

College Columns

News and Views from The American College of Bankruptcy

Publications Committee Report



▲ Evelyn H. Biery

By Evelyn H. Biery

Please forward to me information on your honors and achievements, your interests outside the practice of law, and humorous stories about the practice of law. Your fellow Fellows would be delighted to hear more about you.

The Publications Committee is continuing the projects it has previously embarked upon. If you would like to serve on one of the subcommittees, please contact me at your convenience.

The Memorial Lecture Subcommittee will continue to work with our Scholar-in-Residence, Prof. Alan Resnick, to present an ethics lecture. It is our hope that it will take place in a resort and will become an annual event sponsored by the Committee, under the auspices of the College. Its members include John Barrett, Richard Broude, Jan Hayden, Simon Kimmelman and Michael Reed.

The *College Columns* Subcommittee has published bi-annual issues of the *College Columns* and will continue to do so. Its members include Harry Dixon, John Kozyak, Cecelia Morris, Robert Sable and Blaine Schwabe.

The Law Review Articles Subcommittee will continue to review seminar papers and law review articles during the year and forward the most impressive to the College Fellows, as we did with the article on ethics by Jerry Smith and Sally Neely. Its members include Tom Ambro, Don Bernstein, Dan Cohn, Hon. Burton Lifland, Joel Pelofsky, Isaac Scott and Walt Taggart. ☞

Chairman's Report



▲ Raymond L. Shapiro

By Raymond L. Shapiro

We are ready for the new century. Our infrastructure, financial resources and membership diversity in the United States and abroad give us the confidence to expand our horizons in the immediate future.

The annual Patrons and Sponsors campaign makes a significant difference in our financial operations and resources. It enables us to maintain level charges for College dues and events but, more importantly, now permits us to turn our attention to providing greater funding for outside activities. We support educational programs at law schools, and we have expanded our pro bono budget. Shortly, we will establish a bankruptcy archives center to serve as a repository for important bankruptcy papers. In the Fall we will sponsor a luncheon at the National Conference of Bankruptcy Judges at their Boston convention. Other projects are under study, especially identified by the Committee ably chaired by Paul

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The College expresses its appreciation to LEXIS Publishing, which has underwritten the cost of printing the *College Columns*. LEXIS Publishing, is the publisher of the line of *Collier Bankruptcy* publications, including *Collier Bankruptcy Cases*.

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Selection of Eleventh Class



▲ Merrill R. Francis

By Merrill R. Francis

On October 18, 1999, invitations were extended to forty-five prospective Fellows, including five Foreign Fellows, six Judges, one Emeritus Fellow, and thirty-three who are United States attorneys and other professionals. Merrill R. Francis, Chair of the Board of Regents, forwarded invitations to the invitees who are United States Judges and professionals, and Daniel Glosband forwarded invitations to the invitees who are Foreign Fellows. A report on those who accept the invitation will be included in the next issue of the *College Columns*. ☞

Nomination Procedures for Twelfth Class

By Merrill R. Francis

The Board of Regents will meet in Boston in October at the National Conference of Bankruptcy Judges to act on nominations for the Class of 2000. Sponsor applications for candidates will be due in the Summer of 2000. It is imperative that nominees not be contacted. All names of nominees must be kept **confidential!** We want to avoid any potential embarrassment on the part of someone who may be considered but not extended an invitation.

Each Circuit Admissions Council will review nominations received for that Circuit (other than Judges and Foreign Fellows) and make recommendations to the Board of Regents. Each Fellow within a Circuit will receive the names of the proposed Fellows (other than Judges and Foreign Fellows in that Circuit) and be asked to comment on each proposed Fellow. Final Circuit Admissions Council recommendations will be forwarded to the Board of Regents, which will meet on Wednesday, October 18, in Boston in conjunction with the meeting of the National Conference of Bankruptcy Judges. Invitations to new Fellows for the Class of 2000 will be sent out in mid-November of 2000. ☞

Nomination Procedures for Foreign Fellows



▲ Daniel M. Glosband

By Daniel M. Glosband

A memorandum in early June of 1999 reminded the Nominating Committee members of ten potential nominees mentioned but deferred during the consideration of the Eleventh Class of Fellows and solicited additional names from committee members and from current Foreign Fellows. An additional seven suggestions were ultimately received, providing a pool of seventeen candidates for consideration. The Committee held its first meeting by conference call on June 23, 1999, narrowed the field to eight and assigned responsibility to specific committee members to collect information and review or complete applications. The first level of selection was tied to achieving a balanced field based on geography and professional discipline and included four lawyers, two accountants and one law professor, from seven different countries. A tentative goal was established, tied to the eight preliminary selections, of five regular, one Honorary and two Emeritus Foreign Fellows.

Results of the continuing diligence process for the group of eight were circulated in advance of a second conference call meeting held on July 28. The Committee concluded that it would submit five applications for one Emeritus Foreign Fellow and four regular Foreign Fellows. The reduction from the eight preliminary candidates to the five nominees was attributable to elimination of one candidate on the merits and to the inability to obtain completed applications or sufficient supporting material on the other three. Collecting necessary supporting material while preserving the confidentiality of the process is difficult with United States candidates. For foreign candidates, the sources for discreet collection of information are limited to those known to the Committee members or to existing Foreign Fellows and are fewer and harder to access. Consequently, several candidates who appeared attractive to the Nominating Committee could not be presented to the Board of Regents due to an inability to collect detailed information.

