

# **THE HISTORY OF THE INTERNATIONAL ACADEMY OF TRIAL LAWYERS**

By Craig Spangenberg

## **BOSTON, 1954 CONCEPTION**

The time was September 1, 1954. The place was the Statler Hotel in Boston. The occasion was the annual convention of NACCA, the National Association of Claimants Compensation Attorneys. The void to be filled by the International Academy of Trial Lawyers was the need for an exclusive society to honor the exceptional best of the leaders of the trial bar, regardless of the member's favorite side of the civil or criminal case trial table.

The originator of the idea, in the sense of being the first man to put his thoughts into words, was Albert Averbach. He broached the subject to Perry Nichols at a luncheon break and received instant approval. Averbach, a notable lecturer and author, was more the quiet scholar as between those two men. Nichols was far more political, a potent mover and shaker. At once he sought out his friend, Gerald Finley, who had a talent for organizing.

This nucleus of three spent the afternoon making up a list of NACCA luminaries who were congenial, who could give prestige to the new society, and who were present in the hotel for the convention. This select group was invited to attend a meeting that same evening to discuss and expand the Academy idea. They all accepted.

## **THE FOUNDING FATHERS**

Those men, the founding fathers, deserve special recognition in the recorded history of the Academy. They are here listed, in alphabetical order:

George Allen, Sr. of Virginia  
Albert Averbach of upstate New York  
Melvin Belli of California  
H. Alva Brumfield of Louisiana  
W. Arthur Combs of Texas  
William DeParcq of Minnesota  
James Dooley of Illinois  
Gerald Finley of New York  
Raymond Finley of Ohio  
Harry Gair of New York  
Jo Gardner of Missouri  
Harry Lipsig of New York  
James Mozingo, III of South Carolina  
Perry Nichols of Florida  
Walter Oros of Idaho  
Nels Peterson of Oregon

Payne Ratner, Sr. of Kansas  
Orville Richardson of Missouri  
David Sindell of Ohio  
Lloyd Paul Stryker of New York  
J. Peter Tonkoff of Washington  
Virgil Wedge of Nevada

Lawyers being what they are, the discussions that evening went on for hours, with a diversity of opinions firmly expressed and vigorously debated. Unanimity was reached on the critical points that the time was right for an honorary fellowship open to membership drawn from all areas of the trial and appellate bar; to be named the International Academy of Trial Lawyers; to meet annually for the free interchange of new ideas and innovative approaches in the science and art of jurisprudence; and with a membership to be forever tightly limited in number. Admission standards were to be strictly maintained to assure that all the Fellows invited to join would possess the highest levels of integrity, honor, and professional courtesy, in addition to truly exceptional trial ability.

Nichols was the chief proponent of annual round table forums. All the men present were devoting substantial time and effort to teaching young lawyers. Nichols wanted to set aside a few days each year so the best of the teachers could learn from each other and stay ahead of the field. That is still a good idea. Averbach was the chief proponent of the "International" concept. He wanted to travel the world, to learn from the leading advocates in other cultures and legal systems what strategy and tactics might be effective in our American common law trial system. That idea was overly broad, then and now. There is nothing to be learned, except love for our own freedom, from those countries where the compelling argument is the fire power of a tank battalion and the rebuttal to great advocacy is the execution of the advocate. The Academy does visit, and draw membership from, many free nations which possess substantial democratic institutions and recognize individual rights. We still dream of a planet where the words of our Charter may come true: "The territory in which its operations are to be conducted include all the countries in the world."

### **BIRTH OF A LEARNED LAW SOCIETY**

The Founders' Meeting ended with a learned law society new-born, and with much work to be done to make it legal. Gerald Finley volunteered to draft and to file in New York the Charter incorporating the Academy as a nonprofit corporation. All of the 22 men present agreed to serve as interim directors until the first annual meeting. They are so named in the original Charter, with one exception. They also agreed to meet again soon to construct the formal By-Laws and the Admission procedures, to elect initial officers, and to begin the cautious expansion of membership. They chose the Castle Harbour Hotel in Bermuda, and Friday and Saturday of the coming Thanksgiving week, for the first international meeting place and time.

There was one other brief get-together in Boston. Averbach thought, a day or two later, that a commemorative photograph should be taken of the founding group. He arranged

for the photographer and meeting room, and distributed notices of the event. The photograph taken that day was much later published in the 25th Anniversary edition of the IATL Bulletin, August, 1979, with the caption: "The Founding Fathers - Charter Meeting - September 1, 1954." Unfortunately, not all of the Fathers got their messages in time to pose for the picture.

Without repeating, from the above list of founders, the names of all the men who really attended the Charter meeting, the Founding Fathers whose smiling young faces do not appear in that historic photograph are George Allen, Bill DeParcq, Harry Gair, Jo Gardner, "Spot" Mozingo, Nels Peterson, Lloyd Paul Stryker and Virgil Wedge.

Historical accuracy requires one other correction to the photograph and the list of founders. Orville Richardson attended the first meeting and intended to be one of the initial directors. He changed his mind and withdrew before Gerry Finley drafted the Charter documents. Some of his friends, who had not been chosen for membership, persuaded him that this new venture would produce a divisive super-NACCA designed to attract an excessive share of referral cases from the regular NACCA membership. Time would prove those fears to be groundless. NACCA flourished, and its leaders, who were also Academy Fellows, worked as hard as ever on the traveling seminar circuits. Be it here recorded that years later Orville reevaluated the Academy appreciated its demonstrated worth, became a candidate for membership: and was accepted as a new Fellow.

