

DEDICATED TO CLARIFYING AND IMPROVING THE LAW

Election of Council Members Set for Monday, May 18

When Gerhard Casper, Chair of the Nominating Committee, reports to the members at the Annual Meeting Opening Session on Monday, May 18, he will move before the assembly the Council's nominations for election to the Council. After careful consideration over two meetings, the Nominating Committee recommended the addition of seven new Council members and the reelection of six current Council members. The Council recently nominated all 13 candidates recommended by the Committee.

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▶ The President's Letter Engagement

The American Law Institute has 4200 members. Since our founding, our members have participated in our law-reform work by attendance at Annual Meetings and involvement in project drafting through Adviser and Members Consultative Groups, as well as more informal groups as we explore potential areas for inquiry. In the initial stages of defining projects—such as the Restatement Third of the U.S. Law

of International Commercial Arbitration, headed by Professor George Bermann of Columbia, and Extraterritorial Application of U.S. Financial Regulations, headed by Acting Dean Howell Jackson of Harvard—and in our examination of issues relating to capital punishment and election law, participation necessarily must be limited to an invited group. The challenge for us is how to engage the large number of members who are now only occasionally involved in the Institute's work.

The recent study of our membership concluded that, although many members are happy that they can increase their serious involvement with the ALI around specific projects that interest them, and others appreciate that at various busy times in their practice or personal lives they can remain interested members without specific portfolio, 64 percent of us would welcome a chance to become more engaged with the ALI in a meaningful way without having to travel. Further, many new members are looking for immediate opportunities to

become participants in work apart from the Annual Meeting and in efforts to suggest new projects for us. Advisory groups cannot grow much beyond their current rolls without losing their effectiveness. While the Members Consultative Groups have no limit

on membership, we understand that some part of our membership would like to be involved, but for a variety of reasons cannot attend MCG meetings in person. Oth-

ers, given the particular projects on our table, do not find something that currently piques their interest. How do we find meaningful work for those of us who want to become involved, but are not?

Two recent events for members were even more successful than we had hoped, and they may give us part of the answer. As an experiment suggested by two of our members in the San Francisco area, Judge Yvonne Gonzalez Rogers, Judge Jon Tigar, Jeffrey Bleich, Michael Brown, and James Donato hosted a Sunday afternoon meeting of younger members at the home of Judge and Matt Rogers in the Bay Area to meet one another and to meet and hear from Mike Traynor. Those who attended gave the event rave reviews. In New York, a recent reception after the International Commercial Arbitration meeting brought an enthusiastic crowd of our members to hear Second Circuit Judge Pierre Leval and to meet one another and Lance Liebman. Happily, all of us will be able to hear Judge Leval open our Annual Meeting on Mon-

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day morning, May 18, along with ALI members Tommy Wells, President of the American Bar Association, and Nicholas Katzenbach, who will receive the Friendly Medal.

In 2009 and 2010, we will try to schedule several other regional project meetings and receptions for members in those areas, so that people can get to know one another better and meet some of the leaders of the particular projects and of the Institute. But the more substantive question I have, for those of you who are not currently working in our framework at the level you would like, is: What do you suggest? I mean this very seriously. In the last several years we have made significant changes that modernized our governance; we adopted the use of Principles projects for subject areas in which Restatements are not quite right (for example, Family Law in the past and Aggregate Litigation and Nonprofit Organizations now underway); and we will in the next 12 months try some new methods in dealing with election-law issues and one or two other areas such as financial regulation.

In response to my questions last quarter, many of you responded with really helpful ideas in areas concerning technology. As we get past the Annual Meeting, we will take a hard look at how we can use technology to make us a more effective organization. However, we are not sure, after hearing from so many of you via the survey and individual conversations, that we have even begun to figure out how to engage our membership in a way that advances our work, strengthens the ALI, and makes membership in the ALI more meaningful to those of you looking for more. Unlike the ABA or some of the subspecialty legal organizations, we have few committees. Our work is the production of substantive legal writing with the goal of clarifying or reforming the law.

So I ask you to tell us: If you were to design ways to engage our distinguished membership more meaningfully, what would you do? Is allowing more people to work on our drafts via electronic participation enough? Do you think that

we should regularize moving our meetings around the country? Should we do quarterly call-in teleconferences with a Reporter from a project to give you updates in the area? Are you interested in meeting with the ALI members in your area more often and in having visits from the leadership or from ALI members doing interesting work in their own practices that could be shared? Should

If you were to design ways to engage our distinguished membership more meaningfully, what would you do?

we sponsor some CLE training programs focused around our current projects? Are there ways you think we could improve the Annual Meeting experience for those of you who can come? What am I completely missing about any or all of this expressed desire for engagement?

Our goal is to find 21st-century ways to make use of the vast talents of our members without disturbing the important parts of the ALI culture that earn us the high regard in which our work is held in the United States and abroad. It seems only smart to ask what ideas you have to achieve our goal of more meaningful member engagement. Let me know via email at president@ali.org or by letter if you prefer, addressed to President Roberta C. Ramo, The American Law Institute, 4025 Chestnut St., Philadelphia, PA 19104. None of this will be done overnight, and in these difficult economic times, cost is of course an element in what change we can make and how fast we can make it. I hope you will take the time to think about this and respond, and to find me during our reception in Washington on Monday night, May 18, to talk about this and other issues that are on your mind.

