereafter matriculated at Yale Law School, from which he graduated in 1926.

In the Depression of the thirties, Joseph Trachtman had the courage to hang out his shingle as a sole practitioner in New York City. Although the records are scant, it would appear that he had tough going. Early on he decided to concentrate his practice in the probate, trusts and estates field. He eventually came to realize that he had the abilities of a superb lecturer. He had a good voice and excellent diction, and grammatically perfect sentences and paragraphs seemed to flow from him effortlessly. He also possessed a store of literary references, being a scholar in the field of English, Irish and American Literature. He was a great wit and a marvelous storyteller.

He made use of these qualities as a lecturer in New York City to the Association of the Bar of the City of New York and to other legal groups interested in the field of probate, estates and trust law. He soon gained recognition as an outstanding lecturer. This reputation of his was all the more impressive when we take note that this was long before the existence of the Practising Law Institute or the many other organizations that came into being after World War II to provide postgraduate education to lawyers. Joseph Trachtman, in fact, was one of the first lecturers for the Practising Law Institute, and

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<sup>3</sup>ACTEC President 1973-74.

<sup>4</sup>ACTEC President 1970-71.

on his own he was invited to bar groups all over the United States to give lectures on his favorite topics. In 1945, he published through the Practising Law Institute one of its earliest monographs, entitled “Estate Planning,” which was revised several times through 1961. It was one of the first instances that the term “estate planning” was used.

Joseph Trachtman became interested in the organized bar in the middle forties and fifties. He joined the Real Property, Probate and Trust Law Section of the American Bar Association, eventually becoming a member of its Council; he was Chairman of the Section from 1957 to 1958. At about that time, he became interested in what was then known as the American College of Probate Counsel. He became a member of its Board of Regents in 1962. More than most members of the Board of Regents at that time, he realized the great potential of the College and he worked vigorously to tighten up its membership requirements.<sup>5</sup>

He became President of the College in 1966 and remained on the Board of Regents until 1970. Under his leadership, the College grew in prestige. Its “Fellows” became a more strictly selected group of experts, and Joe Trachtman personally recruited into ACPC outstanding members of the Council of the Real Property, Probate and Trust Law Section of the ABA. This membership policy soon moved the College into the national forefront of expertise in the field of probate, trusts and decedents' estates.

Trachtman left the individual practice of the law where he had made his mark as a nestor of the probate bar of the United States to become a partner in the law firm of Hughes Hubbard and Reed in 1965, a position he held until his retirement in 1972. He was for many years the New York Legal Editor of *Trusts and Estates* magazine and for twenty years he held the position of Adjunct Professor in the Graduate Division of the School of Law of New York University. In the course of his practice, he attracted clientele from some of the leading industrialists of the United States, as well as individuals prominent in banking and politics.

## **PERSONAL RECOLLECTIONS**

Harrison Durand knew personally the man who would come to personify the spirit of ACTEC. He recalls:

When I first met Joe Trachtman, he was a solo practitioner. He had a great reputation in New York where he had a large clientele. He also maintained a full schedule of speaking engagements, not only in New York but in nearly all of the states. He was nationally known for his expertise in probate. He was active in the ABA sections and also in the College. He presided at annual meetings of ACTEC (then ACPC). If the scheduled speaker did not show up, which happened more than once, Joe took over the meeting and talked probate for the allotted time—two hours as I recall.

Joe had many acquaintances among the lawyers of New York's leading firms engaged in probate law. He liked to talk probate and he selected a small group of about a dozen lawyers to discuss probate law at dinner meetings at the Player's Club and other facilities where private dining rooms were available. The procedure was something like this: Joe would decide it was time for a dinner meeting and postcards would be mailed out requesting a response regarding available dates and suggestions of cases for discussion.

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<sup>5</sup> See “Membership” by Edward B. Winn.

When all the responses had been received, a second postcard would go out: "Joe has selected (date) at the Player's Club. We will discuss (subject)."

On the appointed evening, the dozen members gathered at the selected club. The dinner was always superb, and the members of the group had done their homework on the selected subject so that the discussion was always a lively free-for-all. A few hours later we separated, mellowed a bit by wine, but with our wits sharpened by the collective knowledge of the probate law selected for that meeting. This small group met about three times a year during Joe's life.

At one meeting Joe observed that we, the original members, were getting along in years and that we should think of forming groups of experts-to-be. The idea caught fire and new groups of young lawyers looking for contemporaries with whom to discuss thought-provoking probate matters emerged. These groups, about six of them, continued their meetings so that young New York probate lawyers start early in their careers to serve New York by becoming well-trained experts. The Trachtman legacy has spawned a third generation of groups of young New York lawyers on their way to probate expertise.

In recognition of his great contribution to the College and to the field of probate, trust and estate law, the Regents decided in October of 1975 to rename its Learned Lectures the Joseph Trachtman Memorial Lectures.

# **E**EVOLUTION OF MEMBERSHIP SELECTION ■

*by Edward B. Winn<sup>6</sup>*

In the years immediately following the incorporation of the Probate Attorneys' Association on April 19, 1949, members were accepted into the College without too much inquiry as to the quality of their probate practice and, despite extravagant claims of membership of as many as 1,200 members in 500 cities, the policy regarding initiation fees and dues was very lax. In a 1980 article, President Harley Spittler described the membership selection process: "In those early days, the job of obtaining new members was virtually vested in one man, Gail McKay...He derived his compensation in the form of a 'bounty' on each new member he obtained. Like any bounty hunter, Gail made many trips to the various states, always seeking new members."

Because of problems with the American Bar Association in seeking approval as a law list, the Association amended its Articles of Incorporation in 1951 to delete as one of its purposes the "Interchange of Law Business" and to change the definition of "Honorary Members" to "Members of the Legal Profession" rather than "Trust Officers and Officers of Banks." The other type of membership, "Active Members," was to be "Leading Law Firms and Lawyers Qualified in Probate Law."

As Stan Mullin discusses in his chapter, at least some of the early leaders felt that the association should not have economic reciprocity as its sole purpose, but rather it should emphasize its intention to enlist the very best legal talent available. From the years 1954 to 1959, the quality of membership improved greatly. At the annual meeting in Miami in 1959, the name of the association became the American College of Probate Counsel and the Board of Directors became the Board of Regents. The college at this point had 655 members and the name changes reflected its resolve to be a paragon of excellence in the field of trust and estate law.

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<sup>6</sup>ACTEC President 1974-75.

## **FROM 1961 THROUGH THE TRACHTMAN ADMINISTRATION**

In the first issue of the *College Newsletter*, published in March 1961, President Leon Schaefer remarked that, "All the hard work done in the formative years of the organization is beginning to bear fruit," but he emphasized that "no candidate should be nominated unless he has had extensive estate and trust practice and is recognized by the profession in his community as experienced and highly qualified in our field."

In the second issue of the *Newsletter*, June 1961, President Schaefer pointed out that "the Executive Secretary had received a number of requests from interested persons who would like to be selected as a Fellow." He emphasized that there is a method in the revised bylaws by which a person may qualify, "the first being, that he be nominated by a Fellow of the College." He urged the members to consider outstanding probate practitioners, but emphasized that the primary considerations should be "the ability and standing of the man and his general reputation as a person eminently qualified in probate."

Later, in September 1961, President J.J. Eberle said that members "must constantly guard against complacency and taking for granted our membership in this splendid organization." He pointed out that "no nomination should be made as a mere mark of friendship, nor of anyone not qualified and with the required character, standard of ethics, and personal integrity."

At the first annual meeting of the enlarged Board of Regents College held on August 6, 1961, in St. Louis, the resolution was adopted requiring "that the names of all prospective new members shall first be submitted to and considered by all Fellows of the College in the states where that prospective member resides, except that in large cities such names of prospective members shall be submitted and considered by the Fellows of the College practicing in that city; thereupon if such prospects shall be approved by the majority of the Fellows in the state or the large city, the names will then be submitted to the Board of Regents for membership."

Later, in September 1962, President Eberle pointed to the number of letters seriously discussing the qualifications of the nominees for Fellowship in the College and quoted one Fellow to the effect that "every unqualified man we admit is an affront to our school and members and leaves doubt to the right of our organization to the use of its name." Again, he emphasized that "nominations should be made strictly on the basis of skill and experience in probate matters. We should be concerned with nomination of those lawyers who have reached an acknowledged eminence in our field."

## **MEMBERSHIP SELECTION CHANGES IN 1962**

In October 1962, President Eugene Glenn reported several changes in membership selection procedures, including an amendment of the bylaws to increase from 10 to 15 years the basic period of practice as an element in determining eligibility. He also stated that the provision limiting the number of Fellows from any one law firm was repealed, and referred again to a requirement that a nominee's name be submitted to all the Fellows in the jurisdiction in which the nominee practiced, with a submission of the replies and comments from the Fellows in such jurisdictions to the Board of Regents, in which was vested the authority to elect or reject.

President Glenn also pointed with approval to an arrangement in New York City, which he hoped could be followed in other parts of the country, stating "they hold frequent meetings at which there is a proper balance of Fellowship and constructive shop talk. To further this program, the Regents, in addition to repealing the limitation as to the number of Fellows from a given firm, announced a policy of no limitation on the number of Fellows in any given area. We are hopeful that this will enable the

Fellows in large centers of population to build up a sufficiently large group to follow the New York precedent, and we are endeavoring to formulate plans for periodic meetings by the Fellows in less populous areas.”

Later, in February 1963, President Glenn reminded the Fellows of their responsibility to evaluate carefully the qualifications of the attorneys they proposed for membership. He stated that although improvement had been made, “it is apparent that many excellent and outstanding lawyers in various parts of the country are desirous of being elected to the College, but, in a number of instances, even though they meet the qualification as to years of practice, they lack a requisite degree of experience in probate and related fields.” He indicated that “considerable embarrassment could be avoided where the investigation of the Board of Regents results in the application being rejected after further independent investigation.”

He pointed out that although the basic requirements of the College do not in any manner contemplate that eligibility is predicated upon specialization in the probate field, “his probate experience should be substantial and not fall within the scope of a recent applicant who, in connection with a request for further information, stated: ‘I might also add that I anticipate that I will be more involved in probate matters as time goes on, as is generally the case of a person engaged in my type of practice.’”

In May 1963, President Glenn in his last message stated, “the College has now reached maturity, and the growing pains are just about over so that we may look ahead to devote our major efforts to an improvement of the College as a professional organization for services to the public and the profession.”

He went on to point to a “basic difficulty” arising from the fact that Fellows have not sufficiently investigated the nominees before submitting their names. “As a result, the other Fellows in the states in question seemed inclined, more or less, unanimously to approve a nominee. With the information available, the Board of Regents, acting as an electing committee is confronted with a very difficult problem in ascertaining whether the nominee is qualified and possesses the requisite standards for admission.”

#### **NEW PROCEDURE ESTABLISHED TO LIMIT THE NUMBER OF FELLOWS**

In October 1963, President Harry Jack of Texas made note of a meeting of the Board of Regents in Chicago earlier that year where “special consideration was given to procedures to ensure the election of lawyers who are recognized for their outstanding ability and experience in the Probate practice.” He pointed to a new procedure that he felt would limit the number of Fellows “to those who are thus preeminently qualified.” He pointed out that “nominees must be approved by at least three-fourths of the Fellows in the state, by the State Chairman and by the Board of Regents,” with detailed information to be furnished by the sponsoring Fellow and by the State Chairman for each nomination.

As each president took office during this period, it was customary for him to balance the desire to add new Fellows with a stringent adherence to the standards of eligibility. President Donald M. Mawhinney repeated the recurring theme, to wit: “We are not engaged in a membership drive, but we are anxious to enroll as Fellows all outstanding probate counsel.” Some even suggested putting a cap on membership, like President Harry Gershenson, who said, “the time is soon approaching when we will put a limitation on our membership.”

## **NEW MEMBERSHIP PROCEDURES IN 1966 UNDER JOSEPH TRACHTMAN**

President Joe Trachtman announced in October 1966 the formation of a committee to establish membership standards and procedures:

Our membership now exceeds 1,000. Sometime, perhaps soon, we shall have to limit the number of Fellows—and decide how to handle geographical distribution of membership. But the most important consideration is to make certain that we elect as Fellows the best qualified practitioners in their respective localities....

Trachtman referred to the appointment of a new committee to submit a report on standards of admission and procedure for processing nominations of Fellows. That committee, consisting of Harry Jack, as Chairman, and Fellows Glenn M. Coulter and Shirley A. Webster, solicited the views of all the Officers and Regents, received replies from almost all the Regents by questionnaire and presented its report at the Montreal meeting. Trachtman stated that the Regents determined that the newly-adopted requirements and procedures for election to Fellowship “shall be adhered to strictly, and that no one shall be elected without strict compliance with the rules.”

In January 1967, President Trachtman commented as follows:

Applications for membership are falling off. This is hailed by some, deplored by others. Some believe the fall off is attributable to our new procedures. Others think that under the former procedure many elections to membership were too perfunctory and casual and that they therefore welcomed the stiffened requirements. The Regents will reconsider the situation thoroughly at the mid-year meeting.

Joe emphasized the point in a May 1967 *Newsletter* report, stating:

The future of the College depends entirely on the election of lawyers whose high professional reputation as probate lawyers is beyond question....Strict adherence to these rules will lead to the election of Fellows who will be a credit to the College. Failure to follow these rules strictly may lead to disastrous results....

## **ACADEMIC FELLOW CATEGORY, NEW PROCEDURE IN 1975**

Having referred to membership and nominating procedures in October 1967, as the first of three subjects of recurring interest in the College, President Harold Boucher commented favorably on those states that had membership committees to screen nominees for College membership. He suggested there might be other states that might find them a benefit.

In May 1970, President Everett Drake appointed a distinguished committee to determine future objectives of the College, including:

That invitation for membership into the College be extended only to the most highly qualified probate practitioners. That all invitees should have the highest professional rating, that they must devote more than 50% of their time to the practice of matters in probate or associated with probate matters and further they must be recognized as outstanding probate practitioners in the

community in which they practice. That selection to membership in the College shall be considered a high honor and that all Fellows continue to maintain the highest ethical and professional standard.

In November 1970, President J. Pennington (Joe) Straus reported the creation of a new classification of Fellow to be known as the “Academic Fellow” to “be awarded through the regular process of nomination to members of the Bar who are outstanding professors of law throughout the country, and who specialize in the fields of probate and trust law.” He also reported that a former classification of Associate Fellow, which had been abandoned some years ago, had not been reactivated, but some serving in that capacity (limited to lawyers who were trust officers for corporate fiduciaries and who held certain governmental positions) continued in good standing.

President Straus emphasized that, “It is not the objective of this organization to build a large membership. Rather, its primary objective is to build an elite membership...” In January, 1971, President Straus advanced an interesting idea for decentralization of the College organization. He suggested that “the Fellowship in each jurisdiction be given authority to elect its own chairman and such other officers as might be determined to be appropriate, and to organize and run a chapter designated by the particular state name...” He suggested a “chapter organization of this type would encourage” the regular arrangement of social and professional meetings in conjunction with State Bar Conventions or otherwise, so that they would develop their own programs of local concern, to maintain their own budgets for their own purposes of development and, in general, to operate as self-sustaining units in the total composite of the College.

It must be noted that Joe’s idea never was advanced in the formal way that he envisioned, but there has been a development of local meetings by various state and city organizations on a periodic basis that have helped to broaden the interests of various regions, cities and states in the work of the College.

President John Bell Towill in his September 1971 message pointed with favor to the newly-created class of Academic Fellows who “would render outstanding service to the College, particularly in connection with the various studies when conducted.”

In the July 1973 *Newsletter*, President Bjarne Johnson pointed to a shift in emphasis from a policy of getting qualified members to a policy of inviting only those who are eminently qualified and to recognize outstanding lawyers in their community. President Johnson also pointed to a detailed report developed by Harvey Spitler, entitled “From Election to Selection,” for consideration by the Board of Regents at the Washington, D.C., meeting in 1973.

#### **A NEW ENTITY CALLED “THE MEMBERSHIP SELECTION COMMITTEE”**

These various efforts led to a new method of selection to which Edward B. Winn, as President 1974-75, referred in the fall 1974 issue of the *ACPC Newsletter*:

A truly significant step has been taken by the Board of Regents...in creating a new selection process effective as of August 12 of this year to identify and select from among qualified persons, with due regard for maintaining geographical distribution of the College membership, those who are best qualified for membership.

President Winn stated that the College owed a great debt to John S. Candler, II, of Atlanta, Georgia, who, working with Harley Spitler as co-chairman of a Membership Selection Committee, put into final

draft the College's new "Requirements for Selection of Fellows." In the new requirements, membership qualifications were set out as follows:

Members of the College are selected from among those members of the legal profession who are highly regarded for professional character and personal integrity and who have demonstrated exceptional ability, skill, and experience in the specialized fields of the College's declared interests.

The selection objectives set forth in such requirements and procedures are from time to time to identify and select from among qualified persons, with due regard for maintaining geographical distribution of the College membership, those who are best qualified.

It is the general policy of the College that there be only one member of the College from the same law firm, it being understood, however, that a local group of members of the College are not precluded from making nominations by way of exception to this policy in unusual situations where the size of the law firm, the outstanding qualifications of the particular nominee, or other extraordinary factors, justify a non-routine departure from such policy.

Detailed provisions were set out in the "Requirements for the Selection of Fellows" for filing nominations and for action by each State Membership Committee to inquire into the standing and accomplishments of the members of the Bar of its jurisdiction to determine those who may be qualified for membership in the College, and,

...from among these, those who appear to be as well, or better, qualified than the existing membership of the College within such jurisdiction; and, on its own motion, to nominate such best qualified person for membership, being especially alert to assuring that the best qualified persons are not overlooked because they, perhaps in a remote location, or because they work more frequently with clients and not with other members of the Bar, perhaps in a firm not having a member of the College, generally may not be known.

An important provision was one for polling all Fellows in each jurisdiction, and there are other detailed provisions for time deadlines. A new entity called "the Membership Selection Committee" was created to consider nominations and make recommendations for each semi-annual meeting of the Board of Regents, with each such election to membership requiring the favorable vote at least two thirds of the Regents present and voting.

In the Spring 1975 issue of the *Probate Notes* (the last issue of the *Newsletter* was published in fall 1974; henceforth the College's periodical was called *Probate Notes*, until it was renamed *ACTEC Notes* in 1990), it was announced that the bylaws of the College would provide that any Fellow in good standing or any State Membership Committee could make a written nomination.

In the minutes of the mid-year meeting of the Board of Regents for Monday, March 10, 1975, at the Caribe Hilton Hotel in San Juan, Puerto Rico, John S. Candler, II, presented the report of the new Membership Selection Committee, pointing out:

1. A version of the Nomination Form was adopted with a revised form for polls on nominees in various jurisdictions and a form for reporting results of polls to State Chairmen and Committees;

2. A change was made in the bylaws of the College whereby the Membership Selection Committee was directed to meet prior to each semi-annual meeting of the Regents to receive, review, and consider current nominations for membership and accompanying recommendations, determine which of those nominated appear to be best qualified for election to membership, and report in writing to the Board of Regents a list of all nominations received from each State Membership Committee and its recommendation as to the best qualified nominees for election to membership.

President Winn emphasized that the new process involved a nomination—not an application as such. He pointed out that the candidate whose name is submitted is not to be notified in advance and that all the homework previously done by the applicant for membership must now be done by those who felt the nominee should be elected to membership in the College.

The “one firm–one Fellow” policy with its extensive exceptions continued to draw comment by various Fellows, but the College policy with its non-routine exceptions for unusual situations and a particular nominee’s outstanding qualifications, or other extraordinary factors, continued to be emphasized.

In *Probate Notes*, Winter 1974-75, in detailing the new membership procedure, John Candler stressed “that the heart of the new system’s effectiveness is the investigation report made by the State Membership Committee.” Later, John was recognized as the ACPC “Man of the Year” by the Regents for the work he did concerning the membership selection procedures.

## **DEVELOPMENTS FROM 1976 TO THE PRESENT**

In the fall of 1975, President William P. Cantwell recognized the work of the new Membership Selection Committee “under the able leadership of indefatigable John Candler of Atlanta.”

In the fall of 1976, President J. Nicholas Schriver commented that despite growing debate about the size of the College, “there was never even a hint of a suggestion that the College should lower its standards for admission.” He pointed out that “we can confidently assume that in the years ahead only those practicing lawyers who are best qualified in the areas of probate and trust law will be elected to membership.” He concluded “that the College should not and will not become simply another open membership group, such as a bar association. Through the strictly enforced selection process, the College is indeed beginning to attain its objectives as stated in its bylaws, and it may only feel secure in its efforts and be able hopefully to retain these objectives to the extent that it remains devoted to the recruitment of practicing lawyers with superior attainments in the fields of probate and trust law, who are willing to pursue excellence as a part of their unselfish endeavor to improve their fellow lawyers and thereby their service to the public.”

In the fall of 1981, President Milton Greenfield, Jr., wrote of the death of John E. Rogerson, who, as president-elect, had stepped into the breach upon the death of Nick Schriver, by serving out that term and had been re-elected for a full term of his own. In an article, entitled “In Memoriam,” President Greenfield stated with respect to the Schriver-Rogerson era that, “It was a period of outstanding growth of the College and its national reputation and in the development of its carefully screened membership selection system which has proved so important....”

As a result of continuing pressure by certain critics, President Edward B. Benjamin, Jr., reported in the winter of 1977 that the “one firm - one Fellow” rule had been removed from the procedures and that overlapping and inconsistent procedures had been replaced by a single, simplified set of rules. Later

in the spring of 1987, he complimented Bill Farrell, Chairman of the Membership Selection Committee, for his work on rewriting the membership selection procedures.

In the summer 1988 issue of *Probate Notes*, President Malcolm Moore suggested that “perhaps the most important continuing goal and function of the College is to see that there is continued influx of talented and energetic new Fellows into the College.” He pointed out that “since our standards are high, there continues to be only a relatively small number of individual practitioners across the country whose expertise and experience merit membership in the College.” He made it his goal to have at least one new Fellow nominated in each state.

In a letter addressed to all State Chairmen by George H. Nofer as Chairman of the Membership Selection Committee, on April 21, 1989, George pointed out that “The College has long emphasized that we are not looking for just probate lawyers who excel in the strict practice of probate law, but for those who in addition have made a significant contribution to the legal profession and the community in their extra-practice activities.” He said that “the Procedure...recognized that such extra activity must be evaluated in connection with the milieu in which the nominee practices, *e.g.*, small state versus large state; small town or city versus metropolitan area; small firm versus large firm.” He concluded that the Committee was “unable to accept an absence or paucity of such activity, because we have plenty of examples of nominees from all varieties of milieu who demonstrate such activity. Participation in continuing legal education and organized probate bar activities is now readily accessible throughout the country.”

George also commented about the multi-membership rule as follows:

The multi-membership rule continues to be puzzling to some State Chairmen. As you know, this was adopted several years ago to replace the old “one firm-one Fellow” rule. Its *basic* purpose is not to limit the number of Fellows from one firm, but to insure that ‘other firms in the same locality are appropriately represented.’ Back when firms were generally much smaller, the rule limiting each firm to one Fellow (with exceptions even then) was considered to be a way of insuring broad representation. With the enormous growth of firms, such a limitation was no longer appropriate.

Therefore, in every case where the Nomination Form shows that the nominee’s firm already has one or more Fellows in it, the State Chairman must attach, at the bottom of page 4 of the form, his response to the Multi-Membership Rule. A typical response would be to the effect that the State Membership Committee reviewed the firms in the locality, and was satisfied that due consideration was given to make sure qualified probate lawyers in other firms were not overlooked.

With this understanding of the Rule and its purpose, it follows that there is no reason for an older Fellow in the nominee’s firm to “offer to resign” if his continued membership would foreclose the nominee’s election. Such a factor is irrelevant.

## **ONGOING DEMOGRAPHIC STUDY OF COLLEGE MEMBERSHIP**

President Waller H. Horsley stated, in his President’s Message in the Fall 1990 issue of *ACTEC Notes*, that one of the themes of his message was education. He quoted from PBS news commentator Jim Lehrer’s 1990 commencement address at SMU: “I urge you to please keep in mind what the diploma...does *not* mean. It does not mean that you are educated. Quite the contrary. It means, I hope,

that you have been opened up to a...lifelong hunger for more....” Waller commented, “Membership in the College confers its own kind of diploma, and surely education in our field is never over.”

President Horsley was particularly concerned whether or not we were obtaining an appropriate number of women members, and also whether or not we were obtaining the best and brightest on law school faculties.

In the Winter 1990 issue of *ACTEC Notes*, he pointed to a demographic study of the membership of the College presented to the Board of Regents at the Homestead meeting. That study showed the following:

The College’s 2,634 members were reported to have an approximate median age of 60 years. This seemed particularly fitting for the Homestead, where rocking chairs graced its porches, and afternoon tea was served daily in its great hall. Twenty-two percent of us are age 71 and above, and 49% are at age 61 and above. Only 22% of us are under age 51. We are gradually making headway, however, since the median age of newly elected Fellows over the last two years has been around 47 years old.

Currently, the College has 112 women Fellows, or less than 4.2% of our total membership. Eighteen of our states have no women members at all. We can do better than that, especially as we recognize the infusion of talent over the last 20 years emanating from the increasing enrollment of women in our law schools.

With the encouragement of the National Membership Selection Committee, we are engaging our Academic Fellows in a nationwide search for the best and brightest on the law school faculties throughout this country and abroad. At the present time, the College is represented on the faculty of only 35 of the 176 ABA-accredited law schools in this country. We ought to be able to do better than that. If we can’t, this will speak volumes about the work that lies ahead for us with this country’s law schools: with their deans, faculty, and their students.

The continuing satisfaction of the membership with the present criteria for membership selection was summarized by President Rodney Houghton in the Winter 1991 issue of *ACTEC Notes*, as follows:

Even though our overall membership is growing only slowly, the sharply-increased activities of the College in all areas carries with it increased costs. Of course, we could partially solve the problem by an aggressive campaign to increase our membership, but this would require a change in our membership selection criteria, which I believe most Fellows do not want.

In his message in *ACTEC Notes*, Fall 1994, President Jackson M. Bruce, Jr. referred to a vigorous debate about the membership admission policies of the College, including particularly the present requirement of public speaking or bar contribution. President Bruce pointed out that “a majority of the Regents considered that the public speaking or bar contribution requirements should be continued, but a strong minority believe the College should take in competent practitioners even though they have no public profile in the profession.”

He also reported that the Board of Regents discussed and agreed that the requirement of a Martindale-Hubbell “av” rating and special criteria for a new member who is a member of a firm that has an existing member should be eliminated.

President Bruce had previously suggested as issues, among others, the following: “Are the admission policies of the College in proper sync; particularly, should the requirement of public speaking or bar contribution be continued? Should Fellows over age 60 be specifically excluded from the rules respecting multiple members of a firm? Is the size of the College too small?”

President Bruce also raised the question of whether the terms of office are appropriate for the Membership Selection Committee, since the present time is three years, followed by a possible additional three years.

These issues were referred to the Demographics Committee, created in 1994 to study matters relating to the membership and meetings of the College. A survey of the membership was taken and 913 Fellows, more than one third of the total membership, responded. The committee reported to the Regents at the 1997 Annual Meeting in Rancho Mirage that, regarding membership qualifications:

Eighty-nine percent (89%) of the respondents found the present qualifications for membership in the College appropriate. Sixty-six percent (66%) did not want limitations on the number of Fellows from one law firm, recognizing the changing nature of trust and estate practice and the growing number of boutique firms. Ninety percent (90%) wanted to continue the Martindale-Hubbell “av” rating as either a requirement or preference for each nominee.

## **CONCLUSION**

The membership selection methods of the College have evolved from a largely one-man effort by Gail B. McKay from 1949 through 1955 to a highly selective procedure at the present time, with the advent of a special national Membership Selection Committee in 1975 to work with the state membership committees “to identify and select from among qualified persons, with due regard for maintaining geographical distribution of the College, those who are best qualified.” The period following 1955 reflected continuing changes which culminated in the work by John Candler, Harley Spitzer, and others in creating the new selection process, which, with some adjustments from time to time engineered by able chairmen of the Membership Selection Committee, is in effect today. That system commands widespread approval among the College membership, and certainly there is little support at this time for any change in our membership selection criteria, although College members and the Board of Regents continue to consider useful changes that might be made for the future.

# M EETINGS AND CONVENTIONS ■

by Bjarne Johnson<sup>7</sup>

This chapter deals with the evolution of ACTEC meetings and conventions and the creation and purposes of Convention Coordinators, Inc.

In preparing this report, I have used the official minutes of meetings maintained by our national office in Los Angeles, the *Newsletter*, which later became *Probate Notes* and still later *ACTEC Notes*, several years of correspondence and documents in my personal files and my own memory, which some readers may find is not infallible. I have also interviewed several Fellows in the College. What follows is how things were, as seen from my perspective and as I remember certain events. Others may remember the same events differently.

## THE BREAKFAST MEETINGS

The Probate Attorneys Association was incorporated in 1949 as a California corporation and its first recorded meeting was held in the offices of Richard Gandy in Santa Monica, California on December 12, 1951. Four of the five directors were present. The minutes state that this was the first meeting of the Board of Directors following the annual election of directors by the membership held in August 1951. The first order of business was the election of officers; John G. Clock was elected the first president of the corporation.

The next matter considered by the board was the obligation owed to Gail B. McKay from the beginning of the corporation through December 31, 1951. The parties agreed that the sum of \$10,875 was owed, payable only from excess of income over expenses and after everything else had been paid. The Executive Secretary's salary was fixed at \$7,500 per year with said salary to be a current item

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<sup>7</sup>ACTEC President 1972-73.

payable to the extent that there were funds on hand available for the payment thereof and not otherwise. To the extent the current salary was not paid, the shortfall was to be added to the amount already owed to McKay.

The minutes noted, “Considerable discussion followed among the members of the board regarding the poor condition in which past records of the corporation had been kept and it was felt imperative that immediate correction of the deficiencies should be made by the board.” The message was apparently not received by the person(s) to whom it was directed, for the next record we have is the minutes of the meeting held on April 14, 1955 in Phoenix.

The board appears to have been increased from five directors to seven, as at this meeting four directors were noted as present and three absent. The bylaws were amended to increase the directors to 12. The minutes note that the next annual meeting would be in Philadelphia during the American Bar Association convention, with Mr. Goldman to arrange a breakfast meeting. Up to this point, the record is silent on meeting site selection. The breakfast meeting was a big success with 38 Fellows and guests present. All of the Fellows and guests were listed by name in the minutes and we find there the names of many Fellows who would figure prominently in the affairs of the College in years to come.

There is a significant break in the official records of the meeting minutes between the Philadelphia breakfast meeting in August of 1955 and the next reported meeting on August 11, 1963 in Chicago. Leon Schaefer (president 1960-61) reported in what appears to be the second issue of the *Newsletter* on a meeting in Saint Louis on August 11, 1961. He reported that approximately 100 Fellows assembled for a delightful breakfast and that it was a golden opportunity for members to become acquainted and exchange views and pleasantries. With these few words, Mr. Schaefer simply but eloquently recognized the collegiality among the Fellows that existed then and continues to this day.

J. Louis Eberle (president 1961-62) reported in the *Newsletter* that the next annual meeting would occur in San Francisco on August 4, 1962 (until 1981, the summer meeting was the annual meeting of the Fellows; details on the meeting schedule appear in Appendix 1, ACPC/ACTEC Meetings, 1967-1999). It appears that at this time the College simply held its meetings wherever the ABA might meet. Presumably the executive secretary selected the hotel and made arrangements for the meeting. There is nothing in the records to indicate the use of a committee or a meeting chair. The *Newsletter* published in October 1962, the first *Newsletter* to bear a date, reported that 117 Fellows attended the San Francisco meeting out of a total membership of 866 active members and that the total membership had increased by 40 in the past year.

At this point we begin to see in the minutes suggestions for encouraging state meetings after the pattern established by New York.<sup>8,9</sup>

## **ENDEAVORING TO IMPROVE THE MEETINGS**

Eugene Glenn (president 1962-63) said in the *Newsletter*, “Serious consideration is being given to improvement of the annual meetings and, in particular, to arrangements which will permit the attending Fellows to have an opportunity to become better acquainted. The overall ABA convention schedule presents problems, and it may be necessary for the College to arrange a social gathering to be held

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<sup>8</sup>See “Joseph Trachtman and the New York Chapter” by Harrison Durand.

