

THE ALI Reporter

THE QUARTERLY NEWSLETTER OF THE AMERICAN LAW INSTITUTE

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WINTER 2015

ALI and Human Rights: 75th Anniversary of the Statement of Essential Human Rights

2016 marks the 75th anniversary of the inception of the *Statement of Essential Human Rights* (1941), a groundbreaking work drafted under the auspices of The American Law Institute. The Statement played a critical role in the development of human rights, despite the fact that it was Americans United for World Organization, rather than the Institute, that ultimately published it in 1945.



Mrs. Eleanor Roosevelt, Chairman of Human Rights Commission, and Dr. Charles Malik, Chairman of the General Assembly's Third Committee (second from right), during press conference after the completion of the Declaration of Human Rights.
© UN Photo

In the wake of World War II, the need to identify essential human rights was greater than ever. That fact was not lost on William Draper Lewis, ALI's founding Director, and Warren A. Seavey, esteemed Co-Reporter on four of the Institute's original Restatements, who sought to create a statement of fundamental civil rights. Seavey, in a letter to the Institute's membership, explained the project as follows:

The statement will involve an analysis of the bases of human freedom; the statement of rights with a view of the customs of various countries that should be successfully protected; and an exposition of the meaning of various symbolic phrases which express interest of freedom, such as freedom of religion, freedom of speech, freedom of work.

Letter from Warren A. Seavey, ALI Member, to The American Law Institute (Dec. 8, 1941) (on file with The American Law Institute).

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THE PRESIDENT'S LETTER

Since I last wrote, we have been rocked again by violence across the world, and sadly some almost every day in our own country. A common theme of our allies and most Americans in response to the international threat has been a wonderfully and important stubborn refusal to give in either to fear or to marginalizing and sowing mistrust for those who happen not to look just like we look (whoever we might be) or who do not believe exactly what we do and who might say something with which we disagree. At home, there is an increasingly dawning realization that some is violence related to race as well as to discrepancies in the criminal-justice system. The very heart of what we do opposes violent responses to problems. Some violence comes from efforts to disrupt American culture.

The keystone of our American Law Institute is protection and promotion of civil discourse about issues that are sometimes controversial and hard. We are the place to have serious conversations about our legal system and our laws. With experts on all sides and those of us who are not expert in a particular area, we look at the issues in order to fulfill our responsibility as members of the American legal profession and members of the ALI. We read, think, talk, listen, and at the end of the day find the better rule and vote.

Looking forward to 2016, I hope that most of you will be able to attend this year's Annual Meeting in Washington, D.C., beginning with a CLE program on Sunday, May 15, the opening meeting on Monday, May 16, and days filled with a variety of projects for your review, amendment, and decision through Wednesday, May 18.

Our agenda for the Annual Meeting is still being formed, but I am honored and excited to tell you that, among others, we will have both Justice Sotomayor and Justice Stevens as our guests and speakers. We will have a presentation of the Friendly Medal to Judge Pat Wald and an opportunity to hear from our Young Scholar winner, Michael Simkovic, on his area of focus, which is the economics and complex legal

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Upcoming Meetings & Events

For more information, visit www.ali.org.

JANUARY 2016

January 21–22

2016 JANUARY COUNCIL MEETING
Philadelphia

FEBRUARY 2016

February 5 (JOINT)

Restatement of the Law, The U.S. Law of International Commercial Arbitration
Philadelphia

February 23

Members Reception
Hosted by K&L Gates LLP and Kim J. Askew
Dallas, TX

February 25 (JOINT)

Restatement of the Law, The Law of American Indians
Philadelphia

February 26

Discussion of ALI's U.S. Law of International Commercial Arbitration Project
Co-Sponsors: Atlanta International Arbitration Society and the State Bar of Georgia
Atlanta, GA

MAY 2016

May 16–18

2016 ANNUAL MEETING
Washington, DC

VIEW ALL UPCOMING MEETINGS AND EVENTS ON PAGE 19.

THE PRESIDENT'S LETTER CONTINUED FROM PAGE 1

framework of financial markets, credit, and bankruptcy. Tuesday night's dinner will feature a discussion of free speech by Geoffrey Stone, former dean of the Law School and provost at the University of Chicago.