In any case, the Foreign Fellows

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Nomination Procedures for Judicial Fellows



By Leonard H. Gilbert

The Judicial Fellows Nominating Committee was presented with a number of outstanding nominations this year. The Committee conducted several meetings which were followed by extensive personal investigation by members of the Committee of contacts in the regional areas of each of the nominees. Information accumulated was made available to all of the Committee members and, after substantial consideration, the Committee elected six nominees to present to the Board of Regents. This is a larger number of candidates than usual, but the Committee asked the Board of Regents to take into consideration the fact that only two nominees had been presented in each of the last two years. The names not presented for consideration this year will be available to the Committee in 2000.

Serving on the Committee this year with Gilbert were: Susan Freeman, David Heiman, Stuart Hertzberg, Hon. Lloyd King, Prof. Kenneth Klee, Lillian Kraemer, Sally Neely, Robin Phelan and David Sykes.

This is the most dedicated and hardest working Committee I have ever had the pleasure to serve on. The members of the Committee are extremely diligent in their service and in particular in their investigatory role in making sure that we consider the most qualified candidates for the College. It is a pleasure to serve with all of them. 🏛️

Procedures for Foreign Fellows

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Nominating Committee is pleased to present the following five candidates for consideration by the Board of Regents: Charles D. Booth, a professor at the University of Hong Kong; Yoine Goldstein, a lawyer in Montreal; Paul R. Heath, Q.C., a barrister and a Commissioner of the New Zealand Law Commission; C. Garth McGirr, a retired partner of PricewaterhouseCoopers in Toronto; and Michael Steiner, a solicitor in London.

The Nominating Committee is holding one partial and six complete applications for ostensibly qualified candidates, which will give it a running start on the Twelfth Class of Fellows. 🏛️

Educational Program Spring 2000



By Prof. Alan N. Resnick

The Educational Program at the Annual Meeting of the College in March 2000 promises to be as exciting and enriching as our outstanding programs in the past. The program will feature ten exceptional speakers, all distinguished experts in their fields, who will discuss timely topics on Saturday morning, March 18, 2000, at the Cosmos Club in Washington, D.C.

The program will begin at 9:00 A.M. with a discussion of *Troubled Company Acquisitions*. The panel will include Robert J. White of O'Melveny & Myers, Los Angeles; David G. Heiman of Jones, Day, Reavis & Pogue, Cleveland; and David L. Resnick of Peter J. Solomon Company, New York. The panelists, who have a wealth of transactional experience in this area, will focus on strategy and pitfalls relating to asset acquisitions from a financially troubled company. Buying and selling assets under a Chapter 11 plan or pursuant to a Section 363 sale, as well as sales outside bankruptcy, will be discussed.

The second part of the program will be on the emerging area of *Cross-Border Insolvency*. The international panel of experts will include Richard F. Broude, New York; Hon. Sidney B. Brooks, Denver; Prof. Bruce A. Markell, University of Nevada at Las

Vegas School of Law; and Prof. Ian F. Fletcher, Queen Mary & Westfield College, University of London. The panelists will discuss transnational insolvency problems relating to the recognition of foreign proceedings, concurrent insolvency proceedings, and the protection of all creditors in cross-border cases. Proposed legislation that would amend the Bankruptcy Code to delete Section 304 and add a new Chapter 15 on cross-border insolvency will be discussed. These experienced panelists will also comment on the improvement of international bankruptcy regimes.

The final presentation, entitled *Hot Topics*, will consist of a review and commentary on the most important and interesting recent judicial decisions of which all bankruptcy professionals should be aware. The panel will consist of three leading bankruptcy practitioners, including Marcia L. Goldstein, Weil, Gotshal & Manges, New York; Mark E. MacDonald, MacDonald & Schuble, LLP, Dallas; and Charles P. Normandin, Ropes & Gray, Boston.

I thank Leon Forman, now the Scholar-in-Residence Emeritus, for his valuable guidance in putting together this outstanding program. Working together with Leon was a wonderful experience. As the new Scholar-in-Residence, my goal is to continue Leon's established tradition of presenting educational programs characterized by his extremely high standards of excellence. 🏛️

Save the Date

Fall 2000 Meeting

Wednesday, October 18, 2000

Boston Marriott Copley Plaza Hotel

Thursday, October 19, 2000

NCBJ Luncheon sponsored by the College

Induction Ceremony and Events Spring 2000

By Suzanne A. Bingham

Mark your calendars for March 17-18, 2000, for the Eleventh Class celebration. We may even serve green beer since the Induction Ceremony is on Friday, March 17, St. Patrick's Day. We all look forward to the Induction Ceremony, and we are pleased to host the induction at the United States Supreme Court in Washington, D.C. In full tradition, the Induction will begin at 7:00 P.M., although the Eleventh Class Inductees are asked to arrive in black tie at 5:30 P.M. for a photo session. The dress for all others is cocktail dress. Our keynote speaker will be Gerold Herrmann. Upon completion of the Induction Ceremony, we will continue the celebration with a reception in the East and West Conference Rooms of the Supreme Court.