And speaking of the Annual Meeting, in addition to the substantive projects on our

agenda, let me note again what sterling speakers we have: Helaine Barnett, President of the Legal Services Corporation, who will address us at lunch on Tuesday, May 19 (the first Legal Services lawyer to speak to our Annual Meeting), Secretary of Homeland Security (and longtime member of the ALI) Janet Napolitano for the Annual Dinner Tuesday night, and Senator Arlen Specter of Pennsylvania, ranking member of the U.S. Senate Judiciary Committee, at lunch on Wednesday, May 20. A significant value for each of us is the opportunity to meet one another, to participate in discussing our substantive agenda, whether in our own area of practice or not, and to hear from the leaders of our profession on the issues of the day. I look forward to seeing you and hearing your ideas.

Roberta

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THE AMERICAN LAW INSTITUTE

86th Annual Meeting | May 18-20, 2009

Pre-meeting Events

SUNDAY, MAY 17

2:00 to 4:30 p.m.

***CLE Program and Members Consultative Group Meeting: ALL Project on Restatement of the U.S. Law of International Commercial Arbitration**

5:00 to 7:00 p.m.

***CLE Program: Developments in Legal Ethics**

Annual Meeting Program and Events

(All sessions and events in the Grand Ballroom unless otherwise noted.)

MONDAY, MAY 18

10:00 a.m.

Opening Session

- Remarks by The Honorable Pierre N. Leval
- Remarks by ABA President H. Thomas Wells, Jr.
- Presentation of the Henry J. Friendly Medal to Nicholas de B. Katzenbach and remarks by Mr. Katzenbach
- Reports and Business

11:15 a.m.

Restatement of the Law Third, Torts: Liability for Physical and Emotional Harm (Tentative Draft presented for approval)

Reporters: Michael D. Green and William C. Powers, Jr.

12:45 p.m.

***New Member Luncheon**
(by invitation only - State Room)

(lunch for most members is "on your own"; see the registration room for list of nearby lunch places)

2:00 p.m.

Torts: Liability for Physical and Emotional Harm (continued)

2:45 p.m.

Break

3:00 p.m.

Restatement of the Law Third, Employment Law

(Tentative Draft presented for approval)

Reporters: Samuel Estreicher, Michael C. Harper, and Stewart J. Schwab

5:00 p.m.

Adjournment

6:30 to 8:30 p.m.

***Members Reception**
(The Phillips Collection)

TUESDAY, MAY 19

(includes concurrent sessions)

9:00 a.m.

Employment Law (continued)

10:15 a.m.

Break

10:30 a.m.

Session A: Principles of the Law of Software Contracts

(Proposed Final Draft presented for approval)

Reporters: Robert A. Hillman and Maureen A. O'Rourke

10:30 a.m.

Session B: Restatement of the Law Third, Trusts (Colonial Room)

(Tentative Draft presented for approval)

Reporters: Edward C. Halbach, Jr., and Randall W. Roth

12:45 p.m.

***Luncheon honoring new Life (25-year) Members and new 50-year Members** (State Room)

Speaker: Helaine M. Barnett, President, Legal Services Corporation

2:00 p.m.

Capital Punishment Report and vote on Council recommendation that ALL withdraw Model Penal Code § 210.6

Presenter: Paul L. Friedman, Program Committee Chair

3:00 p.m.

Model Penal Code: Sentencing
(Discussion Draft)

Reporter: Kevin Reitz

5:00 p.m.

Adjournment

7:00 p.m.

***Annual Reception** (State Room) and

7:45 p.m.

Dinner (black tie optional)

Speaker: The Honorable Janet Napolitano, Secretary of Homeland Security and former Governor of Arizona

WEDNESDAY, MAY 20

9:00 a.m.

Principles of the Law of Aggregate Litigation

(Proposed Final Draft presented for approval)

Reporters: Samuel Issacharoff, Robert H. Klonoff, Richard A. Nagareda, and Charles Silver

11:00 a.m.

Break

11:15 a.m.

Aggregate Litigation (continued)

12:45 p.m.

***Luncheon** (State Room)

Speaker: The Honorable Arlen Specter, United States Senator from Pennsylvania

2:00 p.m.

Aggregate Litigation (continued)

2:30 p.m.

Principles of the Law of Nonprofit Organizations

(Tentative Draft presented for approval)

Reporter: Evelyn Brody

3:30 p.m.

Break

3:45 p.m.

Nonprofit Organizations (continued)

5:00 p.m.

Adjournment

Note: This agenda, current as of the date shown, is subject to change before or during the Meeting. Annual Meeting sessions are open to ALI members and guests registered to attend the Meeting. Sunday's CLE programs are open to the public. Events that require advance registration or an invitation are marked with an asterisk (*).

Notice Our New Look?

With this issue, *The ALI Reporter* undergoes a transformation, incorporating the new ALI logo, black and gold colors, and special fonts that were introduced on the Tentative Drafts prepared earlier this spring for the 2009 Annual Meeting. The new logo incorporates an updated representation of the traditional ALI torch, paying homage to the Institute's illustrious past yet looking forward. The tagline appearing below the newsletter banner sums up the Institute's purpose in a few succinct words: Dedicated to clarifying and improving the law. These new design elements will make their appearance on the ALI website and on other print materials as well. This step towards a unified "look and feel" of the organization is an important one as the Institute seeks to raise awareness of its work and better communicate with the legal profession. We hope you like the change!