The work we will do at the Annual Meeting will be extensive and important. We need membership approval for the final portion of the Model Penal Code: Sentencing. We hope to have important parts of Model Penal Code: Sexual Assault to discuss. We also expect to have drafts of Restatements of Liability Insurance Law, Economic Harm Torts, and Foreign Relations Law of the U.S., and of Principles of Election Administration. Happily we should have the new draft of Restatement of the Law of Charitable Nonprofit Organizations for your review. Since the time of Benjamin Franklin, American nonprofit organizations of all manner and size have been at the heart of our solving social problems, working with and observing our government agencies, and supporting education, the environment, and the arts. This very ambitious first Restatement will give guidance not only to the courts and lawyers, but also to all American citizens who participate so generously with their time and money in the wide variety of charitable organizations from soup kitchens to major universities and national institutions.

We have great participation from our newest members, who come to the Annual Meeting in great numbers both to participate in our work and to meet our superb long-time members. When we survey those who have attended the Meeting, we see enthusiasm about the quality of the Meeting and the wonderfully inviting atmosphere in which judges, lawyers, and legal scholars mix, share ideas, and become lifelong friends.

This has been an important and productive year for the ALI. We have worked hard on all 20 of our current projects. We have been joined by 183 accomplished and enthusiastic newly elected members. We have attended to the governance and business of ALI by investing our endowment with great care and are working to ensure that ALI CLE is a first-rate introduction to the ALI for a broad group of lawyers (remember that as a member you are entitled to all of our online programs at no cost, and we hope you recommend the programs to your colleagues who are not members).

The important contributions to the legal system are made possible by the gifts of your time and your personal financial support. Your year-end contributions, important bequests, and those made as a part of our class-gift program, allow us to maintain our cherished independence, work on so many projects, and include those who might otherwise not be able to afford to travel to our Annual Meeting and project meetings.

As I start a cold and beautifully sunny New Mexico day, I hope that you will remember the ALI in your year-end gifts and be sure to come to the Annual Meeting in Washington D.C., beginning on May 16th. I would so enjoy thanking you in person.

For now, my thanks and wishes for joy and good health in 2016 come to you bounced off the Sandia Mountains to wherever you sit reading this.

Roberta

Roberta Cooper Ramo
President

THE DIRECTOR'S LETTER BY RICHARD L. REVESZ

Numbers and Colors

In my prior two quarterly newsletter columns, I described recent changes to longstanding ALI practices. My Summer 2015 column, *Clarifying the Nature of the ALI's Work*, explained the revisions of our *Style Manual*, which distinguished among our major types of works—Restatements, Model or Uniform Codes, and Principles projects—based both on the primary audience for our guidance and the form in which such guidance is provided. It also explained the nature of Restatement black letter rules and the inquiry undertaken in fashioning such rules. My Fall 2015 column, *The American Law Institute and The Bluebook*, explained an important change in citation rules that will now identify the ALI as the institutional author of its works.

In this issue, I focus on changes in the way we number our series. Until last year, the ALI followed a protocol under which, once a new series was started, all subsequent projects acquired the number of that series. Between 1923 and 1944, the ALI developed the first series of its Restatements of the Law, publishing works in nine areas.

In 1952, the ALI launched its second series to update these Restatements. But one of the projects in this series, the Restatement (Second) of the Foreign Relations Law of the United States, was in fact the ALI's first foray into this area.

And in 1987, we began the Restatement (Third) series. But a number of the projects initially assigned to this series, including Restatements of Employment Law and American Indian Law, were in fact our first work in their respective areas. (I wonder how many law librarians were asked why the Restatement (Second) of one of these works was not in the stacks.)

And in 2012, we launched the Restatement (Fourth) of the Foreign Relations Law of the United States because in that area we already had a Restatement (Third), which actually was the second of our Restatements of Foreign Relations. If we had continued to follow this protocol, our new projects would all now have been part of the Restatement (Fourth) series. For example, if we launched a Restatement of Contracts, it would be a Restatement (Fourth) even though there never was a Restatement (Third) of Contracts. (We might have called it a "generation skipping" Restatement, even though it would not have generated any tax benefit to the ALI.)

The division of Torts into multiple projects complicated the issue further. Had we tackled a new portion of Torts, would it have been a Restatement (Third), because we are still working on that series in Torts, or a Restatement (Fourth) because any new projects would be in the Fourth series? A similar issue might have arisen in Contracts. If Contracts had been launched as a new project, it would presumably be a Restatement (Fourth)? But if Consumer Contracts, which had been a Restatement (Third), became part of Contracts, what number would the combined project have taken? Would Contracts have been grandfathered into the Third series? Or would Consumer Contracts have leapt over to the Fourth?