## **INCORPORATION**

Gerald Finley worked fast after the Boston meeting to put the consensus of the founders' discussions into the formal prose of a corporate charter. He completed his work and obtained the requisite approval order of a New York Supreme Court Justice by September 20th and filed the Charter and Court Order in Albany on September 23, 1954. The Bermuda meeting proceeded as scheduled, with all-day working sessions on Friday and Saturday, November 27 and 28, 1954. In the intervening time period, two additional members had been added by common consent. They were Walter Chuck of Hawaii and Jerry Giesler of California. The total director-members then stood at 23. Only 13 were able to make the trip to Bermuda. They were Messrs. Allen, Averbach, Belli, Brumfield, Combs, DeParcq, Dooley, the brothers Finley, Lipsig, Ratner, Sindell and Wedge. This group approved the Charter as filed, hammered out revisions and amendments to a draft set of By-Laws, established an Admissions Committee, formulated the admission criteria and procedures, elected officers, and fixed the date for the first annual meeting of the full membership to be the fourth Friday in November, 1956. They estimated that it would take two years to generate enough membership for a significant annual meeting. This was double-magnitude conservatism. It only took one year.

Those first officers were Albert Averbach as President, Melvin Belli as Dean, Gerald Finley as Secretary-Treasurer, Payne Ratner, Sr. as Chairman of the Board of Directors, and Perry Nichols as Chairman of the Executive Committee. This was an unusual set of offices. There was no Vice President. The Chairman of the Board functioned to preside at

all meetings of the Board of Directors. The President would preside only at the meetings of the membership, or in the absence of the Chairman. The Chairman of the Executive Committee functioned to handle duties assigned specifically by the Board of Directors. The Secretary-Treasurer had the usual duties of that office. The function of the Dean was to gather annually all information which might affect the course of action of the trial and appellate lawyer, and conduct round table sessions at Academy meetings on matters of current interest to the trial bar.

All these offices were to be filled at the annual convention meeting. Only those Directors present at the Board of Directors' meeting could vote, and the candidates for office had to be selected from the membership of the then-existing Board. The first officers were elected in Bermuda for a specific two-year period, in the expectation that the first annual meeting would not occur until November, 1956.

Over the course of years, changes were made in this executive structure. The office of "Chairman of the Executive Committee" and "Chairman of the Board of Directors" were both abolished at the annual meeting in January, 1960. They were replaced by the single, more traditional office of Vice President. During the next six years it happened that the Vice President of the prior year was duly elected President, without opposition. At the annual meeting in 1966 that practice became official. The title of the office was changed to President-Elect, and that designation continues to the present day.

The duties of the Dean evolved from leading discussions on matters of current interest to researching and delivering a learned paper, at the annual meeting, on a subject within the broad field of advocacy. The present rule that the Dean's address must be published and circulated to the entire membership was not enacted until 1967. Many of those early jewels of learning have been lost from the archives, and from memory.

Returning now to the Bermuda meeting, the final action of the Directors was to expand the membership roster. A long list of prospective Fellows was compiled from names suggested by the Directors present, or from letter suggestions of absent Directors, or from letters of application by lawyers who had heard about this prospective new honorary society. After several hours of discussion, this list was reduced to 36 names meeting the unanimous approval of the Admissions Committee and the entire balance of the Board. The admission of this group was approved in advance of a formal invitation or application. This action brought into the first circle of membership such stellar trial lawyers as Lou Ashe, Russell Baker, Abraham Freedman, Francis Hare, James Markle, Craig Spangenberg and Joe Tonahill, who were all destined to serve the Academy in many capacities over the coming years.

A substantial majority on the pre-admitted list were plaintiffs' lawyers, well known to the 13 Directors present. They accepted the invitation later tendered, with few exceptions. The defense lawyers on the select list were not so willing to take the risk of joining this new organization, which might diminish the prestige of the College, or hinder their political careers. So, Thomas E. Dewey did not become an early member, but no matter. The Academy would later nurture its own brood of Senators, Governors and high court

Judges and Justices.

The Bermuda meeting ended with the 13 Directors present working on a second list of membership candidates to be further investigated and invited, and with instructions to the 10 absent Directors to circulate similar lists. None of them could foresee how rapidly information, and misinformation, about the Academy would circulate throughout the country. The Admissions Committee (the President and six directors), flooded the mails and phone lines getting the approval or disapproval of the whole Board for the admission of new Fellows. Nevertheless, the primary goal of high selectivity was maintained then as it is now, and no underqualified candidate slipped past the required approval of 80% of the entire Board.

### **THE FIRST CONVENTION**

As membership approached the 100 mark, the pressure for an early meeting caused the Board to accelerate the 1956 convention date by a full year. Perry Nichols and Bill Frates co-chaired the first membership assembly at the Fontainebleau Hotel in Miami Beach on Thanksgiving weekend in 1955. All the original officers had been elected for two years, and they remained in office. All 23 charter directors resigned, in accordance with New York law. They were then divided into three groups, to start a rotation system, serving respectively one, two and three year terms. Two new directors were added, Emile Zola (Zuke) Berman of New York, a great defense lawyer, and Dr. Victor Velasquez of Mexico City, our first International Director. A sad note is that Lloyd Paul Stryker had died before the first convention. His seat was left open for a year, to honor his sterling contribution to the profession.