<sup>9</sup>The state meetings grew in importance as the years went by. By the time Edward B. Winn became president (1974), state meetings were very prevalent, and it was the custom for a College officer to speak at the state meetings whenever possible.

immediately prior to the actual commencement of the convention.” Several members suggested that future annual meetings might be held at an evening dinner preceded by a social hour.

The desire to improve the meetings was a recurring theme. President Glenn, writing in the February 1963 *Newsletter*, wrote, “I would particularly appreciate any suggestions as to the improvement of our annual meetings, as we must immediately commence making arrangements for 1963.”

The official minutes resume with the meeting in Chicago on August 11, 1963. The president-elect, W. Harry Jack, announced that there would be a change in the time for the meeting next year. He stated there would be a luncheon on Sunday with the ladies and guests; there was to be a popular speaker, and, following the luncheon, a business session of the College would be held. Nothing was said about having a professional program along with the meeting. The prevailing philosophy of the meetings seems to have been that much could be learned simply by mingling with other Fellows and discussing problems. If I recall correctly, more of the speakers were entertaining than profound.

Interest continued to grow in fostering and encouraging state-sponsored meetings. President Harry Jack said, “Regular meetings of this kind are held in New York, Philadelphia, Chicago, and Dallas. It is hoped other groups will schedule similar meetings.” Nothing more was said about improving the interest and quality of the annual meetings, nor does there appear to be any departure from the usual format of the annual meeting. So far, we do not find any recommendation of a formalized continuing legal education program as part of an annual meeting—only to improve them and make them more interesting.

Some progress was made at the 1965 Annual Meeting in Miami Beach, Florida on August 5. Morton Barnard of Chicago suggested that the annual meeting should be a more public program, that it should be held on Friday or Saturday immediately prior to the ABA convention and that the College should have a program that would not conflict with, but rather supplement the Probate Section of the American Bar Association. He also suggested they should have a cocktail party and dinner, but the dinner program should be in a lighter vein. President Jack responded that the problem of the annual meeting was continuing one; there was so much going on and so many Regents on other committees that it was nearly impossible to plan a meeting where all would be available. Later in the meeting the board decided that preparing and handling details concerning meetings should be handled by a committee, and the Convention Committee was born.

President Harry Gershenson, writing in the September 1965 *Newsletter* said “Having the meeting of the College at a separate time from the ABA meeting has been suggested. This will be considered by an appropriate committee and reported at our next annual meeting.” The minutes of the next annual meeting held in Montreal, August 7, 1966 do not indicate that a committee was appointed and there was no indication that the matter was considered further.

The mid-winter meeting in Houston, Texas, in February 1967 during Joseph Trachtman's presidency marks the first time an education program was held in conjunction with a meeting. President Trachtman said he deemed practical studies of more significance for purposes of the College than the scholarly discussions produced elsewhere. A symposium had been held earlier in the day at which a free discussion of common problems and an exchange of ideas had taken place, and Mr. Trachtman recommended that symposia of this sort be continued. He also noted, as had others before him (Presidents Donald M. Mawhinney and Harry Gershenson, for example), that the annual meetings of all bar associations had expanded so much and included so many functions that perhaps it was no longer feasible to schedule ACPC meetings in conjunction with the bar association.

Time conflicts with the ABA continued to occupy a place on the meeting agenda. President Harold I. Boucher, in his first *Newsletter*, said there were three problems that seemed to have a recurring interest to the College and that they would get his special attention: “First, membership and nominating procedures; secondly, special studies by Fellows (including the recommendation for the establishment of an Editorial Committee); and lastly the request of many Fellows for a special two- or three-day meeting of the College at a time and place entirely apart from ABA conventions.”

Further on in his report, Mr. Boucher said he had appointed Regent William H. Nieman to chair the special convention committee that would study the problem of holding an annual meeting separate and apart from the ABA. The suggested special meeting of the College was to permit concentration by College members on their common interest—probate—and afford to them a chance to get acquainted with one another.

The appointment of the Convention Committee gave some real impetus to the attempts to solve the annual meeting problems. The minutes and the *Newsletter* through the years referred many times to the meeting problems, but not much happened until Mr. Boucher took definitive action when he became President. The minutes of the August 8, 1968 annual meeting state, “The President then called on Regent William H. Nieman to report on the subject of meeting places for the Regents of the College, including the advisability of holding an annual meeting immediately prior to the opening of the ABA Convention. The matter was thoroughly discussed by many Regents present, and it was finally determined that Regent Nieman should continue with his committee to work out a plan for a mid-winter meeting apart from the ABA mid-winter meeting, this decision however not to affect the mid-winter meeting for 1969, which will be held in Chicago in conjunction with the ABA meeting.”

Mr. Nieman and the Convention Committee took their duties very seriously. They surveyed the entire membership for their preferences relating to College meetings. Mr. Boucher reported in the May 1968 *Newsletter* on the highlights of the survey:

More than sixty percent of all of the Fellows completed and returned questionnaires. These provided the committee with significant facts for the planning of future meetings and College programs.

The survey indicated that only approximately twenty percent of the Fellows participating have ever attended annual meetings of the College, and that only about two thirds of the Fellows who have attended American Bar Association Meetings actually attended College functions.

Most significant is the fact that the Fellows participating, by a vote of 319 to 152, preferred the holding of annual meetings of the College at the place of the annual American Bar Convention, but either before or subsequent to such meetings.

There was substantial interest (240 in favor, 294 opposed) expressed in favor of holding meetings of the College apart from the ABA convention. Those favoring the holding of separate College meetings preferred that they be held in the spring or summer, and in a metropolitan city.

A great majority of the Fellows felt that the purposes of the College would be furthered by the holding of regional meetings and that such meetings should be arranged in the future.

Suggestions and preferences for the programs of the meetings of the College were varied, but a consensus of the opinions would indicate that the desired program should present a practical “bread and butter” program on probate law including current developments, with consideration of trusts and estate planning with their tax implications.

The committee is continuing its investigation of the feasibility of a special meeting at a vacation spot, perhaps two years hence. Judging from the applause of wives at the Chicago dinner meeting when mention was made of a possible meeting in Honolulu, the Caribbean, Tokyo, or a like interesting place, we can count on their consent to an extra meeting.

It appears from the President's reports and the official meetings minutes that the mid-winter meeting and the annual meeting were quite different from one another and should be treated differently. At the Chicago meeting, January 26, 1969, Harry Jack was appointed chair of the Convention Committee and William Nieman as chair of the Meetings Committee. There is nothing in the minutes to indicate their respective responsibilities other than the fact that Mr. Nieman reported on continuing discussions at meetings of the Board of Regents concerning the possibility of holding at least one meeting a year apart from the ABA and preferably at a resort. At the Chicago meeting, the immediate question was whether to hold the 1970 mid-winter meeting in Atlanta along with the ABA or to have a separate meeting in February; the movers lost.

The board voted that the 1970 Board of Regents meeting be held either in Atlanta or at some location in the Atlanta area immediately before the mid-winter meeting of the American Bar Association.

At the ACPC annual meeting, August 8, 1969, in Dallas, Texas, President Everett Drake reported that the next annual meeting would be held in Atlanta, Georgia, on February 18, 1970 and that all of the state chairmen would be invited to attend the meeting. This appears to be the first formal recognition that the state chairs should play a more active part in the affairs of the College and that they should be encouraged to attend.

It should be noted that the “annual meeting” referred to in the minutes refers to the annual meeting of the Board of Regents rather than the annual meeting of the Fellows. By this time the Board of Regents held two meetings each year. The mid-year meeting, or annual meeting of the Board, was usually held in February at the same time and place as the ABA mid-winter meeting. The annual meeting of the membership of the College was usually held in August preceding the annual meeting of the ABA, at the same location.

Almost all of the business of the College was conducted by the Board of Regents and an increasing number of committees. At the annual meeting of the Fellows the President would give a report on the affairs of the College, followed by the election of new members to the Board of Regents. The officers were elected by the Board.

At the annual meeting of the Fellows, the Board would meet in the morning, followed occasionally by a brief professional program, and it would meet again in the afternoon. There was always a dinner meeting for all of the Fellows and their spouses that evening. Whatever business needed to be conducted by the Fellows was conducted after the cocktail hour and before the dinner. It was the practice for several years to follow the dinner with a speaker. Needless to say, it was difficult for a speaker to maintain any interest in an audience that had eaten well and imbibed even better.

The professional programs, though very brief, proved to be very popular. President Joseph Trachtman began expanding on the programs by inviting all Fellows to come to the afternoon sessions of the Board and bring their problems. Instead of listening to speakers, everyone present was invited to bring up for discussion a topic of his own choosing. Mr. Trachtman felt there was no better way to learn what was going on in our field than by such an exchange of views and information.

#### **HAWAII 1972—THE FIRST MID-WINTER MEETING APART FROM THE ABA**

The matter of holding a meeting of the Board of Regents apart and separate from the ABA had been under discussion for several years. The idea had many proponents, but so far ACPC was still holding its meetings contemporaneously with the ABA convention. President J. Pennington Straus (1970-71) took a giant step toward holding the mid-winter meeting separate from the ABA. At the mid-winter meeting of the board on February 5, 1971 in Chicago, he presented Sherman Harris, who represented a California travel agency specializing in Hawaiian tours. The presentation could not have come at a better time. The winter in Chicago was very severe—very cold with a lot of snow. The Palmer House, where the meeting was held, was without heat and light for a period of time. The minutes reflect that “All of the business that normally would have come before the meeting could not be transacted because of a severe storm which disrupted transportation into the airport on February 4 and 5, 1971, and prevented a number of Regents from attending the meeting and delayed the arrival of others.”

The board may not have been able to handle all of the business to come before it, but it passed one resolution that had a significant impact on the College:

RESOLVED that the subject of a meeting in Hawaii to be held probably in January or February 1973 be referred to the Executive Committee with the authority to act and to report to the Regents at their New York meeting

The Executive Committee acted promptly. It decided that the Board would hold its 1973 meeting in Hawaii, and Vice President Bjarne Johnson was appointed to make arrangements for the meeting.

We learned that there was a significant difference in air fare if we were to stay for a week than for any shorter period, I reported to the Board in New York on July 5, 1971, and we had planned a two-day meeting as part of a week's excursion. The fact that this was to be only a mid-winter meeting of the board apparently didn't bother us. The committee decided that we would invite the most distinguished panel of speakers we could find and that we would invite all the Fellows of the College to join us.

The “meeting committee” was a floating committee that met whenever I could find someone to help me. We received a lot of good suggestions from many of the Fellows and their wives. We were plowing new ground and were neither helped or handicapped by precedent. We knew that we must have an excellent professional program and the whole experience had to be an enjoyable one. We also knew that holding a meeting separate and apart from the ABA was experimental and that this might very well be the last such meeting.

Whatever the risks might have been, we went forward. At the February 3, 1972, meeting the plans were discussed, and the minutes report:

President-Elect Johnson's report on Hawaii: A description of the background of the Hawaii meeting was forwarded. The Beltz Travel Agency of San Francisco is in charge of arrangements. The meeting will be held at the Kahala Hilton in Honolulu. It will be for six days with arrival on Thursday, March 8, continuing through Wednesday, March 14, 1972. On March 9, the Regents

will meet in the morning. A cocktail party will be held that evening. On March 10, two speakers will appear in the morning. On March 11 there will be no program. On March 12 and 13 there will be two speakers each morning. A dinner will be held on the evening of March 13. March 14 will be the final date of the meeting....Special touring arrangements will be available at the hotel during the meeting. The base tour price from California will be \$390 per person. A special brochure has been prepared and is being furnished to each Fellow....He discussed further the possibility of a \$100 honorarium for any speaker preparing a publishable paper for the meeting. Discussion and debate ensued. A motion on the subject was tabled to await the Budget Committee's report. On a straw vote on inviting Fellows to the Regents meeting in Hawaii, there was an even division. The Chairman broke the tie, in favor of the invitation. Sentiment was expressed for a symposium on the same day (Friday, March 9), and the President-Elect is considering this matter in his planning.

What would have happened if the Chair had voted differently? The experiment had hung by a thread.

As far as I can recall, no formal "Hawaii Committee" was ever appointed and certainly no formal planning meeting was ever held. The program simply seemed to grow from two days to six days, in part to fill the time we had available to us. We had a number of visits with lawyers around the country about who should be on our panel of speakers. We wanted to include something on the tax law of agriculture, so I asked the Iowa state chair to recommend the best speaker in his state. He gave me the name of Arley J. Wilson, who promptly accepted our invitation to speak and proved to be an exceptionally fine speaker and fine person.

I wrote in the *Newsletter*, December 1972:

We recognized that we were in effect breaking new ground. There was some uncertainty on how extensive a program we should try to develop, and with the advice of a lot of qualified people we decided to hold our technical sessions substantially in the mornings with Sunday and the afternoons free. I think one of the most remarkable things about the panel of speakers is that the first eight speakers I asked to participate all accepted, and they are among the most distinguished and sought-after speakers in the country.

All of the speakers would pay their own expenses and receive nothing in return except a heartfelt "thank you."

At the board meeting in Hawaii, I reported on a meeting with William Morrison, president of the American College of Trial Lawyers, on that organization's policy of holding their mid-year meetings separate and apart from the ABA. The trial lawyers found their new policy very worthwhile. Their attendance had increased substantially and, perhaps more importantly, there were no meeting conflicts and they had only one obligation to one organization. This information appeared to confirm our feeling that the move of our College away from the ABA mid-year meeting was successful and probably the beginning of a new policy.

Since everyone traveled to Hawaii by plane, the airline flight schedules made the arrival time of the attendees at the hotel in Hawaii fairly predictable. We met all of the Fellows and their spouses as they arrived at the hotel and personally invited all to join us for a welcoming cocktail party to be held in our quarters. Along with Harold and B.B. Boucher, we had rented a suite of rooms that included a parlor with bar facilities. We purchased the liquor, mixes and hors d'oeuvres at a discount house in the city,

and the hotel furnished ice and glasses. We probably got away with it because, as far as the hotel was concerned, this was not a regularly scheduled event. We did not have room to entertain the whole group at one time and asked about half to join us for the second evening. We had a good time at this rather unpretentious event. Several guests from the first night came back the second night and brought their own bottle.

The informal cocktail party has become a standard feature of all annual meetings since that time. At mid-week we had the first scheduled cocktail party, which had been advertised in the brochure. The party was held on the beach and featured excellent Hawaiian entertainment. This mid-week event has now become our theme party. The night before the meeting was scheduled to end we scheduled a final dinner meeting with entertainment. Having a dinner meeting was not anything new to the college—the only difference was that, at the request of Past President Everett Drake, there would be no after-dinner speaker. This change in policy has endured.

The meeting in Hawaii was the best attended meeting ever held by the College up to that time, including all previous annual meetings. We were flush with success. The Board voted that the next mid-winter meeting in 1974 would be held in Mexico City and the 1975 meeting in San Juan, Puerto Rico, notwithstanding the objection of some Fellows that we were becoming a travel club.

## **THE MEXICO CITY AND PUERTO RICO MEETINGS**

The mid-winter meeting of the Board of Regents was held Monday, March 18, 1974 at the Maria Isabel Sheraton Hotel, Mexico City, Mexico.

Jose de la Sierra, Jr., a member of the Board of Regents who lived in Mexico City, had made extensive and unique arrangements to have the College welcomed to Mexico. At the opening meeting of the College, our Fellows were very graciously and cordially welcomed by Mr. Aleman, the immediate past president of Mexico, and also by the president of the Supreme Court, both of whom represented the current President of the Republic. In addition, the former dean of the National University Law School and the president of the National Association of Attorneys were present. All elevators in the hotel were shut down for a half hour before the scheduled appearance of President Aleman. He was preceded by at least 30 armed guards, all of whom were present during his address. The welcoming speeches of both men were given in Spanish; Conchita Winn, wife of Edward B. Winn, translated their remarks as well as President Durand's response to each speaker. Harrison Durand was given an honorary Doctorate of Laws by the National University Law School, complete with cap and gown.

The meeting lasted for five days. The general format of the meeting was the same as the 1972 meeting in Hawaii—there was a professional program each morning and the afternoons were free. There were also a number of tours scheduled by the travel agent for the College (a new agent, as the Beltz Agency had since defaulted) and these proved to be very popular.

The next scheduled board meeting was held March 9 through 13, 1975 in the Caribe Hilton Hotel in San Juan, Puerto Rico. The overall format for the meeting was similar to that of the Hawaii and Mexico City meetings; in addition, special meetings for the state chairs with the officers of the College were held to discuss the problems of the local groups, followed by a dinner for the state chairs. The travel agent who handled meeting arrangements for the College also arranged a number of pre- and post-meeting tours. These tours proved as popular in Puerto Rico as they had been in Mexico City.

While the annual meeting of the Regents in mid-winter had separated from the ABA convention, the annual meeting of the Fellows was still linked with the ABA's fall meeting of the Real Property, Probate and Trust Law Section, and this connection was a continuing source of difficulties for ACPC. For

example, the ABA usually blocked all of the rooms in all of the major hotels in the city in which the ABA was holding its annual meeting, and frequently it was very difficult to deal with them for our meeting space. While it had always been the practice of the College to hold its meeting the Saturday before the opening of the ABA meeting, when the College planned its August 1974 meeting in Hawaii, the ABA had refused to make any space available in Honolulu for a College meeting, so we were forced to move our meeting to the island of Hawaii. Also, many Fellows will remember that at times they were unable to get a hotel reservation without first registering for the ABA meeting.

The new policy of scheduling the mid-winter meeting separate and apart from the ABA seemed to be popular with the Fellows, but holding three meetings in a row in distant places was not. One of the officers simply refused to attend the off-shore meetings or the meeting in Mexico. It became apparent that if we were going to increase our attendance, it would be necessary to return to the mainland.

### **THE EMERGENCE OF THE CONVENTION COMMITTEE**

Site selection up to this point was the domain of the president-elect, as the minutes of the board meeting on August 10, 1974 confirm:

There followed discussion on the 1976 mid-year meeting, and William P. Cantwell reported he had selected a tentative site of Hilton Head during the month of April. After considerable discussion concerning both the location and best time of year for our mid-year meeting, it was the consensus of those present that it was Mr. Cantwell's sole prerogative to make the final decision as to the 1976 meeting as the new president-elect of the College.

Meeting logistics, such as travel arrangements, hotel contracts and tour planning were handled by informal, mostly *ad hoc* committees. But the officers of the College were always looking for a better way to do things, and in the minutes of the March 10, 1975 meeting, President Edward B. Winn (1974-75) speculated that the matters handled by the travel agency could be performed by a volunteer group of individuals from the organization, if we would want to put this burden on them. He said he would not expect the officers to be taking their valuable time to arrange tours, act as tour guides or try to negotiate rates with hotels. However, in the College as in most organizations, when a new idea is proposed, it sometimes takes several years for that idea to come to fruition. It would be many years before an efficacious method of meeting planning procedure would be in place. In the meantime, new and different arrangements would be tried as each president grappled with the now familiar problems: ABA conventions, travel agents, meeting sites and so on.

In 1976 at the Hilton Head meeting, President William P. Cantwell tried a new approach to selecting a future meeting site—he called for suggestions from the floor. All of the Fellows in attendance then voted and Vice President John E. Rogerson reported that of the ballots returned, there were 101 votes for Palm Springs, California; 62 for a city in Arizona; and 51 for San Diego, California. The conclusion that Fellows residing in cold climates were seeking to escape the weather at about the time of year of the College's mid-winter meeting did not escape him; he further concluded that they seemed to prefer a resort facility as a meeting location. Thus, Mr. Rogerson reported that, subject to a further check as to the availability of facilities, it was probable that the 1978 mid-winter meeting would be held in Palm Springs, California.

The insolvency of the Beltz Travel Agency, which had handled arrangements for College meetings up to 1974, created some concern as to how we should deal with travel agencies in the future. Several Fellows lost the deposits they had placed with the Beltz Agency and wondered if there was some way we could have better control of the money. The board passed a resolution to the effect that all funds paid

to the travel agent be placed in an account subject to the joint control of the travel agency and a representative of the American College of Probate Counsel. Some of us did not think that the new requirement would accomplish the purpose intended.

J. Nicholas Shriver, Jr. (president 1976-77) announced at the March 1975 meeting that tentative arrangements had been made at Williamsburg for the 1977 mid-winter meeting and that he did not intend to use a travel agency for the meeting. While the national office would mail out meeting notices, each member would be responsible for making his or her own travel arrangements. Mr. Shriver personally made many of the arrangements for the meeting, but his untimely death had unfortunate repercussions on the meeting arrangements.

Williamsburg would not pay a travel agent's commission on the rooms rented to College participants, so it would be up to the College to raise the money to pay the travel agent. Up until this time, the registration fee was very nominal; for the Williamsburg meeting only it was increased to \$100 to cover the travel agent's fee.

At the Executive Committee meeting on October 21, 1977, Jackson M. Bruce, Jr. asked whether ACPC should put out a request for bids for a travel agent to handle our conventions; after a full discussion about the manner in which the current agent had handled travel plans, there was general agreement that ACPC should not become too wedded to any particular travel agent, but that we should stay with the current agent as long as he was doing a good job and that this matter should be subject to review at any time.

The next year at the Board of Regents Meeting on August 4 in New York, Mr. Bruce raised several issues for consideration by the Regents. He questioned the cost of the travel agent for the College and expressed his view that the high cost of convention facilities was adversely affecting the attendance of younger Fellows and Academic Fellows. In response to Mr. Bruce's concerns, the Board ordered the appointment of a new Tours and Travel Committee, to consist of three to five members, to study the convention expense problem and report promptly to the Executive Committee and, in turn, to the Board of Regents.

## **THE TOURS AND TRAVEL/CONVENTION COMMITTEE**

This was one of the best committees I have ever worked with. The members were Harrison Durand, Wesley Nutten, Jim Hickey, Ed Hirschler and George Nofer; Jackson Bruce and I were co-chairs. In preparation for the Executive Committee Meeting in Dallas in August 1979, as chairman of the Tours and Travel Committee, I met with a Los Angeles convention coordinator and learned a great deal more about the business of conducting conventions. He agreed he would handle our convention for a flat fee of \$50,000 and would guarantee a profit for the College. Jack Bruce learned from his investigative efforts that the profit to the travel agency was in the neighborhood of \$65,000.

The Tours and Travel Committee met for an extended period of time before meeting with the Executive Committee on August 9, 1979, in Dallas, Texas. For the Scottsdale meeting, we requested the assistance of the Executive Secretary, Bette Elton. She agreed to handle the details of the meeting in her Los Angeles office if all the members of the committee would help her, and we agreed to do so. We also proposed to the Executive Board that the participation of our current travel agency at the Arizona meeting be reduced. The committee also proposed that the current agency be retained to handle the Scottsdale 1980 mid-year meeting, but that future meetings be handled without a travel agent.

The Executive Committee decided that the Tours and Travel Committee would become the Convention Committee, which would have responsibility for the convention arrangements. The Convention Committee would select sites and dates, but use a local committee for each meeting for social and program ideas, tours and functions.

Jack Bruce and I were charged by President Charles Saunders (1978-79) with meeting with the current travel agent to research the terms of ACPC's agreement, past meeting costs, and the services the agent performed for us. Based on our findings, I was to attempt to negotiate a written contract with the current travel agency to cover the Arizona meeting; if we were unable to reach an agreement, the committee was authorized to contract with a different agency for convention services. As for future meetings, the committee agreed that we would need some professional help in planning our meetings and concluded that we should hire a convention coordinator on a carefully negotiated contract. The committee set forth in some detail what the convention coordinator was expected to do and the Tours and Travel was directed to secure bids from at least two Los Angeles convention consultants and also from the current travel agency.

Immediately following the meeting with the Executive Board, I called the travel agent to advise the action of the board. I told the agent that we were willing to have the agent handle the Arizona meeting on the same basis as the agency had handled our earlier meetings and that whatever agreement we reached must be in writing. I also agreed that I would prepare the contract in simple terms and send it to them. The contract was prepared and circulated to all the members of our committee before submission to the agent.

The Convention Committee had agreed that it was critical to the contract that we have joint control over all funds and that we have a complete accounting of all the income and expenses of the meeting. The agency responded to our proposed contract with 11 pages of additions, modifications and changes; there was no agreement of joint control and no agreement to make an accounting of income and expenses. The agency had been in the practice of furnishing a "costing sheet," which they also described as a budget for the meeting, which set forth in some detail the proposed charges and the explanation for each charge.

In the course of our negotiations, the agent furnished us with a very lengthy list of services performed and some information about costs. The agency had been charging \$80 for each registrant and spouse; no other income that the agency might receive in connection with a meeting was disclosed. We soon learned otherwise.

The agency claimed that it had been passing on to the Fellows its hotel commission, which resulted in a 10 percent reduction from regular rates. The budget showed we were being charged for four and a half drinks per person for one of the cocktail parties and \$10 per person for "cancellation insurance." We eventually learned that if each person at the cocktail party only consumed two drinks, the agency paid the hotel for only two drinks and kept the balance of the cost as "breakage." This was not reported on its "costing sheet" as a source of income. We also learned that the so-called "cancellation insurance" listed as a cost was not insurance at all, but simply an additional fee charged by the agency under the characterization of "insurance." Any Fellow who did, in fact, cancel was charged a "handling fee" of \$15 per person. No credit was given to ACPC for the "cancellation insurance."

The negotiations dragged on for what seemed an interminable period with little or no progress on joint control or on an accounting was acceptable to us. Time was important to us, as we had the next meeting coming up in about three months and no agreement on who was going to be responsible. With the approval of Harley Spitler, president of the College, and all members of our committee, I sent a final draft to the agency with instructions that the contract must be accepted in the form it was written and,

unless it was accepted by October 1, that all negotiations were off and the agency's services in connection with the Arizona meeting were terminated. The agency responded by signing the contract with several changes and modifications; we treated this as a counter offer and put an end to negotiations and our relationship with the agency. I had taken some pains to point out during the time we were negotiating that until our agreement was committed to writing and signed by both parties, there was no agreement.

We advised the agency that we recognized that it had done some work on the Arizona meeting and that it would be paid for the value of the services performed. We had by now learned that Mountain Shadows in Arizona, Innisbrook Resort in Florida and the Hyatt Regency in Hawaii had all agreed to pay the agency a ten percent commission on future scheduled meetings of the College; the total would be a very significant sum. We advised the agency that we would agree to hold the meetings as scheduled, that the agency would have no responsibility and that we would be entitled to all of the commissions.

Soon after terminating the travel agency, Harley Spitler, Bette Elton and I met with the convention staff of the Mountain Shadows Resort and very quickly arranged the details of our next meeting. Bette Elton had handled all the details of the annual meetings and was thoroughly familiar with all of our requirements for the mid-year meeting. We did not offer any pre-meeting or post-meeting tours or travel excursions, and all Fellows made their own travel arrangements. It turned out to be the biggest meeting to date and pretty well demonstrated that the services of a travel agent were not needed.

There are a lot of details in planning for a meeting. In planning we first decided what all of the main events of the meeting would be. From there we broke each event into its component parts. Then each component was priced and the total of all costs made up the cost of the meeting package for the Fellows. All costs were passed through to the Fellows at our cost. If every Fellow attended every event, we would come out even. We were well aware that we never had 100 percent attendance at any function, and we would order food and drinks from the hotel on what we estimated the basis of attendance would be. We had no records available to us from previous meetings handled by the travel agency. We simply relied on Bette's prior experience in handling the details of our then smaller annual meeting. After the Scottsdale meeting was over, Bette Elton reported a profit to the College of \$26,505. Bette's experience there proved very valuable to us in planning future meetings.

I reported to the Board of Regents at its meeting on February 27, 1980, in Scottsdale, Arizona, that I was having some difficulty in reaching a settlement with the travel agent that had at one time represented the College on convention matters. Fortunately, at the same meeting the Board passed a resolution agreeing to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action—and such person was acting in behalf of the College. I also reported that in dealing with hotels there was no problem getting group rates and it seemed to be standard policy to get one complimentary room for each 50 rented. At first we didn't know what to do with the comp rooms at our Scottsdale meeting. We decided we would use one or two for the Executive Secretary and her staff, and that I and some of the officers would occupy the balance and pay the College directly at the established room rate.

At the same meeting, one of the Regents moved “that the Convention Committee be instructed to keep as a significant factor in its thinking the cost of transportation, the costs and accessibility of sites, and to give serious consideration to holding a meeting on a trial basis at least in a non-resort area.”

The motion failed. However, the Convention Committee was aware that the costs seemed to be high and that, even though the motion lost, an effort should be made to restrain costs and to consider using a non-resort area or inner city hotel for some future meetings. The board's minutes reflect that the

Convention Committee was authorized to negotiate times and terms for holding a convention in Las Vegas in 1983, in Puerto Rico in 1984, in Hawaii in 1985 and either Arizona or Texas for 1986.

From the minutes of the Board of Regents, convened at the Hyatt Regency Hotel in Honolulu, Hawaii on July 29, 1980:

Bjarne Johnson reported our problems with (the) travel agent and the fact they are presently suing the College, as well as Harley J. Spitler, Bjarne Johnson and ten 'John Does.'

Bjarne Johnson discussed the possible formation of a separate nonprofit corporation to handle all convention arrangements for ACPC. It might be formed in Montana. There was a discussion respecting the effect of the new corporation upon ACPC's exemption under IRC Section 501(c) (6). Upon motion duly made, seconded and passed (with one "no" vote), the president was authorized to create an ad hoc committee to study the formation and proposed operation of such a nonprofit corporation and to make a recommendation thereon to the Executive Committee....

The complaint of the travel agent, among other things, alleged breach of a verbal contract and \$50,000 in damages. The College cross-complained, asking for an accounting and alleging fraud on the part of the travel agent. Shortly after the cross-complaint was filed, the matter was settled for a sum less than initially offered.

#### **CONVENTION COORDINATORS, INC.**

With the travel agency out of the way, the Convention Committee, with the very able assistance of Bette Elton, assumed full responsibility for the selection of meeting sites, the negotiation of terms with the hotels and for handling all of the details. We found that hotels, as a general practice, would give group rates to any group, and, if the group was represented by an agency, would also pay a 10 percent commission to the agency. Sometime in 1980, we met with Emery Braccini, Director of Sales for the Boca Raton Hotel and Country Club. By then I had recognized that we represented a group that was considered choice business for convention hotels. It seemed to me we should get better rates than we had been getting, and I undertook an effort to obtain them from the Boca Raton Hotel. Mr. Braccini was sympathetic to our situation but he held firm on the rates. He said that group rates were fixed by the owner, and he had no authority to deviate. He also said that all hotels were used to paying commissions to a travel agency, and that if we wanted to set up a separate company, he would pay a commission if we appeared to be legitimate, and he would not check our pedigree.

According to the Board of Regents Meeting minutes for March 6, 1981 at Innisbrook Hotel:

Bjarne Johnson reported for the Conventions Committee. He first reported on future plans, both definite and tentative, as set forth in the Minutes of the Executive Committee for March 5, which are incorporated herein by reference. He next reported on the proposal on creating a separate corporation to handle convention arrangements with hotel, etc., and said that the incorporators and officers will be Chuck Saunders, Wes Nutten and himself. This will be in accordance with the Resolution adopted by the Executive Committee, which is incorporated herein by reference. Both the Conventions Committee and the Executive Committee will seek the advise of tax counsel

in working out the final arrangements, which will not become final until the Executive Committee is satisfied on all tax aspects.

The project was discussed in several successive meetings of the Executive Committee and the Board of Regents and each meeting was followed by a flurry of correspondence among the interested parties. As might be expected in dealing with a group of lawyers, there was little agreement on what we should do. Some members of the Board were of the opinion that any income earned would be unrelated income and, therefore, put ACPC's classification as a 50(c)(6) corporation in jeopardy. Some thought that if we received a reduction in our room rates, such reduction would have to be treated as income to each of the Fellows attending the meeting. Others were of the view that we were lawyers and should not stoop to getting into the business world.

On the other hand, there were several who thought it was a viable option, and that "we should do it." In the meantime I was negotiating contracts with hotels through a non-existent company; I informed the hotels that I thought a company would be formed and, if it was, the contract would be with the new company. All contracts provided that the College would receive group rates and the new company would receive a 10 percent commission.