Spring 2000 Keynote Speaker

By Suzanne A. Bingham

Gerold Herrmann, secretary of the United Nations Commission on International Trade Law (UNCITRAL), and Chief, International Trade Law Branch, Office of Legal Affairs, United Nations, will be our keynote speaker for the March 2000 Induction Ceremony on Friday, March 17, at the Supreme Court. His topic will be "Global Commerce Needs Global Law!"

Mr. Herrmann is an informative and entertaining speaker, with significant insight into international law and especially crossborder insolvency law, as well as international trade law, especially arbitration, banking and electronic commerce law, comparative law and unification of law. ☞

Fall 2000 Meeting

By Suzanne A. Bingham

The College Fall Luncheon will be held on Wednesday, October 18, 2000, at the Boston Marriott Copley Plaza Hotel. Also, for the first time, the College will host, in conjunction with the National Conference of Bankruptcy Judges, a luncheon for NCBJ attendees. The College will select a speaker and host the event on Thursday, October 19, 2000, at the Marriott. ☞

Plan for a full day the next day, Saturday, March 18. All Fellows will meet for the educational session at the Cosmos Club, this year on the second floor in the Warne Lounge, to follow with the All Fellows Luncheon in which College business is conducted. Our new Scholar-in-Residence, Prof. Alan Resnick, has coordinated an exciting educational session for us.

For those who register, we have scheduled a morning tour for spouses and family members to historic Mt. Vernon with shopping in Old Towne Alexandria. At 3:00 P.M. we have confirmed a guided tour of the Holocaust Museum. We will top the evening off with a relaxing dinner at the Metropolitan Club, where Jerry Smith will present the Year 2000 Distinguished Service Award to one honored Fellow. After dinner we will enjoy a performance by critically acclaimed singer, composer and entertainer Paul Todd. Mr. Todd is an exciting entertainer, highly recommended. We know he will put on a great show for us. ☞

The UNCITRAL Model Law on Cross-Border Insolvency

By E. Bruce Leonard



▲ E. Bruce Leonard

The UNCITRAL Model Law on Cross-Border Insolvency promises a quantum leap in international cooperation in multinational insolvency proceedings. The United States, to its credit, has become the first major jurisdiction to introduce legislation adopting the provisions of the Model Law (in the proposed new Chapter 15 of the Bankruptcy Code). The approach of the proposed Chapter 15 is consistent with the intent of §304 of the Bankruptcy Code but the new provisions will expand upon and enhance the international cooperation contemplated by §304.

The concept of the Model Law began at an international insolvency Colloquium in Vienna in April 1994 as

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Bankruptcy History/Archives Committee Report

By Hon. Mary Davies Scott and Joseph Patchan



▲ Hon. Mary Davies Scott



▲ Joseph Patchan

The College formed the Bankruptcy History/Archives Project Committee to retrieve and preserve historical papers, documents, books and other memorabilia related to the history of bankruptcy and insolvency law with the assistance of those individuals who have been instrumental in its development. The intention is to identify an appropriate educational institution that will be willing to serve as a repository for this information and make it available to scholars and others for research purposes.

Phase I, the initial funding for the purpose of the feasibility study and the initial research for a repository, has been completed. Phase II, forming a search committee for the purpose of selecting a repository, is underway and will probably be completed in the Summer of 1999. Phase III, the selection of the archivist, will be completed no later than the Spring of 2000. If more than one site for the repository appears possible, an archivist will be retained to prepare a feasibility report for the College Board of Directors at its Fall 1999 meeting or its Spring 2000 meeting. In the Spring of 2000, the committee will complete Phase IV, the selection of the repository. In Phase V the endowment will be established. If the feasibility study is positive, a suitable repository is found and sufficient papers, photographs, etc., exist, the Committee will then make a recommendation to the College Board of Directors and the College Membership regarding ongoing funding for the archives. It is expected that the possible repositories will have certain minimum funding requirements before going forward.

The committee is presently composed of Murray Drabkin, Leon Forman, Lawrence King, Myron Sheinfeld, and Gerald Smith. ☞

Directory Committee Report



By Joel B. Piassick

In order to facilitate future modifications to the Directory and to have the information available for the College's web site, it was necessary to convert a substantial

amount of the material contained in the Directory distributed last year into a new format that could be managed by our Executive Director. That process is almost complete and, once the data has been proofed, we will commence preparation of the first supplement to the new Directory. The first supplement will contain:

1. A new Table of Contents;
2. Any changes to the Board of Directors, Officers or Board of Regents;
3. A new alphabetical listing, including Fellows admitted in Class Ten;
4. The addition of Class Ten to the listing of Fellows by Class;
5. A new listing of Fellows by Circuit, including Class Ten;
6. A new listing of Fellows by State, including Class Ten;
7. A new tab and the biographies of all of the members in Class Ten; and
8. Any bylaw amendments that have been adopted.

Because we received more corrections, additions and modifications to individual biographies than we originally anticipated, those changes will be made in a future supplement so as not to delay the inclusion of Class Ten in the current Directory.