Most of the time at this convention was used for open membership meetings, discussing issues for the good and welfare of the Academy and interchanging ideas on a host of topics then of current interest to the trial bar. The sessions were so stimulating that every Fellow there became a missionary to gather in more keen minds to join in the debates by day and the bull sessions by night. The Class of 1955 had brought into the Academy men whose names sound like a roll call of a legal Hall of Fame, including, among others:

Horace Brown  
Jim Dempsey  
Sid Gislason  
"Izzy" Halpern  
Stew Jones  
Leo Karlin  
"Pat" King  
Hugh Miracle  
"Tom" O'Brien  
Truman Rucker  
"Perc" Thompson  
John Watts

They all put into the Academy far more than they ever hoped to take out of it, and they all became enduring friends. That is the real secret to the growth of our fellowship.

## 60/40

Still, the Academy would never have reached its potential without one crucial revision of the first By-laws. Those By-laws, which came out of the Bermuda meeting, provided that the membership would include "both plaintiffs' and defendants' lawyers," but it also provided that at no time could the Academy have on its Board more than 40% of members "who devote a major portion of their time and effort to defendants' work." Section 3 of Article IV set up this rule and a procedure to categorize directorship candidates and enforce the rule. In short, the association would be bipartisan in membership, but forever remain under partisan control.

This is the one grave flaw in the founding documents. Left intact it would have produced just another little specialty club with one eye, one leg and half a voice. A special remembrance in this History is due to Art Combs. He knew that he was in the minority of Directors who had opposed Section 3, and knew there were relatively few defense lawyers in the membership at that 1955 Miami convention, yet he rose to bring the issue to the floor of the assembly. The wisdom of the membership rewarded him with an overwhelming vote striking Section 3 of Article IV in its entirety.

Looking back at it, that debate and that vote started a new era in the brotherhood of trial lawyers. In the early 50's, most plaintiffs' lawyers had the perception, whether accurate or not, that the ABA was the guardian of the corporate Establishment with a decided bias in favor of the manufacturing and Insurance industries. The American College of Trial Lawyers was viewed as an elite branch of the ABA, which pretended to be non-partisan but contained only a token percentage of plaintiffs' counsel. Certainly the defense bar was then well organized, with three different associations of insurance defense counsel and a specialty group of railroad defense counsel. Although the best of the plaintiffs' lawyers were fully equal to the best of the defense lawyers, down at the average or median level the defense teams which tried cases once a week were better trained, better financed, and had a more impressive array of expert witnesses than the general practitioner who tried a case only once every two or three years.

It is understandable that the first-magnitude leaders of the plaintiffs' bar did not want to found an honor society which might be taken over by a defense crowd that would seat them below the salt. Their solution, as noted, was to make sure they stayed equal by being more equal -three to two.

They should not have been so protective. Times were changing. That is what NACCA was all about, with its seminars and trial demonstrations in every state. That is what Hubert Winston Smith's Law-Science Academy was all about, touring the country to teach trial skills and traumatic medicine to packed audiences. The Practicing Law Institute, and Perry Nichols' Stetson University Annual Seminars, featured brilliant lecturers and authors who gave away extravagantly all their hard-won experience in trial

strategy and technique, and all they knew of effective persuasion. In short, the level of competence of the adversary lawyers in contested trial was fast approaching that fair and equal balance which the jury trial system justly demands.

During this same time period, the defense bar was at first not nearly so generous in giving away its treasures. Trial skills were regarded as trade secrets, not to be disclosed to a competitor who might take away the Aetna or State Farm retainer. As the prestige and prosperity of the plaintiffs' bar began to bloom, the defense bar came to realize that all trial skills are interchangeable. Defense leaders joined the Academy to exchange ideas with each other, and to adapt the plaintiffs' latest attack strategies into new defense countermeasures. The day would later come when litigation became so respectable that a plaintiff Xerox would sue an IBM, although no one could have foreseen that in 1955

### **THE ADOLESCENT ACADEMY**

Back to history: the 1956 annual meeting convened at New York's Waldorf Astoria on the Friday after Thanksgiving. There was one full day of open general meeting with speakers and panel discussions, and one full day of business meeting. James Markle, the complete defense lawyer, was elected President and Harry Gair, a pioneer in teaching the pathology of trauma, became Dean. Jim Markle, who knew many Ontario lawyers, had sponsored two distinguished Queen's Counsel from Toronto, Edson Haines and Isadore Levinter. They added to the International reach of the Academy, and more importantly, created lasting and delightful friendships with many of our Fellows. It has always been a distinctive feature of the Academy that its members form bonds with their colleagues far deeper than brief meeting-time acquaintanceship. They correspond with each other throughout the year, visit or take side trips together, and bring their whole families into the circle of shared interest and concern.

The 1956 New York session was the last of the Thanksgiving-date conventions. Time was too short, travel from distant states was too hectic, and the effect on traditional family gatherings was too disruptive. The membership voted to have longer future conventions, beginning with an informal gathering for New Year's Eve and New Year's Day, followed by four days of formal convention. There was no meeting in 1957, and 1958 was ushered in with dancing, singing and champagne toasts at the Arizona Biltmore in Phoenix. The guest speakers included several state Supreme Court Justices and notable Law School Professors. Old-timers have never forgotten the moving address by Justice Musmanno on the subject of the Nuremberg trials.

Emile Zola Berman, the consummate defense advocate, was elected Dean. "Zuke" was something special. He could eat less, drink more, show less effect, and discourse longer into the early morning hours than any Fellow then, or since. The new President was a true son of the western plains, Truman Rucker. Many members remember Truman as a great defense champion. He was. Many others think of him as a great plaintiffs' lawyer. He was. The truth is that his home city, Tulsa, was not a crowded center of litigation. He took steady retainers from many insurance companies to pay the office overhead, but he took good plaintiffs' cases with prosperous zeal whenever one was offered without a

conflict of interest. A fair estimate would be that a quarter of our total membership still follows a similar practice.