I am reasonably confident that if we were starting from scratch we would make a different decision, using a consecutive numbering protocol for each project. But we are not writing on a clean slate. We chose a different course of action in 1954 by launching the Restatement (Second) of the Foreign Relations Law of the United States even though there was no prior Restatement in the area. We cannot now renumber completed projects. Neither can we abandon the numbering altogether for future projects because courts that have adopted rules, say, of the Restatement (Third) of Torts would likely be quite perplexed if our next foray into this area bore no number at all.

After considering several options for how to avoid continuing to compound the confusion caused by our numbering system, the ALI Council adopted a new protocol. It decided to keep the numbering of completed projects unchanged, but to proceed sequentially in the future. Under this approach we would not go back and renumber the Restatement (Second) or the Restatement (Third) of the Foreign Relations Law of the United States on the grounds that in our first series we did not have a Restatement in this area. These works have been influential under the titles they currently have and there is no scenario under which it would make sense to change those titles retrospectively.

Prospectively, though, we will proceed sequentially. So, Employment Law will be simply a Restatement and not a Restatement (Third). The same will be true for American Indian Law. And Conflict of Laws will be a Restatement (Third) because the last one was in the second series and not a Restatement (Fourth) on the grounds that Foreign Relations Law is already a Restatement (Fourth).

But no good deed goes unpunished. As soon as the numbering got worked out we had to face another decision. The Restatement of Employment Law was about to get published. Having been reclassified from Third to First, what color should it take? The dark brown color of the original Restatements, which had been abandoned in 1944? Instead, we decided that, prospectively, the new Restatement would be burgundy, a new color for us. But what are we going to do about Conflict of Laws, which will carry a Third designation instead of a Fourth? Should it be blue, the color that we had been using for what we called Restatement (Third) under the old protocol? Or will we put on our color selection hats once more because Third now has a different meaning? Stay tuned!

ALI AND HUMAN RIGHTS CONTINUED FROM PAGE 1

THE ARTICLE EXCERPTED BELOW, WRITTEN BY FORMER ALI PRESIDENT MICHAEL TRAYNOR, DESCRIBES THE INFLUENCE OF THE PROJECT.



Mrs. Eleanor Roosevelt of the United States holding a Declaration of Human Rights poster in Spanish. © UN Photo

Although the ALI took no official position on the Statement of Essential Human Rights, the Statement was published in pamphlet form in 1945 by Americans United for World Organization and appeared in a special issue, edited by Lewis, of the *Annals of the American Academy of Political and Social Sciences* in January 1946, with commentary by leading scholars. Lewis continued his personal commitment to human rights, urging Presidents Roosevelt and Truman to include human rights in the platform of the Democratic party.

When delegates from 50 countries gathered in San Francisco in April 1945 to establish the United Nations, the Panamanian delegation, headed by Ricardo Alfaro, sought to have a draft declaration of human rights (identical to the Statement of Essential Human Rights) incorporated in the UN Charter. The effort was unsuccessful, but the Charter did include a provision establishing a Commission on Human Rights. At the Commission's behest, John Humphrey, the Director of the UN's Human Rights Division, prepared a first draft of what was to become the Universal Declaration of Human Rights, the best-known and most-cited human-rights document in the world. Adopted in 1948, it has been translated into almost 250 languages and has been incorporated into the constitutions of many countries. In his memoir *Human Rights and the United Nations: A Great Adventure* (1984), Humphrey gave appropriate credit to the Statement of Essential Human Rights:

I was no Thomas Jefferson and, although a lawyer, I had had practically no experience drafting documents. But since the Secretariat had collected a score of drafts, I had some models on which to work...With two exceptions, all these texts came from English-speaking subjects and all of them from the democratic West...The best of the texts

ALI Needs You *By ALI Deputy Director Stephanie Middleton*

I AM WRITING TO URGE YOU TO COME TO A PROJECT MEETING.

Every project has Advisers and a Members Consultative Group (MCG). The Advisers generally have specific expertise in the subject matter of the project. The size of the Adviser group is limited because we find that meetings with 30-40 people are about the right size to ensure free flow of discussion. Advisers make a commitment to read the drafts carefully and attend project meetings through the life of their projects.