West Publishing has graciously agreed to print our first supplement. 📖

**American College
of Bankruptcy's
Web Site is
Now On Line**

<http://www.amercol.org>

Future of the College Committee



By Paul M. Singer

In April 1999 the Board of Directors appointed an ad hoc committee to discuss and make recommendations concerning the future of the College.

The Committee, which was extraordinarily diverse in its composition, met on six occasions and presented its written report to the Board in October 1999.

The Committee concluded that the College as currently constituted is highly valued by its members and that major changes were unnecessary. The Committee felt, however, that the College should be more than an honorary society and recommended that it remain committed to providing educational opportunities as well as serving our communities through grants to worthy local pro bono programs.

During its deliberations, the Committee discussed a broad range of issues facing the College, including membership, meetings, educational programs, pro bono programs, and financing. The following is a summary of the Committee's report.

1. Membership.

The Committee recommended that the standards for admission to the College not be changed even though the result may mean smaller classes than the historical average and a larger concentration of Fellows resident in the country's commercial centers.

2. Meetings.

The Committee favored retaining Washington as the venue for the Annual Meeting and having the Induction Ceremony in the Supreme Court because of the Court's legal significance and majesty. The Committee made various recommendations for the Board's consideration concerning the venue for the mid-year meeting. The Committee also made suggestions concerning the possibility of periodic regional meetings. Finally, the Committee recommended that the Board consider having breakout sessions by region at the Annual Meeting in order to foster collegiality and secure names of candidates for admission to the College.

3. Educational Programs.

The Committee recognized that the programs at the Annual Meetings and mid-year meetings have been excellent and recommended that these in-house educational sessions be continued under the direction of the Scholar-in-Residence.

The Committee noted that the College's mission as stated in its By-laws includes development of educational outreach programs. The Committee felt that such programs should carry recognition for the College, foster the ability of Fellows to participate if they so wish and raise the interest of students in the subject of bankruptcy. The Committee discussed several program models which met its criteria, including (i) development of a moot court program or a similar program for business schools; (ii) funding specific studies and research projects on insolvency topics (the "grant model"); and (iii) sponsoring symposia to be presented at law schools (the "symposia model"). The discussion of these three program models led to the Committee's consideration of an additional model which is related to but not technically an outreach model. Under this fourth model, the College would sponsor a lecture on an insolvency related issue which would be followed by breakout sessions of Fellows to consider the issue presented, and if warranted, the College would publish a report of the deliberations (the "lecture/breakout model"). These models were taken under consideration by the Board.

The Committee recommended that the Board consider having the College participate in the creation of a program on electronic filing for use by local bar associations.

Finally, the Committee recommended that the College continue its support for the bankruptcy history project which is considering three universities as a repository for important bankruptcy papers.

4. Pro Bono Programs.

As noted above, the Committee felt that pro bono programs should be a signature effort of the College. To that end, the Committee recommended that the Board consider as a goal allocating at least \$5,000 per year to this effort and directing grants to worthy local projects and providing a preference for pilot programs.

5. Financing.

The Committee recognized the College's financial limitations (because

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Law School Educational Program Report



By Hon. Roger M. Whelan

The educational aims of the American College of Bankruptcy have now been expanded and will include a major contribution to higher learning in the Bankruptcy and Insolvency area. In January of the Millennium, Richard Broude, a College Fellow, will be conducting a College-sponsored program on Mass Torts at St. John's University School of Law in Brooklyn, New York. This is the first time that a law school course has been directed solely to this critical area of the law, and the College will now be able to actively sponsor and participate in the nation's first L.L.M. Bankruptcy Program. Professor Robert M. Zinman, a newly-invited Fellow, is the director of this L.L.M. Program and is responsible for developing St. John's University School of Law as a "leading pillar of identity" in the Bankruptcy arena. Prof. Alan Resnick, the College's scholar in residence, will be responsible for coordinating and assisting in the College's sponsorship role.

This L.L.M. program at St. John's University School of Law is not like the customary 24 credit masters program, but rather is a comprehensive and challenging program that requires 30 credits and the submission of a thesis on a current bankruptcy issue. Several members of the Masters Program Advisory Board at St. John's are active College Fellows, and based on the number of applications and students enrolled in the first class (September 1999) this L.L.M. Program should be one of the bright educational lights in the millennium. 🏛️

Eleventh Class Induction Ceremony
March 17, 2000
Spring Meeting
March 18, 2000

You should have already received your registration materials. Additional registration materials are enclosed

On Line Committee Report



By Ronald M. Martin

With the support of our Chairman, Ray Shapiro; our President, Neal Batson; graphic designer Jon Milburn; webmaster Mich Turner; the On-Line Committee; and most of all our tireless Executive Director, Suzanne Bingham, and her dedicated staff, Shari Bedker and Brian Turnau, our website is now in existence.

The website is <http://www.amercol.org>. Put it on your "favorites" so that you'll be able to find it easily when you need College information or want to explore esoteric questions with the brightest minds on bankruptcy law.

Phase One is up and running giving the world information about where they can find the best bankruptcy lawyers. While at the present time there are search capacities by state and city, we will soon have our entire directory, including individual résumés and pictures, on the web for clients who are searching for the best.