## **200 AND RISING**

The calendar year 1958 was significant in that membership passed the 200 mark. Many new members attended their first convention in January, 1959, at the historic Hotel Del Coronado near San Diego. Sidney Gislason of Minnesota took over as President. Sid was all defense. The soft-spoken author from Urbana, Illinois, John Alan Appleman, became Dean. John, like Truman, was a switch-hitter, but at that time he was generally considered to be a defendant's man. It was becoming obvious that the Academy had no prejudice in its operations, and the defense leaders who were invited to join displayed no hesitancy in accepting.

The membership at Coronado pressed for an offshore meeting site for the 1960 sessions. Jamaica was selected for this first convention held outside the continental United States. Convention attendance was so unexpectedly successful that it overflowed from the primary hotel into two additional hotels. James Dooley of Chicago took on the duties of the presidency, and Abe Freedman of Philadelphia became the Dean. It is interesting to note that Jim Dooley was the first of the charter members to be elected to the presidency, and one of only three who ever held that office. The other two were Gerald Finley in 1963 and Perry Nichols in 1965. Only three of the original 21 charter members were ever elected to the Dean's chair, Harry Gair in 1956, Bill DeParcq in 1964 and George Allen, Sr. in 1966. It is clear that the founders did not intend to stake out priority claims to high office. Those that were later chosen deserved it through hard work and devoted loyalty.

The Jamaican weather and seashore was so warm and refreshing to all the winter-bound northern Fellows that the following year a Caribbean cruise was the featured attraction. There were preliminary Board meetings and general assemblies at the Waldorf Astoria on December 28 and 29, 1960 in wintry New York, but the major convention was held on the cruise ship S.S. Santa Paula during the two weeks, December 30, 1960 through January 12, 1961. "Zuke" Berman became President and Edson Haines of Toronto became Dean. He was the first of our Canadian brothers to be elected to high office.

The convention returned to dry land the next year, with an unprecedented five-day convention, from January 3 through 7, 1962, at the seaside Caleta Hotel in Acapulco, Mexico, where Abe Freedman became President and Craig Spangenberg became Dean. This is as far from the U.S. border as the Academy ever ventured until the memorable meetings at Marbella, Spain and in Madrid and Lisbon, led by then-President, Don Farage in February, 1971.

## **INTERNATIONAL TRAVEL**

Up until the short Jamaica trip in 1960 and the long cruise in 1961, Al Averbach's original idea of travel abroad had been completely shelved. The officers, directors and members were all busy lawyers with full case loads in courts where judges would not



grant continuances for such non-judicial engagements as private bar association meetings. Conventions were scheduled for those few days around holiday time when courts would be closed, or slow to reopen. Intercontinental travel could hardly be accomplished in three-day sprints.

The present practice of holding the major convention and the annual general assembly during the active trial season did not begin until the February convention in 1966. Since then, February has become the usual date, interspersed with four March and two April meetings. Although the warm climate convention sites are always attractive, there is inevitable conflict with high priority court calendars and the spring meetings of many other legal associations. It does make regular convention attendance difficult to schedule for many of the Fellows.

### **THE YOUTHFUL ACADEMY**

Charter member and first President Al Averbach became almost completely inactive in Academy affairs after his initial two-year term of office expired. About half of the charter members served out their one, two or three-year terms of office after the 1955 elections and sought no further service on the Board or on the Committees. In addition to the names listed above as Presidents and Deans, charter members who remained very active were Art Combs, Jo Gardner and Virgil Wedge. New leadership and new ideas were coming from the pre-admitted group of 1954 and the new members who came on board in the membership classes of 1955 through 1958. Men whose opinions carried weight in the inner councils were the new-member Presidents and Deans already named and such men as Jim Dempsey, John Hill, Pat King, Jim McArdle, John Merchant, Hugh Miracle and John Watts. It is hard to stop there. Ed Grenier and Ray Kierr from the Class of '56, Ellsworth Evans and Camille Gravel from the Class of '57, Fred Betts and Raoul Magana from the Class of '58, were all policy makers who signed on for the long haul.

By modern admission standards, they were all surprisingly young men. There wasn't a sign of gray hair among them, except for a few frosty sprinkles worn by the elder George Allen. The average age was no more than 45 and a few were barely 40 when they signed in. The initial admission standards required the demonstration of exceptional talent in the trial and appellate fields for only 10 years. That meant active trial specialty work going back to 1945 or later. The great expansion in litigation had not begun until the close of World War II, so many of the early members were in that first great wave. The Academy, in its formative years, was seeking out the young warriors fighting the trial wars on the courtroom battlefields, rather than the old generals sheltered behind their office desks. The founders were so young in outlook they did not consider that age and retirement might some day overtake them. They provided for only one class of members in the By-laws - the Fellows. The By-Law amendment creating the status of inactive or retired Associate Fellows and the separate status of Honorary Fellows did not occur until 1968.

By the end of 1958 there were 221 Fellows-active regular members. By the end of 1988, three decades later, there were 79 survivors from that group, a remarkable 35%. Not

many still pace the courtroom corridors while the jury is out, but despite the inexorable infirmity of body they still retain sound minds and incisive insight.