MCG members serve an equally valuable role in the ALI drafting process. Any ALI member may join any MCG and does not have to make the same commitment, though many are as committed as the Advisers. MCGs are much larger than the Adviser groups. A member of the MCG may attend the meetings or they may only read the drafts, perhaps because they intend to vote when

the draft is presented at the Annual Meeting. Newcomers are welcomed warmly at any project meeting. There is no quiz. There is free lunch. Some participants speak, some mostly observe, some send comments to the Reporters by email. Spending a day seeing how a Restatement, Principles, or Model Code is made, and helping in its development, is personally rewarding and intellectually stimulating. It is also a way for members to make a valuable contribution to our legal system.

MCGs often have experts, including top scholars in the field and practitioners with deep experience. But the MCGs also have smart people with a more general level of expertise and experience, who offer their skill in reading carefully and thinking clearly. What makes sense to an expert may not make sense to, or be clear to, a judge or lawyer who is not steeped in the case law in that area. Reporters need to hear from those with varying levels of expertise because the readers of Restatements, Principles, and Model Codes are a broad audience. Our publications should not only get the law right, but should also be clear and understandable.

from which I worked was the one prepared by the American Law Institute, and I borrowed freely from it.... It had been drafted in the United States during the war by a distinguished group representing many cultures....

On May 13, 2003, Mary Robinson, the former UN High Commissioner for Human Rights, addressed the Institute's members at the Annual Dinner in Washington. She said:

I would like to thank the Institute—better late than never!—for its pioneering and prophetic work in the 1940s in drafting the Statement of Essential Human Rights....

The Statement broke new ground in identifying not only civil and political liberties, but also education, food, housing, and social security as human rights, and through its broad membership—from China, the Arab world, India, and Latin America—it anticipated and answered later critics who would claim that human rights are a product of western culture and history.

The history of the Statement of Essential Human Rights demonstrates that the Institute can be influential in the ideas it disseminates, even if it does not always take an official position with the requisite concurrence of both the Council and the members.

Michael Traynor, The Statement of Essential Human Rights—A Groundbreaking Venture, Part II, 29 The ALI Reporter No. 3 (Spring 2007), at 4, 8.

AS 2015 DRAWS TO A CLOSE, WE REFLECT ON NOT ONLY THE PROGRESS THE INSTITUTE HAS MADE THIS YEAR, BUT ALSO ITS SIGNIFICANT AND LONGSTANDING CONTRIBUTIONS TO LAW REFORM.

ALI currently has, and has had in the past, a number of projects that address legal issues that are hotly disputed. Our project participants and our Annual Meeting attendees often have deeply held views. They argue competing truths, but the discourse is orderly and courteous. The persuasive and more helpful comments are those that are based on knowledge of the law, rather than generalizations. Recently, as in the past, there have been some within ALI and some from the outside, who question the balance in the Adviser group in a specific project. The Reporters, the Director and Deputy Director, and Council are involved in the selection of Advisers. We do our best to ensure diversity of professional and life experience. We invite state and federal judges from different regions and at trial and appellate levels. We ask the Reporters to identify leading scholars in their field, including those who have views that differ from the views of the Reporters. We invite practitioners who are in large and small law firms, corporations, government, and public-interest organizations. We invite plaintiffs' lawyers and business or defense lawyers, prosecutors, and public defenders. We do not always achieve at the outset of a project the balance

and diversity that we seek, so we make some adjustments as the project moves along. We are strong believers in the wisdom of (smart) crowds, which is one of the strokes of genius of the founders of ALI who devised the drafting and approval process that we still use today. And to have this wisdom, we need robust MCGs.

New Reporters consistently express their surprise and appreciation for the help they get from the project participants. The participants can see that the Reporters are listening because the drafts are improved at every stage as a result of the helpful comments from those who read the drafts carefully. ALI will continue to be trusted and influential only with the commitment and participation of our members.

YOU MAY JOIN THE MCG OF ANY PROJECT BY GOING TO THE WEBSITE AND CLICKING ON THE PROJECTS PAGE.

Annual Meeting 101: Myths vs. Facts

In an effort to encourage your attendance and participation, we are debunking some of the most common misconceptions of the Annual Meeting.

MYTH: ALI DOESN'T NEED ME AT THE ANNUAL MEETING.

FACT:

We need all of our members' input at the Annual Meeting. With up to eight projects on the agenda, we need experts in various areas of law, as well as nonexperts who can tell us whether our drafts are clear and actually do clarify the law.