The discussions, letters and viewpoints seemed to be endless. I finally wrote to Milton Greenfield, who was then president, that I was tired of running uphill, and that I was abandoning the project. His response was quick. He simply directed me to organize a convention company and to do so immediately.

Convention Coordinators, Inc. was organized as a for-profit company in Montana with Charles A. Saunders, Wesley L. Nutten III, and Bjarne Johnson as the first directors. It has an authorized capital of 50,000 shares without par value, with 5,000 shares issued to the American College of Probate Counsel, now the American College of Trust and Estate Counsel. CCI is a wholly owned subsidiary of ACTEC.

We have no paid employees; office space, secretarial help, telephone service, etc., are all furnished to the College without charge by the office of the president of the company. For a period of time, there was some uncertainty if ACPC should be a share holder of CCI, whether the stock should be held in name of individuals as nominees for the College or whether, for instance, the College should loan the \$5,000 to individuals without interest but with the right in the College to call the stock for the notes. The College ultimately adopted the simplest procedure of purchasing the stock outright. Shortly after incorporation, a contract was entered into with the College appointing CCI as the exclusive agent for the College and other matters with the proviso that the contract could be canceled at anytime by either party without cause.

Wes Nutten and I served on the original Tours and Travel Committee. Wes was a director of CCI from its incorporation in 1982 until his death in 1993; I continue to serve on the board. For a period of years, the third directorship was filled by the outgoing President of ACTEC. In 1987 the Board of Directors was increased from three to seven, and our duties increased to include responsibility for the mid-year meeting and the summer meeting in addition to the annual meeting. All of the directors of CCI are elected annually by the Board of Regents, and the officers are elected by the board of CCI. Currently all of the directors are past presidents of ACTEC.

CCI is run as a business, separate in all respects from the business affairs of the College. We have our own bookkeeping system run by Gerry Vogt who is the Executive Director of the College and is also the Treasurer of CCI. We furnish statements of income, expense and company condition annually to the Board of Regents. All books and records are audited regularly by the CPA firm that audits the College.

The hotel industry was not wildly excited to see us enter the convention business. At the outset, the Hotel Del Coronado in Coronado, California and the Marriott Marco Beach Hotel on Marco Island in Florida declined to do business with us because we were not a registered travel agent. I simply wrote them that we, representing several hundred conventioners, declined to use any hotel that would not recognize us as the agent for the College and that we would not consider their hotel as a viable meeting site now or for any meeting in the future. Within a week both hotels advised that they had changed their policies, and they, of course, would be “delighted” to do business with us.

In a similar instance, we had contracted with the Hyatt Regency Hotel in Maui, Hawaii in 1982 for our 1987 annual meeting. In early 1987, I wrote the hotel for some information about what the rates might be for our meeting. I did not receive a reply. About a month later, I called the hotel, and the sales agent assigned to our case advised me that he was doing business with our executive offices in Los Angeles, and that we were not a legitimate travel organization, but simply a bunch of lawyers and that, furthermore, he did not intend to observe our contract. I promptly wrote him that I viewed the matter differently, and, among other things, advised him that if he chose to disregard our contract, he did so at his own risk and that I would take whatever action I thought appropriate. The day he received my letter, he called my office three times to say it was all a big mistake, and that the hotel would of course observe our contract and would pay a commission, and it did. Today, we do not know of a hotel that is not willing to do business with us, nor do we know of a single hotel that would not like to see us disappear from the scene.

Since incorporating in 1982, Convention Coordinators, Inc. has been very successful financially. The income received from commissions and interest on the bank account from the date of incorporation up to and including the year 1990 amounted to \$342,733.50. In addition, significant sums have been received for conventions held in 1991 and 1992. All of the income received by CCI has been paid to or devoted entirely for the use and purposes of ACTEC.

In addition, the use of our own in-house convention agency, has made significant other income available to us. Instead of the “breakage” going to a travel agent, it all now comes directly to the college. Since 1982 up to and including 1990, this has amounted to the sum of \$304,733.00. Gerry Vogt has excellent records of attendance at all of our functions. She has an uncanny ability to predict the hotel services required for any event and, as a result, we are able to make very accurate guarantees to the hotels.

## **SITE SELECTION**

Several Fellows have asked, “How do you select a hotel?” As a general rule, we try to move around the country for our annual meetings by holding meetings on both coasts, Hawaii and Arizona. A March meeting requires that we select a warm climate. The dates vary simply because in high season we cannot always get the exact date we would like to have and we must take what is available. It is difficult to please everyone; some Fellows prefer that we do not hold a convention during spring break because they would like to be home with their children, while others prefer that we have the convention during spring break so they can bring their children.

We subscribe to a publication entitled *Official Meeting Facilities Guide*, which lists approximately 1,300 meeting sites. It provides for each hotel listed such details as capacity, key personnel, location, transportation, accommodations, food services, support facilities, principal areas, meeting and convention services and equipment for each site. We can determine very quickly, without leaving home, if a hotel or resort destination has the capacity to handle our group properly. In a commercial sense, hotels and resorts are suppliers of goods and services, and CCI is the purchasing agent for the College.

It usually takes a full day and frequently longer to make an adequate inspection of a single hotel or resort facility. We cover the entire grounds, the meeting facilities, the outdoor areas, all food facilities and spot check a number of rooms. In a room we look for the size of the bed, the bedroom furnishings, room fragrance—whether it smells smoky or musty—the size of the bathroom and which amenities are furnished, cleanliness of the floors, bath tub, shower and sink areas. Based on our observations, we try to decide if overall, the room would be acceptable to our Fellows and their spouses.

Then we simulate the meeting; we run through the list of meetings and special events for the week and evaluate the facilities available to us. We learn what compromises we must make because of space limitations. We visit with grounds keepers, bellhops, maids, waitresses and all other support people our Fellows are likely to come in contact with. Unless we find a good attitude, we are apt to look elsewhere.

Each year, approximately a month after the conclusion of the annual meeting, the president, president-elect, vice-president and executive director of the College and the president of CCI visit the hotel scheduled for the next annual meeting. The group critiques the last meeting—what went well and what needed improvement. Each place is unique and we try to adjust to the facilities available to us.

Convention Coordinators, Inc. is responsible for selecting the site for the annual meeting. The president of the College selects the meeting site for the fall meeting; CCI is responsible only for the contract terms.

A major difficulty in dealing with hotels is that the agent with whom we deal in the first instance, when we are contracting, is never there when it comes time to put the contract into operation. Given the long lead time between selecting the hotel and the actual meeting, the contracts are fairly loose in terms and, of course, any contract can be interpreted differently if a party really wants to. Part of the problem arose because of our method of operation.

For a period of several years, we used to visit three hotels that we thought were suitable for holding an annual meeting. We hoped to stimulate some competition among the hotels. We would take from each an option on a certain time frame and method of arriving at costs of the different categories of rooms, always including a provision for a commission to CCI. The Site Inspection Committee, usually three persons, would agree on which hotel of the hotels visited was most suitable for our purposes. If the Board of CCI approved the choice we would ask the Board of Regents to accept the selection and authorize CCI to enter into a contract. Either the President of CCI or the Executive Director of the College would notify the hotel of its selection and ask for a formal contract. When the sales manager of the hotel learned that his particular facility had been chosen, he knew we were committed and could not readily go anywhere else. We tried to complete the proposals by letter and by telephone, but never very successfully. We would suggest language for the contract, which the hotel would ignore and rewrite to suit their purposes. They would then send us a contract proposal that had to be signed and returned immediately or lose the option.

We are now trying a new system, and I think it works better than what we had before. Now we submit three hotels to the Board of Regents and ask the Board to give us authority to contract with any one of the three that we think is suitable for an annual meeting on terms that we find acceptable. When we deal with a hotel agent who has the authority to act, it works very well. When we deal with an agent who does not have authority to act, we are back where we were under the old system. What happened to us in 1990 illustrates the point very well.

We had prior approval from the Board of Regents to deal with the Caribe Hilton in San Juan, the Cerromar Beach Hotel in Puerto Rico and the Princess Hotel in Scottsdale, Arizona. The local sales agent at the Caribe Hilton only had authority to show us the hotel. Any contract proposal had to come

from the Hilton West Coast office or the New York City office. I spoke at some length with the Hilton agent in New York who said that either he or the West coast agent in Los Angeles would furnish us with a proposal. If either one of them ever did furnish us with a proposal, it never came to me. In the end it did not matter as we were not much interested in the Caribe Hilton.

The sales agent on the grounds of the Cerromar Dorado Beach Hotel had authority to show us the grounds and facilities, and a sales agent from the Hyatt Regency national office in Los Angeles came to Puerto Rico to negotiate the terms with us. However, she had no authority to commit the hotel. Mal Moore, Gerry Vogt and I went over with her in some detail the contract proposal that had previously been submitted to us by the Hyatt offices in New York. We required a substantial number of changes and the Los Angeles agent said she would try to get the changes approved by the New York offices. A revised contract was received from the Hyatt on December 6, 1990.

The revised contract contained several provisions that we had requested, though not necessarily in the language that we would have preferred. But the New York agent had also inserted an additional provision to the effect that if we were going to contract with the Cerromar Dorado hotel for our 1995 meeting, we must also, in the same contract, commit to hold our 1997, 1998 or 1999 annual meeting in a Hyatt hotel then under construction in Hawaii. The proposal also contained the condition that we must accept and sign both contracts by December 20, 1990 or lose the option to hold our meeting at the Cerromar Hotel.

The requirement that we must sign contracts with two hotels in order to get one hotel for our 1995 meeting was never suggested to me by any Hyatt representative nor was it a part of the contract proposal originally submitted to us. We did not sign the contract.

Our experience with the Scottsdale Princess Hotel in Scottsdale, Arizona, was entirely different. We met with the director of sales and the manager of sales and marketing administration, who were both authorized to act and did so. Again, Mal Moore, Gerry Vogt and I went over the original contract proposal submitted to us with the director of sales and the manager of sales and the contract was substantially rewritten while we were there in language that we helped to construct. When we finished meeting, we had a contract that was acceptable to both parties.

Our new procedure has some rough spots that we expect to be worked out. For one thing, CCI should insist that we negotiate contract terms only with hotel personnel authorized to act. Without that requirement, we will have gained nothing by changing our method of operation.

In order to get the hotel that we want at the time of the year that we want it, we almost always have to contract at least five years in advance of our expected meeting date. All of the terms of the contract can be definite and certain, except the room rates. We have been trying to find an objective standard at the time of contracting to fix room rates five years hence.

When we started out in the business of contracting convention dates with hotels, we were led to believe that rack rates and group rates were published rates and that all groups got the same rate. Early on we used to contract on the basis that group rates, when published, would apply to our contract at the time for performance. From experience, we soon learned that the term "group rates" was meaningless. From the standpoint of the hotel, the term simply meant the rates established by the sales agent one year in advance of the meeting. Under the circumstances, we had little choice other than to accept what we were given. The sales agent knew and we knew that one year in advance of our meeting we could not go anywhere else.

We next tried inserting a provision in our contract that the group rate given to us would be the same rate given to any other group meeting in the week before and the week after our meeting. We found that in trying to implement this provision and arrive at a fixed rate for our meeting, the hotel declined to give us the names or rates for any group meeting either before or after us. We eventually compromised at a rate that was significantly better than the rate first proposed to us as their group rate.

Many hotels publish what they call their “rack rate,” which is essentially the rate hotels claim they charge the “frequent individual traveler” (“FITS”). It is supposed to be the rate that a hotel reservation service would quote if an individual should call for a room. Very few hotel guests pay rack rates because they are frequently discounted to senior citizens, corporate travelers, weekend specials, club memberships, special promotions, or any other gimmick the hotel industry can contrive to sell rooms. Most of our contracts now provide that our group rate will be the rack rate prevailing at the time of our meeting discounted by 15 to 35 percent, depending on the hotel and how anxious they are to do business with us. In addition, a 10 percent commission is payable to Convention Coordinators, Inc.

I do not think our current system works very well, but it is the best one we have been able to devise so far. All of our contracts provide that they will give us one complimentary (“comp”) room for each 50 rooms rented. The first contract proposal submitted to us usually provides that the number of comp rooms will be determined on a daily basis. In other words, if we use 46 rooms on a single day, we would not receive a comp room. In all instances, we insist on comp rooms being calculated on a cumulative basis, which means that we total the room nights that we use for the entire convention and divide that number by 50 to determine the number of complimentary rooms we are entitled to.

Until 1984, CCI did not sponsor any pre-meeting or post-meeting tours. Such tours had been discussed, but no action was taken. In 1984, we arranged a post-meeting cruise on the *Skyward*, a Norwegian Cruise Line ship, for a cruise into Mexican waters. It proved to be a very popular venture and was successful financially as well. The first cruise was followed by two more, one on the *Norway* and the third and final trip on the *Southward*. The cruises proved to be a lot of extra work for CCI and the executive offices of the College, and CCI no longer plans pre- and post-meeting tours, although such tours are occasionally planned by the national office.

## IN CONCLUSION

President J. Thomas Eubank, writing in *Probate Notes*, Fall, 1984 touched on a problem that was raised as early as 1972. Tom wrote:

Finally, I comment on a matter of both quantity and quality we are beginning to face. If the membership of the College increases too much, the quality of the College will change, at least with respect to our annual meetings, which are by far our most important events. With a membership of about 2,500, we had about 440 Fellows at our last annual meeting. Spouses and others brought total attendance to well over 800. With those numbers, we are straining the capacities of hotels suitable for our annual meetings in our present format: high quality resort hotels in warm climates during February, March, and April. The number of such hotels with the capacities needed is adequate now, even though that number is quite limited.

The problem that Tom touched on has become very real. We now require a room commitment of 600 rooms and there are not many resort hotels that have the capacity, and even fewer that will commit that many rooms in the resorts' “high season.” In addition, we also require meeting rooms with a large capacity. Even though the hotel industry has been over built, we are not aware of more than one hotel

now under construction that appears to have the capability to host our annual convention. As a matter of policy, we in CCI try to find a new and different location for each of our meetings. We may not be able to continue to do this.

In 1981, the mid-winter meeting of the Board of Regents became the annual meeting of the Board and the Fellows of the College. At that meeting, some questions were raised concerning the greater length of the annual meeting. Some felt that it made it harder to carve out the time to attend, but others said they liked the extra day. President Arthur Peter (1980-1981) pointed out that the extra day gave us the ability to have the workshops repeated so that members were able to attend more of the workshops. Whether we should continue to have seminars only in the morning with the afternoons free for private or social events was also discussed.

The August meeting, which had been referred to until now as the annual meeting, became the "Summer Meeting." Initially only a few select committees were permitted to meet during the day; presently only a couple of committees do not meet in the summer and, beginning with the 1997 Summer Meeting, a professional program is now offered. There is a dinner open to all Fellows of the College.

The problematic timing of this meeting, which had always been held along with the ABA annual meeting, had been under consideration by the Board of Regents for some time. In the Fall 1991 issue of *ACTEC Notes*, President Houghton reported that:

On the recommendation of the Executive Committee, the Board of Regents decided to break the Summer Meeting away from the ABA annual meeting starting in the summer of 1994. The 1992 and 1993 Summer Meetings will continue to be in conjunction with the ABA annual meetings in San Francisco and New York City as scheduled. Starting in 1994, the President will have the discretion to decide on the time and location of the summer meeting.

In 1981, the fall meeting was added to the College's schedule of regular meetings. Initially it was limited to the Board of Regents and a few committees which had specific permission to meet. No professional programs were offered. Under President Malcolm Moore's direction, this was changed for the 1988 Fall Meeting in Kansas City, Missouri. It was a one-day educational meeting on financial planning open to all Fellows of the College who registered for it. A modest registration fee was required and the educational program was held the day before the Regents meeting.

While a fall educational program was just an experiment in 1981, ten years later it was an essential part of the meeting. President Houghton, in *ACTEC Notes*, Fall 1991, tells us how successful the fall meeting had become:

The Fall Meeting has grown in leaps and bounds in recent years. At the Fall Meeting in Kansas City four years ago, the registration was 216. Last year at The Homestead, 357 attended and some could not be accommodated. This year at the Breakers, we expect an attendance of over 400. I suspect this trend will continue as some Fellows have come to enjoy the fall meeting as a nostalgic reminder of how the annual meetings used to be not so very long ago. In the fall we are able to go to very special places like The Breakers and The Homestead, which is not possible for our Annual Meeting. This year, the fall meeting will be further expanded with a meeting of the State Chairs on Sunday afternoon, November 3. The State Chairs have been invited to attend the Board of Regents meeting on Monday.

The Annual Meeting has remained very popular. The excellence of the professional programs in combination with pleasant and attractive meeting sites have attracted more and more attendees at each meeting. (For a list of all the meetings of the College, see Appendix 1. For information on attendance, see Figures 4 through 6 in the chapter entitled “The National Office—Then and Now.”) In an effort to make newcomers feel welcome, the practice instituted by President Cantwell at the Hilton Head meeting of putting a red dot on the name badge of each first time attendee has continued to the present day and helps to bring first-timers into the mainstream of activities immediately.

Both the College and Convention Coordinators, Inc. have come a long way since the early efforts of the Tours and Travel Committee. The lessons learned in site selection and meeting planning over the years, together with the practical benefits of the pro forma contracts developed and fine-tuned with each meeting, have resulted in an efficient and organized planning process that produces highly productive and successful meetings.

In the Summer 1991 issue of *ACTEC Notes*, President Houghton noted that at the annual meeting of the College in Hilton Head, “In [a]... landmark passing of the torch, Bjarne Johnson of Great Falls, Montana, retired as the first...president of Convention Coordinators, Inc.” Four past presidents of ACTEC who have since taken that role, Malcolm A. Moore (1991-94), Rodney N. Houghton (1994-97), James M. Trapp (1997-99) and L. Henry Gissel, Jr. (1999- ), have proved to be worthy successors.

# **T**HE JOSEPH TRACHTMAN LECTURES ■

*by J. Pennington Straus*

The Joseph Trachtman Lecture, presented each year at the ACTEC Annual Meeting, began in 1974. For the first two years, however, the lecture was known as the “Learned Lecture.”

The first Learned Lecture was given in 1974 by Alfred C. Clapp, former Judge of the Superior Court of New Jersey and widely known throughout the state as the leading expert on Probate and Trust law. The title of his lecture was “Postmortem Planning.” The following year, Edward C. Halbach, then Dean of the Law School of the University of California at Berkeley, gave the lecture entitled “Uses of Trusts in Estate Planning.”

When Joseph Trachtman died on October 15, 1975, six months after Ed Halbach's lecture, the Board of Regents proclaimed that the Learned Lecture would thereafter be known as the “Joseph Trachtman Memorial Lecture,” which has been its designation ever since. The first “Joseph Trachtman Memorial Lecture” was given in 1976 by M. Carr Ferguson; it was entitled “Income in Respect of Decedent: Liquidation or Sale of Business Interests.”

**The American College of Trust and Estate Counsel  
—Learned/Joseph Trachtman Lectures—**

1974	Alfred C. Clapp	Post Mortem Planning
1975	Edward C. Halbach	Uses of Trusts in Estate Planning
1976	M. Carr Ferguson	Income in Respect of Decedent, Liquidation or Sale of Business Interest
1977	Luther J. Avery	Role of the Lawyer as a Fiduciary
1978	John G. Simon	Charity and Dynasty Under the Federal Tax System
1980	William P. Cantwell	Man + Woman + Property = ?
1981	Malcolm A. Moore	The Will Regenerate: From Whipping Boy to Workhorse
1982	J. Pennington Straus	Preparation, Probate and Prophecy
1983	Edward B. Winn	The Estate Lawyer
1984	Louis S. Auchincloss	A Writer's Use of Fact in Fiction
1985	George Gilder	Wealth, Poverty and Inheritance: The Voice From the Coffin
1986	J. Thomas Eubank	Attitudes Toward Wealth
1987	D.W.M. Waters	The Trust as a Picture of the Family: Yesterday, Today —and Tomorrow?
1988	John H. Langbein	The Twentieth-Century Revolution in Family Wealth Transmission and the Future of the Probate Bar
1989	A. James Casner	Estate Planning—Past, Present, and Possibly a Different Future
1990	L. Henry Gissel, Jr.	Reflections of a Fellow on Lawyers, the Law and the Rule of Law After Thirty-Odd Years of Exposure
1991	Richard B. Covey	Reflections on Tax Writing and the Regulatory Process as It Affects Trusts and Estates
1992	Lawrence W. Waggoner	Marital Property Rights in Transition
1993	Pierre S. DuPont, IV	Tax Policy and the Economy: Can the Tail Wag the Dog?
1994	Geoffrey F. Hazard, Jr.	Conflict of Interest in Estate Planning for Husband and Wife
1995	Joseph Kartiganer	Equity, Efficiency and Administrability: Achievable Goals
1996	Roberta C. Ramo	Musings of a Family Lawyer
1997	Robert A. Stein	Probate Reformation: The Impact of the Uniform Laws
1998	Burton G. Malkiel	Modern Financial Theory
1999	Edward C. Halbach, Jr.	Uniform Acts, Restatements and Other Trends in the Trust Law of ACTEC's Future

**Figure 1** The Learned/Joseph Trachtman Lectures, 1974-1999

Traditionally, the Trachtman Lecture is one of the best attended of all the professional programs of the College during the course of the Annual Meeting. Many spouses attend the lecture, and consequently the lectures that have the broadest appeal are those that are directed less to the technicalities of the law than to the broad aspects of its social, cultural, economic and political consequences in our systems of transferring property at death.

It is one of the prerogatives of the President of the College to choose the lecturer who will give the presentation when he or she is presiding over the annual meeting. It is one of the major responsibilities of the President, and a review of the names of the lecturers over the years (Figure 1) makes it clear that the Presidents have thought carefully and chosen well. In addition to lawyers who have made their names nationally in specialties related to the probate, trusts and estates practice and who, in most cases, have been members of the Board of Regents or presidents of the College, there are a number of academicians and one famous literary figure, Louis S. Auchincloss, who was also an ACTEC member.

The Joseph Trachtman Memorial Lecture is one of the great traditions of the College and the lecture was published annually as *The Probate Lawyer* through 1997 and thereafter in *ACTEC Notes*.

# **T**HE UNIFORM PROBATE CODE ■

*by J. Pennington Straus*

Over its almost fifty years of existence, the College has been involved in many projects for improving and reforming the law relating to the transfer of property at death, including, of course, tax problems and estate planning. Perhaps the major undertaking by the College in support of law reform was its joining in 1970 the Section of Real Property, Probate and Trust Law of the American Bar Association and the National Conference of Commissioners on Uniform State Laws to form the Joint Editorial Board for the Uniform Probate Code.

To get a picture of the development of the Uniform Probate Code, it is necessary to say a word about its origins. At the Annual American Bar Association Meeting in San Francisco in 1962, I became Chairman of the Real Property, Probate and Trust Law Section of the ABA and adopted as a program for my incumbency a review and update of the Model Probate Code. The Code had been produced under the direction of the Section by Lewis M. Symes, then professor of law at the University of Michigan Law School, and Paul E. Basye, then of the San Francisco Bar and formerly a research associate at the Law School of Michigan. This Model Probate Code was published by Callaghan & Company in Chicago under the auspices of the University of Michigan Press in 1946. However, by 1962 it had become outdated. In its day, it had considerable impact on the development of probate law, but it was narrow in its concept and clearly needed review.

<b>Original and Successor Members of the Joint Editorial Board*</b>			
<i>*bold type indicates member represented ACTEC on the Board</i>			
1971	<b>J. Pennington Straus</b>	1978	Robert A. Lucas
1971	Peter J. Brennan	1979	Robert A. Stein
1971	<b>Harrison J. Durand</b>	1980	Edward C. Halbach, Jr.
1971	William I. Marschall	1983	<b>Harley J. Spitler</b>
1971	Malcolm A. Moore	1984	Richard W. Effland
1971	Charles Horowitz	1985	James R. Wade
1971	Clarke A. Gravel	1986	John H. Langbein
1971	Allan D. Vestal	1987	Jackson M. Bruce, Jr.
1971	Eugene F. Scoles	1988	Lawrence W. Waggoner
1971	Joe W. Worley	1989	<b>Charles A. Collier, Jr.</b>
1972	Richard V. Wellman	1989	<b>Raymond H. Young</b>
1973	J. Thomas Eubank, Jr.	1992	<b>Joe C. Foster, Jr.</b>
1975	Bert McElroy	1992	Mary Louise Fellows

**Figure 2** Original and Successor Members of the Joint Editorial Board

Through the efforts of Harrison Durand and myself (I was acting at that time for the ABA Section), the National Conference of Commissioners on Uniform State Laws (NCCUSL) was approached; with the help of William J. Pierce, Director of Research of the Commission, it then became a project of the NCCUSL. The first reporter was William F. Frachter of the Law School of the University of Missouri. A group of lawyers, supported initially by the Law School of the University of New York under Dean Russell D. Niles, was formed and the effort to update the Model Probate Code began; the goal was to rewrite it as a “uniform” rather than a “model” code. The difference, as far as the NCCUSL is concerned, is that a “model” code is largely intended to provide information and guidance for state legislatures; a “uniform code,” on the other hand would have as its objective introduction in all state legislatures for the purpose of achieving national uniformity.

When Mr. Frachter received an assignment that took him to England for a year, he was succeeded by Richard V. Wellman, Professor of Law at the Law School of the University of Michigan, who became the reporter for the Code and gathered behind him a distinguished group of academicians and practitioners who, in due course, produced a full draft of a Uniform Probate Code. This draft was then approved by NCCUSL and by the Real Property, Probate and Trust Law Section of the ABA, and tendered to the House of Delegates of the American Bar Association in August of 1969, where it was approved. Thus began its history!

In the years following its adoption by the American Bar Association, the Joint Editorial Board for the Uniform Probate Code and the Commissioners of the various jurisdictions worked to bring the Code to the attention of local legislators. Generally speaking, the approach was made through the state bar associations, especially those sections related to probate and trust law. Members of the Joint Editorial Board lectured throughout the country, covering over thirty different jurisdictions. The western states were immediately interested in the Code for the reason that, in great part, their statutory arrangements for a probate, trust and estate administration were often inadequate and not well organized. Colorado

was one of the first states to adopt the Code, soon followed by North Dakota, Arizona and New Mexico. The California Bar Association appointed a special committee that made an extensive study of the Code, which it published; in essence, it rejected the Code for California, but accepted some of its provisions.

In the East, Maine adopted the Code almost verbatim, as did New Jersey. Pennsylvania, which had seventeen different statutes covering the area of probate, trust and estate administration, adopted a code known as the “Probate, Estates and Fiduciaries Code,” following in format the Uniform Probate Code and adopting many of its provisions—making it a Uniform Probate Code state.

As of December 1995, the following twenty states had substantially adopted the code: Arkansas, Alaska, Alabama, California, District of Columbia, Idaho, Maine, Michigan, Minnesota, Montana, Nebraska, New Jersey, New Mexico, North Dakota, Pennsylvania, South Carolina, South Dakota, Utah, Washington and Wisconsin.

From the time of the Code's adoption in 1970 to 1991, the Joint Editorial Board met two or three times a year and reviewed the Code. The members made changes as necessary, including technical corrections resulting from Court decisions and criticism received from various sources, and refinements based upon a regular review of past work.

The most monumental reform was a redrafting of Article II, which, in many ways, is the most important Article of the Uniform Probate Code, covering the substantive law relating to intestacy, spousal elective share, execution of wills, interpretation of wills, class gifts, lapsed legacies, remainder interests and adopted children. Also a part of Article II is the new Uniform Statutory Rule Against Perpetuities.

Article II was set up as a free-standing Statute, as was the Uniform Statutory Rule Against Perpetuities. The latter proposes a ninety year cut-off date for the validity of future interests. USRAP, as of July 1992, had been adopted by twenty jurisdictions of the United States, including California, Colorado, Connecticut, Florida, Georgia, Hawaii, Indiana, Kansas, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Oregon, South Carolina, and West Virginia. It is obvious that this particular reform has had broad appeal.

One of the most popular provisions of the Uniform Probate Code is Section 5-501 (Article II), which set forth for the first time the principal of the “durable power of attorney,” which has been adopted as a self-standing statute in all fifty jurisdictions of the United States.

The Joint Editorial Board continues in existence today, meeting regularly, modifying and improving the Code, supported by the College, the ABA Section of Real Property, Probate and Trust Law and NCCUSL.

# **A**CTEC AND TAX LEGISLATION ■

## **Part One**

*by J. Thomas Eubank<sup>10</sup>*

Until 1976, the College did not actively attempt to assist the Tax Committees of Congress, their staffs, Treasury and the Service in connection with the formulation of IRC provisions, regulations, rulings, and other tax laws. From time to time, beginning in the 1960s, the ABA Section of Real Property, Probate and Trust Law (“the ABA Section”) had attempted to start some of that work on a limited scale, but had met with great frustration in that attempt because of the preemptive position of the ABA Tax Section and because of ABA restrictions on the activities of the sections. It was during the middle 1970s that some of the Officers of the College and the ABA Section realized that the College ought to be the vehicle for conducting these tax activities in Washington.

The ABA Section's only activity was to put on, with the ABA Tax Section, the massive institutes, attended by approximately 5,000 lawyers, during the Fall of 1976 about the 1976 Tax Act. During the institute, it became apparent that our activities in Washington had to be put on serious footing because the monumental changes of the 1976 act had occurred without our involvement. William P. Cantwell (president 1975-76) characterizes the College’s involvement with the Tax Act of 1976 and tax legislation, in general, thus: “what was valuable about our participation was that we had, as a single purpose group, a far more streamlined technique of developing positions and working from them than the ABA with its far more hierarchical structure. That served us well in 1976, and it has certainly continued to serve us well since that time. We simply don’t have the bureaucracy that the ABA has in taking a position on any matter and, since we are concerned with the subject matter of our College alone,

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<sup>10</sup>ACTEC President 1984-85; ACTEC Foundation President 1988-89.

we don't have competing demands for the availability of people to give intensive consideration of tax issues." Frank Berall tells the story in more detail in the next chapter.

In the spring of 1977, the staff of Senator Harry Byrd of Virginia telephoned me with an interesting proposal. A staff member had attended one of our ACTEC programs during the Fall of 1976, and had heard me preside and deliver one of the papers. He wanted me, with three others, to appear before the Subcommittee on Taxation and Debt Management Generally of the Senate Finance Committee in order to discuss problems with the 1976 Tax Act. The staff member and I discussed various individuals who might be included, and it was finally decided by us that he would invite Lewis Costello of Virginia (who was Senator Byrd's personal attorney, Doris Blazek of Washington, D.C. (one of the speakers), and Joseph Kartiganer of New York City (another of the speakers). The four of us conferred by telephone, on short notice as I recall, and under a great deal of pressure to put our testimony together very quickly. Our initial problem was to decide on what part of the 1976 Act we should focus our attention. We narrowed it down to carryover basis and generation skipping transfer taxation, and we soon decided to emphasize the former over all else. Each of us prepared his or her testimony separately, although we did try to stay in touch with each other as to the general scope and subject matter of each paper. Finally, we convened in Washington just before the hearing on July 25, 1977, and proceeded on the next day to the hearing room.

The hearing was really the genesis of the attack on carryover basis. The College became very active at subsequent hearings and other activities, and its spokesman was Frank S. Berall, who was Chairman of the Estate and Gift Tax Committee during all of the time in question. Frank could speak for the College, but I could not speak for the ABA Section, much less for the ABA. Hence, all of my preliminary activity was in my individual capacity, although I was often identified as an officer of the ABA Section.