In Phase Two we are developing a "Members Only" section for private matters such as College Minutes, Bylaws, and Board of Directors and Board of Regents information, such as financial reports, meeting times at events and other important information. In this section there will be membership applications which you will be able to fill out on-line and forward directly through the Internet to Merrill Francis and the Regents.

Perhaps most importantly, Jerry Smith's dream of having a real Bulletin Board for the Fellows will be accomplished so that any Fellow can post discussion messages and replies in the Members Only section. Access to the Members Only section will be by an easy-to-remember general password which will be given out to all Fellows. 🏛️



Pro Bono Committee Report



By David T. Sykes

Since the Committee's last report, the Pro Bono Committee has considered and approved three grant applications from the Allegheny County Bar Association in Pennsylvania, the Volunteer Lawyers Program of PIMA County in Tucson, Arizona, and the Pro Bono Subcommittee of the Bankruptcy Section of the New Jersey State Bar Association. These grants will enable pro bono projects to further their educational goals. There have been a total of six grants approved by the College, with several additional organizations which are in the process of completing applications.

In reviewing the long-range planning effort led by Paul Singer, it is heartening that additional funding for bankruptcy pro bono projects has been recommended, which the Pro Bono Committee strongly supports, and that strong emphasis is being given to start-up projects. The method to be used to emphasize grants to start-up projects could be to make larger grants (\$1,000 to \$1,250) to those projects than to more mature organizations providing pro bono bankruptcy services.

In our Committee's last report in the *College Columns*, a worthwhile suggestion was mentioned regarding amicus efforts by the College. For a number of reasons, the suggestion has been deferred for further consideration. The Pro Bono Committee will continue to dedicate its efforts to support local organizations providing bankruptcy services to deserving individuals and organizations.

College Fellows are encouraged to become active in the pro bono work being done by the College, and by the American Bar Association's Business Bankruptcy Pro Bono Subcommittee (Chaired by College Fellow Jim Baillie). You can help by identifying active bankruptcy pro bono projects in your area and encouraging their administrators to consider developing educational programs which might qualify for a College grant. You can also become a member of the College's Pro Bono Committee, and assist in evaluating the grant applications. If you are interested call or e-mail David Sykes (215-979-1500, or sykes@duanemorris.com). 🏛️

Acknowledgements

The American College of Bankruptcy would like to acknowledge and thank the following 2000 Patrons and Sponsors without whose help our educational sessions and events would not be possible.

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Minutes of Board Meeting Spring 1999

By Paul M. Singer

**American College Of Bankruptcy
Board Of Directors Meeting
March 12, 1999
Approved October 6, 1999**

A meeting of the Board of Directors of the College was conducted on Friday, March 12, 1999, at the Madison Hotel in Washington, D.C. Members of the Board of Regents were invited to attend the meeting and to participate in the discussion on the future of the College. The following were in attendance: Raymond L. Shapiro, R. Neal Batson Myron M. Sheinfeld, David T. Sykes, Merrill R. Francis, John A. Barrett, Leonard H. Gilbert, Stuart E. Hertzberg, David A. Lander, Hon. Ralph R. Mabey, Prof. Grant Newton, Jerome Shulkin Paul M. Singer, Richard S. Toder, Hon. Roger Whelan, Gerald K. Smith, Leon S. Forman, Stuart Hirshfield, Michael L. Temin, Francis P. Dicello, Joel P. Kay, Gerald F. Munitz, Hon. Mary Davies Scott, Robert Rubin, Sally Neely, William J. Perlstein, Vernon O. Teofan, and Daniel M. Glosband.

Mr. Shapiro requested that Paul M. Singer act as Secretary of the meeting in the absence of Evelyn Biery.

The minutes of the October 22, 1998 meeting of the Board of Directors were approved as corrected.

In the absence of the Treasurer, Bettina M. Whyte, President Neal Batson provided the financial report. In his report Mr. Batson noted that the College was on budget for this year, but stated that we were still early in the year. Mr. Batson cautioned that the cost of the induction ceremony was more this year because of the use of the Corcoran Museum rather than the Supreme Court. Mr. Batson stated that the College had taken in \$66,000 from patrons and sponsors and this sum contributed substantially to the College's positive financial results. Finally, he noted that the College had reached its goal of having a reserve equal to one year's operating expenses, assuring the College's continued financial security.

William Perlstein provided the legal report. He stated that the reincorporation of the College as a Virginia corporation had been completed. He next summarized the four proposed amendments to the bylaws. After discussion, upon motion duly made and seconded, the amendments to the bylaws were adopted. Finally, Mr. Perlstein noted that he had been asked by the Chairman to review the College's directors and officers insurance and to recommend any changes, if necessary.

Leon Forman stated that he will be retiring as scholar in residence at the end of the year and that Professor Alan Resnick of Hofstra University will be taking Mr.

Forman's place. Mr. Forman said that he had been in the process of exchanging information with Professor Resnick for the past six months and that this process will continue through the end of the year. Mr. Forman also noted that he, together with other College members, Hon. Joe Lee, Professor Lawrence King and Ralph Mabey, would be testifying before Congress on Tuesday, March 16, 1999, on the proposed Bankruptcy reform legislation.