In addition to member input, we need our members' votes at the Annual Meeting. The ALI approval process and our influence rest on membership participation. Because members can vote only in person, we need a substantial group of members present and prepared to vote on each draft.

MYTH: PROJECTS TAKE A LONG TIME SO IT IS NOT A BIG DEAL IF I MISS AN ANNUAL MEETING.

FACT:

Projects are discussed and approved at the Annual Meeting in sections. Sections approved by our members become the ALI's text and position on an issue and are cited by courts and legislatures. Your attendance at every Annual Meeting draft vote is vital to ensuring that we get it right as we progress through a project.

The Model Penal Code: Sentencing project may be presented for final approval at the 2016 Meeting. We need our members to review the draft carefully in this important area of law.

MYTH: THE ANNUAL MEETING IS ALL WORK.

FACT:

The Annual Meeting includes luncheons and dinners with fascinating speakers, as well as interesting panel presentations, and other opportunities for professional and social networking.

MYTH: ALI GENERATES REVENUE FROM THE ANNUAL MEETING.

FACT:

REGISTRATION. In an effort to encourage attendance and participation, **ALI does not charge a registration fee.** We do as much as we can to lower costs associated with the Annual Meeting, including offering reimbursement to judges and public-sector lawyers who must personally bear the travel and lodging expenses.

TICKETED EVENTS. **ALI does not make a profit on the Annual Meeting, even on paid ticketed events.** Attendees must purchase tickets to attend the reception, dinner, and luncheon events, but ALI subsidizes each event so that as many members as possible can attend.

CLE CREDITS. ALI offers Annual Meeting attendees an optional opportunity to obtain as many as 14 CLE credits for \$100. This fee is used to cover state processing fees and ALI administrative costs.

MYTH: I CAN'T MAKE ALL THREE DAYS - SO I SHOULDN'T ATTEND.

FACT:

Attendance for the entire Meeting is not required—come for just one or two days. The Meeting agenda will be available in early 2016 so you can plan to attend the project sessions you are interested in and hear the speakers you don't want to miss.

MYTH: IF I ATTEND THE ANNUAL MEETING, I MUST COMMENT AT EACH PROJECT SESSION.

FACT:

Members are not required to comment at the Annual Meeting. Listening to the comments of others informs your vote. Approval by vote of the ALI membership is a hallmark of the ALI process. Only members in attendance at the Annual Meeting can vote.



Annual Report and Appeal

By now you should have received The American Law Institute's Annual Report in the mail. It is also now available online at www.ali.org.

The Annual Report highlights the Institute's achievements in fiscal 2014–2015. In particular, letters from President Roberta Cooper Ramo and Director Richard L. Revesz spotlight our projects, including the work of our extraordinary and dedicated Reporters, Advisers, and members, who give so generously of their time to work on our Restatements, Principles, and Model Codes.

This work cannot be done, however, without the financial support of our donors. The Institute recognizes those who generously made a charitable donation during the 2014–2015 fiscal year in the Annual Report, and is especially grateful for the increasing number of members who have chosen to become Giving Circle donors.

We hope that every member will make an end-of-year charitable contribution to ALI by completing and returning the gift card that accompanied the Annual Report, or the envelope that is included in this edition of *The ALI Reporter*. Donations to the Institute can also be made online at www.ali.org/makeagift, or by calling Kyle Jakob, ALI Development Manager, at 215-243-1660.

Thank you in advance for your generosity and best wishes for a happy and healthy 2016.

Sexual Assault



Stephen Schulhofer of New York University School of Law, Deborah Tuerkheimer of Northwestern University School of Law, and Erin Murphy of New York University School of Law



MCG participants and Advisers continue discussions during the break.



Ronald Eisenberg of the Philadelphia District Attorney's Office addresses the panel.



Thomas Newman of Duane Morris LLP, Wendy Patrick of County of San Diego District Attorney's Office, and Aya Gruber of The University of Colorado at Boulder Law School

The Election of International Members to The American Law Institute

Did you know that 165 ALI members hail from outside of the United States? As the connection between American and international legal interests deepens, contributions from legal minds with an international perspective are more vital than ever. We encourage our members to nominate exceptional lawyers from around the world for membership to The American Law Institute. When considering a foreign individual for membership, look to those who have demonstrated interest in the development of U.S. law and will likely play an active role in furthering the Institute's mission.