NYU Honors Andreas Lowenfeld with Symposium on International Law

On April 16, at the Thirteenth Annual Herbert Rubin and Justice Rose Luttan Rubin International Law Symposium, New York University School of Law and the *NYU Journal of International Law and Politics* paid tribute to the extensive and impressive scholarship of Andreas F. Lowenfeld, the Herbert and Rose Rubin Professor of International Law, as he entered his 42nd year of teaching at the law school. The event was organized by Professor Linda J. Silberman of NYU, who was Co-Reporter with Professor Lowenfeld for the Institute's project on Recognition and Enforcement of Foreign Judgments. Professor Lowenfeld, an ALI member since 1978, also served as an Associate Reporter for the Restatement Third, The Foreign Relations Law of the United States, and as an Adviser for the Principles of Transnational Civil Procedure. The symposium focused on four areas of Professor Lowenfeld's work: public international law, trade and eco-

nomics law, private international law, and international commercial arbitration.

On April 17 and 18, NYU also hosted the biannual conference of the *Journal of Private International Law*. The conference, sponsored in part by ALI, included plenary sessions on private-international-law issues in commercial law, a possible Restatement Third of Conflicts, and transnational litigation and arbitration. Among the symposium and conference participants were ALI Director Lance Liebman; Chair of the Council Michael Traynor; NYU Professor Rochelle Dreyfuss, a Co-Reporter for the ALI project on Transnational Intellectual Property; and Professor George A. Bermann of Columbia, Reporter for the Restatement Third, The U.S. Law of International Commercial Arbitration. A complete schedule of conference topics and participants can be found on the NYU website at <http://tiny.cc/YLhUK>.

A native of Berlin, Professor Lowenfeld is a magna cum laude graduate of both Harvard College and Harvard Law School. His career has spanned private practice, government service, and academe. He has taught, practiced, and written in nearly all aspects of international law for more than five decades, and he is frequently an arbitrator in international controversies, both public and private. He is also the author of a major treatise on international economic law, as well as casebooks and textbooks on conflict of laws and aviation law. An elected member of the Institut de Droit International and of the International Academy of Comparative Law, Professor Lowenfeld has twice been a lecturer at the Hague Academy of International Law. At The American Society of International Law's Annual Meeting in 2007, he received the Manley O. Hudson Medal in recognition of his exceptional contributions to scholarship and achievement in international law.

Election of Council Members continued from page 1

The proposed new Council members include three judges (one of whom is also an academic), three lawyers practicing in large firms, and one lawyer working as general counsel for a public educational system. The seven candidates range in age from 47 to 61, with an average age of just under 55. The new nominees are:

- **John H. Beisner**, Washington, D.C. Mr. Beisner, a partner at O'Melveny & Myers, chairs the firm's class actions, mass torts, and aggregated litigation practice. He is as an Adviser on the ALI's Aggregate Litigation project. Mr. Beisner's J.D. is from the University of Michigan, and his B.A. is from the University of Kansas.
- **Mary B. Cranston**, San Francisco, CA. Ms. Cranston is immediate past chair of her firm, Pillsbury Winthrop Shaw Pittman, where her specialties include litigation and counseling in complex class actions, antitrust, regulated industries, and securities. Her J.D. and A.B. are from Stanford; she also holds an M.A. from UCLA.
- **Derek P. Langhauser**, South Portland, ME. Mr. Langhauser is General Counsel of the Maine Community College System; he also serves part-time as Special Counsel to Maine Senator Olympia Snowe. His J.D. is from the University of Maine, his B.A. from Bates College.
- **Gerard E. Lynch**, New York, NY. Judge Lynch, who has been serving on the U.S. District Court in Manhattan since 2000, is also a law professor at Columbia University. He was recently nominated to the U.S. Court of Appeals for the Second Circuit by President Obama. Judge Lynch is an Adviser to the ALI's sentencing project and served on the ALI ad hoc committee on the death penalty. His J.D. and B.A. are both from Columbia.
- **M. Margaret McKeown**, San Diego, CA. Judge McKeown has been serving on the U.S. Court of Appeals for the Ninth Circuit since 1998. Before that, she was a partner at Perkins Coie in Seattle, where she specialized in intellectual property and complex litigation. She served as an Adviser on the ALI's recently completed project on international intellectual property. Judge McKeown, a graduate of the University of Wyoming, has a J.D. from Georgetown.
- **David W. Rivkin**, New York, NY. Mr. Rivkin, a partner at Debevoise & Plimpton, practices primarily in the areas of international litigation and arbitration, and currently heads the firm's international disputes resolution group. He was an Adviser on the ALI's Principles of Transnational Civil Procedure project. Both his undergraduate and law degrees are from Yale.
- **Elizabeth S. Stong**, Brooklyn, NY. Judge Stong has served on the U.S. Bankruptcy Court in Brooklyn since 2003. Before that she was a partner at Willkie Farr & Gallagher in

New York, where she handled complex federal and state litigation in areas including securities, corporate, employment, and ERISA; she has also served as a mediator and arbitrator. Judge Stong serves as an Adviser for the ALI's Transnational Insolvency: Principles of Cooperation project, and holds undergraduate and law degrees from Harvard.