## ACADEMY POLITICS

Of course there was a good deal of political activity in that first decade. No organization runs itself. Management and control is necessary to steer it and keep it moving and growing. Management in turn requires officers and directors, and that creates political activity among those who want the office. The only problem is to keep the politics under control. The Academy did that very well. Nothing so uncouth as a campaign poster or a free cocktail party ever appeared. Due respect was given to the maxim: "The office seeks the man." Any candidate who became too overt in soliciting support guaranteed his own defeat. It also became apparent that the membership had a very accurate intuition about which man wanted the office to work for the continued growth in the scope and quality of the association, and which man sought the office to enhance his own glory and self-importance. A new maxim developed: "The bigger the ego, the fewer the votes."

The procedure that caused much of the early politicking was a custom that began at the annual convention in November of 1956, where the initial terms of all the original officers expired. The terms also ended for those directors who began the rotation in 1955 with one-year terms. The membership filled the vacancy of one-third of the Board by electing new Directors for a three-year term. The newly constituted Board then met to elect officers from within that Board. The presidency was awarded to a new director, Jim Markle. This began the steady pattern that the new Board elected officers, rather than the old Board, which had served during the prior year. Obviously, a director completing the final year of his term could not vote for the next year's officers, nor could he become a candidate himself unless he successfully ran for reelection to the Board. The old Board prepared a slate of candidates for directorships, but members of the general assembly always added nominations from the floor and contested elections were the rule. This encouraged advance political activity and proxy gathering to swing floor votes to new directors, or to repeating directors committed in advance to support a particular candidate for a chosen office.

The simple cure for this aggravation would obviously be for the old Board to meet before the general assembly, elect officers from within the existing Board, and proceed to nominate the candidates for replacement directors. Despite the multiple advantages of such a procedure, it was not adopted until the 1972 convention in Hawaii where Pat King was elected President. By that time, political activity was at a minimum anyway, and Pat was so popular the procedure made no difference. There is cause for suspicion that the early Directors just enjoyed the politics.

There had been an earlier change in political structure in 1966, at the Las Vegas convention, which had also lessened political tensions. The term of office for directorships was three years, after the rotation system had become fully established in 1957. At the Board meeting in Arizona in 1958, the Directors voted unanimously that after a director had served a full three-year term he would step aside for at least one year

before running again. This would remove one-third of the board each year and bring in new blood. This vote was on a policy resolution, and was not an official change in the By-laws. The policy did not last long. At the Jamaica meeting in 1960 the Board decided that it should not lose the experience of all its old blood. Accordingly, half of the returning Directors stayed retired that year, but the other half were nominated and elected for another three-year term. That remained a commonplace procedure for the next five years. Then, at the 1966 business meeting, the Board itself proposed a By-law amendment which provided that a Director completing two successive three-year terms should stand aside for one year. The change was proposed to the general assembly.

Fellow Bob Huff led a fight from the floor, saying that some of the old guard would serve six years, rest one, and then serve six more. Staying off the Board one year out of 13 was not enough sacrifice to let more members in. He moved to amend the rest period to one full term, or three full years. The Huff amendment passed. Some of the old guard questioned the wisdom of the Academy depriving itself of their services, and raised the issue again at the Mexico City convention. After another full-scale debate, the membership chose to keep the mandatory three-year interim after any six-year service period, and open political activity came to an end. No one resigned. Harmony took priority over ambition.

There is no suggestion here that the old political maneuvers ever produced a weak or unworthy president. Whatever public acclaim came with the office was followed by a monumental load of work. The early presidents took literally weeks away from their trial calendars traveling, writing, phoning, planning, and guiding committees, while spending their own funds for all the costs, extra staff, space, files and supplies. Their motivation was to build a better honor society for lawyers than ever existed before. They put quality before quantity and depth before dazzle. The structure of the Academy today is a tribute to the foundation they laid.

The demands of office have not lessened over the years. They have steadily increased, under the rule of life that it takes more work to enlarge and maintain a structure than it does to build the footers. Meeting dates have increased from one annual meeting to the annual, plus Spring, Summer or Fall regionals, plus an extended tour. The President sacrifices months of lost time and income away from his regular practice. The Directors attend at least two meetings a year, instead of one. The committees work throughout the year. The marvel of the Academy is that when the office seeks the man, it finds so many outstanding candidates who are willing to shoulder the load.

### **THE ELUSIVE HOME OFFICE**

The Academy had some growing pains before it found a permanent home office and steady efficiency in operations. The 1954 Charter fixed the location of the principal office to be within the City and County of New York. Founder Gerald Finley furnished space in his office suite, and his secretary, Mrs. Hannah McDonald, acted in Bermuda and thereafter as a recording secretary of the early meetings. She became the executive secretary for the first 10 years, keeping all the records and doing the bookkeeping.

Finley and McDonald ran the routine and daily business of the Academy, paying the bills, collecting dues, noticing meetings, ordering membership plaques, and handling the inquiries that came in by mail or phone. They forwarded to the President all those communications which required his attention. Each president had to set up his own field office and files and furnish his own secretarial staff, with constant exchange of paperwork and copies with the home office and the various committee chairmen.

The Admissions Committee generated the most mail. Each of the six members had to receive copies of all the nominations and all the investigation reports on all the candidates, and the home office became a clearinghouse for that information and the recorder of final committee action.

This system worked, although awkwardly and with considerable expense to the President, until Jim McArdle's term in 1965. He wanted to be much more involved in managing the affairs of the association, made frequent trips to New York to review operations, and eventually demanded that the president should keep all the permanent records for ready reference in the field office. He also wanted copies of all the inquiries and requests that were addressed generally to the Academy and mailed to the home office. Gerald Finley relied on the Charter, which said the principal office was in New York City. Mrs. McDonald was squeezed in the contest of wills between McArdle and Finley, and in November of 1964 she resigned.