THE ROLE OF THE REGIONAL ADVISORY GROUP

Last year, ALI created 16 Regional Advisory Groups, with the mission of ensuring that our membership reflects the broad diversity of highly capable and accomplished lawyers, judges, and academics in the United States and abroad.

The International Regional Advisory Group is tasked with both reviewing nominations of foreign candidates and identifying and proposing for membership qualified candidates in underrepresented countries and candidates from underrepresented segments of the legal profession within a particular country. Candidates approved by the International Regional Advisory Group will be forwarded to the Membership Committee for consideration and, if approved, forwarded to the Council together with the candidates from the United States.

WHAT ARE THE GUIDELINES FOR PROPOSING FOREIGN CANDIDATES?

The election of all individuals to The American Law Institute begins with a **confidential** nomination by an ALI member, who is well acquainted with the candidate's work, supported by two additional ALI members. **It is imperative that sponsors do not inform the candidate that he or she is being nominated for membership.**

In sponsoring a candidate for membership, the ALI member affirms his or her personal assessment that the candidate meets the primary criteria of excellence and outstanding professional achievement in his or her area of expertise and is likely to be interested in ALI participation.

Foreign Relations (Jurisdiction)



TOP LEFT

Participants listen as Kenneth Gallant of University of Arkansas, William H. Bowen School of Law addresses the Reporters.

LEFT

Beth Stephens of Rutgers School of Law – Camden, and Chimène Keitner of University of California, Hastings College of the Law

ABOVE

ALI Deputy Director Stephanie Middleton, Coordinating Reporter Sarah Cleveland of Columbia Law School, Coordinating Reporter Paul Stephan of University of Virginia School of Law, and Reporter William Dodge of University of California, Davis School of Law

Members are encouraged to propose or support for election to membership in the Institute only foreign individuals who have demonstrated interest in the development of U.S. law, are of high character and professional accomplishment, will contribute to the work of the Institute, and are committed to its mission (which is “to promote the clarification and simplification of the law and its better adaptation to social needs, to secure the better administration of justice, and to encourage and carry on scholarly and scientific legal work”).

While much information about a candidate may be provided on the proposal form and in the accompanying curriculum vitae, the most important part of the package consists of the proposal letter and the two additional supporting letters. Those letters should be **substantive** and **specific** while addressing, from the author’s personal knowledge, the candidate’s:

- Professional excellence;
- Prior experience and involvement in activities that fall within the mission of the Institute;
- Interest in the development of U.S. law and commitment to participate in, as well as to make potential contributions to, the Institute’s work and activities;
- Achievement—or promise of future achievement—in the candidate’s chosen endeavor in the law;
- Professional recognition or standing among his or her peers.

It is the responsibility of the sponsors to make sure that, to the best of their ability, the candidate’s nomination remains confidential until the candidate is contacted by ALI staff to confirm that he or she (1) accepts election to ALI; (2) is committed to its purposes and is willing to participate in the work of the Institute; and (3) is willing to complete and submit a membership biographical questionnaire and any other requested materials.

Please contact Beth Goldstein at bgoldstein@ali.org before proposing a foreign candidate if you have any questions.

Foreign Relations (Treaties)



ABOVE

Project participants gather to discuss the most recent draft of The Restatement of the Law Fourth, The Foreign Relations Law of the United States (Treaties).

TOP RIGHT

Coordinating Reporter Sarah Cleveland of Columbia Law School, Reporter Edward Swaine of George Washington University Law School, and Reporter Curtis Bradley of Duke University School of Law

RIGHT

Participants engaging in sidebar discussions during the break.



Liability Insurance



TOP LEFT
Natasha Nye of Peters & Nye LLP and project Reporter Tom Baker of University of Pennsylvania Law School

LEFT
David L. Milliken of Latham & Watkins comments on the draft.

ABOVE
Discussions on the draft during project meeting break

October Council Meeting



ABOVE
ALI Director Richard Revesz speaking to Model Penal Code: Sexual Assault and Related Offenses Reporter Stephen Schulhofer of New York University School of Law, alongside Associate Reporter Erin Murphy of New York University School of Law (far right), and Council Members Gerard Lynch of the U.S. Court of Appeals, Second Circuit, and Susan Appleton of Washington University School of Law

TOP RIGHT
Gerard Lynch of the U.S. Court of Appeals, Second Circuit discusses topic with the Council

RIGHT
ALI Council member David Levi of Duke University School of Law addresses the Council.