The Council has nominated each of the following current Council members for reelection to the Council:

- William M. Burke, Sheppard, Mullin, Richter & Hampton, Costa Mesa, CA
- Elizabeth J. Cabraser, Loeff Cabraser Heimann & Bernstein, San Francisco, CA
- Christine M. Durham, Supreme Court of Utah, Salt Lake City, UT
- Geoffrey C. Hazard, Jr., University of California, Hastings College of the Law, San Francisco, CA; University of Pennsylvania Law School, Philadelphia, PA
- Carolyn B. Lamm, White & Case, Washington, DC
- Margaret H. Marshall, Supreme Judicial Court of Massachusetts, Boston, MA

The new ALI governance structure that became effective last May provides that new Council terms are for five years with a three-term limit. The new structure also provides "transition rules" for rotating off the Council those who were on the Council at the time the new structure went into effect. Thus, each year through 2022, several long-serving Council members will transition to emeritus status. Judges Louis H. Pollak, Patricia M. Wald, and William H. Webster will move into that esteemed class this May, and at the end of 2009 Judge Michael Boudin plans to join them (by his request about five months earlier than he would otherwise transition). Council emeriti may attend Council meetings and events but are not Council members and may not vote.

If the 13 candidates recommended by the Nominating Committee are elected by the membership at the Opening Session on May 18, then at the end of 2009 (assuming that no other relevant changes occur during the calendar year), Council membership will then stand at 57, with 18 Council emeriti. ALI's Bylaws provide that the Council must have 42 to 65 members; there is no limit on the number of emeriti.

The Nominating Committee thanks those ALI members who recommended names for consideration for the Council. All such recommendations have been carefully considered, and some remain on an active list of potential future candidates. For information on how to suggest names to the Committee, please visit www.ali.org, click on "About ALI," then "Committees," then "Nominating."

Judge Lauds Birnbaum's Work as Mediator in 9/11 Lawsuits

ALI Council member Sheila Birnbaum played a crucial role as the court-appointed mediator in the settlement of all but three of the 95 cases filed on behalf of victims of the terrorist attacks of September 11, 2001, according to Judge Alvin K. Hellerstein of the U.S. District Court for the Southern District of New York, who accepted the mediator's report in an order dated March 4. The cases settled for a total of \$500 million.

The vast majority of September 11 claimants opted to participate in the Victim Compensation Fund established by Congress to allow claimants to recover without proof of fault and without the risks and delays of litigation. The Fund, administered by Special Master Kenneth Feinberg (who spoke at the Institute's Annual Dinner in 2005), paid out more than \$7 billion to 5560 claimants in less than three years. But about three percent of the victims' families chose to file lawsuits against the airlines whose planes were hijacked, airport security firms, and

other defendants. When it became clear that complex discovery issues would lead to lengthy delays, Judge Hellerstein urged the parties to pursue settlements. Ms. Birnbaum, a specialist in mass torts and a partner at Skadden, Arps, Slate, Meagher & Flom in New York, was appointed to mediate cases in early 2006, assisted by Skadden's Thomas E. Fox. Their efforts led directly to the settlement of 72 cases, and by December 2008 only three cases remained for trial.

In her report, Ms. Birnbaum said that one obstacle to settlement for many families was the sense that they had not had a chance to "tell the story of their loss" to a representative of the court or of the airlines. She therefore held mediation sessions in New York, Washington, D.C., and Boston so that the individual families could be present to communicate their grief and loss to representatives of the defendant airlines and security companies and to receive personal condolences from them. Judge Hellerstein participated in

some of the New York sessions. Of the experience, Ms. Birnbaum wrote, "Needless to say, the meetings with the families were a heart-wrenching and emotionally draining experience for all involved."

In his order, Judge Hellerstein praised Ms. Birnbaum and Mr. Fox for their "tireless work" in achieving consistent, fair, and just settlements: "Ms. Birnbaum, assisted by Mr. Fox, has performed extraordinary work to settle the September 11 wrongful death and personal injury litigation. In her report, Ms. Birnbaum describes the settlement process and the factors that most influenced settlement values. She allowed each of the plaintiffs' families to express their loss and the quality of the lives lost on September 11. She absorbed their losses and their pain with empathy and brought opposing counsel and high officers of the airlines to sit in their presence and hear their stories. She gained plaintiffs' confidence. Without her assistance, most of these cases, in my opinion, would not have settled."