The history of the fight against carryover basis is a long one that I do not remember well enough at this moment to reconstruct in detail. Let me state some of the salient points. The College and the ABA Section stood steadfast for outright appeal. The same cannot be said for the ABA Tax Section, nor can it be said for certain local bar associations on the eastern seaboard. Our opposition repeatedly tried to settle by compromise. The College and the ABA Section maintained that the law was unworkable and unfair in any form. The pressure to settle on a compromise was intense. For example, I, and quite a few others, were summoned on one occasion to the White House where we met with Treasury Department officials in order to hear about their determination to maintain some form of carryover basis or similar tax system. Finally, the ABA itself, through the House of Delegates, voted to endorse outright appeal. The Chairman of the ABA Tax Section and I were designated as the two spokesmen for the ABA. While previously I had appeared in individual capacity on several occasions, thereafter I could appear officially on behalf of the ABA before the congressional committees when testifying, as indicated above. Meanwhile, Frank Berall was appearing officially as the spokesman for the College. Finally, it became apparent that we had the votes in both houses necessary to repeal. President Carter indicated that he would veto any such repeal. Thus, it became necessary for us to find a bill to which we could attach the repeal to that was veto-proof. During this time, the Windfall Profits Act had been winding its way through the legislative process and was nearing enactment. It is ironic that the repeal of carryover basis was attached to the Windfall Profits bill, which was passed and signed by President Carter in 1980. I say ironic because the windfall profits tax was a bitter defeat for any Texan, such as myself, but was offset, at least to some extent, by the very sweet and rewarding repeal of carryover basis.

A second major opportunity for the College and the ABA Section arose in 1980, at a time when Senator Harry Byrd was nearing the end of his time in the Senate. His staff telephoned me and explained that the Senator, before he retired, wanted to have a hearing on the long-range reform and improvement that was needed in the estate and gift tax area. I was invited to put together a panel of four persons, and

this time the selection was left largely to me. I arranged for Dave Cornfield, Edward Halbach, and Frank Berall to accompany me.

There was agreement generally, although the proposals made by each of us were not identical to one another, but there was some sharp disagreement as to some particulars. My recollection is that we proposed almost every change made in the 1981 tax act, including the unlimited marital deduction, the QTIP trust, the increase of the unified credit so as to shelter at least \$500,000 (with a strong argument by me in favor of a higher number), and the increase of the annual gift tax exclusion from \$3,000 to \$10,000. Let me emphasize also that it was Frank Berall who almost singlehandedly pushed for the idea of a QTIP trust.

Many of our colleagues found our proposals laughable, not because they disagreed with them, but because of the unlikelihood that the proposals would even be considered by Congress. I must say that the four of us tended to share the same view of consideration by Congress. Nevertheless, we earnestly attempted to get our proposals on the record. It should be remembered that the November 1980 elections resulted in the defeats of a number of Democratic senators, especially from the Midwest. Many of the Democratic senators who were not up for re-election or who survived the election conducted extensive polls after the elections to determine why the elections were so disappointing for the Democrats. One of the things they found was dissatisfaction with the 1976 tax act. Senator Exon's staff telephoned me late in 1980 or early in 1981 and stated that they had been reviewing the material in our 1980 hearing and that they wanted to have my assistance in the preparation of legislative proposals consistent with our testimony.

After President Reagan had been inaugurated, his tax bill as introduced did not include any estate and gift provisions, although he had campaigned in favor of the complete repeal of the estate and gift tax laws. The amendments setting forth the estate and gift tax revisions that were subsequently enacted as part of the 1981 tax act came from the Democratic side and, as I recall, specifically from Senator Exon's staff.

# **A**CTEC AND TAX LEGISLATION ■

## **Part Two**

*by Frank S. Berall*

The triggering event that began the College's active involvement in trying to shape federal tax legislation in our field was the Ullman proposals (by the chairman of the House Ways and Means Committee, Representative Al Ullman) to completely change the federal estate tax system from a dual transfer tax to an integrated one with an expanded marital deduction, carryover basis for property inherited from a decedent and the first generation skipping transfer tax.

The subject provoked a lively discussion at the Regents meeting during the March 1976 meeting of ACPC in Hilton Head, South Carolina. Rudy Schwartz, the incumbent chair of the ABA's Real Property, Probate and Trust Law Section, convinced the Regents that although the Ullman proposals had only

about a one in ten chance of enactment, the College should nevertheless take an active role in helping to shape legislation that would have a major effect on the practice of its members and the affairs of their clients.<sup>11</sup>

Accordingly, he sponsored a motion to form an Estate and Gift Tax Reform Committee, giving it an initial budget of \$10,000 and the promise of unlimited funding to carry out its mission. The latter was a somewhat broad charge to involve the College actively in the federal tax legislative process.

Following the Regents' meeting, Bill Cantwell (the incumbent College resident) asked me if I would serve with Arthur Peter, Jr., who was at that time both a Regent and a member of the Executive Committee of the College, as co-chair of the newly formed Estate and Gift Tax Reform Committee. I was quite pleased to be asked and accepted at once.

Immediately thereafter, Art and I decided to set up a series of special meetings during the “free” afternoons at the Hilton Head meeting, to obtain guidance as to what positions those members of the College who came to the meetings believed the College should take on the issues raised by the Ullman proposals. A mail poll was subsequently sent to all Fellows. Meanwhile, we concluded that someone from the College should testify at a scheduled hearing of the House Ways and Means Committee on the proposals. The consensus of all concerned was that Bill Cantwell, as president, should do it.

Art and I also discussed with Bill who should be on the committee and the following lawyers were appointed initially: Joseph P. Kartiganer, Fred Velikanje (who was shortly thereafter replaced by Malcolm Moore) and Ray Reister. Subsequently, Luther Avery, Ed Benjamin and John Wallace were added. After 1980, the Estate and Gift Tax Committee expanded and it is now one of the largest in the College.

During the weeks after the Hilton Head meeting, a written statement was prepared by the committee for Bill Cantwell to file at the time he was to give his testimony. Thus, the first Congressional testimony by the College was given by Bill at the House Ways and Means Committee Hearings in April 1976. But these were general hearings and did not deal with specific proposals because there were no pending bills. Consequently, our testimony was general and dealt with the shape of a good estate and gift tax system.

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<sup>11</sup>Charles A. Saunders, ACTEC president 1978-79, provided this personal recollection of this period: “I recall, when at the Hilton Head, South Carolina, meeting of the College, the distinguished Fellow from Manitowoc, Wisconsin, Rudy Schwartz, stood up near the end of the meeting and warned that Congress was about to enact legislation that would have a devastating effect on estate planning—the concept of carryover basis—and that notwithstanding the payment of estate taxes on a date of death fair market value basis, the beneficiary would succeed to the decedent's original tax basis in property. The Executive Committee stayed up half the night composing a position paper on the issue and the battle was joined.

“Before that time, the College had been hesitant to get involved in legislation controversies. From its inception, the College had adopted the position that it would not support one side or the other of an issue, and that such matters would be left to the Fellows in each state. Carryover basis was the first major issue in federal tax legislation which galvanized the College into a force for good federal legislation. The role of Arthur Peter, Jr. and Frank Berall cannot be adequately stressed. Officers of the College and I spent hundreds of hours in consultation with them concerning the strategy which should be followed in defeating carryover basis. There were times when the American College of Probate Counsel stood alone as an opponent to the concept. Other professional organizations, such as bankers and accountants, often were on the verge of giving up, but the College stood firm. Ultimately, a moratorium on carryover basis was declared resulting in its repeal.”

## LATE SUMMER MEETINGS IN WASHINGTON

In July 1976, Art Peter testified before the Senate Finance Committee on the proposed generation skipping transfer tax contained in the Ullman bill.

In late August, when it became apparent that the Ullman bill would be included in the Tax Reform Act of 1976, Art Peter, Frank Berall, George Hauptfuhrer (the incumbent Chair of the ABA's Real Property, Probate and Trust Law Section), and Jack Lombard met in Washington, and spent a full day conferring with key members of the Senate Finance and House Ways and Means Committees. Pre-arrangements to meet with these key lawmakers had been made through the efforts of Edward Benjamin (for Senator Long), John Wallace (for Senator Talmadge), Jack Lombard (for Senator Hugh Scott) and Frank Berall (for Senator Ribicoff and Congressman Cotter). We also met with Senator Curtis and one or two others.

The College's delegation took a strong stand against the adoption of carryover basis, but insisted that if it were adopted, a complete fresh start (grandfathering) be given, a position originally suggested by George Hauptfuhrer. In addition, it urged retention of the \$3,000 present interest gift tax exclusion then in effect and made several other points based upon position papers it had previously filed.

While the bill was being considered by the Joint Senate and House Conference Committee, rumors that carryover basis would be adopted without a fresh start led to incumbent ACPC President J. Nicholas Shriver's poll of the Estate and Gift Tax Reform Committee to determine if an attempt should be made (through Nick Shriver's connections) to persuade President Ford to veto the 1976 Tax Reform Act. A majority of the committee voted to urge a veto if there was not some form of a fresh start but voted against any attempt to try to obtain a veto of the Act if (as actually occurred) the latter included a fresh start.

During the last stages of enactment of the 1976 TRA, the American Bar Association put together a National Institute on the new Act, which drew its faculty from members of its Tax and Real Property, Probate and Trust Sections. Among the panelists on the estate and gift tax portion were ACPC Fellows Luther Avery, Frank Berall, Thomas Eubank and Ed Halbach.

From the fall of 1976 through the summer of 1977, to the best of my recollection, the College tried to digest the major changes in the tax system and explain them to its members, providing educational panels on the new law at its spring 1977 Williamsburg meeting. Gradually, the College realized that the most important service it could perform to its members and the public at large would be to obtain the repeal of carryover basis. It became apparent that to do this would require joint efforts by all of the interested professional groups.

The American Institute of Certified Public Accountants and the American Banker's Association were among the first to come aboard. The Council of the Real Property, Probate and Trust Law Section of the American Bar Association voted for repeal of carryover basis at its summer 1977 Council meeting in Chicago as a result of the strong leadership provided by Ed Halbach, Tom Eubank and Babette Barton. However, the ABA Tax Section remained deadlocked on the subject for two more years.

While the College as such was not represented at the key summer 1977 Senate Finance Committee hearing, Fellows Tom Eubank, Joe Kartiganer and Doris Blazek were invited to testify. Dean Griswold received publicity for the problems the estate of a stamp collector, such as himself, would have under carryover basis. The next few years, until carryover basis was repealed, Dean Griswold's stamp collection was cited at a number of the Congressional hearings.

At a plenary session during the 1978 midwinter meeting of the ABA Tax Section in Scottsdale, Arizona, Associate Tax Legislative Counsel of the Treasury Hank Gutman began a panel on carryover basis by reading a prepared statement (which he was directed to give by Assistant Treasury Section, Don Lubick) heavily criticizing both the Tax Section and the ACPC for sabotaging the Technical Corrections Bill of 1977 in an attempt to obtain a moratorium on carryover basis. He made a personal attack on the Chair of the Tax Section, John Pennell. The next day, Gutman, who was suffering from a bad case of the flu, met with representatives of the ABA Tax and Probate Sections, as well as the ACPC, in an attempt to obtain a consensus on a fix-up rather than a moratorium. At the end of the meeting, he said that he assumed that everyone was now agreed on a fix-up. Acting under explicit instructions that I had received from ACPC President John Rogerson, I strongly objected, stating that the ACPC did not agree with this and Gutman could not return to Washington and represent that all of the professional groups agreed with the Treasury's position. The moratorium proposal, delaying the effective date of carryover basis until the end of 1979, was enacted by Congress.

As a result of this and other developments during 1978 and 1979, the Treasury and the College began to act as if they were enemies, ready to open up on each other with all available artillery. Stuart Eisenstat, President Carter's domestic policy chief, had an "enemies list" which included John Pennell, Art Peter, Tom Eubank and myself.

Beside carryover basis repeal, the Estate and Gift Tax Committee worked on a number of other projects, including the generation skipping transfer tax regulations under the 1976 Tax Reform Act.

In November 1979, the final hearing on carryover basis occurred in the House Ways and Means Committee. The Fisher bill, which would have done a major patch-up job on carryover basis, was being considered. I appeared for ACPC on a panel that had been stacked by the Treasury to favor carryover basis, since it included, among other luminaries, former Tax Section Chairmen Jim Lewis, Don Alexander (who was also a former Commissioner of Internal Revenue) and John Nolan (who was also a former Deputy Assistant Treasury Section for Tax Policy). The panel was quite lively, with debate both among its members and with the Ways and Means Committee. Representative Sam Gibbons and Barber Conable strongly endorsed ACPC's position for repeal of carryover basis.

Carryover basis finally went the way of all flesh. Thereafter, at the landmark Senate Finance Committee hearings on March 24, 1980, Messrs. Cornfeld, Eubank, Halbach and myself, all acting as individuals, provided numerous suggestions for changes to the estate and gift tax laws, most of which finally appeared in the Economic Recovery Tax Act of 1980 about 16 or 17 months later.

I retired as Chair of the Estate and Gift Tax Committee in March 1981 and was followed by John Wallace, who was heavily involved in testimony as the estate and gift tax provisions of the 1981 ERTA were being enacted. Subsequently, other testimony was given by ACTEC about the repeal of Chapter 13.

# **A**CTEC COMMITTEES ■

*by Charles A. Collier, Jr.<sup>12</sup>*

The bylaws in the early 1960s provided for three committees: the Executive Committee, the Nominating Committee and the Membership Selection Committee, and for such other standing committees as the President, Board of Regents or Executive Committee may create from time to time.

Ad hoc committees were appointed from time to time, such as the 1964 committee to amend the bylaws to provide for a president-elect, semi-annual meetings of the Board of Regents and to abolish the office of chairman of the board. In 1965 a Convention Committee was established to plan the Annual Meeting. Special committees were appointed from time to time, such as the Committee for Revised Standards of Admission and Procedures for Processing Nominations established in 1966. In 1967 the Board of Regents authorized the creation of a Regional Admissions Committee to recommend capable probate practitioners to state chairs. In 1968 the Budget Committee was created to review the proposed budget and make recommendations to the Board of Regents. At the same time a Special Membership Committee was appointed to review the situation in states which were under represented in the College. By 1969 the committee structure included Budget and Finances, Convention, Future Objectives of the College, Liaison Committee-Model Probate Code, Meetings, Membership Procedures, Modernization of Drafting Practices and Specialization. There was also at that time a Special Committee on Convention Sites. In 1971 additional committees were established as follows: Legal Studies, Publications, Future Objectives, Specialization, Formation of State Chapters, London Meeting and Membership. In 1973 the Committee on Professional Standards and Specialization was established.

The committee structure was reexamined in November 1973, when the Executive Committee recommended the establishment of “a committee structure which will extend to the Fellows an opportunity to serve on committees engaged in the study of particular areas of probate law. The

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<sup>12</sup>ACTEC President 1996-97.

Executive Committee hopes that these committees will develop in-depth reports either for publication or for the formulation of policy positions to be taken by the College.” A Committee on Committees was established to implement this proposal. The minutes of the Board of Regents meeting in March 1974 stated that the purpose of the Committee on Committees was “to establish groups which would work on worthwhile projects...and that it would be intended that only those functions and subjects that required investigation and work for which our members are qualified would be established....”

In 1976 the Legislative Committee on Estate and Gift Tax Reform was created. The minutes indicate “it was determined that the College should take an active interest in federal estate and gift tax legislation and should have a representative at congressional hearings.” The minutes of the Board of Regents on August 6, 1976, contained the following resolution:

RESOLVED that the Executive Committee be, and it is hereby authorized, to make, after consultation with the Committee on Federal Estate and Gift Taxes, policy decisions as to substantive and technical positions to be taken by the Committee on federal estate and gift taxes with respect to pending federal estate and gift tax legislation and regulations and rulings thereunder.

In 1976 an Office Management Committee was created. In 1976 the Board of Regents first discussed the establishment of an ACPC Foundation under Section 501(c)(3) of the Internal Revenue Code.

By 1977 the committee structure consisted of the following: Professional Standards, Fiduciary Accounting, Bylaws, Budget and Finance, Uniform Probate Code, Probate Law Reform, Membership Selection, Estate and Gift Tax, Nominating and Studies. At that time, it was recommended that a long range planning committee also be established. In 1979 the Board of Regents created a Tours and Travel Committee. In 1980 a National Will and Trust Forms Committee was formed. Reports were received by the Board of Regents in 1980 from a number of committees, including the Long Range Planning Committee. At the Board of Regents meeting in February in 1980, the Professional Standards Committee proposed Standards I and III for adoption by the College. Standard I provided:

A Fellow is expected to testify as an expert witness in accordance with his professional judgment, regardless of by which side called, in a lawsuit alleging attorney malpractice in the field of trusts and estates. The witness shall be entitled to receive a reasonable fee and expenses.”

Standard III provided:

Whenever a Fellow undertakes to write or speak publicly on any aspect of the law, he shall have an in-depth and current understanding of the subject matter or he shall associate with him in the preparation of such writing or public speaking a person who has such understanding.

The proposed standards were submitted to the membership for consideration and were approved at a subsequent meeting by the Regents. In 1981 the Long Range Planning Committee proposed the creation of the Implementation Committee. The function of that committee was “to determine policy matters necessary to implementation of programs adopted by the College and to recommend to the Board of Regents, from time to time, such as additional programs as it deems best suited to carry out the purpose of the College to respond to adverse publicity affecting the College, probate lawyers and probate generally both on a short term and long term basis, including, but not limited to, recommendations that

may be received from time to time from other committees and which are approved by the Board of Regents.”

In 1982 a new Committee on Counseling the Bereaved was created and that same year Convention Coordinators, Inc., the wholly owned travel agent of the College, was established as a Montana corporation. The Long Range Planning Committee recommended the formation of a charitable foundation under IRC Section 501(c)(3), and a support organization under IRC Section 509(A)(9) with respect to the College which is an IRC 501(c)(6) organization. The Board of Regents at that time adopted a resolution calling for the creation of the Foundation, a nonprofit corporation under the laws of the state of California, as a public benefit corporation.

The Board of Regents, in the fall of 1982, reviewed the three basic classes of committees. They were standing committees, namely, Executive, Nominating, Bylaws and Manual, Editorial Board, Finance, Membership Selection, Office Management and Professional Standards; “sunshine committees,” which expire at the end of the year unless reappointed by the president-elect; and “special committees,” such as the Long Range Planning Committee. The Regents' minutes indicated that the desirable size of committees is seven members, but for larger committees there should be a “steering committee” of not less than seven persons. The November 1982 minutes of the Board of Regents includes a report on the Transfer Tax and Fiduciary Income Tax Study Committee which then had two projects, namely an accessions tax project and a review of Subchapter J.

In early 1983 the committee structure was again reviewed to determine the charge, size and content of each committee. Several committees at that time were abolished, and new committees were created. The standing committees at that time consisted of the Bylaws and Manual, Editorial, Executive, Finance, Membership Selection, Nominating, Office Management and Professional Standards. The special committees were Counseling the Bereaved, Convention Advisory, Estate and Gift Tax, Income Taxation of Estates and Trusts, Long Range Planning, Program, State Laws, and Transfer and Fiduciary Income Tax Study. Two special committees were also appointed at that point, a Task Force for Reappraisal of Subchapter J and a Committee on State Action Guidelines. In 1984 a new Committee on Employee Benefits In Estate Planning as well as a Fiduciary Income Tax Committee were created. In 1984 a Transfer Tax Study Committee and an Accessions Tax Study Committee were created.

A Computer Task Force had been in existence for several years. It was disbanded and replaced by a Computer Committee in 1989. In that same year, a new Expanded Practice and Personal Counseling Committee was established which replaced the Financial Planning Committee which had existed for several years but was terminated. A proposal was made to create a task force for the elderly. The task force was to include representative from the State Laws Committee and from the Expanded Practice Committee.

In 1991 two new committees were added, a Committee on Elder Law, Guardianship and Health Care Law and a Committee on Fiduciary Litigation. These two committees were formed from a number of subcommittees dealing with those topics working through other then-existing committees, such as State Laws, Expanded Practice, etc. The committee structure in 1992 included the following standing committees: Bylaws and Manual, Editorial, Executive, Office Management, Professional Standards and State Laws. The special or other committees that were in existence were Employee Benefits in Estate Planning, Estate and Gift Tax, Fiduciary Income Tax, Fiduciary Litigation, Transfer Tax Study, Program, Expanded Practice and Personal Counseling, Computer, and Elder Law, Guardianship and Health Law.

At the fall meeting of the Board of Regents in 1992, the Computer Committee requested a name change to the Technology in the Practice Committee. The Expanded Practice Committee requested a name change to Practice Committee, both of which were approved.

In 1992 an Historical Commission was also appointed to develop a written history of the College which will observe its 50th anniversary in 1999. In 1994 additional committees were created, namely, an Environmental Law Committee, a Business Planning Committee and a Demographics Committee. In 1995 a Charitable Planning and Exempt Organizations Committee was created.

In 1996 an Audit Committee was created. In 1997 an International Estate Planning Committee was created, and the Office Management Committee at that time was abolished. The Demographics Committee, created in 1994, completed its work and was dissolved.

The committee structure has expanded over the years and committees have been created or dissolved to reflect the changing interests of Fellows of the College. In more recent years, a number of committees have been created dealing with various aspects of tax law, such as the Business Planning, Charitable Planning, Employee Benefits in Estate Planning, Fiduciary Income Tax and Transfer Tax, and International Estate Planning Committees, reflecting the ever increasing importance of federal tax law on the trust and estate practice. Committee membership has greatly expanded over the years. While statistics are not available as to committee size in the 1960s and 1970s, most of those committees were quite small. During the last ten years, the number of committee members has nearly doubled. For example, in the 1988-1989 year there 241 Fellows serving on committees. By 1997-1998, that number had increased to about 490 Fellows.

Committee chairs have been limited to a three-year term, but there has been no formal limitation on the number of years a Fellow could serve on a particular committee. Starting in 1994, adjunct memberships were available to Fellows entitling them to receive the minutes and all committee material. Adjunct membership is now available for the various tax committees and the Fiduciary Litigation Committee. *ACTEC Notes* in recent years has also periodically run information about committee meetings and projects for the general information of the Fellows.

In recent years, about 65 percent of the Fellows serving on committees regularly attend committee meetings. The College for some time has reimbursed committee members for part of their expenses in attending the summer and fall national meetings of their committees. Reimbursement originally was \$500 per meeting, later was increased to \$600 and then, because of budgetary constraints, was reduced to \$400 in 1994 and reduced further to \$350 per meeting in 1998.

The committees often have been referred to as the lifeblood of the College. They stimulate discussion on cutting edge topics and issues involving estate planning, fiduciary litigation and probate and trust administration and have also been the source of numerous articles for *ACTEC Notes* and numerous programs presented at ACTEC national meetings.

# ACTEC PUBLICATIONS ■

by Waller H. Horsley<sup>13</sup>

Leon Schaeffler of New York City instituted the College's "Studies" project, designed to correlate the probate laws of the various states and compare fee schedules for personal representatives, trustees and attorneys in each state, early in the 1950s. He also started the College's quarterly *Newsletter*, which, in 1975, evolved into *Probate Notes*, which was in turn renamed *ACTEC Notes* in 1990.

By the mid-1950s, a digest of each state's probate laws had been expanded and made more reliable, and the *Newsletter* became more widely distributed, "giving credence and respectability to the association," in the words of J. Stanley Mullin (Chapter 1).

## ***PROBATE/ACTEC NOTES***

Harold I. Boucher served as editor of the *Newsletter* from fall 1969 until early 1975 when *Probate Notes* was introduced under the editorship of J. Nicholas Shriver, Jr. Its first edition included an article on the Uniform Probate Code by Donald H. Kelley of Nebraska, a comment on conforming charitable remainder interests under the new law by Douglas M. Cain of Denver, an article on using Treasury bonds to pay federal estate taxes by William P. Sutter of Chicago, comments on the Pennsylvania experiment with fiduciary accounting standards by non-Fellow Norman H. Brown of Philadelphia, and articles on managing a probate practice by David R. Brink of Minneapolis ("big office") and Rudolph O. Schwartz of Wisconsin ("small office"). From that auspicious beginning, the College's quarterly publication blossomed into one of the most useful and widely acclaimed publications in the College's repertoire.

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<sup>13</sup>ACTEC President 1990-91.

Throughout its history, *Notes* has provided a forum for the President's report, schedules of upcoming national and regional meetings and timely articles of both academic and practical interest to the Fellows. With the advent of annual meetings, speakers' outlines became a publication staple, updated and mixed in with articles of current interest and scholarship. In recent years, after the adoption of mail-in orders for annual meeting program materials, less emphasis has been placed on the use of speakers' outlines. Also, more recently, brief committee reports and summaries of Regents' meetings have become regular features. Appendix 2 is the most recent edition of the indices to the meeting materials and *ACTEC Notes*.

Like everything in the College, production of *ACTEC Notes* has come a long way. In 1988 we began receiving some articles on diskette. Today, all of the articles come in electronically and the galleys are sent to the editor by the typesetter by e-mail.

Another signal advance in recent years was the development of an Editor's Manual for *ACTEC Notes* in 1993 under the leadership of Rob Durham of San Diego. This soup-to-nuts guide is an invaluable service for the annual changing of the guard for editors of this important publication.

The editors of *Probate/ACTEC Notes* over the years constitute a virtual *Who's Who* in the trusts and estates field:

Volume	
1974-75	J. Nicholas Shriver, Jr., Baltimore
2	Wesley C. Nutten, III, Los Angeles
3	Malcolm A. Moore, Seattle
4	Jackson M. Bruce, Jr., Milwaukee
5	John A. Wallace, Atlanta
6	L. Henry Gissel, Jr., Houston
7	Rodney N. Houghton, Newark
8	Anthony P. Marshall, New York
9	John J. Lombard, Jr., Philadelphia
10	Regis W. Campfield, Dallas
11	Gerald Le Van, Black Mountain, North Carolina
12	Waller H. Horsley, Richmond, Virginia
13	Max Gutierrez, Jr., San Francisco
14	Jonathan G. Blattmachr, New York
15	Jerold I. Horn, Peoria
16	Jerry J. McCoy, Washington, D.C.
17	William C. Weinsheimer, Chicago
18	Robert J. Durham, Jr., San Diego
19	A. MacDonough Plant, Baltimore
20	Hugh F. Kendall, Chattanooga
21	Charles F. Gibbs, New York
22	William Scanlan, Jr., San Antonio
23	Lynn Wintriss, Baltimore
24	W. Bjarne Johnson, Great Falls, Montana
25	Robert M. Kunes, Charlotte, South Carolina

Service on the Board of Regents, and even as president of the College, is also part of their legacy of leadership in the College.

#### STATE-BY-STATE STUDIES

Over the years, the College's Studies have been a core publication. A set of ACTEC Studies is provided to each new Fellow upon election to the College. Currently there are 26 studies presenting a state-by-state survey of information, updated periodically.

Initially through the State Chairs, and more recently with the help of the State Laws Coordinators, Fellows can be expected to be solicited in their state for either original or updated compilations on any particular subject.

Currently, the titles of the ACTEC Studies are as follows:

- 1 Will Requirements of Various States
- 2 Validity of Testamentary Pourovers
- 3 Rights of Nonresident Individuals to Act as Fiduciaries  
in Various States
- 4 Rights of Nonresident Banks to Act as Fiduciaries in  
Various States
- 5 A Survey of State Statutes and Practices Regarding  
Fees of Executors, Administrators and Testamentary Trustees
- 6 State Income Taxation of Trusts with Multi-State Connections
- 7 Real Estate in Probate and as a Nonprobate Asset
- 8 Anatomical Gifts
- 9 Adult Guardianship and Conservatorship
- 10 Surviving Spouse's Rights to Share in Deceased  
Spouse's Estate
- 11 Real Property in Names of Husband and Wife
- 12 Apportionment of Death Taxes
- 13 Uniform Gifts to Minors Act
- 14 Virtual Representation
- 15 Validity of Illinois Land Trusts
- 16 Living Wills and Health Care Proxies
- 17 Durable Powers of Attorney
- 18 Equitable Adjustments
- 19 National Fiduciary Accounting Standards
- 20 Distributions from Qualified Retirement Plans and  
Individual Retirement Accounts
- 21 Forced Heirship/Family Protections
- 22 Charitable Remainder Trusts
- 23 Rule Against Perpetuities
- 24 State Exemptions of Retirement Benefits from Creditors' Claims
- 25 Disclaimers
- 26 Malpractice in Estate Planning

In the 1970s, a study entitled "A Survey of Attorney Fees in Probate" was discontinued after the antitrust price fixing decision in *Goldfarb v. Virginia State Bar*, 421 U.S. 773 (1975). Although dealing with minimum fee schedules published by a mandatory state bar association as an interpretation of its ethical code, the American Bar Association and a local voluntary bar association also were parties in a companion suit. That case's holding that the legal profession is a commercial enterprise was another step in the de-professionalization of the practice of law, followed closely by the removal of ethical restraints against advertising by lawyers.

In early 1978, studies were given numbers and enclosed in a blue notebook, designed to permit a current index and updated revisions to be inserted with ease. Each state law study has a compiling editor who is responsible for compiling the information submitted by each state's reporter. This presents a daunting task in states with small College memberships.

### ***POCKET TAX TABLES***

In November of 1982, Milton Greenfield, the immediate past president of the College, sent a letter to Fred Keydel suggesting that it might be appropriate for the College to produce and distribute to its members a "pocket guide" of tax tables. He wrote that "something at the Board of Regents meeting last week caused me to make a note to write you this letter" but he did not recall what inspired him. Enclosed with the letter was a copy of a "Professional Advisor's Pocket Guide" to rates and tax rules affecting estate planning that had initially been prepared for St. Louis University after ERTA was enacted in 1981. The version that was sent to Fred was the second edition and had had the benefit of Dave Cornfeld's input. Milt concluded his letter by noting that "many of us in St. Louis find this a very handy item to have in our pockets at all times."

Fred also thought that such a pocket guide was a good idea, particularly since his firm had, for some years, produced such a pocket tax table (printed on both sides of a folded 8 1/2" by 11" sheet of heavy paper). In a letter to Harry Lamon, the then-chair of the Editorial Board, Fred suggested that an ACPC pocket tax table might include:

1. The four basic federal income tax tables,
2. The federal transfer tax, unified credit, and state death tax credit tables,
3. Sample actuarial tables and Social Security taxes and benefits (similar to those in the St. Louis guide),
4. Qualified plan lump sum tax tables, and
5. A synopsis of:
  - (i) The corporate income tax rules and rates,
  - (ii) Section 644 rules,
  - (iii) The alternative minimum tax rules and rates,
  - (iv) Limitations on annual benefits and contributions in qualified plans, and
  - (v) Interest rates on federal tax deficiencies and refunds.

In response to these two letters, the proposed *Pocket Tax Tables* project was put on the agenda for the Editorial Board's meeting to be held in Las Vegas on February 28, 1983. At that meeting, it was agreed unanimously to recommend to the Board of Regents the adoption of the following resolution:

Resolved, that the Editorial Board is authorized to spend up to \$3,000 to prepare and distribute a *Pocket Tax Table* whose preparation will be supervised by Fred Keydel. The guide will bear the ACPC logo and will be sent to all members.

The Editorial Board also recommended that the tax tables include all of the content suggested in Fred's letter. In April of 1984, after Fred had completed a first draft, it was decided that the tax tables should take the form of a pocket-size booklet (6" x 3 1/4"), designed to fit into a shirt or jacket pocket or a lady's purse. The timing for the publication of the tax table would be scheduled for the late fall of each year—assuming the tax rates applicable to the next succeeding calendar year appeared to have been fixed by Congress at the time of publication.

In July of 1984, Fred Keydel was named as compiling editor and the following Fellows were requested to assist him on this new project—Mark Edwards, Tony Marshall, and John Sherwood. Each agreed and was appointed as an editorial advisor. All were most helpful, contributing valuable comments and insight. As a result, the first ACPC *Pocket Tax Tables* (for 1984-85) was published. It was an experiment to see if this kind of pocket source of tax rates and similar information would be useful to the ACPC membership. Ten thousand copies were printed in November 1984 for distribution to all Fellows of the College and for sale at \$.60 per copy plus \$1.00 for postage and handling. As a result of the first mailing, telephone calls and letters of appreciation from Fellows and others followed over the next few months.

From 1985 through 1988, the project evolved and editions were published each year. The 1989-90 *Pocket Tax Tables* contained the new logo for ACTEC, reflecting the formal name change that took place for the College that year. New editorial advisors, Albert S. Barr III, Virginia F. Coleman, and Robert B. Joslyn, joined the project at the time the 1991-92 edition was being prepared. At the time of the 1996-97 edition, Theodore B. Atlass and Harvey B. Wallace II succeeded others as editorial advisors.

In summary, over the past 14 years the *Pocket Tax Tables* has proved to be one of ACTEC's most sought after publications. The editors look forward to the continued publication of this very useful booklet—and to the possibility of making it available in an electronic format in the near future.