ALI Council Approves Four Drafts for 2016 Annual Meeting

At its meeting in New York on October 15 and 16, the ALI Council approved project drafts on sentencing, election law, liability insurance, and sovereign immunity for submission to the ALI membership at the Annual Meeting in May 2016. The Council also heard progress reports on two new projects.

Reporter Kevin R. Reitz of the University of Minnesota Law School and Associate Reporter Cecelia M. Klingele of the University of Wisconsin Law School presented the last installment of their work on the **Model Penal Code: Sentencing**. Council Draft No. 5 comprises Articles 6 on the authorized disposition of offenders, 6B on sentencing guidelines, 7 on the authority of the court in sentencing, and 305 on prison release and post-release supervision, as well as a general “purposes” provision in Article 1. Subject to the discussion at the meeting, particularly in respect to §§ 6.06 and 6.14, the Council approved §§ 1.02 through 6B.07. The Reporters will present the remaining material in Council Draft No. 5 at the Council’s January 2016 meeting in Philadelphia.

Reporter Edward B. Foley and Associate Reporter Steven E. Huefner, both of Ohio State University Moritz College of Law, also received approval of their first Council submission for **Principles of the Law, Election Administration: Non-Precinct Voting and Resolution of Ballot-Counting Disputes**. Council Draft No. 1 addresses early in-person voting and open absentee voting. At the January 2016 Council meeting, the Reporters expect to submit a draft dealing with procedures for a Presidential recount.

Submitting their first draft since the Council voted to characterize the project on **Liability Insurance** as a Restatement, Reporter Tom Baker of the University of Pennsylvania Law School and Associate Reporter Kyle D. Logue of the University of Michigan Law School presented revised Chapters 1 and 2, covering basic liability insurance contract rules and management of potentially insured liability claims.

The Council approved Council Draft No. 1 with the exception of § 13(3) (insurer’s duty to defend) and § 19 (consequences of breach of the duty to defend), which the Reporters reserved in order to seek additional input from the project’s Advisers and Members Consultative Group. The project will again be on the Council’s agenda in January 2016.

Council Draft No. 2 for the **Restatement Fourth, The Foreign Relations Law of the United States – Sovereign Immunity**, presented by Coordinating Reporter Paul B. Stephan of the University of Virginia School of Law and Reporters David P. Stewart of Georgetown University Law Center and Ingrid Wuerth of Vanderbilt University Law School, was approved for submission to the members at the Annual Meeting. The draft comprises six sections addressing the immunity of foreign states from jurisdiction to adjudicate; four additional sections on that topic received membership approval at the 2015 Annual Meeting.

The Council did not review a draft, but had a productive discussion about how the Reporters will define consent, along with other topics, in ALI’s project on the **Model Penal Code: Sexual Assault and Related Offenses**. Reporter Stephen J. Schulhofer and Associate Reporter Erin E. Murphy, both of New York University School of Law, are expected to return to the Council in January 2016.

Reporter Elizabeth S. Scott of Columbia University School of Law presented an update on the new Restatement project on Children and the Law. The Reporters are focusing initially on three topics: children and families, children as legal persons, and children and the legal justice system. In his report, NYU Law Professor Barry Friedman, the Reporter for Principles of the Law, Police Investigations, explained the growing need for guidance in this area. Both projects will have their first meetings of Advisers and/or Members Consultative Groups in March 2016.



ALI Council meeting held in Sofitel New York Hotel

How Did You Get There? Reporters Provide Insight to Restatement of the Law, Employment Law, Process

ALI Reporters were invited to Cornell Law School to participate in the *Cornell Law Review* symposium during which panelists assessed the newly approved Restatement of the Law, Employment Law.

In follow-up to this symposium, Chief Reporter Samuel Estreicher of New York University School of Law, as well as Reporters Matthew T. Bodie of Saint Louis University School of Law, Michael C. Harper of Boston University School of Law, and Stewart J. Schwab of Cornell Law School were featured in the *Cornell Law Review* (Volume 100, Issue 6) in which they summarize how the project came to fruition, as well as the ALI drafting, review, and approval process.

The essay candidly describes the unique role and responsibility placed on ALI Reporters over the course of the project, which took over a decade to complete, and the importance of balancing their own expertise in employment law with the Institute's objective of providing a coherent description of the current law.

Judges make choices about the law but feel constrained by their role and try, with differing degrees of success, to separate their understanding of what the law is from applying their personal view of what the law should be. As Reporters we operate similarly, mindful of our constraints but subject to our own limitations.