New Members Elected

On March 6, the Executive Committee elected the following 63 persons as the new members of the Institute:

Elizabeth A. Alston, Covington, LA; **John S. Applegate**, Bloomington, IN; **Anthony J. Bellia, Jr.**, Notre Dame, IN; **Edward K. M. Bilich**, Washington, DC; **Kathleen M. Boozang**, Newark, NJ; **Charles H. Brower II**, University, MS; **Matthew D. Brown**, San Francisco, CA; **Thomas P. Brown**, San Francisco, CA; **John G. Browning**, Dallas, TX; **Samuel W. Buell**, St. Louis, MO; **William E. Butler**, Carlisle, PA; **Evan H. Caminker**, Ann Arbor, MI; **Bryan T. Camp**, Lubbock, TX; **David O. Carter**, Santa Ana, CA; **John Allen Chalk**, Fort Worth, TX; **Tai-Heng Cheng**, New York, NY; **J. William Conger**, Oklahoma City, OK; **Leonard Court**, Oklahoma City, OK; **Michael Dore**, Roseland, NJ; **Anthony J. Duggan**, Toronto, Canada; **Anne S. Emanuel**, Atlanta, GA; **Anthony**

C. Epstein, Washington, DC; **James E. Felman**, Tampa, FL; **Sidney A. Fitzwater**, Dallas, TX; **David S. Friedman**, Boston, MA; **Jesse M. Furman**, New York, NY; **Joseph D. Garrison**, New Haven, CT; **Beverly B. Godbey**, Dallas, TX; **David M. Gossett**, Washington, DC; **Kenneth B. Hammer**, Cary, NC; **John N. Hermes**, Oklahoma City, OK; **Charles A. James**, San Ramon, CA; **Gregory A. Kalscheur, S.J.**, Newton, MA; **Martin J. Katz**, Denver, CO; **Brett M. Kavanaugh**, Washington, DC; **Orin S. Kerr**, Washington, DC; **Nancy J. King**, Nashville, TN; **Seth F. Kreimer**, Philadelphia, PA; **Jessica D. Litman**, Ann Arbor, MI; **Mark D. Martin**, Raleigh, NC; **Curtis J. Milhaupt**, New York, NY; **Trevor Morrison**, New York, NY; **Bradley C. Nahrstadt**, Chicago, IL; **W. Henry Parkman**, Atlanta, GA; **Jed S. Rakoff**, New York, NY; **Kathryn R. L. Rand**, Grand Forks, ND; **Sarah E. Ricks**, Camden, NJ; **Don G. Rushing**, San

Diego, CA; **Sabrina R. Safrin**, Newark, NJ; **Christopher Lynn Sagers**, Cleveland, OH; **Andrew William Schilling**, New York, NY; **Michael A. Scodro**, Chicago, IL; **Norman W. Spaulding**, Stanford, CA; **Luis Eduardo Sprovieri**, Buenos Aires, Argentina; **Anne B. Sublett**, Tulsa, OK; **Diane S. Sykes**, Milwaukee, WI; **Bradley J. B. Toben**, Waco, TX; **John M. True, III**, Hayward, CA; **Gary A. Udashen**, Dallas, TX; **Jeffrey A. Wadsworth**, Rochester, NY; **Tory A. Weigand**, Boston, MA; **Robin Fretwell Wilson**, Lexington, VA; **Nancy Winkelman**, Philadelphia, PA

On March 27, the Executive Committee elected the following two persons as the newest members of the Institute:

Raheemah F. Abdulaleem, Philadelphia, PA; **Gary C. Clark**, Stillwater, OK

Spotlight on the Struves: Membership is a Family Affair

by Nina Amster

Some family traditions are so special and beneficial that they should be nurtured and encouraged. The traditions of legal practice par excellence and active membership in the Institute are embodied by the Struve family: father Guy Miller Struve, son Andrew H. Struve, and daughter Professor Catherine T. Struve.

Although Guy Struve maintains that he had no expectations that either of his children would follow in his footsteps, both children spent quite a bit of time during their childhood at his office at Davis Polk & Wardwell in New York. All have fond memories of these visits, which instilled in both of the younger Struves very positive feelings about the practice of law, including the camaraderie and the high level of intellectual discourse that were essential parts of their father's practice.

An ALI member since 1974, Guy Struve has always been actively involved in the Institute, which provides him with a venue for unparalleled "intellectual give and take," all with the common goal of improving the law. A watershed event for him was the advent of the Members Consultative Groups, which enabled him to become involved in areas outside his area of practice as a senior partner in his firm's litigation department. With development of the MCGs, members who were not project Advisers could review and comment on the first working draft of a project at the same time as Advisers. Through his membership over the years in more than a dozen MCGs, Guy has been able

to get in on the "ground floor" and work with the Reporters to provide early and influential feedback on their drafts, which has further increased his ability to contribute to the work of the Institute. Guy also served as an Adviser on the ALI's project on Recognition and Enforcement of Foreign Judgments.

After he knew that both of his children were going to become attorneys, Guy actively urged them to pursue membership in the Institute. He was inspired by seeing William T. Coleman, Jr., at an Institute meeting with his own son and

sional satisfaction at the opportunity for meaningful involvement presented by the MCGs, as well as the opportunity that Institute meetings might present for mini "family reunions," Guy successfully encouraged both children to seek membership.