# T HE ACTEC FOUNDATION ■

*by Luther J. Avery and Thomas P. Sweeney<sup>14</sup>*

## **SETTING UP THE FOUNDATION—*Luther Avery***

It is my best recollection that the genesis of the Foundation was in 1978. Some of the members of the American College of Probate Counsel had the vague feeling that ACPC ought to have a foundation. The person who seemed to have the most “ought” was Harold Fallon, an Ohio member and Chair of the Long Range Planning Committee. Charles Saunders was the President of ACPC at the time and he supported the idea enthusiastically. He suggested that the Foundation be created in Texas. It was not until March 2, 1982 that the ACPC Board of Regents adopted a resolution drafted by Harold Fallon to establish a Foundation; President Rudy Schwartz appointed a committee of three—Luther J. Avery of San Francisco, Chair, Harold Fallon of Cleveland and William W. Berry of Nashville—to draft the articles of incorporation.

The four intervening years, from 1978 to 1982, had been spent in the usual democratic processes. Naturally, as with all lawyer organizations, the planning, execution and operations was to be “democratic,” *i.e.*, everyone was to get into the act. The original recommendation of Charles Saunders that a Texas foundation be created was quickly disposed of. The fact that Texas, at that time, did not heavily regulate foundations was not persuasive. It was quickly pointed out that Washington, D.C., would be better because there is more law and even less regulation, in view of the fact that D.C. is the mecca of foundations in the United States. Also there is a significant non-profit industry in Washington, D.C., which sees to it that foundations can do anything they want, with the exception of too much politicking, sex or violence; high wages for staff; or extravagant expense accounts. Also, you must not endorse legislation or otherwise look like a department of the U.S. government.

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<sup>14</sup>ACTEC President 1992-93; ACTEC Foundation President 1994-99.

Washington, D.C., was rejected when practicalities surfaced. The Foundation had no benefactor to throw in a lot of money. In fact, the Foundation had no money. I advanced the \$220 cost of creation of the Foundation and did all the legal work. The initial business of the Foundation was to be fundraising. Fundraising requires money and staff and organization. Therefore, practicality prevailed. The Foundation would use the staff and facilities of ACPC. The law is clear that, regardless of where the ACPC Foundation was organized, if it operated out of Los Angeles it would be regulated by the Attorney General of the State of California.

In the face of the practical exigencies, it was decided that the ACPC Foundation would be organized in California. Actually, the laws of the State of California relating to non-profit corporations were totally rewritten in 1978 and California was considered to have a model non-profit law. Moreover, it was not intended that the Foundation do anything that would cause concern about the regulatory powers of the state or federal governments. The new law of California made organization of the corporation simple. There was no need to spell out what the Foundation was going to do, since that had not yet been figured out. The original statement of corporate purposes was as follows:

IV A. This corporation is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

The bylaws of the Foundation were more enlightening about the purpose of the Foundation; Article II of the bylaws stated the purpose:

The purpose of this Foundation is to support the educational and other charitable activities of the College by sponsoring research and the dissemination of knowledge concerning the improvement of the legal system in probate, trust, tax, and related areas of the law.

The Articles of Incorporation were delivered to the California Secretary of State on June 30, 1982, one month after the Foundation Committee was formed, and the corporation came to life on July 2, 1982. I paid the initial \$200 tax and the \$20 filing fee fully confident that I would get a refund of the tax when the Foundation was finally determined to be tax exempt. The initial plan was to form an organization qualifying under IRC §501(c)(9)(30) and under IRC §(509)(a)(3) as a support organization. The Foundation was to be a public foundation and a “nonmember” organization.

The original directors of the Foundation were the Executive Committee of the College. The original agent for service of process was Bette Elton, Executive Secretary of ACPC. The original Statement of Domestic Non-Profit Corporation was filed in 1982 and showed the following first officers: Rudolph O. Schwartz, President; J. Thomas Eubank, Vice-President; and Joe C. Foster, Jr., Secretary.

The bylaws of the Foundation were approved August 6, 1982, by the Board of Directors. The Foundation applied for federal tax exempt status and California tax exempt status simultaneously on September 1, 1982. The first fiscal year adopted was the partial fiscal year ending August 31, 1982. ACPC also used an August 31 fiscal year end, having changed in 1975 from a June 30 year end. As part of qualifying the ACPC Foundation for tax-exempt status, both the IRS and the Franchise Tax Board re-examined the tax-exempt status of ACPC and required copies of the articles and bylaws from its inception in 1949 through 1982, together with all amendments and the last three years’ tax returns.

The IRS issued an exempt status ruling November 16, 1982, and also determined that the ACPC Foundation was not a private foundation. On November 22, 1982, the California Franchise Tax Board

determined that the ACPC Foundation was tax-exempt under California law from July 2, 1982, the date the articles were filed, and refunded the \$200 prepayment of tax.

The ACPC Foundation was truly in business and was then obligated to file Form 990 with the federal government and Form 199 with the state of California, as well as CT1 (a one-time filing within six months of receipt of its first charitable gift) and CT2, to be filed annually with the California Attorney General. The ACPC Foundation and its successor, the ACTEC Foundation, have filed such forms through 1995 without incident, *i.e.*, no audits of the Foundation have occurred.

On November 7, 1982, democracy reared it ugly head and the Directors amended the bylaws to change the composition of the Board of Directors to “six members: the immediate Past President, the current President, and the President-Elect of the college, along with three members, chosen in the same manner and by the same persons who selected the directors of the College.” The original three nominees from the ranks were Harold Fallon, Harrison F. Durand and myself. The ACPC officers serving on the Board at that time were Tom Eubank, Rudy Schwartz and George Nofer. The officers of the Foundation continued to be the officers of ACPC.

I prepared and submitted to the Board a proposed operations manual for the Foundation. The concept of adopting such a manual became so fraught with the need for decision-making and debate that the whole project was dropped. Thereafter, the Board commenced its annual debate over what type of solicitation letters to write to the members of ACPC to seek funds to do something. The occasion of discussing fundraising letters raised the chicken and the egg quandary: Do we develop a project for which we ask for funding, or do we ask for funding with which to develop the project to be funded? Bravely, the directors authorized and sent out a request for funds even though they had no plans on how to spend the money (other than in keeping with the charitable purposes of the Foundation). Some directors felt that it was embarrassing to raise funds without a project on which to spend the money, but the fiscal conservatives prevailed with the theory that it is more important to have some money to spend before you start spending. The fiscal conservatives' communique to the members was: Let us raise \$250,000 to \$500,000; then the Foundation will solicit grant applications within the corporate purposes to spend the money.

The year 1984 was spent raising funds. The Foundation Board, at its August 3, 1984 meeting, adopted the investment policy that the funds of the Foundation should only be invested in U.S. Treasury obligations with maturities of less than three years.

By February 5, 1985, the Foundation had raised \$73,683 and had pledges of \$8,700, for a total of \$83,383. Sentiment began to build for spending the money. Projects were proposed and everyone had a pet project. The fundraisers were beginning to clamor for some evidence of progress with the money they had raised.<sup>15</sup> The Foundation created a Grant Proposal Committee to develop a plan for how to obtain proposals. The first chair of the Committee on Grants was Ed Halbach. The following projects were suggested:

- A practical and usable disclaimer statute
- An enhanced Uniform Transfers to Minors Act
- A study of non-probate transfers at death

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<sup>15</sup>See end of chapter for a list of ACTEC Foundation grants from 1985 through 1999.

- Rules for modification, deviation, and termination of trusts
- The “blockbuster will”
- Substituted judgment in conservator-, guardian-, committee-ships
- Assisting the aged, especially the aged poor
- Professional conduct rules
- An accessions tax
- Funding of an American-Assembly Type Venture to study the reasons for and sources of certain highly technical bodies of rules we now work in or near, such as employee benefits, charitable giving, special use valuation, marital deduction, and trust taxation.

By 1985, Gerry Vogt had become Executive Director of the ACPC; she was responsible for the administration of the ACPC office and the Foundation. At its annual meeting on March 18, 1985, the Foundation Board adopted the policy established by the ACPC Board to expand the Foundation Board to twelve members and amended its by-laws to change the composition of the Board of Directors to include the Immediate Past President of ACPC and the five officers of ACPC and six members chosen by the Board of Regents. In addition, the Board of the Foundation adopted a resolution requiring that an amendment of the bylaws of the Foundation must be approved by a vote of two thirds of the members of the ACPC Board of Regents.

At the same meeting the Foundation Board approved its first grant: \$2,000 to Professor Jeffrey N. Pennell for work in assistance to the ACPC Committee on Professional Standards. On April 19, 1985, the Foundation turned down a grant request for the first time, a request for \$10,000 to study the cost of implementing the Wisconsin Marital Property Reform in 1985. The Board also rejected a proposal for financial assistance to determine the applicability of probate laws to nonprobate transfers in Australia. This decision was later reversed and in September 25, 1985, a grant of \$5,500 was made. In June of 1985 the Foundation granted \$10,000 for a study of the accessions tax to assist the ACPC Accessions Tax Committee.

By April 30, 1985, the Foundation treasury had increased to cash of \$78,166 and pledges of \$14,425, or a total of \$92,591, and the Board vigorously explored investment options. With true speculative fervor the Board had all the cash invested in U.S. Treasury Notes and cash in bank (a big bank). On July 31, the total assets of the Foundation were \$102,441 (including \$7,881 earned on the funds on hand). By November 30, 1985, the total assets of the Foundation were \$113,038. By December 31, 1985, the total funds were \$125,035. By October 15, 1986, the fund total was \$140,266.

As part of its fiscal prudence, the Foundation Board had convinced the Board of ACPC to pay all of the Foundation’s administrative expenses. Thus, all the Foundation had was grants and income on the grants, with one small project demanding payment. At the March 18, 1985, meeting, a Finance Committee was created, with the CFO of the Foundation as its chair. The first investment decision of the Committee was to agree that any stock contributed to the Foundation would be sold. At its October 12, 1985, meeting the Foundation adopted a policy of investing \$50,000 in long-term growth securities.

Much of 1986 was spent debating the significance of the fact that the ACPC Foundation was an IRC § 501(a)(9) entity. The question of whether the administration of the ACPC Foundation was consistent with the IRS regulations was analyzed with all the care of medieval scholars who debated how many

angels could dance on the head of a pin. The final resolution of the Board was to continue to abide by the law as it had been doing since the inception of the Foundation.

On December 5 and 6, 1987, the Foundation presented “A Colloquy on Estate Planning, Financial Planning, and Beyond: The Next Progression; The Role for Lawyers; the Role for Law Schools.” The brainchild of Thomas Eubank, the colloquy was held in Houston, Texas and was of significant assistance in charting the future of the ACPC Foundation. Many participants felt the colloquy was the first in-depth analysis of serious shortfalls in meeting the needs of the American citizenry for certain aspects of estate planning, financial planning, and counseling of the kind traditionally provided by versatile lawyers.

By November 30, 1987, the Foundation's balance was \$185,118 (including pledges of \$6,075 and income as of November 30, 1987 of \$28,533).

In January 1988 the usual debate commenced about the annual fundraising drive. This time, creativity reigned and the first ACPC bike ride fundraiser was planned. In order to draw attention to the Foundation's fundraising efforts, on March 5, 1989 ten brave members of ACPC (W. Thomas Coffman of Tulsa, the originator of the idea and organizer of the event, Leopold Amighetti and James G. Carphin of Vancouver, Robert J. Durham, Jr. of San Diego, Irwin D. Goldring and Bruce S. Ross of Los Angeles, Stanard T. Klinefelter of Baltimore, Robert J. Rosepink of Scottsdale, Kenneth L. Schubert, Jr., of Seattle, and Fredric A. Sytsma of Grand Rapids) departed from San Diego and rode on to Tucson in time for the Annual Meeting of the College on March 9, 1989. ACPC members were asked to pledge a contribution equal to one billable hour to the Foundation. The expenses of the riders were paid by a \$5,000 donation by an anonymous donor, so none of the pledges were used for expenses and every dollar went to the Foundation. The literature encouraging support pointed out that the Foundation hoped to develop and support changes in law schools and CLE curricula and to educate estate planning lawyers to meet their roles as personal counselors.<sup>16</sup> Thomas Eubank, as President of the Foundation and developer of the Colloquy, was a leader in the development of changes in the legal profession.

In 1989 ACPC commenced a debate concerning a name change to the American College of Trust and Estate Counsel (ACTEC), and therefore the Foundation also began to consider a name change. By a vote of its membership at the February 1990 Annual Meeting, the name of the American College of Probate Counsel was changed to the American College of Trust and Estate Counsel. After the usual Foundation administrative paper-shuffling, the wheels were put in motion to amend the Articles to change the name. Unfortunately, the California State Banking Department reared its bureaucratic head—no corporation can have the term bank or trust in its name without the approval of the state banking department. On June 6, 1990 we received a “Certificate of Approval of Name,” which entitled us to file amended articles of incorporation to change the name. The Certificate of Amendment was filed June 11, 1990, and the organization officially became the ACTEC Foundation.

The change of name gave rise to immediate need to respond to such lawyerly questions as: Do we need to do anything about the trademark registration? Do we need to file a Fictitious Name Certificate? Do we need to change the insurance? What other changes do we need to worry about? The answers were: yes, no, none. But that did not defeat the ingenuity of the Foundation Board. The Foundation was planning to provide a grant to a professor in New York to write a pamphlet for law school use. Would such activity be improper because the ACTEC Foundation had not received a New York state charitable

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<sup>16</sup>In April of 1990, the College initiated the law school liaison program. Its principal objective was to pair a designated Fellow of the College with each ABA-accredited law school for one-on-one contact with the administration, faculty and student body of that law school. The program was discontinued in October 1993. See Waller Horsley's memoirs for a more detailed discussion of the law school liaison project.

exemption? Would the ACTEC Foundation be considered as doing business in New York after receiving funds from New York ACTEC members and disbursing them in New York to support a research project relating to New York law? Would the ACTEC Foundation subject itself to the labor law regulations of the state of New York with all the related regulations relating to employees? No. No. No. Just follow the same advice you would give a similarly situated out-of-state client who wanted to avoid doing business in New York and labor regulations and taxation by New York.

On August 31, 1994, the total assets of the Foundation were \$519,949, including \$11,605 in pledges receivable, and the Foundation had \$95,000 in grant commitments. On January 22, 1992, in preparation for the 1992 Annual Meeting, an effort to amend the bylaws commenced. In addition, at the March 4, 1992, meeting, after a lengthy discussion of investment standards, the Board continued its usual conservative investment policies, but agreed to buy a small mutual fund investment for growth. The Foundation also embarked upon a project to develop standardized forms to supply to grant applicants and to process grant applications. Grant administration forms were completed by the end of 1993. At the 1995 Annual Meeting, the Foundation Board approved revised Bylaws which updated the Bylaws and made them more workable and more consistent with the timing of action by the ACTEC Board of Regents.

#### **THE LUSTGARTEN AND SWEENEY YEARS—*Thomas P. Sweeney***

The years 1989 through 1994 might be described as the Ira Lustgarten years since he was President of the Foundation during that period of time. During Ira Lustgarten's presidency, as a result of grants from the Foundation, three modules were published, *i.e.*, *Entitlements* by Professor John J. Regan, *An Introduction to Modern Financial Theory* by Professor Jonathan R. Macey, and *How Families Work: A Guide to Understanding Family Businesses* by John E. Fitzpatrick and Anne Francis. Also during the Lustgarten era, through a grant from the Foundation, Professor John R. Price produced the first edition of the *Commentaries on the Model Rules of Professional Conduct*.

At the 1994 Annual Meeting, I was elected President of the Foundation, and I placed additional emphasis was placed on obtaining grant applications for worthy projects. During 1994, Professor Regan produced a revision of the *Entitlements* module, and Professor David M. English was provided a grant to develop a compilation of American trust statutes, entitled *The Converging Law of Wills and Trusts*. In addition, another bike-a-thon was proposed for the 1995 Annual Meeting, which was scheduled to take place in Scottsdale, Arizona.

The Directors of the Foundation debated such issues as how the Foundation's funds should be invested, and whether a greater portion thereof should be invested in equities; they ultimately agreed that one-third of the Foundation's funds could be invested in equities.

At the 1994 Summer and Fall meetings of the Foundation, there was debated the worthiness of a grant application for \$75,000, \$25,000 a year for three years, submitted by Temple Law School, dealing with Integrated Transactional Program which included units with respect to trusts and estates, professional responsibility and interviewing, counseling and negotiating, designed to promote interest in estate planning and estate administration. Ultimately, the Board of the Foundation approved the grant, but not without a great deal of careful debate.

During this same period of time, the Foundation Board approved a \$10,000 grant to join with the Real Property, Probate and Trust Law Section of the American Bar Association to produce and distribute a brochure on organ and tissue donations for the purpose of assisting estate planning and other

attorneys in discussing this subject with their clients, and to make their clients aware of the opportunity to become donors.

Through the efforts of Tom Coffman, who then was an incoming Director of the Foundation, the second bike ride provided in excess of \$40,000 in pledges to the Foundation. In addition, the Professional Standards Committee approved the Second Edition of the *Commentaries on the Model Rules of Professional Conduct* with the result that the Foundation approved a grant of \$12,500 to Professor John R. Price in connection with the preparation of the Second Edition of the *ACTEC Commentaries*.

During the summer and fall 1995 meetings of the ACTEC Foundation, a great deal of discussion was had with respect to possible additional grants to be made, but no definitive grant applications were positively considered by the Grant Committee.

At the 1996 Annual Meeting of the Foundation, it was noted that the percentage of Fellows who give to the Foundation varies from year to year between eight and ten percent. It was also noted that the interest in the Second Edition of the *ACTEC Commentaries* exploded, and there were constant requests from Bar Association CLE programs and law schools for copies of the Second Edition of the *ACTEC Commentaries on the Model Rules of Professional Conduct*. As a result, the *Commentaries* were reprinted in order to meet the demand since the Board of the Foundation had agreed that it would provide grants for the reprinting of the *Commentaries* and would only request that the Bar Associations, CLE programs and law schools pay the cost of shipment.

It was during 1996 that the Foundation received a number of contributions in memory of J. Pennington (Joe) Straus, and the Foundation President appointed a committee to ascertain the appropriate use of these contributions. After consulting with Joe Straus' widow, Rosemary, it was concluded that the contributions in memory of Joe Straus would be dedicated to a grant for underwriting the printing and distribution of the ACTEC history. Also, in 1996, the Foundation Board approved a grant to a group headed by Susan Westerman to underwrite out-of-pocket costs involved in a project dealing with preparation of materials for a manual for use by adjunct professors to teach federal and state gift tax courses at law schools. In addition, in 1996, the Board approved a grant in the amount of \$15,000 to Professor Sheldon F. Kurtz in connection with a project to develop multi-media set of demonstration teaching materials to be used in teaching trusts and estates courses and related courses in law schools.

At the fall 1996 Foundation meeting, the issues with respect to what the Foundation should put on the public access and the private access of the ACTEC Web Page was debated at length, and ultimately resolved by concluding that whatever was available for public consumption of the materials funded by the grants from the Foundation should be on the public portion of the ACTEC Web Page.

At the 1997 Annual Meeting of the Foundation, it was agreed that the Foundation funds should be invested so that 50 percent was in equities, and the remaining 50 percent was in fixed income obligations. At that time, the market value of all of the assets of the Foundation exceeded \$615,000. In addition, at the 1997 Annual Meeting, the Foundation Board approved a \$10,000 grant to the National College of Probate Judges to assist its project to establish and facilitate interstate cooperation in guardianship cases including transfer of the guardianship proceeding from one state to another.

The Foundation Board, at the 1997 Annual Meeting, also approved an additional \$25,000 grant to the Temple University School of Law to assist it in disseminating to other law schools the Integrated Transaction Program developed by Temple for use in teaching in the trusts, estates, and tax areas.

Also at the 1997 Annual Meeting, the Foundation Board approved a grant of \$5,000 to Professor Richard V. Wellman for the development of an informal pamphlet for bank and credit union depositors regarding multiple-name account options.

Finally, at the 1997 Annual Meeting, the Foundation Board approved a grant for \$10,000 to Professor Jonathan R. Macey for the preparation of a Second Edition of *An Introduction to Modern Financial Theory*.

The Foundation Directors also authorized during 1997 an additional reprinting of the Second Edition of the ACTEC *Commentaries* because of the increased demand for the *Commentaries*.

The annual, summer and fall meetings of the Foundation for calendar year 1998 all produced significant discussions of possible grants, including a proposal to support the *Inside the Law* PBS program at the suggestion of the Real Property, Probate and Trust Law Section. In addition, a proposed grant application was submitted by Tax Analysts, and Ed Benjamin suggested that a professor be found to submit a grant application to study the comparison of alternative transfer tax proposals to the current transfer tax. The Tax Analysts grant application to support the completion of its study on the tax legislative process was declined with the recommendation that Tax Analysts consider submitting a new grant application on a subject that was more confined to the transfer tax area. The *Inside the Law* proposal was accepted in concept with the suggestion that the proposal be more refined and resubmitted for approval by the Foundation Board.

At the 1999 Annual Meeting, the Foundation Board approved a \$100,000 grant to the *Inside the Law* program with a tentative title "Smart Shopping for Estate Planning Advice," with a number of conditions, including:

- (1) ACTEC will control the content of the program through the Executive Committee which, if it desired could delegate its responsibilities to the Practice Committee;
- (2) The case studies described in the grant application be more gender neutral, and also focus on the concerns of a divorced spouse and a surviving spouse;
- (3) The program be aired more than once on public television;
- (4) The Foundation have the right to use or distribute the program in its original or edited form;
- (5) The Foundation engage an expert in entertainment law to negotiate a satisfactory definitive contract with the producer, with such contract to include protection against cost overruns and insure an end product;
- (6) That the project avoid advertising that relates to other professions or other organizations, such as Reliance National.

At the 1999 Annual Meeting, the Board also approved a \$50,000 grant to Boalt Hall School of Law for the Edward C. Halbach, Jr., Chair in Trust and Estate Law.

The final grant approved at the 1999 Annual Meeting of the Foundation was a grant to underwrite the cost of printing and disseminating the Third Edition of the ACTEC *Commentaries on the Model Rules of Professional Conduct*, as well as the Professional Standards Committee project on engagement letters, which contain annotations to the Third Edition of the ACTEC *Commentaries of the Model Rules*

*of Professional Conduct.* It was estimated that the cost of producing 5,000 copies of the Third Edition and the engagement letters would approximate \$23,000.

At the 1999 Annual Meeting, it was noted that the assets of the Foundation had grown to \$877,573. It was also noted that there had been \$4,250 contributed as memorials to Joe Straus which would be used to fund the printing and dissemination of the ACTEC History in accordance with prior Board action awarding a grant for that purpose.

At the 1999 Annual Meeting of the Foundation, the Sweeney era was concluded, and Norman J. Benford was elected as the new President of the ACTEC Foundation.

## ACTEC Foundation Grants 1985-1999

### 1985

Professor Jeffrey N. Pennell/Professional Standards Committee \$2,000  
Unified Professional Standards for Fellows

Edward C. Halbach, Jr. \$10,000  
Reporter/Consultant for Accessions Tax Project

Professor John H. Langbein \$5,500  
Study of Australian provincial laws allowing wills to be probated which were executed without testamentary formalities

### 1987-1988

Foundation Colloquy \$23,568  
Presented in December 1987, *A Colloquy on Estate Planning, Financial Planning, and Beyond: The Next Progression; The Role for Lawyers; The Role for Law Schools*

### 1989

Module Project/Ira H. Lustgarten Committee \$7,141  
Project to develop three modules—*Entitlements, Financial Theory and Family Systems*

Professor John J. Regan \$15,000  
Development of first module, *Entitlements*

Real Property, Probate and Trust Law Section of the ABA \$6,427  
Grant up to \$7,500 for expenses to attend the Guardianship Conference in Cambridge, Massachusetts on the role of counsel in guardianship proceedings (ABA paid first \$10,000)

Professor Gerry W. Beyer \$2,200  
Development of Statutory Will Forms entitled *Statutory Enacted Estate Planning Forms: Development, Explanation, Analysis, Studies, Commentary and Recommendations*

### 1990-91

Professor Jonathan R. Macey \$15,000  
Development of second module, *An Introduction to Modern Financial Theory*

John E. Fitzpatrick and Anne Francis \$15,000  
Development of third module, *How Families Work: A Guide to Understanding Family Businesses*

### 1992-93

National College of Probate Judges \$10,000  
Development of the *National Probate Court Standards*

Professor John R. Price \$25,925  
Development of the *Commentaries on the Model Rules of Professional Conduct*

### 1994-95

Real Property Probate and Tax Law Section of the ABA Partial funding for the production of an organ and tissue donor information brochure	\$10,000
Professor John J. Regan Revision to <i>Entitlements</i> module	\$3,500
Professor David M. English (Project incomplete) Compilation of American trust statutes entitled <i>The Converging Law of Wills and Trusts</i> (Total grant \$10,000)	\$1,000
<b>1995-96</b>	
Temple University School of Law Instructional materials for an integrated transactional program (grant paid \$25,000 in 1995; \$25,000 in 1996; \$25,000 in 1997)	\$75,000
Professor John R. Price Second Edition of the <i>Commentaries on the Model Rules of Professional Conduct</i>	\$12,500
<b>1996-97</b>	
Joe Christensen Printers Reprinting of <i>Commentaries on the Model Rules of Professional Conduct</i> for free distribution to law schools and other legal organizations	\$2,990
Professor Sheldon F. Kurtz Development of multi-media set of demonstration teaching materials	\$15,000
Susan K. Westerman Development of teaching manual for adjunct professors for federal and state gift tax courses	\$2,309
<b>1997-98</b>	
Temple University School of Law Grant for dissemination to other law schools of the Integrated Transaction Program developed by Temple for the use in teaching in the trusts, estates and tax areas	\$25,000
National College of Probate Judges Establish and facilitate interstate cooperation in guardianship cases including transfer of the guardianship proceeding from one state to another	\$10,000
Professor Richard V. Wellman Development of an informational pamphlet for bank and credit union depositors regarding multiple-name account options	\$5,000
Professor Jonathan R. Macey Second edition of <i>An Introduction to Modern Financial Theory</i> (revised/updated)	\$10,000
Joe Christensen Printers Reprinting of the <i>ACTEC Commentaries</i>	\$1,697
Printer TBD Printing and distribution of the <i>ACTEC History</i>	\$4,250

<b>1999-2000</b>	
PBS— <i>Inside the Law</i>	\$100,000
Production of program segment, “Smart Shopping for Estate Planning Advice”	
University of California School of Law (Boalt Hall), Berkeley	\$50,000
Contribution toward funding of the Edward C. Halbach, Jr., Chair in Trust and Estate Law	
Printer TBD	\$23,000
Third edition of <i>ACTEC Commentaries on the Model Rules of Professional Conduct</i> and engagement letters	
<b>Total Grants</b>	<b>\$489,007</b>

# **T**HE NATIONAL OFFICE—THEN AND NOW■

*by Gerry A. Vogt*<sup>17</sup>

## **THE EARLIEST DAYS**

The national office, which today consists of nine staff members and is housed in a modern office building, grew from quite humble beginnings. Gail “Mack” McKay conducted business from a Quonset hut on Pico Boulevard in Los Angeles. He would deliver work to the home of Bette Elton (who would later become the first Executive Director of the College) and pick it up upon completion.

In the late sixties, Maurine Boyd and Jean Huie joined “Mack” McKay and Bette Elton. The staff moved to larger quarters on Pico, where the national office remained for many years. Administrative work was very labor intensive in those days, and progress was slow. According to Maurine, “We had an old graphotype to make plates for our Addressograph. This involved turning a wheel to the letter we wanted imprinted on the metal plate, pushing a handle to make the impression. Mack would let us work on this only one hour. One hour was long enough.”

Mack, Bette, Maurine and Jean, with the help of various office temps, handled membership, meeting planning and publications for many years. It wasn’t until 1983, when Bette Elton was asked to assume more responsibility for meeting planning, that I was hired as staff accountant for the College.

## **MY EXPERIENCES AT ACTEC**

My introduction to the American College of Probate Counsel was as a bookkeeper at the accounting firm of Lerman, Osheroff and Wayne. The College was one of my monthly clients for almost five years and thus I had a great deal of familiarity with the College’s financial affairs. Bette Elton, ACPC’s

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<sup>17</sup>Executive Director, 1986-present.

Executive Director, and I became very well acquainted over those five years and she frequently told me delightful anecdotes about the College's meetings, where they had been held and what her job involved.

In 1982, when ACPC's Treasurer, Luther Avery, asked me to prepare the first comparative financial statements, I worked directly with him by telephone and my involvement with ACPC grew. Bette told me that there had been some legal difficulties with an unscrupulous travel agency and that she had been asked to take over many more of the duties required to organize and operate the College's meetings. She was worried about whether she could adequately handle all of these additional responsibilities and told me that the Executive Committee was urging her to find an assistant capable of acting as an understudy to help her with these meetings. The job sounded very interesting and challenging to me and I told Bette that I was interested.

In May of 1983, Bette arranged an interview for me with an impressive group of gentlemen. Ray Young, the incoming Treasurer, flew in from Boston; the other three Finance Committee members present were Bill Bell from Oklahoma, Luther Avery from San Francisco and Wes Nutten from Los Angeles. It was agreed that I would start on July 1, and after our meeting, Bette took all of us to dinner. I offered to drive Ray Young and Bill Bell to the airport since they needed to catch planes and were short of time. The only problem was that I had a tiny Datsun. It was a tight squeeze with Ray Young in the front seat, pulled up as close as possible to give Bill Bell, who was a very statuesque man, as much room as possible in that small backseat and we laughed a lot about it all the way to the airport.

I settled into the new job quickly and began helping Bette with the meetings, continued working on the accounting and immediately started looking into modernizing the office. The only up-to-date piece of equipment in the office was a Display writer, but no one knew how to use it. Bette encouraged me to arrange training for the staff through the supervisor of the word processing department at Sheppard, Mullin and we soon began using it for many tasks that had been done manually. Within weeks we needed to upgrade the Display writer, had purchased four new memory typewriters and had ordered a brand new Xerox copier.

The dues billing was handled on Addressograph as follows: Jean Huie separately imprinted two copies of each bill and then an envelope; she mailed one copy and kept the other copies in alphabetical order on clipboards; as checks arrived, she tore off the copies and posted each payment to individual ledgers by hand. This process took days and sometimes hundreds of checks sat in cardboard boxes until she could deposit them. The solution to this process was to institute a lockbox with the bank. From then on all dues and annual meeting checks were deposited to the College's account on the day they were received. Eventually, since the Addressograph had frequent mechanical problems and parts and service were hard to get, we began to use the Display writer for both mailing labels and the dues billing.

We were also able to prepare the 1985-86 membership roster at the office. We thought that this was a big improvement over typesetting, since typesetting had always taken months before. The long and arduous process began almost immediately after each roster was printed. Changes were recorded by hand and then sent to be retyped, followed by countless hours of proofreading and corrections. We did not even dream that we would ever be able to fully automate the production of the roster, as we did for the first time in 1996. We now can make last minute updates and changes and still can produce the entire roster in a fraction of the time it used to take.

When Bette Elton was unable to come to the 1985 Annual Meeting at the last minute due to poor health, I found that the statistics produced on the Display writer were tremendously useful. With it we had the ability to accurately track each registrant's record, were able to better handle the tour registrations and had accurate counts, enabling me to make more accurate food and beverage guarantees. Using those statistics, I was able to calculate how many people were likely to attend each breakfast and dinner, something that I had watched Bette Elton struggle with the year before at the 1984 Annual

Meeting at the Boca Raton Hotel and Club. I noted that a lot of money could be saved when these guarantees were accurate. When the results for the 1985 Annual Meeting were final, we came out several thousands of dollars ahead and from then on these savings on the guarantees have continued to furnish an average gain of over \$30,000 per annual meeting over the last ten years.

Although the Display writer soon became the most vital piece of equipment at the office, one machine was just not enough; we were competing to use it and soon ran out of memory capacity. We considered buying another Display writer, but computers were becoming more affordable, so Bette authorized me to begin looking into the various computer systems on the market at that time.