The Hon. Mary Davies Scott provided the report on the Bankruptcy History Project. Judge Scott stated that she and her co-chair, Joseph Patchan, were having a meeting of their Committee to develop a plan for collecting and preserving bankruptcy papers of historical importance. One of the issues they were going to study is whether there should be established under the auspices of the College a special collection room in a law school where archived papers would be available to scholars. Judge Scott reported that the Association of Former Judges had pledged \$5,000 as seed money for this project.

Jerry Smith provided the report of the Nominating Committee. He stated that Ray Shapiro and Merrill Francis had resigned from the Board of Directors in order to make seats available on the Board for others. Mr. Smith noted as Chairman of the Board of Directors and Board of Regents respectively, each of Mr. Shapiro and Mr. Francis would remain as voting members of the Board of Directors. Mr. Smith reported that in light of the foregoing the Nominating Committee recommended that Ron Martin be elected to a full three-year term as a director replacing Ray Shapiro and that Daniel Glosband be elected to a full three-year term replacing Merrill Francis. Mr. Smith stated that the Nominating Committee also recommended that Directors Louis Levit and Roger Whelan each be elected for a second three-year term. Mr. Smith further reported that the Nominating Committee recommended that Phil Hendel be elected to the position held by Daniel Glosband as a Regent. Finally, Mr. Smith stated that the Nominating Committee recommended that all existing officers be re-elected by the Board for a second two-year term.

Upon motion duly made and seconded, the Board unanimously adopted the Nominating Committee's recommendations, directing the Chairman to present the nominees for Directors to the Annual Meeting of the Fellows on March 13, 1999, and report on re-electing each of the officers for an additional two-year term.

Joel Piassick reported on the directory project, which has resulted in a looseleaf College directory being distributed to all

Fellows. Joel mentioned that the project could not have been completed without the extraordinary work of Suzanne Bingham, our Executive Director, and without the financial support of West Publishing. A resolution was made and accepted thanking West Publishing for its support.

Ron Martin provided the communications report. He noted that two-thirds of the College Fellows were able to receive material on e-mail. He stated that the distribution of material by e-mail would save a significant amount of cost and expense to the College and thus encouraged the Chairman to mention the importance of this at the Annual Meeting.

Jerry Smith reported that this year's winners of the Distinguished Service Award will be George Triester and Hon. Joe Lee. Unfortunately, neither could attend because of personal reasons. Mr. Smith noted that Bob Greenfield would be accepting the award on behalf of George Triester and that Taft McKinstery would be accepting on behalf of Judge Lee at the Award Ceremony taking place at the annual Fellows dinner on March 13, 1999.

The Executive Director, Suzanne Bingham, provided a report on the number of attendees for each of the events that were taking place during the College's Annual Meeting. Ms. Bingham noted that the increased size of the College, the induction ceremony and other events held together therewith were requiring significant additional time from her staff and recommended that a Committee be appointed to help the Executive Director plan future annual meetings. The Chairman stated that he would appoint such a Committee.

Ms. Bingham noted that the College does have available for use by Fellows mailing labels and that upon request for usage every effort is made to be sure that the labels are used solely for purposes consistent with the College's mission and not for advertising or distribution of unrelated materials.

Prior to introducing Mr. Sykes for his report on pro bono projects, the Chairman noted that Mr. Sykes will be receiving the National Public Service Award at the American Bar Association's meetings in San Francisco in April, 1999 for his activities in the pro bono area.

Mr. Sykes reported that the Pro Bono Committee had made awards to Monroe County, New York, Dade County (Miami), Florida, and the Philadelphia Bankruptcy Assistance Project. Mr. Sykes reminded the Directors that \$2,500 had been approved for each of two years and encouraged Directors to help make sure that requests for support to viable projects were submitted to the Committee.

Merrill Francis, Chair of the Board of Regents, gave the report of the Board of Regents. He noted the importance of continuing to bring younger, qualified people

into the College and anticipated that the College would continue to grow at the rate of thirty to thirty-five, at least, per year.

Roger Whelan, Chair of the Education Committee, issued a report on educational projects that the Committee was considering. He reported that the program that the College had sponsored at the University of California, Davis, on business bankruptcy had been commenced by Professor Ayer. Mr. Whelan stated that the next program would be a consumer program that would be held in January, 2000, and that in connection therewith contacts had been made with Professor Klee at the University of California, Professor Warren at Harvard and Professor Resnick at Hofstra concerning their interest in creating such a program.

Mr. Whelan and Jerry Shulkin, an Educational Committee member, indicated that they were still in discussions with Professor Adams at the University of Minnesota about the possibility of the College participating in some fashion in a Masters of Law program at that school. Each of these gentlemen noted that this was a longer range project and would take additional time to develop.

The Chairman and President each made opening remarks that led into a discussion among the Directors and Regents on the future of the College. As part of his remarks, Mr. Batson provided information on the size, scope and cost of participation in similar colleges, including the American College of Trial Lawyers, the American College of Estate Lawyers, the American College of Real Estate Lawyers and American College of Matrimonial Lawyers. In his remarks, Mr. Shapiro raised the issue of whether it makes sense for our College to continue to rely on patrons and sponsors or whether we will, in fact, need to do so as we grow. Further questions were raised by Messrs. Shapiro and Batson as to whether the College should continue outreach programs and, if so, whether the College should consider forming an endowment fund to support these programs. After Messrs. Shapiro and Batson had finished their remarks, the discussion was opened to the floor. A number of Directors and Regents made comments and suggestions on the direction of the College.