Andrew Struve didn't need much convincing. The bigger issue for him was actually whether to become a lawyer at all. Andrew had gone into business before attending law school, and he was working as a nonlawyer when he discovered, quite by accident, that he loved trial work. With this realization, he switched careers and graduated from Western State University College of Law at the age of 32. He now loves his practice as a partner at Manatt, Phelps & Phillips, where he focuses on complex commercial and unfair-competition litigation. He sees his



Guy Miller Struve



Andrew H. Struve

daughter, William III and Lovida, who, like the Struves, are successful attorneys and ALI members. Guy wanted that for himself and his children as well. Because of the "no nepotism" policy at Davis Polk, Guy did not have the opportunity to work with either of his children professionally. Additionally, with one child in Philadelphia and one in Los Angeles, it was a challenge just to get together with either or both of these busy professionals. By demonstrating his own profes-



Professor Catherine T. Struve

practice as an opportunity to learn something new every day and to share that knowledge with a team. Andrew's passion for the give-and-take of teamwork makes him an ideal ALI member as well. His membership in the Institute provides an opportunity to connect with and spend time with people that he would not ordinarily get to see, including, of course, his sister and his dad. Andrew, who with his father is in the MCG for the Principles of

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Indian Law Institute Officials Visit ALI

K.G. Balakrishnan, Chief Justice of India, with one of his colleagues, Justice Arijit Pasayat, and a delegation of 10 Indian officials including Dr. S. Sivakumar, Director of the Indian Law Institute (ILI), visited the ALI's Philadelphia headquarters on April 7. The Indian delegates requested the visit in order to exchange information about the operation of each organization and perhaps forge an alliance. ILI was founded in 1956 as a law-reform organization loosely patterned after ALI. Notable differences include that (i) ILI now has degree-granting authority in the field of legal education; (ii) ILI has not as yet produced restatements of the law comparable to those of ALI; (iii) ILI's research and writing are done by professionals on its staff; and (iv) the approval process for ILI work does not require a vote of the ILI membership.

The visiting delegation was welcomed by former ALI President Roswell B. Perkins, who had visited the Indian Law Institute in New Delhi in 2007. (His report on that visit appeared in the Summer 2007 issue of *The ALI Reporter*.) Chief Justice Balakrishnan, who is also President of ILI, described the history and functioning of ILI and expressed the hope that the Indian organization and ALI might develop a closer relationship.

ALI Director Lance Liebman explained that he had invited some ALI participants to present their perspectives on the role of ALI in American law. Anthony J. Scirica, Chief Judge of the Third Circuit, articulated effectively the significance of our Restatements in the formulation of judicial opinions. Federal District Judge Louis H. Pollak of Philadelphia recited his own history with

ALI and the credence given by courts to its publications. Justice Jack B. Jacobs of the Delaware Supreme Court noted the respect given by his court to the work of ALI, even though Delaware decisions about corporate law do not always coincide with the recommendations made in our *Principles of Corporate Governance*.

Director Liebman had invited three academics. Amelia H. Boss of Drexel Law School and Neil B. Cohen of Brooklyn Law School spoke of the significance of the Uniform Commercial Code and ALI's role in its formulation, and Stephen B. Burbank of the University of Pennsylvania Law School focused his remarks on the importance of an independent judiciary in a functioning democracy.

ALI First Vice President Allen D. Black spoke of the value to legal advocates of ALI's work and the

frequency with which ALI positions are used in briefs and oral arguments.

Two members of the Philadelphia staff also spoke briefly. Julene Franki, Executive Director of ALI-ABA, described the educational function of that organization for practicing lawyers in the U.S. ALI Deputy Director Elena A. Cappella presented the visitors with successive ALI drafts—Preliminary, Council, Tentative, and Official (i.e., the final approved work)—to demonstrate the multi-stage review and revision process that is the Institute's hallmark. Finally, Professor Liebman noted the increasingly international orientation of ALI's work, citing our projects on Transnational Civil Procedure, Transnational Insolvency, the U.S. Law of International Commercial Arbitration, and World Trade Law.



The Indian delegation to ALI included (from left) K.G. Balakrishnan, Chief Justice of India and President of the Indian Law Institute; T. K. Viswanathan of the ILI's Executive Committee; Professor R.K. Chauhan of the ILI's Finance Committee; Professor S. Sivakumar, Director of the ILI; and Dr. A.M. Gondane, Deputy Consul General of India.

New WTO Publications Available

The WTO Case Law of 2006-2007 is now available from Cambridge University Press as a special issue of CUP's *World Trade Review*. A softcover volume of the legal and economic analyses of case law for 2006-2007, fifth in a series of case-law studies, will also be published in May. The volume was edited by Henrik Horn, professor of international

economics, who is a senior research fellow at the Research Institute of Industrial Economics in Stockholm, and Petros C. Mavroidis, Edwin B. Parker Professor of Foreign and Comparative Law at Columbia Law School and a professor of law at the University of Neuchâtel in Switzerland. There are also plans to publish in May, in paperback, *The*

Genesis of the GATT (hardcover, 2008), dealing with trade-law history. This book, the first in a series of background material on world trade law, was authored by Douglas A. Irwin of Dartmouth, Professor Mavroidis, and Alan O. Sykes of Stanford. These and other WTO publications can be purchased by visiting CUP's website at www.cambridge.org.