McArdle accepted McDonald's resignation. Finley demanded an emergency Board meeting. McDonald withdrew her resignation. McArdle refused to accept the withdrawal. He called the Board meeting. On December 5, 1964, 19 Directors assembled in Pittsburgh. The board voted 10 to 8, 1 abstention, to allow McDonald to withdraw her resignation. McArdle resigned the office of President. The board voted unanimously not to accept McArdle's resignation. He refused to resume office. Perry Nichols, then Vice President, became Acting President until the San Juan convention in Puerto Rico in January, 1965.

At the General Assembly meeting on January 4, 1965, chaired by Nichols as Acting President, the membership moved for an explanation of McArdle's resignation. The motion carried. McArdle thereupon rose and explained it so well that a motion carried to give him a rising vote of thanks. Thereupon, as the minutes record, "The Fellows gave Mr. McArdle a standing ovation." Then a motion was made and carried to reverse the Board decision which overruled McArdle's decision to accept the Executive Secretary's resignation. This double negative let stand Mrs. McDonald's original resignation, leaving that position open for the new Board to fill. Another motion carried to turn over all the books and records of the Academy to the President, pending the appointment of a new Executive Secretary. That afternoon the new Board of Directors met, duly made Perry Nichols the President for 1965, and directed that the Academy's files, books and records be forwarded to his Florida office. This shows what skilled lawyers can accomplish with the help of Roberts Rules of Order.

In a later Board meeting an Executive Secretary selected by Nichols, Mrs. Eileen Newton, was approved. She served until the end of his term. Jim Dempsey became President the following year and the files, books and records were shipped to his office in White Plains, New York. He selected a new Executive Secretary, Miss Gail Van Tassell. Meanwhile, a search began for a permanent headquarters. Jim Dooley found space available in the District Court Building in Chicago, to which a move was made in March, 1967. Francis Hare of Alabama was the President that year, and his problem in finding a Secretary was solved by Miss Van Tassell, who moved to Chicago to continue her operation of the home office. The New York law requirements were met by a Charter amendment naming a resident Agent in New York City. In time, Miss Van Tassell left to pursue another career, and was replaced by Miss Joan Hoffman.

### **AVENUE OF THE STARS TO SAN JOSE**

The next change occurred in February of 1969 when Raoul Magana became President. The Board chose to move the office to the Los Angeles metropolitan area, where Raoul maintained his practice. He found the next Secretary, Mrs. Esther Rodriguez. The Academy gained the most appropriate address in Century City: "Avenue of the Stars." By 1972, the need for permanent staff had become critical. We found Don O'Brien in 1972. He became a true Executive Director, although his title remained Executive Secretary. He installed modern office management techniques and equipment, and from then on the Officers and Board were assured of smooth and efficient daily operations.

The home office remained on the Avenue of the Stars through the presidencies of Pat King, Walter Beckham, Lou Ashe and Robert Morgan. In early 1976, Bob Morgan, whose term had expired, made an offer so generous it could not be refused. He leased space in the office building he owned in San Jose at a cost of \$.20 per square foot per month. This is not a misprint - Twenty Cents. The Academy moved. Don O'Brien moved to San Jose to stay with the Academy. Sadly, Don's health began to fail about 10 years later, and his serious decline in physical stamina compelled him to retire in 1985.

After a long and thorough search for a worthy replacement, the Board found a candidate whose qualifications and energy promised a long and even better career at the helm of the home office. She is Mrs. Barbara V. Laskin, who now holds the full title of Executive Director.

As you can see, the McArdle flap did not amount to all that much. Brothers in much smaller families have bigger arguments. McArdle never resigned as a Fellow. He just traded a month of his President's term for a standing ovation.

### **ACADEMY VENTURES**

The Academy was formed primarily as an honorary association, as contrasted to an action group. All of the Fellows belong to at least a half dozen other bar associations and speciality organizations that offer ample opportunity for whatever type of action the member wants to take. As a result, the Academy has maintained relatively few ongoing

projects. There has been no lack of suggestion for new and worthwhile programs during the tenure of every president and every new Board, but generally it turns out that the cost of carrying out a meaningful project would far outweigh the funds in the Treasury. The Academy does well what it can afford to do, and occasionally raises the dues so it can do more.

At the first convention, the assembly discussed at length the attack on the jury system. There was a movement underway in 1955, led by Jerome Frank and Justice Peck, which proposed to end court congestion and achieve cheap justice by abolishing civil jury trials. The agitation continued for several years, during which the Academy passed resolutions, drafted press releases, and circulated articles by some of its members outlining effective methods to reduce Court congestion without destroying the jury system. It became apparent that some academic support would be useful, and the Academy funded a research project and the publication of an anthology, written by Prof. Charles Joiner of the University of Michigan, entitled "Civil Justice and the Jury." It was published by Prentice Hall in 1961. It was not a best seller, but it did get favorable reviews and demonstrated that the jury system has sustained academic support in addition to its historic popular support.

### **THE ACADEMY BULLETIN**

A less formal venture has been the Academy Bulletin. It would not be necessary if all of the Fellows could attend all of the meetings, but that is not possible. To fill the gap, the Bulletin spreads news of past events, gives notice of future events, and records the recent activities and accomplishments of many of the Fellows. In the early years, the Bulletin came out sporadically, assembled by the home office staff. In early 1966, the Board delegated the editorship to Fellow Don Farage, a master of the sprightly phrase and irreverent pun. He published two or three issues a year between February of 1966 and May of 1969, the more eagerly awaited because delivery was irregular. Don's inkwell ran dry in 1969, and the new Editor became Hugh Head, whose style Don had earlier described as "effulgent and efflorescent." True. Editor Head's first edition came out two or three times a year, between July, 1969 and June, 1971.