The year of 1986 brought about several other major changes on the ACPC staff. Maurine Boyd retired in April, right after the Annual Meeting in Lake Buena Vista, and Bette Elton, much sooner than anyone had anticipated, had to retire for health reasons. In July of that year, the Executive Committee appointed me to replace Bette as the College's Executive Director. That first year was probably the most strenuous in all of the years that I have been with the College. I will always be grateful to Ed Benjamin, who gave me tremendous support throughout his term as ACTEC's President. He was my mentor and was never too busy to encourage and stand behind me with suggestions and guidance.

Debbie Jacobovitz joined the College in June 1986 to help us with our conversion to computers. That July, we also moved into new offices in Santa Monica and in August, at the summer meeting in New York, we received approval to buy a Xerox 6085 System with a 40 MB disk drive and a laser printer. Once the first computer system was installed and working well, it became apparent that we needed more than one system. In August of the following year, we added two Deskpro 286 Compaq computers, a LaserJet and a dot matrix printer. We also engaged a consultant to create a database management systems for us that would consolidate membership information, committee service information, meeting registrations and a record of Foundation contributors.

These were the first of many computer changes and upgrades. Soon networking was possible, followed by the availability of an ever increasing variety of hardware and software. The new programs required more and more memory, and we quickly moved through a procession of microprocessors, from the 386 to today's pentiums. Soon the Fellows were demanding e-mail and, with the advent of the Internet's burgeoning popularity, an ACTEC Web site. The changes that have evolved from 1987 through 1997 are phenomenal. At times, it seems impossible to keep up with the myriad upgrades that are continually needed.

The College's tremendous growth in the scope and size of its meetings as well as in the level of its committees' activities paralleled our growing dependence on the computer and the rapid developments in the computer industry. I remember that at the 1984 Annual Meeting in Boca Raton, which was my first meeting, while attendance was about the same as that at the 1996 Fall Meeting in Cincinnati, the resemblance stops there. In 1984 meeting registrations were all processed manually. Jean Huie alphabetized all registrations on clipboards and made by hand lists for the alphabetical booklet of attendees, the seminars and the tours. As additions and changes were made, these lists became a maze of cross-outs and add-ons. Shortly before the meetings, these lists were rewritten and the alphabetical listing was sent to the typesetter. Of course, the alphabetical listing was never up-to-date, since there were always many last minute cancellations and changes that did not make the printing deadline. Badges were ordered from a company in the East and we spent a lot of time and money ordering badges for the last-minute registrants. Today, registrations are automated and each registrant is handed a packet with session sheet, listing all seminar and tour registrations, and badge upon registration. Our entire database is loaded onto a laptop computer and taken to the meeting, so that any last-minute changes to registrations can be entered and saved.

For many years, all summer meetings were held in conjunction with the ABA's annual meeting in August and fall meetings were held with the ABA's Real Property, Probate and Trust Law Section. ACPC's meetings consisted of just a few committee meetings, the Board of Regents meeting and, in the spring and fall, one dinner. In the fall of 1987, under the leadership of John Wallace, ACPC held its first separate fall meeting at the Cloister in Sea Island, Georgia and in July 1994, under Jack Bruce's leadership, ACTEC held its first separate Summer Meeting in Minneapolis, Minnesota. The separate meetings and the larger committees have resulted in the growths of these meetings beyond all expectations.

While membership has grown only by 145 Fellows over the last twelve years (from 2,567 in 1987 to 2,712 in 1999), the charts that follow demonstrate the phenomenal growth in participation in the College's committees (Figure 3); the number of committee members has mushroomed from 200 to over 500 members over the last 11 years. The other three charts (Figures 4-6) demonstrate how attendance has grown at ACTEC's annual, summer and fall meetings. However, changes in our nation's economy and the increase in the number of working spouses over the last decade have brought down spousal attendance to an average of 50 to 60 percent from the 88 percent of spouses that attended, for example, the 1982 Annual Meeting at the Hotel del Coronado, where there were 404 Fellows and 355 spouses in attendance.

In addition to size, the College's meetings have grown in complexity and in the level of service offered to the attending Fellows and spouses. The professional programs feature top notch continuing legal education programs led by a great number of excellent speakers. Audiotapes of the seminars and a seminar manual are made available for sale to all the Fellows. Seminar notebooks have doubled in size and now require three heavy notebooks to hold the 1,400 plus pages of material given each registrant. In addition to daily breakfasts and a variety of evening functions, the meetings include a tremendous variety of daily tour options, information on restaurants, tips on local sightseeing, various other helpful information, return shipping of seminar materials and more.

The 1997 Annual Meeting set another record for attendance, and for the first

**TOTAL COMMITTEE POSITIONS AND MEMBERS**

Eleven-Year Comparison as of January 1998

<b>COMMITTEES</b>	<b>1988-89</b>	<b>1989-90</b>	<b>1990-91</b>	<b>1991-92</b>	<b>1992-93</b>	<b>1993-94</b>	<b>1994-95</b>	<b>1995-96</b>	<b>1996-97</b>	<b>1997-98</b>	<b>1998-99</b>
BOARD OF REGENTS	39	39	39	39	39	39	39	39	39	39	39
BUSINESS PLANNING	n/a	n/a	n/a	n/a	n/a	n/a	24	40	46	59	60
BYLAWS/MANUAL	5	8	8	10	4	4	3	5	5	5	5
CHARITABLE PLANNING	n/a	39	47	62	68						
COUNSELING THE BEREAVED	20	16	n/a								
DEMOGRAPHICS	n/a	n/a	n/a	n/a	n/a	n/a	15	21	21	n/a	n/a
EDITORIAL BOARD	25	19	19	15	17	17	19	19	21	21	22
ELDER LAW	n/a	n/a	n/a	24	35	34	43	46	45	45	44
EMPLOYEE BENEFITS	17	18	18	16	18	22	24	30	33	41	45
ENVIRONMENTAL LAW	n/a	n/a	n/a	n/a	n/a	n/a	11	11	11	10	n/a
ESTATE AND GIFT TAX	37	43	42	51	61	56	45	46	50	69	64
EXECUTIVE	9	8	9	9	9	9	9	9	9	9	9
FIDUCIARY INCOME	20	21	21	16	18	25	30	35	36	33	37
FIDUCIARY LITIGATION	n/a	n/a	n/a	26	49	49	57	61	65	72	76
FINANCE	5	n/a									

<b>COMMITTEES</b>	<b>1988-89</b>	<b>1989-90</b>	<b>1990-91</b>	<b>1991-92</b>	<b>1992-93</b>	<b>1993-94</b>	<b>1994-95</b>	<b>1995-96</b>	<b>1996-97</b>	<b>1997-98</b>	<b>1998-99</b>
FIN. PLANNING	30	n/a									
INT. EST. PLANNING	n/a	21	31								
HISTORICAL COMMISSION	n/a	n/a	n/a	n/a	4	4	4	4	4	n/a	n/a
MEMBERSHIP SELECTION	9	9	9	10	10	9	9	9	9	9	9
MISCELLANEOUS	9	9	16	16	20	39	27	29	29	36	33
NOMINATING	6	8	8	10	7	7	7	10	8	9	9
OFFICE MGMT.	4	5	5	5	5	4	4	6	7	n/a	n/a
PRACTICE	n/a	n/a	30	30	36	37	40	48	47	48	50
PROFESSIONAL STANDARDS	23	24	24	27	35	32	34	37	37	37	37
PROGRAM	6	8	8	14	18	14	16	14	18	15	15
STATE LAWS	38	37	37	34	42	46	54	53	51	43	58
STATE CHAIRS	55	55	55	55	55	55	55	55	55	55	55
TASK FORCE -IRC SEC. 102	9	n/a									
TASK FORCE 2000	n/a	20									

COMMITTEES	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99
TECHNOLOGY	n/a	19	19	25	29	24	30	34	37	36	43
TRANSFER TAX	16	15	15	19	25	18	18	17	19	19	17
TOTAL NUMBER OF COMMITTEE POSITIONS	382	361	382	451	536	544	617	717	749	793	846
TOTAL NUMBER OF COMMITTEE MEMBERS	241	230	279	297	313	333	387	427	457	482	501

**Figure 3** Eleven-Year Comparison of Committee Participation

time we videotaped and replayed the first four seminars. The annual meetings now also offer a variety of afternoon computer workshops and Internet workstations where Fellows can encounter the ACTEC home page first-hand, obtain their passwords to the private section of the Web site, and “surf the net.”

A catalyst for further growth in the size of ACTEC’s summer meetings was the addition of a half-day CLE program at the 1997 Summer Meeting in Chicago. A comparable program was offered at the 1998 Summer Meeting in Portland and since these programs were extremely well received both in 1997 and 1998, these half-day professional programs will likely continue to be a regular feature at future summer meetings because they not only attract committee members, but also Fellows who are not currently on ACTEC committees.

**ACTEC ANNUAL MEETINGS**

	1987 Mau i	1988 Mar co Islan d	1989 La Palo ma	1990 San Dieg o	1991 Hilt on Hea d	1992 Dese rt Sprin gs	1993 Dolp hin	1994 Wai- kolo a	1995 Scott s- dale	1996 Puert o Rico	1997 Ranc ho Mira ge	1998 Orla n-do
Fello ws	444	483	568	515	569	531	587	436	649	493	640	573
Spous es	396	399	444	409	438	397	353	390	463	360	443	306

	1987 Mau i	1988 Mar co Islan d	1989 La Palo ma	1990 San Dieg o	1991 Hilt on Hea d	1992 Dese rt Sprin gs	1993 Dolp hin	1994 Wai- kolo a	1995 Scott s- dale	1996 Puert o Rico	1997 Ranc ho Mira ge	1998 Orla n-do
Others	10	44	45	45	41	43	83	10	28	52	35	36
Total	850	926	1057	969	1048	971	1023	836	1140	905	1118	915
First timers	73	85	88	67 est.	73 est.	69	99	48	77	37	60	45

**Figure 4** Twelve-Year Comparison of Annual Meeting Attendance

### ACTEC SUMMER MEETINGS

	1987 San Fran- cisco	1988 Tor- onto	1989 Los Ang- eles	1990 Chic a-go	1991 Atlan ta	1992 San Fran- cisco	1993 New Yor k	1994 Mi n- nea p- olis	1995 Calg ary	1996 Denv er	1997 Chic a-go	1998 Portl and
Fello ws	u/a	u/a	137	208	190	237	232	269	247	316	400	414
Spous es	u/a	u/a	58	104	69	118	99	92	121	116	151	215
Others	u/a	u/a	12	8	8	7	19	1	10	7	9	14
Total	181	200	207	320	267	362	350	362	378	439	560	643
Dinne r	181	200	186	273	204	280	275	280	284	293	285	350
Semin ar	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	241	285
Cmte. Memb .	u/a	u/a	156	197	228	246	177	230	220	269	297	358
Key: u/a unavailable    n/a not applicable												

**Figure 5** Twelve-Year Comparison of Summer Meeting Attendance

### ACTEC FALL MEETINGS

	1987 Sea Islan d	1988 Kans as City	1989 San Anto nio	1990 Hom e- stead	1991 Pal m Beac h	1992 Seatt le	1993 Sant a Fe	1994 Beav er Cree k	1995 D.C.	1996 Cinci nati	1997 Wm s- burg	1998 Clev e- land
Fello ws	u/a	165	200	213	268	255	360	355	386	365	463	385
Spous es	u/a	50	114	123	150	143	232	223	190	144	262	163
Others	u/a	1	12	11	11	18	18	24	22	7	19	10
Total	161	216	326	347	429	415	610	598	550	516	744	558
Dinne r	161	220	235	n/a	290	284	385	433	330	301	455	327
Semin ar	n/a	147	122	130	175	183	310	269	247	245	286	282
Cmte. Memb	u/a	u/a	134	143	196	199	236	254	279	270	308	334

**Figure 6** Twelve-Year Comparison of Fall Meeting Attendance

Of course, ACTEC's increased level of activity has dictated the need for increased staff, more equipment and more office space. From its humble beginnings on Pico Boulevard, the offices are now located in much larger quarters on Sepulveda Boulevard. When I look around the office today, there is truly no comparison to that little storefront office where I started my employment almost fifteen years ago.

There have been quite a few ups and downs, people have come and gone, but this gleaning out process has left us with a group that produces not just good work, but a lot of it. Presently, the staff now consists of nine people, including seasoned veterans like Debbie Jacobovitz, who is now Membership Administrator and has been with the College for many years, and Robin Neal, who first worked for us part-time while she attended college and later became a full-time employee; and now handles all of the committee work. Added positions include that of Office Manager, held by Nancy Sullivan who has now been with us for several years. The Publications Coordinator's post is occupied by Barbara Ravetti and our Meetings Coordinator is Mandy Shamis, who have both been with us for quite some time. The three newest additions to the ACTEC staff are Connie Gabel, who worked for us on a temporary basis before

we hired her to work with us directly; she assists Barbara with the filling of publications orders and helps all of us with a variety of mailings; administrative assistant Marcia Pryor, who answers the telephones and does a great deal to help Nancy and my workload; and the most recent addition to the staff, our systems administrator, Jose Baldonado, who makes certain that the ACTEC home page is kept up-to-date and that our computers keep on running.

One thing that has not changed over all these years is that the College remains a wonderful group of highly qualified lawyers whose character and ability contribute to the achievement of the purposes of the College. They work together on worthwhile projects, share knowledge and enjoy each other's company. The College already enjoys better participation by its members than most associations nationwide. New developments in computer technology continue; who knows where the computer industry will take us as we get close to the turn of the century. I am glad that I have had the privilege of being a participant in these years of tremendous growth and change.

# **I** **N THEIR OWN WORDS** ■

## **MEMOIRS OF ACTEC'S PAST PRESIDENTS**

One of the first acts of the Historical Commission was to ask ACTEC's living past presidents (Everett A. Drake and Harrison F. Durand have since passed away) to contribute memoirs of the highlights of their presidential year to this history. We felt that letting them speak for themselves in this section would be a fitting way to bring this history to a close.

### ***Harry Gershenson (1965-66)***

During my year as president, there was nothing unusual that occurred. Our membership grew and our activities continued. We had and still have an excellent Board and have progressed tremendously in the affairs of probate.

The unselfish service of the Fellows over the years has made our organization the leader in the probate law field.

□

### ***Harold I. Boucher (1967-68)***

...I followed as president of ACPC that great Yale, Joseph Trachtman, whom I met for the first time at the ABA convention in Honolulu....He looked me over carefully and told me he would speak at the dinner meeting of ACPC members and that I could say a few words. Few I did.

The first opportunity I got to suggest that ACPC meetings be held at a time and place separate from ABA meetings was at an ACPC dinner in Chicago. There I made a pitch for the divorce. It appeared to have been well accepted.

Bjarne [Johnson] and Ev [Everett Drake] tell me the idea had been floated 15 years before. Nevertheless, it was during Ev's presidency...that a committee was appointed to discuss the matter. Bjarne was appointed to set up the Honolulu ACPC meeting, the first one that did not coincide with an ABA frolic.

Bjarne...deserves an ACTEC gift of gold watches, one for each arm, for the fine job of setting up outstanding ACPC and ACTEC meetings. And yes, throw in a real pearl necklace for his wife Joyce who went to all those meetings and bore some of Bjarne's uncompensated personal expense in the process of setting them up....

...I recall that Nick Shriver was beside himself at one of the Regents' meetings because ACPC did not have a budget. I told him ACPC expenses were little and a budget discussion a waste of time. Nick felt it was simply an outrageous violation of custom and good manners for ACPC to be without one.

As you well know, ACPC and ACTEC ended up with budgets.

At one place along the line I suggested increasing the dues and said that if any member could not afford, or would not pay the increase, he should not be a member. I notice the dues have been increased above the increase I suggested. And also the expense of the office staff and the number of people on the staff.

ACTEC's cash position and solvency are the envy of every municipality in the USA.

Over the years of my active membership in the College I have met a number of fine gentlemen, who just happened to be lawyers.

...Of course, I will never forget Joe the Yaley...[he] told me something...I will never forget. "Don't let these New York City lawyers intimidate you," he advised. Intimidate me? A descendant of two families who were among the first of New York State's settlers? Intimidated by New York lawyers? Me, because I am California born? Someone outside New York ought to intimidate a few of them. Not all lawyers west of the Hudson are Indians.

I may have looked like an Indian to Joe at our Honolulu meeting, and perhaps he felt sorry for me when he said I should not be intimidated by New York lawyers. I will never know.

...Today's *Probate Notes* contain more turgid esoterica than can be found in any of the world's law reviews. Einstein would be jealous.

And the discussions at ACTEC meetings! Holy Toledo!

Jimmy Brill, Houston, told me that he listens to ACTEC lectures and learns about matters he never knew existed or even thought existed, and wonders if there is something undisclosed by some of the lecturers that he should know, but they haven't disclosed.

Otto Frohmeyer, Medford, Oregon, told me he dropped his membership in ACPC/ACTEC because the lecturers talked about problems he never knew existed and that his clients never had.

There is a problem that faces all estate planners, be they members of ACTEC or not. Malpractice. Malpractice because the lawyer doesn't know the law, or misses the importance of facts disclosed or undisclosed by a client, whatever. A second opinion by a lawyer unrelated to the estate planning lawyer would be helpful. Also, a post-mortem second opinion by a lawyer should not be overlooked. Disclaimers could be used as damage control.

...I don't practice law now so I don't care, except I believe ACTEC should care. And very soon.

□

***Daniel M. Schuyler (1968-69)***

...[two of my] clear recollections (which I think are correct) of significant occurrences when I was President is that (1) we instigated the first publication of the College, and (2) we made a real effort to cooperate with the Section of Real Property, Probate and Trust Law, of which I was chair in 1959-1960, of the American Bar Association, of which I had been a member of the House of Delegates in 1959-60 and was a member in 1968-74.

□

***Everett A. Drake (1969-70)***

We were in the early stages of probate and federal estate tax reform. The Federal Tax Reform Act of 1969 became effective with President Nixon's signature on December 30, 1969. The new law contained many far-reaching changes, particularly in the field of trust income taxation.

The Uniform Probate Code was approved by the House of Delegates of the ABA at the July meeting in Dallas, Texas (Boy! Was it ever hot that week in Dallas—over 100 degrees every day.)

In the *Newsletter* of November 1969, edited by Harold Boucher (San Francisco), your President suggested that the time for filing the federal estate tax return and payment of the tax could be shortened to six months in most estates and the estate granted a 5% discount for such early payment. The law for many years had provided for a fifteen-month period before the estate tax was due and granted a one year after death alternate valuation date. This usually meant that estates subject to a federal estate tax could not be audited and closed in less than two to three years. No one dared pay the tax ahead of time. Interest rates for short term money were around 7% or better.

The early payment idea was later adopted by the U.S. Treasury Department by making the tax payable in nine months with a six-month alternate valuation date. The discount suggestion did not pass muster.

A committee from the Regents was appointed to determine the future objectives of the College. Members of the Committee were: Bob Walker, Montreal; Bill Cantwell, Denver; Charles Saunders, Houston; W. Wade Boardman, Madison; and Bjarne Johnson, Chair, Great Falls.

The committee submitted its report at the annual meeting in August 1970, in St. Louis. There were five separate recommendations. The last sentence in Number 5 read as follows:

“That the mid-winter meeting of the Board of Regents should be held apart from the mid-winter meeting of the American Bar Association and in a favorable climate.”

This was the spark that prompted the scheduling of the mid-winter meetings in southern climes and lead eventually to the tremendous success and popularity of the mid-winter meetings.

...Remember some of those great meetings...in those days all dinners were formal (tuxedos and evening dresses). In July 1970, the annual meeting was held in St. Louis...Joseph “Joe” Trachtman was elected an honorary member of College at the 1970 Annual Meeting and presented with a gold pen and

pencil set at the dinner in recognition of his many contributions to the College and to the practice of probate law. Joe was an outstanding lecturer with a marvelous sense of humor.



### ***Harrison F. Durand (1973-74)***

Joe Trachtman, Harold Boucher, Dan Schuyler, Everett Drake, Joe Straus and Ed Winn were among the stalwarts who showed at ACPC annual meetings then held at the same time that ABA held its annual convention. Attendance by ACPC Fellows was sparse because of overriding engagements of ABA's Section on Real Property, Probate and Trust Law in which all of the persons named, including myself, were or had been active.

By 1974 Bjarne's [Johnson] travel program with Hawaii and Mexico, both successful, was established. We would no longer meet at the time and place of the ABA convention, but we would hold future meetings at a separate place and time. ACPC tested the market of resort hotels east and west and started booking years in advance.

On the professional side, ACPC had joined with ABA's Section on Real Property, Probate and Trust Law to assist with financial support of the Uniform Probate Code, which in 1969 had been approved by the National Conference of Commissioners on Uniform State Laws. Joe Straus represented first ABA's Section on Real Property, Probate and Trust Law on the Joint Editorial Board and later ACPC, and I represented ACPC on that board.

What should ACPC be doing after Mexico City? All presidents ask themselves this question.

By 1974, Bjarne Johnson had proved that annual meetings of ACPC should be held at times and places independent of ABA. By 1974 we had taken another step by joining forces with ABA's Section on Real Property, Probate and Trust Law by contributing to UPC and nominating Fellows to serve on the Joint Editorial Board for the Uniform Probate Code. I needed help. By then we had embarked on a program of annual meetings at luxurious resorts. Recreation is one thing, but I felt that we needed to originate and promote new projects helpful to our profession. All we needed was (1) identification of such projects; (2) invitations to Fellows to participate in whatever projects we thought might be beneficial to the profession in 1974 and thereafter; and (3) support by the Board of Regents. With these thoughts in mind, I talked with some of my friends who were Fellows of ACPC and active in the Real Property, Probate and Trust Law Section of ABA. I asked them about membership qualifications, *Probate Notes* as a new publication, establishing an endowment, appointing committees to study and report on new projects. These ideas...were tested...and subsequently approved as a part of the ACTEC structure which is making such an outstanding contribution to probate practices in our country.

I continue to try to attend these annual meetings, even though I am far past the normal retirement age. On the constructive side, a look at ACTEC's directory discloses that several of the persons who attended the unauthorized meeting later became presidents of ACPC and played major roles in our continuing development.



### ***Edward B. Winn (1974-75)***

An innovation under Harrison Durand that came to full fruition in my administration was the work of a distinguished editorial board under the leadership of Bill Cantwell, who instituted the first publication of a new journal called *The Probate Lawyer*, which published the first "Learned Lecture,"

“Post Mortem Estate Planning” by Judge Alfred Clapp of New Jersey. The most significant step taken during my tenure was the overhaul of our election processes by a Membership Selection Committee, which began with the outstanding work of John S. Candler, II, of Atlanta, working with Harley J. Spitzer as co-chairman of the committee, which finally drafted new “Requirements and Procedures for Selection of Fellows” to identify and select from among qualified persons, with due regard for maintaining geographical distribution of the College membership, those who are best qualified for membership.

The second Learned Lecture commissioned by the College was delivered at the mid-year meeting at San Juan in March 1975, by Dean Edward C. Halbach of the University of California at Berkeley speaking on “Some Often Overlooked Problems and Opportunities in the Use of Trusts.” That talk also constituted the next edition of the new publication called *The Probate Lawyer*.

It was always important to me to stress the importance of the State Membership Committees (as led by the State Chairman) as a means of maintaining contact with the various state groups on a national basis. At Kansas City we decided in the Executive Committee that in the future we would arrange for separate get-together of all State Chairmen at both the mid-year and annual meetings, with emphasis on attendance by the officers at state meetings whenever possible. This custom begun that year has become a continuing and valuable one.

While I was President, I attended state meetings in Arizona, Alabama, Minnesota, Wisconsin, Kentucky, Oklahoma, Texas, Tennessee, Montana and Florida, and I do think that I helped to get this new idea off to a flying start. In Arizona I talked about the problems of the new Uniform Probate Code and compared it with Texas independent administration. At the Alabama Probate and Trust Section meeting, I talked on drafting and administrative considerations in using the testamentary marital deduction and residuary trust arrangement. In Minnesota, with the assistance of Everett Drake, I spoke to the Minnesota State Bar at Duluth on “Independent Administration in Actual Practice,” with particular reference to the unsupervised administration provisions of the Uniform Probate Code, a substantial portion of which had just been adopted by the State Legislature. I spoke at a special meeting arranged by our exuberant Regent, David R. Brink, and at a luncheon meeting in Milwaukee arranged by the State Chairman, Charles F. Nolan, assisted by our Regent Rudy O. Schwartz.

Later I talked in Louisville with the Kentucky Fellows at the annual meeting of the State Bar assisted by the State Chairman, Allen Schmidt, and then with the Oklahoma Fellows and the probate committee of the Oklahoma State Bar at the invitation of the state chair, Bill Bell.

The most hectic period occurred in June of 1975. On Thursday evening, June 12, I met in Gatlinburg with the Tennessee Fellows during the State Bar meeting there, then returned to Dallas on the following day, left for Denver on the day after that to meet with Bill Cantwell and others on College business, then journeyed the following day to Great Falls, Montana, to meet with Bjarne Johnson and the Montana Fellows for dinner on June 19 at the Montana State Bar Convention at Bozeman, it being necessary that we drive 220 miles that night back to Great Falls so that I could leave at 6:00 a.m. the next morning to make connections for a flight to Florida to attend a formal dinner with the Fellows there on the evening of June 20.

As we were driving from the Montana Bar convention during the early morning hours with Bjarne and Joyce Johnson, and Conchita at my side, we heard reports that the Missouri River was rising to flood stage. By the time we got to Bjarne's house on the south shore of the Missouri, at about 4:00 a.m. the water was already an inch or two around his house, and we were barely able to get our things together and get to the airport on higher ground to make the next flight to Denver. Later Bjarne and his wife were completely isolated for over a week because of the flood that surrounded their home so that they had to use a boat to get around.

At Denver with all of my camping clothes still on and by now quite sweaty after the all night ride without any opportunity to make a change, I saw as I changed to another plane that my bags with all my clothes were going south to Texas with Conchita, and I had nothing with me for the next hop across the country with delays in Kansas City and then to Miami to get a rental car to drive speedily north to Boca Raton for the Florida meeting. The Florida state chairman had cautioned me to be on time since the speaker for the prior year had failed to arrive at all. I got to Boca Raton with about two or three minutes to spare before having to face a formal dinner audience in tuxedos. First, there was sort of a hushed silence as our Florida Fellows had their national president introduced in his sweaty camping clothes, but they graciously made me feel at home and accepted the situation when they learned of my hearth-felt effort to get there on time even without my formal attire. I might add that originally I was supposed to talk in Montana on the first day of their convention and talk in Florida on the last day of theirs, but the order had been reversed for reasons beyond the control of any of our Fellows.

I am sure that other officers who have made these talks have had similar tales of woe, but that was one of the most frantic days of my life, and I would not want to repeat the experience.

Our mid-year meeting at San Juan in March 1975, was held at the beautiful Caribe Hilton Hotel with a full week of activity. On Monday afternoon, the acting Attorney General of Puerto Rico greeted us on behalf of the Puerto Rican government, and Dr. Conchita Winn (who was born in San Juan) gave us an interesting account of little known facts about Puerto Rican history, culture and literature. Among the many speakers during the meeting was Rafael Vizcarronda, an outstanding lawyer in San Juan, with a panel of three other leading San Juan attorneys on "Tax and Business Planning for U.S. Citizens with Respect to Property in Puerto Rico." A cocktail party for all members and their wives at Fort Geronimo was particularly festive, enlivened by the members of the local ROTC unit dressed in Spanish Conquistador costumes who challenged those attending with cross lances and sabers and effectively maintained a reasonable degree of order and decorum.

Judge Clapp, who authored the first edition of our new publication, *The Probate Lawyer*, talked on post mortem estate planning. Dean Halbach of the University of California at Berkeley Law School was honored as the first recipient of the College's prestigious Learned Lecture award. John Rogerson of Boston, Mal Moore of Seattle, and Bill Farrell led a spirited discussion in three separate case study and drafting sessions.

I well remember, among many other outstanding presentations, one by Joe C. Foster, Jr. as the epitome of organized and informative wit of which Joe is so capable.

For dinner we were transported to the dramatically impressive and inspiring El Conquistador Hotel overhanging the point where the Atlantic Ocean merges into the Caribbean Sea at the northeastern tip of Puerto Rico.

Another innovative program was the division of the members present into four separate groups each under the leadership of a section officer to discuss "How Can We Improve the College?" Joe Straus chaired a distinguished panel discussing the "Uniform Probate Code in Actual Practice." That afternoon featured a house and garden tour of old San Juan, including, among others, visits to the site of apartments of the Commandante of the El Morro Fort, a massive fortification which made San Juan the most heavily fortified area in the Spanish empire, to the Fortaleza (the beautifully situated residence of the governor of Puerto Rico) and to the old residence which is now the City Hall of San Juan.

At that time, the annual meeting was still held in conjunction with the ABA meeting on August 8, 1975, which after an intensive one day meeting was capped in the evening by dinner at the prestigious Royal Montreal Golf Club. John Candler of Atlanta, as chair of the new Membership Selection Committee, reported on the completed new procedure for nomination and election of new members and

the results of the first selection meeting of the Committee which has continued to this date to exercise a crucial role in evaluating and recommending new members for the College....

I enjoyed my year as President immensely and yielded the gavel to my successor Bill Cantwell with a certain amount of reluctance but with a great deal of relief.



***William P. Cantwell (1975-76)***

As I look back on my term of office two events concerning the College stand out in my mind and one humorous incident also pops up.

The first of the significant events was the March convention at Hilton Head. What I think is significant about that is that we broke up into groups to have discussions of substantive matters rather than operating in plenary session. We developed a diverse array of subject matter for discussion and in general the discussions went well. I believe that was the genesis of the format that is now being followed with a substantial multiplication of activities and very intensive and competent presentations in each of them.

The other item that I think was significant was the fact that the Revenue Act of 1976 was getting started at the time of our March convention. We decided that it was time for us to get involved directly in these matters and I created a committee under Frank Berall's chairmanship that started to deal with this. I made an appearance before the Ways and Means Committee and testified concerning the 1976 Act. In general, we stayed very involved with the development of the '76 Act and had some part to play in its final form, although it certainly contained things that we would have preferred to have omitted. What was valuable about our participation was that we had, as a single purpose group, a far more streamlined technique of developing positions and working from them than the ABA with its far more hierarchical structure. That served us well in 1976, and it has certainly continued to serve us well since that time. We simply don't have the bureaucracy that the ABA has in taking a position on any matter and since we are concerned with the subject matter of our College alone, we don't have competing demands for the availability of people to give intensive consideration of tax issues.

The one humorous incident to which I referred concerns my wife and an event that occurred at the convention in Hilton Head. There had been a notice in the newspaper about the fact that a comet was to be visible at about the time we were there. In my usual sleeplessness I awakened one night and went out on the patio of our room and I saw a large white form in the northeastern sky. I woke up Hennie and we both enjoyed this sighting of Comet North. Hennie was so excited about Comet North that she took the microphone before a group meeting at the next night of the convention and described the experience of sighting the comet and suggested that everyone, but absolutely everyone, had to wake up and look at the comet sometime after midnight. That converted the name of the comet, for ACPC purposes at least, to "Hennie's Comet" and the next day she received many thankful tributes to her announcement from others who had seen it on her suggestion.

Overall there are a couple of other items that are worth talking about. One is the creation of *The Probate Lawyer*, which was a concoction of Nick Shriver's and mine, to be the publishing medium for our Learned Lecture. Subsequently, the Learned Lecture became known as the Trachtman lecture and those lectures have been published in *The Probate Lawyer* annually since then (except for Stan Johansen's, since he never got around to putting it in printed form!). In addition, Nick and I conceived the idea of calling probate notes *Probate Notes* and coming up with this as a substantive newsletter, and it has certainly turned it into a great success. I recall well that Harold Boucher was skeptical of its

success and felt that there would be no way that we could get enough material to publish in it every issue. As they say, the rest is history!



***Charles A. Saunders (1978-79)***

My years with the American College of Probate Counsel brought me more professional gratification than work with any other legal organization. I became a member when all a lawyer had to do was declare a willingness to pay modest annual dues and the lawyer was welcomed into fellowship. I soon learned that there were benefits to membership in the College: quality continuing legal education and consummate collegiality. I cannot now recall the date of my first meeting of the American College of Probate Counsel, but I know it occurred in Houston, Texas at the Shamrock Hilton Hotel. Mr. Gayle B. McKay, the then Executive Director of the College, wrote me as a Houston Fellow and told me that the meeting of the College would occur in Houston and asked me to arrange for the feature speaker for the meeting. Federal Judge John R. Brown was well-known as a humorous and erudite after-dinner speaker, whom I had heard on several occasions, and so I contacted Judge Brown, who graciously agreed to speak (without honorarium). The meeting at the Shamrock Hilton Hotel went well, although attendance was small by current standards, but I learned on that occasion that the College was composed of warm, wonderful people and equally delightful spouses....