David Lander suggested that the College participate in the establishment of a relationship between the bar and law schools focusing on ways to enhance teaching bankruptcy in law schools. On this subject, Hon. Mary Davies Scott noted that the National Conference of Bankruptcy Judges will this year for the first time create a liaison with law professors to focus on the teaching of bankruptcy subjects.

Jerry Shulkin noted that as a consequence of the world economy all of our practices were being influenced by foreign transactions and recommended that the College

focus on helping foreign countries develop their debtor/creditor law.

Joel Kay raised the issue as to whether the Board should reconsider its mission of both being an honorary and social organization and providing outreach programs. Mr. Kay suggested that if, in fact, we wished to have outreach programs that we develop an endowment and begin funding it. If we do not wish to have outreach programs, he suggested the Board focus on how to benefit the membership as an honorary and social organization.

In response to Mr. Shulkin's comments and Mr. Kay's comments on the establishment of an endowment, Mr. Toder and others questioned whether as an institution the College can accept contributions from business entities without losing our independence.

In keeping with the thought of providing benefits to our members, Robert Rubin suggested that there be regional College meetings where Fellows from various regions of the country can get together under the auspices of the College to discuss common issues and to socialize.

Stuart Hirshfield commented that the College should focus on making bankruptcy a more attractive subject in law schools. He noted that at the current time bankruptcy is usually taught in law schools in the third year. As a consequence, many firms who do their hiring through a second year summer program are finding that good, young lawyers are already committed to other disciplines by the time they come to work full time at law firms. Accordingly, Mr. Hirshfield suggested that the College consider ways to introduce bankruptcy earlier in a student's career through moot court or similar programs.

Paul Singer noted that, while the College is currently financially stable, its financial growth will not be sufficient to allow for major changes in outreach programs if we maintain the projected rate of new admissions of 30 to 35 members per year. Accordingly, he suggested that the College focus on an outreach project that the Fellows can participate in on a national level but that will not be very expensive. In this light, Mr. Singer suggested that the College consider sponsoring a national moot court competition where Fellows would help prepare students or judge competitions on a regional basis with a view to having a national competition and a financial award presented to the winner at the College's Annual Meeting.

Frank Dicello suggested that the College focus on one project and do it for four or five years so that it brings identification to the organization.

William Perlstein suggested that, while the College does need some form of branding, *i.e.*, a project with which it can be identified, it makes sense to keep some resources available for more than one issue

on which we can take a lead.

Jerry Smith reminded us that the College had a significant reservoir of people who can address insolvency issues on both the state and national levels. He suggested the formation of standing committees charged with writing and updating of papers on various subjects which would be made available and provide motivation for scholars and students. He also said that the College should consider making an effort to share information on problems by encouraging collegial discussions and the sharing of briefs and other materials among Fellows.

John Barrett commented that since the College now has critical mass, we should focus on how to be a group that people want to be in whether collegial, educational or providing outreach.

Professor Grant Newton said that, in his view, the College cannot exist without participating in outreach programs. He suggested that a task force be appointed to develop a five-year plan and share it with the Board at our October meetings in San Francisco. He also reported that he recently had participated in the development of an insolvency problem for business students and suggested that the College could help develop problems for use in business and law schools on a nationwide basis.

Jerry Munitz said that he favored outreach programs limited to educational matters and assistance to law schools and state and local bars. He suggested that the College should stay out of funding other organizations.

Dan Glosband also felt that the College ought to focus on academic outreach. He suggested perhaps members of the College could meet with academics in their Circuit to provide information on the kind of outreach that would be acceptable. This idea was seconded by Jerry Shulkin, who thought that the College ought to develop a task force for education.

A number of Directors and Regents suggested that the College consider moving the Annual Meeting from Washington to various cities around the country to encourage more participation by Fellows now that the College has become larger. According to these Directors and Regents, this would also encourage interaction with the spouses so that the Fellows could get to know each other's families. A number of other participants in the discussion felt that the majesty of the Supreme Court as a site for the Induction Ceremony mandated that the College's Annual Meeting be held in Washington.

The Chairman stated that the foregoing discussion was very fruitful and that it provided a sense of what the Directors and Regents felt the College should be doing.

At 4:00 p.m. the meeting adjourned. 

Paul M. Singer, Acting Secretary

Executive Director's Report



By Suzanne A. Bingham

The College has been moving forward into the new millennium with many new projects and initiatives. These include:

▲ Suzanne A. Bingham

- (a) The College web site introduction and continued construction of new pages to the site (with development underway for an intranet page and adding Fellows' biographies);
- (b) Development of a new database that will allow us to enter not only address information but also biographical information providing for consolidation of information in one location;
- (c) Assisting Merrill R. Francis with forwarding invitation letters to nominees for the Eleventh Class;
- (d) Development of a new ListServ emailing system to better serve our members;
- (e) Updating the College Directory and production, which has been recently forwarded to you;
- (f) Encouraging Fellows to participate in our year 2000 Patrons and Sponsors program, which enhances the College's ability to fulfill obligations for special events, specific projects and committee functions; and
- (g) Coordinating the year 2001 Induction Ceremony and Fall College meeting.