The Fellows benefited by receiving the news, and Hugh benefited by the opportunity to express his controversial editorial opinions. Hugh's philosophy was as Victorian as his prose. Regularity arrived when Don O'Brien became Executive Secretary and took over the task of writing the Bulletin. He began the practice of mailing a second copy to the home address addressed to the Fellows' wives, to increase their interest in the Academy and encourage their attendance at the conventions and on the tours. The gracious ladies of the Academy are essential to its functions.

There is one remarkable difference between the Bulletin and the internal newsletter of other trial lawyer organizations. In reporting the newsworthy triumphs of our Fellows, the amount of big verdicts or settlements will never be published. The Academy does not measure an advocate's learning by checking his financial statement, nor equate his honor and integrity with the number of digits ahead of the decimal point in a recovery. There

has never been any inclination to form, within our ranks, an innermost circle of uttermost advocates. In fact, most of our Fellows are so modest they think there may be a little luck in getting the right case to the right jury in the right place at the right time. They might well be called the Cosmic Order of Lucky Stars.

### **STUDENT ADVOCACY**

A worthy venture of the Academy has been the Student Advocacy Program. It began as "Project Advocacy" under President McArdle in 1964. He donated money of his own and obtained contributions from others to award prizes to law students who excelled in advocacy. When those funds ran out in 1966, the plan converted to the present program, which is funded by the Academy. Its aim is to promote early interest in trial and appellate advocacy in the law schools. The Academy annually presents an engraved plaque for presentation to such student as may be selected by the faculty of each participating law school. President O'Brien in 1968 and Don Farage in 1970 were active campaigners to increase the number of law schools joining in the program. Former Dean Sol Clark later became a continuing and very active Chairman of the Student Advocacy Program. By 1988, there were 81 participating laws schools in 39 American states, plus the District of Columbia and the Law Society of Upper Canada. The Student Advocacy Program continues to be strongly supported by the Academy.

### **THE LINCOLN LIBRARY**

Good fortune played a major role in a unique project of the Academy the Lincoln Library. Fellow Bob Morgan had a close friend, Dr. McLeon Patterson, who had inherited a collection of rare books, periodicals, articles, letters and other memorabilia concerning Abraham Lincoln's career in his early years when that country boy became the best trial lawyer in Illinois. Dr. McLeon discussed with Bob what should be done to preserve the collection and make the history available to researchers and other interested members of the public. Bob arranged with the Board for a gift to the Academy. The Lincoln Library is now housed at the home office in a special setting of shelving and office furnishings done in the style of Lincoln's time. Several of the Fellows who owned choice pieces of Lincoln history have donated their artifacts to the Library, which is now catalogued in the Library of Congress as a significant research source. Bob Morgan's discussions on the subject began in 1973. The Library was officially transferred and opened to our Fellows in 1976.

### **INTERNATIONAL GOALS**

The Academy is International, both in name and in spirit. The motto on our seal is "SALUS POPULI SUPREMA LEX ESTO" - "The welfare of the people must be the supreme law." We believe that the wealth of the nation is its people, and we believe with Jefferson that all the people are endowed with unalienable individual rights. We believe that the highest duty of an advocate is to preserve and protect those rights, and we seek companions in every land to enlist in that eternal quest.

The high vision remains, but progress has been slow. There are many difficulties. Most

learned men abroad are bi-lingual, with English as their second language. Few Americans are fluent in another tongue. Income levels in many other countries are relatively low, and the modest income earned by the advocate may be degraded by unfavorable currency exchange rates. Many countries have strict internal currency restrictions, so that the lawyer who might be able to afford an airline trip to an American convention hotel would have no way to pay the bills. Advocates who are trained under a Civil Code system with trial by a magistrate have no way to create a background of common law, and have little hope of creating a new jury trial system.

Those difficulties do not apply to our Fellows from Canada and Great Britain. They share a common language and cultural heritage, and warn us to protect the civil jury they have lost in most of their Provinces. The Academy has had some success south of the Border, starting with Victor Velasquez. He acted as translator at our first meetings in Mexico and was active on the Board. Later, both President Magana and President Garza were fluent in Spanish and brought in outstanding advocates from Mexico and Central and South American countries.

The Academy cooperates with other institutions which share the ideal of worldwide protection of human rights through enforceable legal systems. A significant contribution was made by Fellow Lee Kreindler in 1971. The head of the World Peace Through Law Center had written to President Don Farage to ask whether the Academy would put on a demonstration of a civil trial in an international case. The Board agreed. He delegated the matter to Lee Kreindler, who in turn became Associate Chairman of the mock trial proceedings held in June, 1971, at the Belgrade Conference. The purpose was to promote expansion of the jurisdiction of the international Court of Justice, which presently exists only to resolve disputes between nations, and only with their consent to its jurisdiction. Many of the lawyers participating in Belgrade were heads of their national bar associations, and the Academy became better known to them through Kreindler's efforts. His contacts with leaders of many African nations enabled him to plan the Academy's tour to Africa in 1977, which brought into membership many of the leading trial lawyers from African nations.