My interest in the College began in earnest when I was appointed State Chairman. By reason of my service as a Director and Chairman of the Real Estate, Probate and Trust Law Section of the State Bar of Texas, I had a fairly wide acquaintanceship among probate practitioners and, thus, became interested in bringing into the College the very best of Texas probate practitioners. I not-so-secretly set as my goal that there should be more Texas Fellows than California Fellows in the College and, as I recall, Texas Fellows equaled and exceeded the number of California Fellows for several years.

My interest in the College intensified when I was elected to the Board of Regents. I have reason to believe, and do believe, that Edward B. Winn was responsible for my nomination, for which I will ever be grateful. From that point forward, I attended every annual meeting of the College except one in 1969. During that year, I was a defendant in a lawsuit that was in trial for several months. A deranged plaintiff claimed that a will I prepared had been forged and he also claimed that a deed notarized by another member of my law firm had been forged, but justice prevailed and the jury took little time in finding for the defendants, but the trial caused me to miss the meeting.

To my surprise and delight, I found myself in the progression to become an officer of the College. I served as secretary of the College, and then was in line for treasurer when William Bell of Tulsa, a candidate for president-elect, decided to drop out of the line of progression to become a candidate for president of the Oklahoma Bar Association and, thus, I was propelled into the office of President-Elect a year earlier than I normally would have been....

One bitterly cold day in winter, Bjarne Johnson and I were riding a tour bus in Chicago at the time of the American Bar Association meeting and one of us said to the other, "Why are we here? Does the American College of Probate Counsel have to meet at the same time as the American Bar Association which seems to have to meet in big cities either in February or in August when the weather is at its worst? Bjarne declared that the College could and should have its own meeting away from the American Bar Association meeting. When he presented this idea to the Regents, it was declared to be heresy, but Bjarne ultimately prevailed....

My final words in *Probate Notes*, Summer Edition 1979, were:

“It has been an honor of inestimable proportion to have served as President of an organization of the finest men and women in the legal profession. For this honor, I am deeply grateful.”

Those words are as fresh and true today as they were when written 14 years ago.



***Harley J. Spitler (1979-1980)***

By far, the main national, public achievement of ACPC during my term was the demise of carryover basis which was in the Tax Reform Act of 1976. I personally claim no credit. The credit is due to the two preceding presidents, the Estate and Gift Tax Committee and several members who were close to, and effective with, key legislators. Carryover basis died in December 1979 when the House conferees voted 8 to 4 to repeal it. That repeal became effective as of April 2, 1980. ACTEC should perhaps have a moment of silent gratitude on the annual anniversary of that demise!

The second major achievement of ACPC during my term was the continuing development of the then immature “membership selection” process. The original concept came from John S. Candler, II, of Atlanta, when John was a Regent. John and I discussed it several times, exchanged views, and ended with a “selection” concept rather than a straight “application” process which was the prior method of obtaining members. This “selection” process evolved into the highly sophisticated “membership selection” method used today by ACTEC and should always be credited to John Candler.

A third achievement, of sorts, was the repeal of the “1% Rule”—which was a non-bylaw rule established by a February 16, 1968 Board of Regents Resolution. That resolution limited the number of College members to 1% of the Bar of a state as evidenced by the Martindale-Hubbell count from year to year. That limitation was repealed. That repeal opened a debate that has never ended: How large should the College be?

The most calamitous event of my tenure were the unseasonal rains and resulting floods from the overflow of the normally dry Salt River and all but two of its bridges. The result: residents of Tempe, Arizona could not reach the Shadow Mountain Resort, Scottsdale, the site of ACPC's 1980 mid-winter meeting except by a very long route (in terms of both mileage and time). There were two-hour waits to get across from Tempe! The hardy souls who attended ACPC's outdoor Wild West Steak Fry and “shootout” will long remember (i) the cold, (ii) the rain, and (iii) the mud!

The most enjoyable event: visiting the Texas Fellows at their meeting in beautiful San Antonio.

The most insignificant decision: How would sugar be served? (i) cubes, (ii) in a bowl with a spoon, (iii) in paper packets?



***Milton Greenfield, Jr. (1981-82)***

The following comments are more notes than literary expositions, but they recall occurrences during my year which may be significant for history, pointing the way to the magnificent future. They are in no particular order.

My greatest contribution to the College may have been shedding the program responsibility which had previously been a major burden of the president. When I became president-elect, I named George H. Nofer, (the incoming vice president, who had no duties) as chairman of the Program

Committee. He selected Mal Moore and Fred Keydel as his committee members. That committee did an outstanding job on all programs for the year. All subsequent presidents have followed this pattern.

I was a strong believer in cutting back the significance of our August meeting and changing the spring meeting to our annual meeting. The discussions on these topics ultimately led to the structure which became full blown in 1994.

With the concurrence of the program committee, we:

1. Introduced the ask-the-expert program, which later became "Hot Topics."
2. In response to the demand from spouses who were tired of cooking, style shows, and Chamber of Commerce talks, we gave them two programs which were substantive and meaningful. Harold Fallon gave a very helpful and provocative program on financial planning for spouses. A panel of four experts shared a program on "what a spouse should know about estate planning."

My pride in the College was expressed in person and in *Probate Notes*. I do not know of any comparable professional organization which has such a high percentage of its members attending, at their own expense, a professional meeting such as our annual meeting. At our Florida meeting in 1981, all 39 members of the Board of Regents were in attendance as were all members of the Membership Selection Committee. That is a hard record to equal.

I try to tell all presidents-elect that the presidency is not only an honor and duty, but should also be the most enjoyable experience in the president's life. In my entire year, I was never turned down by a Fellow whom I asked to assume a responsibility or duty.

Jane and I were the beneficiaries of the growing importance of state and regional meetings. "Each such meeting confirmed and strengthened our pride in the caliber of the men and women who compose this college as well as the graciousness, intelligence, and diversity among their spouses." (*Probate Notes*, Vol. 8, No. 1, Winter 1982).

I believe that the early 1980's began the college's significant impact on the legislative process. We were just beginning to be respected by Congress and the Treasury as a professional group seeking sound legislation, rather than being regarded as a trade group espousing the causes of our clients.

When I attended the annual meeting of the National College of Probate Judges I realized that they were completely ignorant of the tremendous impact of the Economic Recovery Tax Act of 1981. I felt strongly that our President should instruct the judges on novel legal problems on which they would be ruling in the coming years. Fortunately, I believe that the National College has been using our presidents more effectively in this way in recent years.

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### ***George H. Nofer (1983-84)***

Here are some of the changes that come to mind that occurred during my period as president or as I was going through the chairs. Some are obviously more significant than others, and I start with the two of which I am most proud:

1. I felt that our committees were not being effective, largely because they were too large, too much duplication of members and no financial support for holding meetings at convenient times throughout the year. Therefore:
  - a) I started the practice that no member could serve on more than two committees;
  - b) I reduced the size of many committees, and eliminated some that were dying on the vine or were duplicative;
  - c) I established in the Bylaws what were standing committees and what were special committees, and how they would be created and terminated;
  - d) And most important, established budgetary support for committees to be reimbursed for meetings other than at the annual meeting. Our expanded, active and productive committee activity today is due to this initiation.
2. The second is the creation of the State Laws committee. I was concerned that our involvement in the federal tax scene was distracting me from our state probate law orientation. I conceived the idea of appointing a State Laws Committee that would formulate state laws proposals that would be endorsed by the Board of Regents and then urged upon the State Chairmen for possible action in their respective states. This is working well today.
3. I was concerned that Harold Fallon's suggestion of forming a Foundation was not getting off the ground. I gave it new impetus, and it got underway.
4. The same with the CCI. Several of our tax people were fearful of it tainting our basic tax exemption. I demonstrated how the finances could work, which is the method used today.
5. I established the protocol for:
  - a) Filing *amicus* briefs by the College;
  - b) Who could attend meetings of the College along with Fellows. We had become concerned that "tag-ons" were being brought in by Fellows.
6. The College logo and letterhead were updated from their third-rate appearance stemming from the early days of the College. They have again been updated with the new name of the College.
7. When I was treasurer, I completely reorganized and simplified the financial reports, so [the] Regents could better understand them.
8. I started the procedure of having all course materials ready and handed out as soon as Fellows arrived at the Annual Meetings, and put in proper binders.
9. At the meeting in Boca Raton, we entered the world of computers, and software, by having the first hands-on display.
10. Also, at Boca Raton we arranged for a post-convention optional cruise. Something like that had been arranged once before, and once or twice since. Although they worked out well, I think we have found they were too much trouble, and have been dropped, wisely so.

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*J. Thomas Eubank (1984-85)*

When I became president, I noted in my first President's Message that our College was as shipshape as possible, thanks to the efforts of those who preceded me. I had come to realize that the College was so strong that it was almost impervious to damage, yet receptive to change and expansion. Thus relieved of the fear of doing damage, I set about trying to add new features and to increase the emphasis on certain existing programs. The capability and collegiality of the Fellows made that year the most professionally enjoyable and rewarding one of my life, leaving me with a great sense of gratitude for the many happy experiences and associations.

That first message dealt with the economic, political, social and ethical aspects of the transfer of wealth from one generation to another. Probate lawyers needed to be able to justify the preservation and transfer of private sector capital by understanding and articulating the fundamental aspects. Later, through my Trachtman lecture and efforts for three years as president of the ACTEC Foundation, I was able to continue these efforts.

My second message focused upon our practice and our profession as probate lawyers. The probate practice was decreasing then because of the 1981 tax reduction and the passage of property outside of probate. The effort was to increase probate practice by adding scope and services, meeting the needs of our clients better and responding to changing conditions. What to add and how to do it were undertaken through our committees, our educational programs, and the ACTEC Foundation, which fortunately still continues superb work in that direction.

The continuing activities of the College included: (1) continuing our legal education and enhancing our competence; (2) reform and improvement of the law; (3) improving our professional standards, practice techniques, and efficiency; and (4) developing friendships in a collegial environment and having fun. By 1984, the committee system had been developed to the point that most of the work had been transferred from the Board of Regents to the committees, and the board had become mainly a legislative and overseeing body that received reports from committees. During my year, the number of committees on taxation was greatly increased, so that the scope covered was much greater than that of the long-standing Estate and Gift Tax Committee. The new ones included the Fiduciary Income Tax Committee, the Employee Benefits in Estate Planning Committee, the Subchapter J Reappraisal Study Committee, the Transfer Tax Study Committee, and the Accessions Tax Study Committee. Committees were encouraged to meet more often and more money was made available to them.

The efforts of George Nofer and others to have many more state or regional meetings and a greater focus on state laws were continued, with good success. These efforts and those to increase the committee activities were recognized as essential to the well-being of the College. I attended every state or regional meeting to which I was invited, and fortunately for me, there were many and I learned a great deal.

The annual meeting during my year is dear in my memory. I had a birthday during it, the programs were wonderful, and Gerry Vogt filled in marvelously for Bette Elton, who was unexpectedly hospitalized.

When I retired as chairman of the ABA Section of Real Property, Probate and Trust Law, I told the Council that I was going to the Blue Ridge and swat flies. They gave me a fly swatter. When I retired as president of the College, I told the Board of Regents that fly swatting almost did me in and that instead I was going to my ranch and watch the grass grow. I am pleased to report that they honored my desire to be inert and refrained from giving me a mower.

The College was and is an absolutely wonderful organization. May it always be so!



***Joe C. Foster, Jr. (1985-86)***

As the 32nd president of ACTEC (then ACPC), I remember March 21, 1985 to March 20, 1986 as one of the best, and one of the worst, years of our lives.

We started regional (multi-state) meetings of the College that year. We held well-attended meetings in Washington, D.C., London, Colorado Springs and Lake Buena Vista.

We changed auditors and started the process of replacing our executive director. Eventually, Gerry Vogt succeeded Bette Elton, who had started as a part-time secretary to Gail B. McKay in 1949, as executive director of the College.

The best three words to sum up that year are: the College survived.

As for the 1980s in general, the decade began with the administration of Art Peter, who served a short term, because the College changed its annual meeting from August to late winter. This began a separation from dependency on meeting at the same time as the American Bar Association. The decade ended with the administration of Gerry Hemmerling, one of the best and best-liked presidents the College has had, and the first woman to lead the College.

In the 1980s, the College probably had its greatest influence on federal tax legislation, with the repeal of carryover basis, many of the provisions of ERTA and the repeal of the first version of the generation skipping tax (a monster that was slain, only to be replaced by a bigger monster).

The 1980s was also the decade in which law professors and the best and brightest law students had little interest in teaching and studying the subjects that are the core curricula for estate planning lawyers. A colloquium, headed by Tom Eubank, was held in Houston in 1987 with practicing lawyers, law professors and law school deans, to try to determine what the College could do to create greater interest in our field.

In 1984 at Boca Raton, Fellows had their first opportunity for hands on use of computers at a College meeting. In 1988, the College had its first computer committee.

Details of the 1980s can be found elsewhere in this history in the recollections of the persons who served as president of the College. The unfortunate death of Rudy Schwartz, one of the best loved presidents ever, made it impossible for his recollections to be written. However, everyone present will remember Rudy's words as he stood at a lectern on a stage in Las Vegas, with his presidential gavel in his hand, in March 1983. To the accompaniment of a big band, Rudy had been escorted to the stage by a spectacularly beautiful showgirl, dressed only in a few feathers, who towered over Rudy. She had been introduced as a paralegal from a Las Vegas law firm.

As Rudy stood at the lectern, the "paralegal" continued to move, rubbing her boa across Rudy's bald head. The laughter of the audience at the dinner dance seemed to be the longest in College history. When it finally quieted, Rudy uttered the immortal words "For at least two reasons, I would like to have my wife up here with me."



***Edward B. Benjamin, Jr. (1986-87)***

The major events during my presidency, as I recall them, were:

1. Replacing Bette Elton, who resigned.
2. Deciding upon, and then guiding, Gerry Vogt as the new Executive Director of the College. Gerry was a most apt pupil, and soon showed how fortunate we were that Bette had hired her as the College's staff accountant some years before.
3. Supervising Gerry's reorganization of the College staff and its necessary replacements.
4. Because of some laxity in previous years as to the required rotation procedures, having to appoint 26 new state chairs together with a number of new committee chairs.
5. Deciding to move the College to more appropriate headquarters, rather than renew our previous lease.
6. Redoing the membership selection procedures in a way that both updated them and satisfied several differing groups within the College.
7. Instituting a Nominating Committee rule that no member of the Nominating Committee can be nominated.
8. Instituting formal reimbursement procedures for officers attending regional meetings, etc.
9. Prevailing upon the Board of Regents to expand the board of Convention Coordinators, Inc. from its previous three (permanent) members.
10. Beginning the College's reaction to the 1986 Tax Act, which blindsided us along with virtually everyone else in the country.
11. Starting the tradition of having photographs of our annual meeting site on the cover of our annual meeting program.
12. Having the largest till-then attendance at our Annual Meeting, despite its conflict with the mid-winter ABA Meeting (in New Orleans, yet!)
13. Having a Fellow attacked by a swan at our Annual Meeting in Maui, falling into the fish pond while retreating, bending a light fixture into the pond while climbing out, thus electrocuting all the fish, but thankfully escaping with no personal injury.
14. Unfortunately, having a Fellow die during a meeting (our annual meeting), apparently for the first time in the College's history.
15. Having Jim Casner declare, at our fall meeting banquet honoring him as an honorary Fellow, that his acceptance was more of an honor to the College than it was to him—which brought a great round of good-natured laughter from all of us, as well as from Jim.
16. Failing to get the Board of Regents to agree to my proposal to change the College's name from ACPC to ACTEC at our fall meeting!

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***John A. Wallace (1987-88)***

Your letter caused a flood of memories to come back to me about my year as president of the College in 1987-88.

Our annual meeting in February 1988 was held at the Marriott Marco Island Hotel on Marco Island over Presidents' Day weekend. This was supposedly the top weekend of the winter season, but we started out with some pretty chilly weather, and a lobster feast dinner out in the open (followed by a fireworks display) took place in sweater weather or worse. Nevertheless, we had a good time. The weather fared off as the weekend progressed, and everyone had fun on the beach. The College offered an extremely interesting and well-presented substantive program. Now, we have grown to a size where this hotel cannot accommodate our annual meeting, which is a shame, because it is a beautiful location.

I had a very sad duty at the end of the meeting, namely, flying up to Manitowac, Wisconsin, to deliver a eulogy at the memorial service for our beloved president, Rudy Schwartz. It was a wonderful occasion, considering the circumstances, and Rudy's wife, Carolyn, and his children appreciated my remarks on behalf of an organization that Rudy had served so well during his lifetime.

It seems to me that the main themes of my administration involved the continuing effort to coordinate with the tax-writing committees on changes in the transfer tax laws (1987 was a very active year) and dealing with the issue of the future of the trust and estate lawyer in modern day practice. The former is a well known journey and the latter, while probably less so, may be equally important.

My message in Volume 13, No. 3, the Winter 1987 issue of *Probate Notes*, refers to the colloquium convened under the auspices of the Foundation on December 5 and 6, 1987, to discuss the future of our profession, particularly its interaction with law schools and the curriculum taught on substantive issues in our area of interest. My final message in the Spring 1988 issue of *Probate Notes* discussed my speech at the Annual Meeting of the National College of Probate Judges in Naples, describing the pressures of modern day trust and estates practice and admonishing the judges that requiring our lawyers to avoid value billing where value was given is a mistake.

The issue of the future of our practice continues. I was unable to attend the meeting of the ACTEC Historical Commission in Palm Desert because I was in Washington addressing the Trusts and Estates Section of the American Association of Law Schools on Friday, March 6, describing modern day law practice and helping to convince them that the trusts and estates lawyer is not heading toward the graveyard in large business law firms around the country. These professors tell me that many of their students worry that trusts and estates practice is not highly respected in all large law firms (which is undoubtedly true), but I did my best to tell them that a modern day trusts and estates practice can compete with almost any other area of the law if handled properly and primarily focused on tax and large estate matters.

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***Malcolm A. Moore (1988-89)***

The name of the College was still the American College of Probate Counsel. During that year a large portion of the College's time was, as usual, spent dealing with present and proposed federal tax legislation. The Estate and Gift Tax Committee spent many hours analyzing and criticizing then Section 2036(c) which was ultimately repealed the next year, 1990. I testified before the Senate Finance Committee in the fall of 1988 with respect to Section 2036(c) and the impossibility of living with its provisions.

At the fall meeting held in Kansas City, for the first time the College sponsored a one-day seminar; it dealt with financial planning. Every year since, the centerpiece of the Fall Meeting has been a one-day continuing education program. That first seminar was attended by over 100 Fellows.

During my term of office the Computer Committee was formally established. Previously there had been a Computer Task Force. The work performed by the Computer Committee has become an integral part of what the College has to offer to its Fellows.

The annual meeting in Tucson in March 1989, was, at that time, the largest meeting in the history of the College (1,057 attendees). That record has been eclipsed only twice, in Scottsdale in 1995 (1,140) and in Rancho Mirage in 1997 (1,118 attendees). All of the rooms at Westin's La Paloma in Tucson had been sold even before the formal program brochure was sent out to Fellows. We had to use two overflow hotels in connection with the meeting.

One of the highlights of the meeting was the completion of the "Trail to Tucson" bike ride which raised over \$100,000 for the ACPC Foundation. The planning for that event took place during the 1988-89 College year, led by Fellow Tom Coffman of Tulsa, Oklahoma. The 1989 Annual Meeting was also the first meeting where the "Hot Topics" program was introduced, which has continued ever since. Professor A. James Casner of Harvard Law School was the Trachtman lecturer. It was the last major speech that Professor Casner made before his death shortly thereafter.

Finally, the Rudy Schwartz tennis trophy was created in memory of our beloved past president, Rudy Schwartz. His widow, Carolyn Schwartz, attended the meeting in Tucson and awarded the first Rudy Schwartz trophy.

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### ***Geraldine S. Hemmerling (1989-90)***

The most significant event that occurred during my term of office was changing the name of the College from "The American College of Probate Counsel," an anachronism that, as indicated by Professor John Langbein in his 1988 Trachtman lecture, no longer fit our members, to "The American College of Trust and Estate Counsel." The name change was accomplished by the assiduous efforts of the Ad Hoc Committee on the Name Change, consisting of Jerry Horn, Fred Keydel, Jerry McCoy and Mack Trapp, some of the officers of the College and some members of the Board of Regents.

The poll of College members with respect to a new name and the subsequent referendum proved to be more volatile than expected; opinions on the College name were diversified and strong. Pursuant to the results of the referendum favoring the name change by about three to two, the Board of Regents unanimously approved the name change in March 1990.

The general consensus now is that the name "ACTEC" is well regarded and has the same source of pride to members as ACPC.

During my term of office, the College continued its efforts to have alternate legislation enacted in place of IRC §2036 (c) (the forerunner to Chapter 14 of the Code). Tom Sweeney, the College vice-president, and Jim Gamble, chair of the College's Estate and Gift Tax Committee, were the key men involved in this matter during my term of office and devoted an extraordinary amount of time to it. Their efforts, together with the efforts of other College members, the ABA Tax Section and others eventually resulted in the repeal of §2036 (c) and the enactment of Chapter 14.

While I was president, the College continued its expansion from its traditional focus on probate, trust and estate planning matters. New College [sub-]committees were formed relating to planning for the elderly, insurance matters and fiduciary litigation. The seminar topics also reflected the broader focus on these subjects and on business subjects.

A memorable part of my service to the College was the significant and meaningful support given to me by everyone involved in the College—the officers, members of the Executive Committee, committee chairs, College members and their spouses, Gerry Vogt, the Executive Director of the College and all the members of the office staff. Very little would have been accomplished without such help.

Also of great importance to me was the opportunity to meet so many members of the College from diverse parts of the country. My husband, Cliff, and I enjoyed this tremendously. We developed close relationships with many members of the College and their spouses, which enhanced our lives greatly.

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***Waller H. Horsley (1990-91)***

Accompanied by an inaugural gift of a text entitled “Leadership Secrets of Attila the Hun,” [my] administration began on March 6, 1990 with two carryover mandates: install the College's new name and implement the Foundation's project to encourage law students throughout the country to pursue their education and future practice in the estate planning field.

As to the name change, the problems immediately encountered served only to underscore why I sided with the minority in this historic vote. Not only were there the usual legal requirements and corporate filings but also matters of stationery design and logo were thrust upon an unsuspecting and unprepared administration. In this latter effort, the Executive Committee (especially then-Secretary James M. Trapp) provided much needed artistic and moral support, leaving on the cutting room floor the previous efforts of George Nofer and his family consultants, to create a distinctive design for the College's stationery.

The new logo and stationery design, however, could not await the pressure from the Foundation project to transmit some 38,000 letters to first-year law students throughout the country, using a text developed by a special committee of the Foundation seeking to encourage registration in elective courses conducive to an estate planning career. In the rush to make the distribution by April 1, 1990, it became apparent that the relatively small number of Academic Fellows in the College represented an even smaller number (35) of the 177 ABA-accredited law schools in the United States.

Out of this initial law student letter mailing evolved the law school liaison program. Its principal objective was to pair a designated Fellow of the College with each ABA-accredited law school for one-on-one contact with the administration, faculty and student body of that law school. Among other initiatives, I encouraged the law school liaisons to ferret out and nominate qualified persons for election as Academic Fellows and met with the Membership Selection Committee to urge continued efforts to make the nominating process open and uniform among the states and their various law schools. After three and a half years of starts and spurts, the law school liaison program was abandoned in October 1993 by the College at the national level, and left to local effort on a school-by-school basis.

While the name change and law school liaison initiatives were barely underway, Chairman Rostenkowski produced on March 22, 1990 a “discussion draft” proposing to repeal Code §2036(c) and replace it with concepts currently embodied in the anti-freeze rules enacted in Chapter 14 of the Code. Of special significance was the invitation extended to the College to join with ABA representatives in a planning meeting with top Treasury officials and in a panel presentation to the Committee on Ways

and Means on April 24, 1990. Jim Gamble carried the College's banner and provided yeoman service as the College's lead spokesman throughout April, May and June of 1990.

The Consumer Affairs Section of the American Association of Retired Persons (AARP) had published a 39-page paper early in 1990 entitled "A Report on Probate: Consumer Perspectives and Concerns"; it was laced with misinformation, tainted with the usual HALT bias, and spouted the Dacey avoid-probate line as a result of "investigations" of probate court records in San Diego, Wilmington (Delaware) and Milwaukee made largely by second-year law students. It concluded: "Probate as generally practiced in the United States is an anachronism. Probate procedures and protections, even with recent reforms, are inappropriate for all but the most exceptional cases. And, to the extent that the probate system is unreasonable, attorneys' fees in connection with probate work are unreasonable."

This matter was referred to the State Laws Committee on May 7, 1990, with the recommendation that the College keep a watchful eye on this powerful lobbying organization. The Professional Standards Committee at the 1990 Annual Meeting was encouraged to submit a proposal for a grant from the ACTEC Foundation for a comparative study of Codes and Rules of Professional Responsibility across the country as they may apply to a trusts and estates practice. That effort finally reached a successful conclusion in the fall of 1993 with the publication of the *ACTEC Commentaries on Rules of Professional Conduct*.

At the fall meeting of the Board of Regents at The Homestead in Hot Springs, Virginia, I presented a demographic study of the membership of the College. Of the College's 2,634 members at that time, 22% were age 71 and above, and an identical 22% were under age 51. The median age of the Fellows was 60, but the median age of newly elected Fellows over the prior two years was around 47. In 1990, women made up less than 4.2% of the College's total membership. No women Fellows were present in 18 states. I inveighed: "We ought to be able to do better than that."

For the first time in its three-year history, the fall professional program did not end up in the red. This effort, begun in Kansas City during the Malcolm A. Moore presidency, had begun to take hold. The 1991 Annual Meeting returned after 15 years to Hilton Head, South Carolina, and was blessed with extraordinarily favorable weather. A record-breaking registration of Fellows and their companions graciously embraced a Civil War theme, with hoop skirts, military uniforms and much postering everywhere in sight. As have my predecessors, I recall with special affection the always warm reception accorded to me and "Miss Cookie" in our visits with Fellows around the country and at the Annual Meeting: the essence of true collegiality.

From my various reports to the Fellows, the Board of Regents and others during my presidential year, I am proudest of the sentiments expressed in the "President's Message" appearing in the Fall 1990 issue of *ACTEC Notes*:

I have selected two themes for this message: both consistent with the format of the Fall Meeting.

The first is education: the very essence of a free society, too often taken for granted. PBS news commentator Jim Lehrer said this in his 1989 commencement address at SMU:

I urge you to please keep in mind what the diploma you are about to receive does *not* mean. It does not mean that you are educated. Quite the contrary. It means, I hope, that you have been opened up to a perpetual state of ignorance...and thus a lifelong hunger for more—more ideas, more information, more good thoughts, more challenges, more of everything.

I must tell you that some of the dumbest people I know went to great, prestigious colleges...they walked across a stage as you are going to do, with diplomas in their hot little hands, pronounced themselves well educated...and proceeded to never read another book, entertain another fresh idea or tax their minds in any way beyond what was minimally required to make a living or make it socially, or both.

Membership in the College confers its own kind of diploma, and surely education in our field is never over.

The second theme is caring, principally about others. Fellows of the College care about how well they care for others.

Some clients want to know how much you care before they ask you to apply how much you know. They are confident that your caring enough will yield enough knowledge to help them. You will find serving these clients to be the most rewarding part of your practice.

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***Rodney N. Houghton (1991-92)***

Here is my brief accounting of what transpired during my year as President of ACTEC:

- Two new committees created: Fiduciary Litigation and Elder Law, Health Care and Guardianship.

- Activation of the state chairs, including meeting at and attending fall meeting of Board of Regents and initiation of workshop discussion at fall meeting and annual meeting in lieu of formal presentations.

- Activation of the Professional Standards Committee to produce ACTEC commentaries on ethical standards for trust and estate lawyers.

- Creation of the ACTEC Historical Commission to prepare history of the College in anticipation of 50th anniversary.

- Relocation of the ACTEC headquarters office from Santa Monica to the enlarged, modern space presently occupied.

- Installation of a networked computer system in the new executive office.

- Creation of the position of office manager and hiring of first office manager.

- Break away of the ACTEC summer meeting from the ABA annual meeting.

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***Thomas P. Sweeney (1992-93)***

A number of important events affecting the future of the College occurred during my presidency. The first event was replacing the office manager with the new office manager, Nancy Sullivan.

Once that particular staff change was made, we turned to some of the more difficult issues which required immediate attention. During the presidency of Rodney Houghton, two new committees had been established, and there had been an expansion of the involvement of state chairs in the activities of the College, as well as an increase in the staff at the national office. The increasing activities of the College committees and the state chairs, as well as additional staff, were much needed. However, the Board of Regents and the Executive Committee, when authorizing these actions, did not focus on the fiscal strain they created. Accordingly, during my Presidency, we had to address the problems of losses and invasion of the financial reserves in an effort to return to a balanced budget operation.

The initial step that was taken was to authorize a dues increase to take place on January 1, 1993. That increase was from \$225 to \$300. In addition, the admission fee was increased from \$400 to \$450. As the Treasurer, Chuck Collier made a further in-depth investigation, it was ascertained that even the dues increase and the admission increase were insufficient to deal with the budget deficit. Accordingly, at the request of the Board of Regents, the Executive Committee gave further study to the matter and ultimately recommended that the reimbursement for attendance at committee meetings at the Fall and Summer Meetings be reduced from \$600 to \$500. Upon further reflection, it was determined that it was not a sufficient reduction, and finally, the recommendation was made to the Board of Regents that the committee reimbursement for all Fellows attending committee meetings, other than academic Fellows, be reduced to \$400 per meeting rather than the \$500 amount previously recommended. Ultimately, the Board of Regents adopted these recommendations and also authorized an increase in the dues as of January 1, 1994 from \$300 to \$350.

As a result of two increases in dues and the reduction in reimbursement for attendance at committee meetings at the summer and fall meetings, together with the increase in the admission fee, it appears that the budgetary problems of the College have been solved. In approaching this matter, we attempted to balance the equities between those persons, *i.e.*, committee members et al, providing extensive services to the College through their activities, and the general membership who in part was bearing the brunt because of the dues increases. It was generally felt by the Board of Regents and the Executive Committee that equity had been served by committee members bearing some of the brunt and the general membership bearing the balance of the brunt in order to be fiscally responsible and avoid operating at a deficit.

During the course of my presidency, the Professional Standards Committee proceeded into an in-depth analysis of the Model Code of Professional Responsibility. The Professional Standards Committee sought a grant from the ACTEC Foundation to obtain a reporter to prepare the *Commentaries*. Professor John R. Price of the University of Washington Law School was awarded a grant for this purpose by the Foundation. During the course of my presidency, the Professional Standards Committee, under the able leadership of Bruce S. Ross, together with Professor Price, produced a number of drafts of *Commentaries on the Model Rules of Professional Conduct* as they relate to the tax, trusts and estates practice in an effort to explain how those rules should apply in a nonadversarial family counseling type of practice, as well as in the fiduciary litigation area. Although the final product was not completed during my presidency, it was approved and adopted by the Board of Regents at the 1993 Fall Meeting in Santa Fe, New Mexico.

During my presidency, the College filed an *amicus curiae* brief in the United States Supreme Court in the case of *Patterson v. Shumate* to address the burden on the federal courts with respect to a number of pending cases involving the issue of whether the interest of a debtor in a qualified deferred compensation plan is excluded from the bankruptcy estate. The Supreme Court decided that case in favor of the participant debtor, which was the position advocated by the College in its *amicus* brief.