The College Directory inserts should have arrived by this writing, and we wish to thank, again, West Group Publishing for sponsoring the publication of the directory. Just replace the entire directory in the appropriate tabs and add the new tab to Class Ten along with a new tab for "Fellows In Memoriam."

We are very pleased with the response to the Patrons and Sponsors program which Ray Shapiro and Neal Batson coordinated. It is hoped more Fellows will participate in this worthwhile program.

I am pleased to report that, out of 444 Fellows, we have received all but 17 email addresses. Most of those missing email addresses relate to retired Fellows. Providing your email address

is important to us. Email is the way of the future, and we know that many are still adjusting to using it; however, the College plans to forward most of its information via email in the near future.

March 17-18, 2000 - Don't forget to make your reservations for the Year 2000 Induction Ceremony to be held at the Supreme Court, and the educational session, luncheon and dinner with entertainment. Prof. Alan Resnick has done a wonderful job serving as the new Scholar-in-Residence (as good a job as Leon Forman, who's tough to beat). The Induction Ceremony registration brochures have been forwarded to all Fellows. Mark your calendars, and be sure to register early. ☰

Chairman's Report

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Singer to make recommendations on our future direction.

We have inaugurated a new format for our Directory and have a Web Site up and running. We have improved our data base and our ability to communicate with our membership. Challenges resulting from growth are being addressed with vigor by our Executive Director and her staff.

The officers, directors, regents and committee chairs are dedicated participants in College activities, and I thank each of them for their tireless efforts. The teamwork is distinguished and rewarding. On behalf of the College I particularly recognize and thank my partner, Leon Forman, for his outstanding service as our first Scholar-in-Residence. We are grateful for his willingness to be a pioneer at this important position and for setting the standards for others to follow. He performed the only way he knows how, with dedication and excellence. He passes the torch to Alan Resnick, whose skills, knowledge and experience should serve us well.

The College is committed to enhancing the bankruptcy process. It is also an organization whose members from across the country and overseas can meet several times a year, share common bonds and exchange ideas on the issues that face our profession. I urge you to attend our March meetings in Washington, D.C., renew relationships, benefit from our educational programs and enjoy the fellowship of our organization. ☰

Future of the College Committee

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of its size) and considered this restraint in its deliberations. The Committee felt that the current dues structure and sponsor program should be continued and that the College should not seek outside sponsors (other than a legal publishing company, such as Lexis Publishing Co.) for fear of the perception of influence. The Committee also discussed the creation of endowment funds to support the educational and pro bono programs, but reached no conclusion on this subject.

REQUEST FOR COMMENTS. The Board would very much appreciate any comments or suggestions that you have on any matter that relates to the future of the College. Please direct this correspondence in writing or orally to Paul M. Singer, phone: 412-288-3114; fax: 412-288-3069; e-mail: pmsinger@rsm.com. ☰

The UNCITRAL Model Law on Cross-Border Insolvency

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UNCITRAL's first international insolvency project. The Project proceeded at a remarkable pace for an international project and was successfully completed in 1997. The Model Law is intended to be an international model for domestic legislation dealing with cross-border insolvencies which could be adopted by countries all over the world.

The Model Law provides rules for recognizing and assisting foreign insolvency proceedings. It mandates a high level of cooperation between courts in cross-border cases and contemplates direct communications between courts which will be invaluable in harmonizing cross-border reorganizations. The Model Law also contemplates stays of proceedings by local creditors and measures to safeguard the assets of the debtor that are located in a local jurisdiction.

Consideration of the adoption of the Model Law is under way in the United Kingdom, Canada, New Zealand and Australia. If the Model Law is enacted in the major trading countries, it will raise cooperation in international insolvencies to an unprecedented new level. This is certain to bring highly tangible benefits to all those who are involved in cross-border and multinational trade and commerce.

The Model Law is available electronically on the UNCITRAL website at www.uncitral.org/en-index.htm ☰

American College of Bankruptcy Pro Bono Organization Grant Request

Date: _____

Name of organization: _____

Address: _____

Street/P.O. Box _____

City _____

State _____

Zip _____

Telephone _____

Fax _____

Date organized: _____

Tax status: _____

(attach tax-exempt letter)

Describe the geographical areas and the clientele served by your organization.

Describe the project (panels, clinics, individual representations, etc.) by which your organization serves clients with need for bankruptcy or debtor/creditor legal services:

Description of educational program (Describe the purpose of the educational program, use of the grant, including the subjects to be taught, the instruction tools and methods, the total cost of the educational program):

Amount requested: _____

Organization budget _____

Bankruptcy pro bono budget _____

(current year): _____

(if separate): _____

Principal funding source for bankruptcy project: _____

Contact person for organization: _____

Address (if different than organization's address): _____

Street/P.O. Box _____

City _____

State _____

Zip _____

Telephone _____

Fax _____

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