## **FOREIGN ADVENTURES**

It is customary for our officers and directors, in planning future conventions, to make preliminary trips to the countries involved. They enlist leading lawyers to serve as hosts and guest speakers. In this way, those speakers learn of the Academy, meet the Fellows, and demonstrate their own qualifications for membership. Our Fellows who travel the world independently of the Academy tours often seek out the prominent advocates through their own contacts, and suggest those men as candidates if they meet the qualifications for admission. The International Fellows in turn bring in others.

Through all these methods, the Academy now has achieved the admission to membership, in its International roster, of distinguished Fellows from 36 different nations. The importance of that membership, and their special problems, caused the Board in June of 1983 to amend the By-laws to create a new office: "Secretary of



International Relations." President David Harney appointed Director Jorge de Presno of Mexico to serve as the first Secretary until the next election date. He was then formally elected to the office at the annual meeting in March, 1984.

### **THE ACADEMY FOUNDATION**

The Board has not yet solved the problem of bringing International members to the annual convention. For many, the cost of the long trip to the United States is prohibitive. Philanthropy will certainly be required. A possible source of funding may be the International Academy of Trial Lawyers Foundation, a California non-profit corporation, created through the energy, goodwill, and charitable donations of Fellows Mortimer Rosecan of Missouri and Jim Ackerman of California. It is separate from, but allied with, the Academy. Many Fellows have already made contributions to enlarge its treasury. The Foundation is history in the making. It began in 1983, and has not yet fully established the pathways it will travel in advancing the science of jurisprudence and the calling of advocacy. Perhaps 10 years from now, Fellow Rosecan can write the first history of how the Foundation began and how it grew.

### **FUTURE AFTER 35**

There are other changes to be noted as the Academy reaches its 35th Anniversary year. The Charter limit on directorships was broad: not less than five, nor more than 40. In practice, the founders fixed the number at 25 for the beginning years. As membership grew, the number was increased to 30, and with further growth the maximum of 40 was reached. Effort is made to include on the Board representatives of all the different interests and viewpoints of the whole membership. All past Presidents are encouraged to attend Board meetings to share their experience.

The original limit on membership was a maximum of 500 Fellows. That limit was changed over time to 500 exclusive of Associate, Honorary and International members. Membership is diverse. Every state is now represented on the Board. Every sub-specialty of trial practice has a representative. In the first year, the members were almost entirely plaintiff's personal injury lawyers. In recent years, the membership mix has been about 30% who are exclusively plaintiff's lawyers in all the divisions of product liability, malpractice, air crash, admiralty, railroad and vehicular injury; about 35% who are primarily civil defense lawyers in those areas; and the remaining 35% who are lawyers who go both ways in tort cases, criminal case prosecution and defense lawyers, antitrust and corporate dispute lawyers, and advocates in all the other areas of present-day litigation.

Members come in all sizes, shapes, range of voice, racial origin, religious persuasion, and-in recent years-both sexes. Although much of this History speaks of trial men, that is only a reflection of the fact that women in the past have not chosen to become trial lawyers. Times have changed. In the past decade a high proportion of the winners of the best advocate plaque in the IATL Student Advocacy Program have been young women. One reason there are few who have yet achieved admission to the Academy is the

requirement of a 12-year proof period of outstanding advocacy. Women have not been in the field, or stayed in the field, long enough to produce many candidates as of now, but the future will surely see growth to fully proportionate representation in the chosen 500.

The early growth of the membership roster was kept deliberately slow. Admission procedures have been modified to increase preliminary screening and investigation. Independent evaluations by trial judges are mandatory. The number of active members from one firm is limited to two (2). It took 15 years for membership to pass the 350 mark. After 20 years, the target limit was in sight, and there was agitation by some officers and directors to increase the limit to 750. The idea resurfaces from time to time, buttressed by the argument that the total number of trial lawyers has increased. There has been only limited support for expansion. During the '80's, the roster has remained steady, at full capacity, with new growth offset by the inevitable loss of older members.

### **THE "500" LIMIT**

It is true that the 35 years encompassed in this History have seen an awesome growth in the amount and diversity of litigation, the number of lawyers, the number of courts and judges, and the volume of reported opinions. Still, despite the doubling and redoubling of the number of trial lawyers, the Academy stands on its original limit of 500. Other honor societies have not done so, expanding their size in proportion to the expansion of the whole trial bar.

It seems obvious that the greater the number, the less the distinction, and the smaller the number, the greater the honor. The Academy will keep its limit. The qualification for membership must remain impeccable character, ultimate integrity and demonstrated skill and ability in advocacy to a degree not simply excellent, but exceptional.

The quality that distinguished the past Fellows of the Academy, and continues to distinguish the present Fellows, is the quality of creativity. Creative talent is a rare quality. It distinguishes the true leader from the multitudes who can only copy, imitate and merchandise. As the veterans pass on, the Academy of the future will be challenged to find new Fellows who have the same creative vision, the same passion for justice, and the same love of the law.

They will be there to be found, and in the next century, their historian can repeat the words written by Francis Hare some 15 years ago:

"A candidate's eminence must have been achieved as a bona fide trial lawyer, not through general social or professional prominence or popularity. The members of the Academy are chosen from the very finest trial advocates in this country and those lands whose jurisprudence meets our standards of justice. But it also happens that great trial lawyers got that way because they have qualities of universal excellence, including charm and the social graces. This is sheer serendipity. A gentleman usually makes a better barrister than the other kind, and success generally comes to men possessing the character and personality that will wear well over years of association. Thus it is, that while the list was

filled by selecting the all-time, all great advocates, the result is a group of scholars and gentlemen."

As of now, add "and ladies."

May that future historian add:

"We have kept the flame."