Notes About Members and Colleagues

- Chief Justice **Shirley S. Abrahamson** of Madison, Wisconsin's first female justice and a member of the Institute's Council, won reelection to a fourth 10-year term on April 7.
- In March, **Jeffrey L. Bleich** of San Francisco joined President Barack Obama's administration as the President's special counsel. He will serve on an interim basis for three or four months.
- **David A. Brennen**, a professor at the University of Georgia School of Law and an Adviser to the Institute's Principles of the Law of Nonprofit Organizations, has been named dean of the University of Kentucky College of Law in Lexington.
- **William M. Burke** of Costa Mesa, California, a member of the Institute's Council, has received the Homer Kripke Achievement Award of the American College of Commercial Finance Lawyers. The award is given for outstanding contributions to the law as it relates to commercial finance. At press time, Mr. Burke was again undertaking to climb Mt. Everest, thereby fulfilling his lifetime dream of scaling the eight highest summits on the major continents, Australasia, and Antarctica.
- Professor **Patricia A. Cain** of Santa Clara University, contributed an article on tax and estate planning for same-sex couples to *Estate, Tax, and Benefits Planning for Unmarried Couples* (ALI-ABA 2009). The softbound volume may be ordered at www.ali-aba.org/BK42/ or by calling 1-800-253-6397.
- Appointed to an advisory committee to vet potential presidential nominees for U.S. Attorneys and federal-district judgeships in Alabama are former Alabama Supreme Court Justice **Ralph D. Cook**, Dean **John L. Carroll** of Samford University, Cumberland School of Law, and Dean **Kenneth C. Randall**, of the University of Alabama School of Law.
- In March, **Ronald DeKoven** of London, England, who served as the Reporter for Article 2A (Leases) of the Uniform Commercial Code, was called to the Bar of England and Wales by The Honourable Society of Lincoln's Inn, the oldest of the four inns of court. He now is entitled to practice as a barrister with rights of audience in the courts of England and Wales.
- **Ivan K. Fong** of Dublin, Ohio, **James R. Jenkins** of Moline, Illinois, and **Laura Stein** of Oakland, California, were recently listed among the 20 most influential general counsel in America by *The National Law Journal*.
- **Lawrence J. Fox** of Philadelphia and Professor **Susan R. Martyn** of the University of Toledo College of Law are coauthors of the 2009 Supplement for *Red Flags: A Lawyer's Handbook on Legal Ethics* (ALI-ABA 2005). Both the hardbound volume and the softbound cumulative supplement may be ordered at www.ali-aba.org/BK35/ or by calling 1-800-253-6397.
- **Victor James Gold**, a professor and fellow at Loyola Law School in Los Angeles, who served as the school's acting dean and senior vice president since January 2008, has been named the school's 16th dean.
- **Phoebe A. Haddon** of Temple University in Philadelphia has been appointed dean of the University of Maryland School of Law. She will be the first African American dean in the law school's 185-year history, replacing Dean **Karen H. Rothenberg**, who is stepping down after 10 years to return to the faculty.
- The late **Charles A. Harvey, Jr.**, of Portland, Maine, who died of pancreatic cancer on February 18, was the recipient of the 2009 McKusick Award, named in honor of former Maine Supreme Judicial Court Chief Justice Vincent L. McKusick, an ALI Council emeritus. The award recognizes a person who has contributed substantially to the administration of justice and the delivery of judicial services to the people of Maine.
- In April, the National University of San Marcos in Lima, Peru, is sponsoring Peru's first International Congress on Contract Law in honor of **Boris Kozolchyk**, founder and president of the Tucson-based National Law Center for Inter-American Free Trade and a law professor at the University of Arizona. Professor Kozolchyk is being recognized for his work in international contracts.
- **Paul M. Kurtz**, associate dean and professor at the University of Georgia School of Law, has received the National Child Support Enforcement Association's Child Support Community Service Award at the association's 2009 Policy Forum & Training Confer-

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In Memoriam

Elected

J. Hadley Edgar, Lubbock, TX; **Charles A. Harvey, Jr.**, Portland, ME; **John M. Kobayashi**, Denver, CO

Life

Donald C. Alexander, Washington, DC; **Edmund N. Carpenter, II**, Wilmington, DE;
Sydney A. Luria, New York, NY; **Graham L. Sterling, III**, Roseville, CA



**86th Annual Meeting
May 18-20, 2009**

*The Mayflower Hotel
Washington, D.C.*

Notes About Members and Colleagues continued from page 9

ence in Washington, D.C. The award honors an individual who, though not directly part of the child-support world, has made significant contributions to the child-support community.

• **Professor Douglas Laycock** of Michigan Law School, ALI's 2nd Vice President, is a 2009 recipient of the National First Freedom Award, bestowed by the Council for America's First Freedom to individuals who are extraordinary advocates of religious freedom.

• **George W. Liebmann** of Baltimore, Maryland, is the author of *Diplomacy Between the Wars: Five Diplomats and the Shaping of the Modern World* (Palgrave Macmillan 2008).

• **Kathryn A. Oberly**, a member of the Institute's Council, was confirmed by the Senate as Associate Judge of the District of Columbia Court of Appeals for a 15-year term. She previously was Vice Chair and General Counsel to the accounting firm of Ernst & Young in New York City.

• **Sir Geoffrey Palmer**, a former prime minister of New Zealand and current President of the New Zealand Law Commission, visited the Institute's Philadelphia offices in March.

• **Polly J. Price**, associate dean of faculty and a professor at Emory University School of Law in Atlanta, has published a biography entitled, *Judge Richard S. Arnold: A Legacy of Justice on the Federal Bench* (Prometheus Books 2009), which features a foreword by Justice **Ruth Bader Ginsburg**. Judge Arnold, a member of the Institute's Council for 19 years until his death in 2004, was a well-known figure who sat in the Eighth Circuit.