Also, during the course of my presidency, the Board of Regents and the Executive Committee authorized filing an *amicus curiae* brief in the United States Tax Court case of the *Estate of Helen S.*

*Wall*. That case involved a direct challenge to Revenue Ruling 79-353. Normally, the College would not file an *amicus* brief in a trial court. However, the repeal of Revenue Ruling 79-353 was one of the highest priority items on the list of the Estate and Gift Tax Committee and the case was going to be decided on the basis of the stipulated facts. Although the brief was filed after the end of my presidency and the decision rendered subsequent thereto, it is interesting to note that the decision of Tax Court Judge Nims relied to a great extent on the content of the *amicus* brief filed by the College.

A number of additional important events occurred during the course of my presidency, not the least of which was the attendance by Judy McCue at Senator Pryor's roundtable discussion in Washington, D.C., to obtain some practitioners' input as to whether a federal guardianship law was necessary. Subsequent to that roundtable discussion, it appears that, at least for the time being, Congress is satisfied with the state laws dealing with guardianship.

As a result of Senator Pryor's roundtable discussions, there was formulated the idea for a symposium on Ethical Problems in Representing the Elderly, which was sponsored by the Fordham University School of Law Stein Center for Ethics and Public Interest Law, and co-sponsored by the College along with the ABA Commission on Legal Problems of the Elderly, Fordham University School of Law, ABA Section on Real Property, Probate and Trust Law, National Academy of Elder Law Attorneys and the American Association of Retired Persons. The College's sponsorship of this symposium was approved during the course of my administration. The symposium took place on December 3, 4 and 5 at Fordham University Law School in New York City.

The three national meetings that took place during the course of my presidency were outstanding. The summer meeting in San Francisco had the largest attendance up to that date for a summer meeting. The fall meeting in Seattle started off with a pre-meeting tour of Victoria, Canada, followed by the fall seminar entitled "Risk Management: A Practical Approach to Advising the Fiduciary." That seminar also set a record for attendance for fall seminars up to that point.

My annual meeting was held in Orlando, Florida at the Walt Disney Dolphin. Although the weather started out to be very pleasant, the storm of 1993 hit in the middle of the meeting and raised some havoc, causing some Fellows to leave early and prevented some Fellows from arriving because of the adverse weather conditions on the eastern seaboard. This annual meeting reflected the first effort at compressing the time frame of the annual meeting by moving the Regents' meeting to the last day, and having committee meetings on the first two days, followed by the professional program on the next four days; thus eliminating one day of attendance for the general membership, other than the Regents and those reporting at the Board of Regents' meeting.

The highlight for my annual meeting was the Trachtman Lecture given by my partner, Pierre S. du Pont IV, the former governor of the state of Delaware, and a former Republican presidential candidate. His lecture on "Tax Policy and the Economy: Can the Tail Wag the Dog?" was very well received and I continue to receive compliments on that lecture, even as of the date of preparing these reflections.

I should also note that, at that annual meeting, the Board of Regents discussed at great length the possibility of developing a spouses' package for weekends at the annual meetings in view of the number of working spouses who would like to accompany Fellows for at least part of the Annual Meeting. In addition, at this meeting the Bylaws Committee produced a final form of the *ACTEC Policies, Practices and Procedures Manual*, which had been the work product of that committee for a number of years. Also, the Office Management Committee produced a revised *Employee Handbook*.

Another interesting event that occurred during the course of my Presidency was the grant made by the Foundation to the National College of Probate Judges for their project on “National Probate Court Standards.” A number of the Fellows of the College participated in that project.

The president of the College would not be able to accomplish anything if it were not for the outstanding support he receives from the Executive Committee, the Board of Regents, and in particular, the staff at the National Office and its leader, the Executive Director, Mrs. Gerry A. Vogt. It is my belief that this support permitted me to make a significant contribution to the College as the reflections set forth above demonstrate.

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### ***James M. Trapp (1993-94)***

The 1993-94 year of ACTEC was exceptionally busy and productive, considering that it was not burdened by new tax legislation.

Follow the “storm of the century” in Orlando, we met alongside the ABA in New York City at the most gracious Pierre Hotel. In October we met in a grand cultural and historic setting, Santa Fe, New Mexico. Our ACTEC family proved once again that it can work intensively while playing at the same pace, dancing to the country music of South by Southwest. Finally, we set our annual meeting in the spectacular, but exceptionally windy, western shores of Hawaii at the Hilton Waikoloa.

All this during a period of great change in our profession. The estate planning and probate practices of large metropolitan firms were shrinking, lawyers were facing an invasion in the planning fields from other professions and businesses, and ethical dilemmas, especially as related to conflicts of interest, were proliferating. Our responses were (1) discussions as to the expansion of our practices (such as by the Practice Committee), (2) work on quality control and efficiency (such as by our Technology Committee) and our drafting programs, and (3) issuance of our *Commentaries on the Model Rules of Professional Conduct*.

Within ACTEC, we saw a continued expansion of committee activities, a balancing of our budget and much more energy and activity in connection with regional and statewide ACTEC meetings. I attended meetings of members in the mid-Atlantic, mid-South, MOAC, Plains States, Great Lakes, Dallas and Montana. The camaraderie and dedication were outstanding. I estimated that our non-national meetings reached more than 600 Fellows and spouses. During 1993 some 278 Fellows were very actively involved in our committees. My saddest duty was to restrict expansion of committee memberships and turn down requests for appointment, but I felt that we needed to balance our budget. We ended the year in the black even with a most active committee surge and a January earthquake in Los Angeles.

As I look back at my term, I feel particular satisfaction in the process I advocated four years earlier that enabled us to survey our membership as to our name, guide us toward “ACTEC,” help design our logo and see that name so well-accepted by our Fellows and others. ACTEC Fellows occupy a special position in a very special and dedicated profession, and I am especially proud that we have been so forward-looking and progressive.

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***Jackson M. Bruce (1994-95)***

*Mr. Bruce did not submit his memoirs; Charles A. Collier, Jr., contributed the following summary of his year as president:*

During his year as president, Jack Bruce established the Business Planning, Environmental Law and Demographics Committees, and he held a special meeting of the Board of Regents at the 1994 Summer Meeting in Minneapolis to consider committee structure and membership and the possibility of placing limits on committee size and term length.

As of press time, the 1995 Annual Meeting in Scottsdale, with 1,140 attendees, remains the largest Annual Meeting in the history of the College.

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***L. Henry Gissel, Jr. (1995-96)***

I have so many fond recollections of my year as President (and my other years of “going through the Chairs”) and so much that I would like to say that it is hard to know where to begin and how to end. As I stated in my initial President’s Message, the College was already the finest professional organization of which I was aware at the time I became President, so my challenge was to try to maintain and improve its institutional qualities and momentum during my year of stewardship. Accordingly, my approach was more evolutionary than revolutionary, and my goals were to try to make membership in the College as rewarding and enjoyable as possible while maintaining its high standards for membership and professional activity.

Much attention was given to meetings. We began with the second “free standing” summer meeting (meaning a summer meeting held separate from the ABA annual meeting in August), which we moved forward on the calendar to late June in Calgary, Alberta. Part of the thinking involved in planning such meeting was to offer attractive vacation opportunities for possible combination with the travel required to attend the committee meetings which were the original purpose of the summer meeting. A pre-meeting rail and bus tour from Vancouver through the Canadian Rockies to Calgary was offered and hugely enjoyed by more than sixty “ACTECers,” Déjà Vu and all (ask someone who went about Déjà Vu). The meeting was very successful, largely due to the energies and abilities of our western Canadian “state chair” John Armstrong and the other Alberta Fellows that he recruited.

The fall meeting was held at the Pentagon City Ritz-Carlton Hotel located adjacent to Washington National Airport and connected to a Metro station which put us five minutes from the Capitol, as well as being in close proximity to the other attractions in Washington and northern Virginia. Another powerhouse one-day seminar followed the traditions of the two previous fall meetings, and the whole meeting was very well attended and seemingly well received in addition to being a financial success.

The 1996 Annual Meeting in Puerto Rico was more of a challenge since there were no Puerto Rican Fellows, the use of two separate but nearby Hyatt Beach hotels was required and the site was more than two hours south and east of Miami, constituting our most exotic (quixotic?) logistical adventure for an annual meeting (the 1975 meeting in San Juan, Puerto Rico was technically a “mid-winter meeting” and much smaller in attendance). I was pleased that it all appeared to work out for the best. The weather was beautiful, avoiding the frequent annual meeting weather jinx; the attendance was the largest ever for an “offshore” ACTEC meeting; ACTEC Fellow Roberta Ramo, while serving as the first female President of the American Bar Association, gave the most enthusiastically applauded Trachtman Lecture of any presented at the 21 annual meetings I have attended; the professional and spousal programs were up to the College’s usual superb levels; everyone survived both Fantasy Beach

Day and our “extended” First Annual 5K/10K Run and Walk in addition to more traditional golf, tennis and beach activities; and virtually everyone seemed to enjoy themselves. We changed the format of the meeting so that the dinner dance was held on the night before the last half-day of substantive programs, making it possible to save one day of lodging expense for all but Regents and state chairs while still participating in all scheduled events. The addition of “discussion groups” to the professional meeting program in the mornings was another innovation.

Much attention was given to making all of our meetings more attractive for spouses and families, with greater sensitivity to the needs of Fellows with working spouses and/or young children. A more meaningful spousal weekend package was provided for the annual meeting and programs for both small and teenage children were provided at the fall and annual meetings. Knowing that Puerto Rico would be somewhat more expensive than meetings held in the continental United States, we tried to offer special values in terms of both time and out-of-pocket expense at the summer and fall Meetings, while still providing top level food, entertainment and accommodations.

During the year we gave increased attention to membership and added emphasis on state chairs and their activities, including state and regional ACTEC meetings, which fit hand-in-glove with the increased attention intended to be given to membership. My wife, Jo Claire, and I attended some 16 local, state or regional meetings during my tour through the chairs in an attempt to support such meetings, improve communications and increase enthusiasm for participation in ACTEC's activities.

Much attention was also given to the operational aspects of the College. Taking advantage of the time, talent and accessibility of president-elect Chuck Collier who lives in the Los Angeles area where the ACTEC office is located, we put in motion the steps which led to: improved retirement plan arrangements; new, improved and enlarged offices in the same building in which the offices had previously been located; increases in staffing; improved computer equipment and capabilities; and other steps to improve the service capabilities of the ACTEC office.

Increasing emphasis was also given to computers and other matters of technology for the Fellows. Under the dedicated leadership of Stan Foster and Joe Hodges the College moved onto the Internet, establishing its own home page and Web site.

Committee activities were continued and expanded, with some 427 Fellows being appointed to 678 committee positions, so that the number of Fellows serving on committees was up 40 over the previous year, despite efforts to be selective about appointments. A large part of this year's growth in the number of committee members resulted from the formation of a new Charitable Planning and Exempt Organizations Committee under the very able leadership of Carolyn Clark. The new committee proved to be a great success and has become one of our largest committees, with well attended meetings.

The emphasis on membership appeared to pay off, so that without any lowering of membership standards the College membership was larger at the end of the year than at the beginning, with the median age still remaining at sixty years. We were, however, disappointed to lose our oldest Fellow, Rush H. Limbaugh, of Cape Girardeau, Missouri, who resigned in 1995 at the age of 103 after providing us with a very articulate letter which explained that his resignation reflected an intention to begin to slow down his practice. Sadly, Mr. Limbaugh, who had been a Regent of the College, died within a year after resigning.

The year turned out to be rather quiet in terms of tax developments, although at the direction of the Board of Regents I did write letters in behalf of ACTEC to Congressman Archer concerning a pending proposal for a new Section 2033A of the Internal Revenue Code and to Debra Ryan of the Internal Revenue Service concerning Revenue Ruling 95-58. The role that the College should play in attempting to influence laws and regulations became a subject of considerable debate during my year,

and a blue ribbon ACTEC Task Force on Government Relations was formed under the able leadership of Tom Sweeney to formulate our policies on such matters.

I ended my year generally pleased with the way things had gone, still greatly enamored of the College and its Fellows, and very grateful for the support I received from the staff, officers, Regents, state chairs, committee chairs and others who make membership and participation in the College such a delight.



***Charles A. Collier, Jr. (1996-97)***

It was a great privilege for me to serve as ACTEC president during 1996-97. The College continued to expand in its overall membership and in the number of Fellows serving on committees and the national meetings continued to grow. The meeting in Denver was the largest Summer Meeting to that time with 316 Fellows and 116 spouses in attendance. At that meeting an hour-and-a-half discussion on current topics was instituted as an informal CLE program led by John Wallace, Jeff Pennell and Malcolm Moore. The 1996 Fall Meeting in Cincinnati attracted 365 Fellows, which was at that time the second largest fall meeting of Fellows. The fall CLE presentation on Friday, which was a full-day presentation, had as its topic "Advanced Planning for the Entrepreneur."

The 1997 Annual Meeting at Rancho Mirage, California, was the second largest annual meeting in the College's history with more than 1,100 people in attendance. All of the committees met at the meeting. There were some 16 hours of continuing legal education offered through various seminars, symposia and the Trachtman Lecture. The Trachtman Lecturer for 1997 was Robert A. Stein, Executive Vice President and Chief Operating Officer of the American Bar Association, a Fellow of the College since 1975. The theme party at the annual meeting, "Hooray for Hollywood," featured a number of look-alikes and groups impersonating the Andrews Sisters, the McGuire Sisters, Buddy Holly and Elvis Presley.

At all three national meetings, tours were offered to Fellows and their spouses, and hundreds of Fellows and spouses availed themselves of these tour opportunities, which often presented unique tours not available to the general public.

1996-97 was the first year of the ACTEC home page on the Internet. A contract had been signed with the first provider, Inherent Services, at the beginning of the 1996-97 year. Near the end of the year, the original provider's contract was terminated and a new provider was employed, First Step Research. There were extensive discussions at the Board of Regents meeting both in Puerto Rico in March 1996 and again at the 1996 Summer Meeting in Denver to discuss what, if anything, should be placed on the public access portion of ACTEC's home page. The private portion of the Internet site, limited to ACTEC Fellows, contained information from *ACTEC Notes*, the index of recent issues, committee agendas, committee minutes, the roster, information about the College and other internal information available only to ACTEC Fellows.

The public page included some basic information about ACTEC and its purposes and its office. The Foundation Directors and the Regents voted to put the *ACTEC Commentaries* on the public access portion of the Internet.

The portion available to ACTEC Fellows had a "What's New" feature. Current developments in the tax area were included. A list serve feature allowed ACTEC Fellows to exchange information about current problems. Significant staff time, as well as the time of key members of the Technology in the Practice Committee, was devoted to the development of the ACTEC Internet home page.

The College filed an *amicus* brief in the case of *Commissioner v. Hubert* in the United States Supreme Court. The Supreme Court divided four ways in its decision. The ACTEC *amicus* brief was referred to in the concurring opinion of Justice O'Connor. The principal work on that brief was done by ACTEC Fellows Edward Korn, Howard McCue and Alvin Golden.

As president, I wrote to all of the former ACTEC Fellows who had retired from membership during the past five years encouraging them to purchase the ACTEC publications, such as *ACTEC Notes*, and to avail themselves of ACTEC information on the Internet public access.

The College continued to encourage state and regional meetings of Fellows. Some 22 meetings were held during the year, and it was my privilege to attend a number of the regional meetings. As an experiment, regional meetings were also built around the national summer meeting in Denver and the fall meeting in Cincinnati.

At the ACTEC 1997 Annual Meeting, four of the seminars were videotaped and the tapes were made available to Fellows for purchase. That videotaping was made on the recommendation of the Demographics Committee.

The College continued to grow and expand during 1996-97. Its success reflected the active participation of hundreds and hundreds of Fellows in national meetings, in committee work, in organizing and attending state and regional meetings, in writing articles for *ACTEC Notes*, and in participating in committees as adjunct members and other means. It is believed that more than half of the Fellows of the College participated in its state, regional and national activities during the 1996-97 year.



### ***Jerold I. Horn (1997-98)***

Hoping that being close to a situation does not obliterate perception and judgment, I attempt to distill from the activities of the College during 1997-8 the essence of important developments in the College. Unlike my predecessors, I write this chapter partially in the present tense.

#### **Committees**

Changes in College committees remained the most important engine and symptom of change. Before I appointed committee members at the end of 1996, the College had experienced a steady increase, over seven or eight years, of Fellows who were members of at least one committee. Contrary to my predecessors who had focused upon each appointment individually, I was able, within the College's budget, to appoint all who requested appointment. Thus, at least for one year, the College shifted to a system of universal membership upon request.

The increase in the number of members has fueled large increases in attendance at recent summer and fall Meetings. It continued to do this in 1997. The Chicago meeting in June and the Williamsburg meeting in October were by far the largest summer and fall meetings ever.

The increased interest in committees seems to reflect a sea change in the practice of trusts and estates, a movement toward increased subspecialization. The important issue is not whether this change is good or bad but, rather, how the College best can address it.

The committees now are serving much of the role that only a few years ago the College as a whole was serving. Fellow members of a particular committee are increasing their association, both

socially and intellectually, among themselves. Common interests are the common denominator, and common interests are changing.

A great change also is occurring in how the committees are functioning. Many committees are serving principally as study, or discussion, groups. This model differs greatly from that of the task-oriented committees of a few years ago. Obviously, these changes are occurring in response to needs and demands, including particularly those that attend increased subspecialization. Perhaps, however, new institutions are necessary, within or without the committees, to accomplish the types of tasks that formerly were prime subjects of committee activity.

The movement that I have described is potentially fragmentary and centrifugal. Just as committee members are increasing their involvement in the committees and are increasing their association with fellow members, the risk exists that they correspondingly will decrease their focus upon the College generally and that they correspondingly will decrease their associations outside their committees. The changes will require adjustments.

Increased committee activity both reflects and stimulates increased activity of the College generally. It also presents the risk that any reduction of involvement of Fellows in committees might reduce their involvement in the College generally.

### **Statement of Policy on Governmental Relations**

During the fall meeting in October 1996, the College adopted a Statement of Policy on Governmental Relations. A year later, during the fall meeting in Williamsburg, the College adopted a plan to implement the Statement of Policy.

While assimilation of the Statement, and development of proficiency in applying the principles, will require years, the Statement already is having a profound effect upon discourse in the College and upon how Fellows and others view the College. According to the Statement, the College agrees that while it possesses a high degree of technical expertise in its areas of professional interest, its expertise does not extend to the social, economic or political objectives of rules of law. Therefore, according to the Statement, the College should avoid commenting about social, economic and political objectives. The distinction between political matters and technical matters, and the mandate of the Statement that the College avoid comment about the former but affirmatively seek to comment about the latter, signal the end of ambivalence about whether the College is a trade association or, instead, is an academic-oriented college. The tenor of College comment already has changed drastically. Even more remarkably, so, too, has the tenor of the debate that produces the comment.

### **Professional Education**

A number of developments related broadly to the professional programs of the College.

Clearly, the addition of a formal, preannounced, one-half day program at the summer meeting was one of the reasons for the unprecedented attendance in Chicago. The program supplied the summer meeting with a new focus. Whereas previous summer meetings had focused largely exclusively on committee meetings, the Chicago meeting offered a strong reason for attendance by Fellows who were not committee members.

The professional program at the annual meeting in Orlando reflected both important changes and, as always, relatively minor adjustments. The principal change was an attempt to upgrade the roles of both the Trachtman Lecture and the symposium. Whereas the two never related to each other, the two were integrated at Orlando. Each dealt with discrete parts of a single and extremely important

subject, modern financial theory and its implications for drafting and administration of trusts. The former served as a keynote address. The latter built upon the former.

My perception was that, too often, the Trachtman Lecture and the one or two symposia that in recent years had characterized Annual Meetings were inefficient uses of time. Too often, the Trachtman Lecture either was only tangentially useful or was so learned and erudite as to command a level of attention that few, if any, could devote to it. The symposium format, on the other hand, seemed a victim of the move toward subspecialization about which I commented above. Several years ago, as a matter of standard practice, each annual meeting offered two symposia. Two were reduced to one when successive Program Committees selected topics of seemingly universal interest but, nevertheless, were disappointed by tepid responses. The change during 1997-8 represented an attempt to develop a symbiosis between a Trachtman Lecture and a symposium.

An increasing diversity of interests, related to an increase in subspecialization, is tending to decrease the possibility that a single program can appeal sufficiently to the entire College. While an increased diversity of interests and talents of Fellows is potentially a source of pride and strength, it also portends increased fragmentation and increased difficulty in maintaining, particularly at summer and fall meetings, the high level of interest that all Fellows expect and desire.

During the year, I insisted that the College provide speaking opportunities to highly experienced, highly competent and highly regarded Fellows who previously had spoken only infrequently, or never, before the College. Indeed, I insisted that we do this without sacrificing quality. My view was that the reservoir of untapped talent was so great that no tension need exist between quality, on the one hand, and new faces and new thinking, on the other. Among the greatest of the roles that the College must play is to serve as an incubator for ideas. Hopefully, the clash and confluence of ideas produce better ideas. My conclusion was that regardless of how pleased and comfortable we might have become with a raft of known speakers, new thoughts and new faces, and hospitality towards them, were critically important, indeed essential, if the College was to serve as a college.

Responding to the desires of many Fellows to increase their opportunities to share experiences and expertise and to learn from each other, I encouraged the formation of study groups, convocations of as few as 10 or 15 Fellows, or as many as 35 or 50, even once or twice a year, to discuss informally a relatively small number of topics listed on an agenda. The concept was used widely, reputedly always with excellent results. A cyberspace counterpart, the "Forums," commenced operation through the private side of the ACTEC Web site.

### **Task Force**

The economic and professional malaise that recently has befallen the legal specialty of trusts and estates is by far the most important subject that I addressed during the year. The amount of attention that I devoted to it in President's Messages is an accurate indication of the importance that I ascribed to it. The issue remains nothing less than whether our work is sufficiently valuable to generate the fees that will enable us to continue to perform our work in the manner in which we are inclined and in which our professional standards require. Many of us cannot explain what is wrong or what we might do about it. I appointed a blue-ribbon task force to study and to address these questions.

### **Regional, State and Local Meetings**

My wife, Carol, and I visited many places during the year. We met many Fellows and many spouses. I reaffirm what many past presidents have told me. The best thinkers and writers in the College are not limited to those who attend the national meetings. Indeed, many of those who do not

attend national meetings are just as talented, just as brilliant, just as capable and just as productive as those who do. This is refreshing, even humbling. It tends to put things in proper perspective. Each Fellow makes his or her contributions in his or her way. Whatever his or her contribution, each has a vital presence in the College.



# APPENDIX 1

## ACPC/ACTEC MEETINGS 1967-1999

### WINTER (MID-YEAR)

**1967**

**Joseph Trachtman**

Hotel America  
Houston, Texas  
February 10-12, 1967

**1968**

**Harold I. Boucher**

Palmer House  
Chicago, Illinois  
February 16, 1968

**1969**

**Daniel M. Schuyler**

Palmer House  
Chicago, Illinois  
January 26, 1969

**1970**

**Everett A. Drake**

Regency-Hyatt House  
Atlanta, Georgia  
February 18, 1970

**1971**

**J. Pennington Straus**

Palmer House  
Chicago, Illinois  
February 5, 1971

**1972**

**John Bell Towill**

Royal Sonesta Hotel  
New Orleans, Louisiana  
February 3, 1972

**1973**

**Bjarne Johnson**

Kahala Hilton  
Honolulu, Hawaii  
March 8-14, 1973

### SUMMER (ANNUAL)

Hilton Hawaiian Village  
Honolulu, Hawaii  
August 4, 1967

Sheraton Hotel  
Philadelphia, Pennsylvania  
August 8, 1968

Sheraton Hotel-Dallas  
Dallas, Texas  
August 8, 1969

Mayfair Hotel  
St. Louis, Missouri  
August 7, 1970

New York Hilton  
New York City, New York  
July 5-6, 1971

Fairmont Hotel  
San Francisco, California  
August 10-11, 1972

Shoreham Hotel  
Washington, D.C.  
August 3, 1973

**WINTER (MID-YEAR)****1974**

**Harrison F. Durand**  
 Maria Isabel Sheraton  
 Mexico City, Mexico  
 March 16-22, 1974

**1975**

**Edward Burton Winn**  
 Caribe-Hilton Hotel  
 San Juan, Puerto Rico  
 March 9-13, 1975

**1976**

**William P. Cantwell**  
 Hilton Head Inn  
 Hilton Head, South Carolina  
 March 3-7, 1976

**SUMMER (ANNUAL)**

Kona Surf Hotel  
 Kailua, Hawaii  
 August 9-11, 1974

Queen Elizabeth Hotel  
 Montreal, Canada  
 August 8, 1975

Omni International Hotel  
 Atlanta, Georgia  
 August 6, 1976

**FALL****1976-77**

**J. Nicholas Shriver, Jr.**  
 Adams Hotel  
 Phoenix, Arizona  
 October 21, 1976

**WINTER (MID-YEAR)**

Williamsburg Lodge  
 Williamsburg, Virginia  
 March 28-April 1, 1977

**SUMMER (ANNUAL)**

Drake Hotel  
 Chicago, Illinois  
 August 5, 1977

**1977-78**

**John E. Rogerson**  
 Sheraton Hotel-Boston  
 Boston, Massachusetts  
 October 21, 1977

Canyon Hotel  
 Palm Springs, California  
 March 1-5, 1978

Americana Hotel  
 New York, New York  
 August 3-5, 1978

**1978-79**

**Charles A. Saunders**  
 Houston Oaks  
 Houston, Texas  
 October 27, 1978

Kauai Surf Hotel  
 Kauai, Hawaii  
 February 28-March 4, 1979

Hyatt Regency-Dallas  
 Dallas, Texas  
 August 9-11, 1979

**1979-80**

**Harley J. Spitler**  
 Hyatt Regency  
 Dearborn, Michigan  
 October 20, 1979

Mountain Shadows  
 Scottsdale, Arizona  
 February 27-March 2, 1980

Hyatt Regency  
 Waikiki, Hawaii  
 July 28-29, 1980

## ACPC/ACTEC MEETINGS 1967-1999, continued

FALL	WINTER (MID-YEAR)	SUMMER (ANNUAL)
<p><b>1980-81</b>  <b>Arthur Peter, Jr.</b>                      Airport Marriott Hotel                      Kansas City, Missouri                      October 25, 1980</p>	<p>Innisbrook Hotel                      Tarpon Springs, Florida                      March 6-11, 1981</p>	<p>Mr. Peter did not preside over a Summer (Annual) meeting; he served a short term when the decision was made to move the Annual Meeting to the February-March time slot.</p>
<p><b>SUMMER</b></p> <p><b>1981-82</b>  <b>Milton Greenfield, Jr.</b>                      Royal Sonesta Hotel                      New Orleans, Louisiana                      August 7, 1981</p> <p><b>1982-83</b>  <b>Rudolph O. Schwartz</b>                      Westin St. Francis Hotel                      San Francisco, California                      August 6, 1982</p> <p><b>1983-84</b>  <b>George H. Nofer</b>                      Peachtree Plaza Hotel                      Atlanta, Georgia                      July 29-30, 1983</p> <p><b>1984-85</b>  <b>J. Thomas Eubank</b>                      The Tremont Hotel                      Chicago, Illinois                      August 2-4, 1984</p> <p><b>1985-86</b>  <b>Joe C. Foster, Jr.</b>                      Hay-Adams Hotel                      Washington, D.C.                      July 5-7, 1985</p> <p><b>1986-87</b>  <b>Edward B. Benjamin, Jr.</b>                      Parker Meridien Hotel                      New York, New York                      August 8-9, 1986</p>	<p><b>FALL</b></p> <p>Washington Hilton                      Washington, D.C.                      October 14-15, 1981</p> <p>Four Seasons Plaza Nacional                      San Antonio, Texas                      November 7-8, 1982</p> <p>Waldorf-Astoria Hotel                      New York, New York                      October 23-24, 1983</p> <p>Hyatt Regency                      Milwaukee, Wisconsin                      October 12-15, 1984</p> <p>Broadmoor Hotel                      Colorado Springs, Colorado                      October 11-13, 1985</p> <p>Four Seasons Hotel                      Boston, Massachusetts                      October 18-20, 1986</p>	<p><b>ANNUAL</b></p> <p>Hotel del Coronado                      Coronado, California                      March 2-7, 1982</p> <p>Desert Inn and Country Club                      Las Vegas, Nevada                      March 1-6, 1983</p> <p>Boca Raton Hotel and Club                      Boca Raton, Florida                      April 3-8, 1984</p> <p>The Pointe at Squaw Peak                      Phoenix, Arizona                      March 17-22, 1985</p> <p>Buena Vista Palace                      Lake Buena Vista, Florida                      March 16-21, 1986</p> <p>Hyatt Regency                      Maui, Hawaii                      February 10-15, 1987</p>

**SUMMER****1987-88****John A. Wallace**

Four Seasons Clift Hotel  
 San Francisco, California  
 August 6-8, 1987

**1988-89****Malcolm A. Moore**

Hotel Admiral  
 Toronto, Canada  
 August 4-6, 1988

**1989-90****Geraldine S. Hemmerling**

Four Seasons Hotel  
 Los Angeles, California  
 August 1-3, 1989

**1990-91****Waller H. Horsley**

Four Seasons Hotel  
 Chicago, Illinois  
 August 2-4, 1990

**1991-92****Rodney N. Houghton**

J.W. Marriott Hotel  
 Atlanta, Georgia  
 August 6-8, 1991

**1992-93****Thomas P. Sweeney**

Pan Pacific Hotel  
 San Francisco, California  
 August 4-6, 1992

**1993-94****James M. Trapp**

The Pierre Hotel  
 New York, New York  
 August 3-5, 1993

**1994-95****Jackson M. Bruce, Jr.**

Radisson Plaza Hotel  
 Minneapolis, Minnesota  
 July 8-10, 1994

**FALL**

The Cloister  
 Sea Island, Georgia  
 November 5-7, 1987

Alameda Plaza  
 Kansas City, Missouri  
 October 14-17, 1988

Hyatt Regency  
 San Antonio, Texas  
 November 3-6, 1989

The Homestead  
 Hot Springs, Virginia  
 October 13-16, 1990

The Breakers  
 Palm Beach, Florida  
 November 1-4, 1991

Four Seasons Olympic  
 Seattle, Washington  
 October 8-12, 1992

El Dorado Hotel  
 Santa Fe, New Mexico  
 October 14-18, 1993

Hyatt Regency Beaver Creek  
 Beaver Creek, Colorado  
 October 6-10, 1994

**ANNUAL**

Marriott's Marco Island Resort  
 Marco Island, Florida  
 February 22-28, 1988

Westin La Paloma  
 Tucson, Arizona  
 March 10-15, 1989

Marriott Hotel and Marina  
 San Diego, California  
 March 3-8, 1990

Hyatt Regency Hilton Head  
 Hilton Head, South Carolina  
 March 22-27, 1991

Marriott's Desert Spring Resort  
 Palm Desert, California  
 March 5-10, 1992

Walt Disney World Dolphin  
 Lake Buena Vista, Florida  
 March 12-17, 1993

Hilton Waikoloa Village  
 Waikoloa, Hawaii  
 March 11-16, 1994

Scottsdale Princess  
 Scottsdale, Arizona  
 March 7-13, 1995

**SUMMER****1995-96****L. Henry Gissel, Jr.**

Westin Hotel  
Calgary, Alberta, Canada  
June 22-25, 1995

**1996-97****Charles A. Collier, Jr.**

Westin Tabor Center  
Denver, Colorado  
June 20-23, 1996

**1997-98****Jerold I. Horn**

Four Seasons/Ritz-Carlton  
Chicago, Illinois  
June 26-29, 1997

**1998-99****E. James Gamble**

Portland Marriott  
Portland, Oregon  
July 9-12, 1998

**FALL**

Ritz-Carlton Pentagon City  
Arlington, Virginia  
October 12-16, 1995

Westin Hotel  
Cincinnati, Ohio  
October 10-14, 1996

Colonial Williamsburg Hotels  
Williamsburg, Virginia  
October 15-20, 1997

Marriott/Ritz-Carlton  
Cleveland, Ohio  
October 14-19, 1998

**ANNUAL**

Hyatt Regency Cerromar and  
Hyatt Dorado  
Puerto Rico  
March 15-20, 1996

Westin Mission Hills  
Rancho Mirage, California  
March 12-17, 1997

Hyatt Regency Grand Cypress  
Orlando, Florida  
February 25-March 2, 1998

Grand Wailea Resort  
Wailea, Maui, Hawaii  
March 2-7, 1999



## APPENDIX 2















































