• On April 17, former U.S. Attorney General **Janet Reno** of Miami received the Justice Award, the American Judicature Society's highest honor. The award, which recognizes significant contributions to improving the administration of justice in the United States, was given to her for a lifetime of work to ensure fairness and accuracy in the justice system.

• **Jonathan Rose**, a professor at the Sandra Day O'Connor College of Law at Arizona State has joined the university's Department of History as an affiliate and as a member of the graduate faculty for the Ph.D. program in history.

• **Marshall S. Shapo**, a professor at Northwestern University School of Law, has published *Experimenting with the Consumer: The Mass Testing of Risky Products on the American Public* (Greenwood/Praeger 2008).

• **Jane Stapleton**, a member of the Institute's Council, will be the Arthur Goodhart Visiting Professor of Legal Science at Cambridge University in 2012.

• The U.S. Federal Election Commission unanimously elected **Steven T. Walther** as Chairman for 2009. The FEC is an independent regulatory agency that administers and enforces federal campaign-finance laws.

• Professor **Kevin K. Washburn** of the University of Arizona's James E. Rogers College of Law, will become dean of the University of New Mexico School of Law on June 30.

Membership is a Family Affair

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the Law of Nonprofit Organizations, considers active involvement in the Institute to be an important part of his practice of the law.

In contrast to her brother, Catherine Struve decided during college that she wanted to follow in her father's footsteps. She briefly considered a career with the circus, having been inspired by winters spent during her formative years at a farm with circus performers, but later rejected this alternative due to the lifestyle it required. Because of her love for animals, Catherine also considered a career as a veterinarian, but rejected

**Andrew...considers active involvement
in the Institute to be an important part
of his practice of the law.**

this idea after meeting a veterinarian that she did not like. (Apparently she never met such a lawyer!) She completed Harvard Law School in 1995 and is now an extensively published professor at the University

**Catherine...views her ALI membership
as creating synergies between work
and other aspects of her life.**

of Pennsylvania Law School, where she teaches classes on civil procedure and federal courts. Her interest in ALI derived not only from her father's strong devotion to the Institute's work, but from a law-review comment she wrote related to an issue of privileges in the Restatement Third, The Law Governing Lawyers. Catherine, who like her father is in the MCG for the Principles of the Law of Aggregate Litigation, views her ALI membership as creating synergies between work and other aspects of her life, not the least of which is the opportunity to spend time and energy working and socializing with her father and brother. She also participated in a small conference for young law scholars held in 2007 at the invitation of ALI Director Lance Liebman.

It is perhaps surprising that the Struves did not sit around the dinner table discussing legal work or membership in the Institute. Dinner at the Struve household involved a different tradition: Andrew and Catherine's mother, Catherine T.A. Struve, used this time to read aloud to the family, the selections varying from such literary classics as Dickens's *Great Expectations* to a history of England when a family trip to England was being planned. This practice instilled a love of books and reading in all of the Struves, though they have less time to read for pleasure than they would like.

We celebrate the Struves and their tradition of service to the Institute. Juggling active membership with the demands of a successful legal career is not easy, and we appreciate all our members who are doing so. Do you have a story to tell about your ALI membership that we should spotlight? Please contact us at publications@ali.org to tell us about it.



Calendar of Forthcoming Meetings

May 2009

- 18 Council Meeting.** The Mayflower, Washington, D.C.
- 18-20 Annual Meeting.** The Mayflower, Washington, D.C.

June 2009

- 8* The WTO Case Law: Case Analyses.** Geneva, Switzerland.
- 15 Restatement of the Law Third, Employment Law.** Advisers. ALI Headquarters, Philadelphia, Pa.
- 16 Restatement of the Law Third, Employment Law.** Members Consultative Group. ALI Headquarters, Philadelphia, Pa.
- 17 Transnational Insolvency: Principles of Cooperation.** Joint Meeting. Columbia Law School, New York, N.Y.

October 2009

- 1 Local Reception for ALI Members.** University of Michigan, Ann Arbor, Mich.
- 2 Restatement of the Law Third, Property (Wills and Other Donative Transfers).** Advisers and Members Consultative Group. University of Michigan, Ann Arbor, Mich.
- 9 Restatement of the Law Third, Restitution and Unjust Enrichment.** Members Consultative Group. ALI Headquarters, Philadelphia, Pa.
- 10-11 Restatement of the Law Third, Restitution and Unjust Enrichment.** Advisers. ALI Headquarters, Philadelphia, Pa.
- 10 Model Penal Code: Sentencing.** Advisers and Members Consultative Group. ALI Headquarters, Philadelphia, Pa.
- 22-23 Council Meeting.** Sofitel Hotel, New York, N.Y.

December 2009

- 3-4 Council Meeting.** ALI Headquarters, Philadelphia, Pa.

*Please note that this meeting was previously scheduled on June 1.



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Future ALI Annual Meeting Dates

May 17-19, 2010	Washington, D.C. - The Mayflower
May 16-18, 2011	San Francisco - Westin St. Francis
May 21-23, 2012	Washington, D.C. - The Mayflower