The Restatement of the Law, Employment Law, builds on previous guidelines laid out in other Restatements including the Restatement Second of Contracts, Restatements Second and Third of Torts, and Restatements Second and Third of Agency. "We did not start from scratch as many first Restatements do ... What we tried to do was highlight the issues that have special force in the employment context."

The Reporters also discuss how they determined what law to concentrate on (statutory or common), and how to address evolving topics, such as privacy in employment law. Although the Restatement had been cleared for publication before the November 2014 symposium, the Reporters noted that several observations made during this symposium were added into the Restatement.

The Restatement of the Law, Employment Law, was the subject of *Cornell Law Review's* entire fall publication, which includes essay contributions from additional ALI members:

Deborah A. DeMott, *Relationships of Trust and Confidence in the Workplace*, 100 CORNELL L. REV. 1255 (2015) (Adviser for Restatement of the Law, Employment Law)

Michael C. Harper, *Fashioning a General Common Law for Employment in an Age of Statutes*, 100 CORNELL L. REV. 1281 (2015) (Reporter for Restatement of the Law, Employment Law)

Robert A. Hillman, *Drafting Chapter 2 of the ALI's Employment Law Restatement in the Shadow of Contract Law: An Assessment of the Challenges and Results*, 100 CORNELL L. REV. 1341 (2015) (Reporter for Principles of the Law of Software Contracts)

Charles A. Sullivan, *Restating Employment Remedies*, 100 CORNELL L. REV. 1391 (2015) (Member of the Consultative Group for Restatement of the Law, Employment Law).

In addition to the Essays, *Cornell Law Review* included the symposium transcript from a panel discussion of the Restatement from a judicial perspective:

Panel Transcript: A Judicial Assessment of the Restatement of Employment Law with Marsha S. Berzon of the U.S. Court of Appeals for the Ninth Circuit, ALI Council Emeritus Christine M. Durham of the Utah Supreme Court, and ALI's Second Vice President Lee H. Rosenthal of the U.S. District Court for the Southern District of Texas.

CORNELL LAW REVIEW'S
VOLUME 100, ISSUE 6, IS AVAILABLE
AT CORNELLLAWREVIEW.ORG.

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The American Law Institute Archives at the University of Pennsylvania: A Local Treasure of the Institute's History

By Leslie O'Neill, Archivist

The American Law Institute Archives are located at Biddle Law Library at the University of Pennsylvania Law School. At almost 500 linear feet of records, the ALI records are the most-used and requested collection in the Archives. Among the most-researched records are the first Restatement, the Third Restatement, the Model Penal Code and the Uniform Commercial Code. The Archives assists approximately 20 to 30 on-site researchers a year, including historians, attorneys, professors, doctoral students, authors, and graduate students who come from within Penn Law, across the country, and around the world to use these unique and historic records. Additionally, research requests are conducted remotely via electronic and phone correspondence. The collection contains records of the Institute since its inception in 1923, as well as the archives of American Law Institute-American Bar Association Continuing Professional Education, now known as American Law Institute Continuing Legal Education (ALI CLE), from its establishment in 1947.

The collection is diverse in its scope and content, and contains drafts, meeting minutes, audiotapes, photographs (including images from the very first Annual Meetings and Banquets in the 1920s!), membership and publications material, correspondence, and more. As some of the collection is digital, users can experience the captivating oral histories of Herbert Wechsler and Paul Wolkin, or search Council and Executive Committee Meeting Minutes, dating as far back as 1922, directly on the website. New records are added to the collection yearly and their finding aids are accessible on the Archives website.



Researchers and users can expect the collection to continue to grow as projects are completed, records are transferred, and papers are donated to the Archives annually. Additionally, the Library and Archives is pleased to announce that in the coming year, more of the collection, particularly the image and photographic material, will be available digitally.

To view the full index of The American Law Institute Collection at Biddle Law Library, visit: www.law.upenn.edu/library/archives/ali/index.php.

To visit the Archives, research the collection, or ask questions, email the Archivist, Leslie O'Neill, at loneil@law.upenn.edu.

Institute in the Courts: State Supreme Courts Adopt Sections of Contracts 2d

For more than 30 years, the Restatement Second of Contracts has guided state and federal courts. Recently, sections of that Restatement were adopted by the supreme courts of three states.

In *Land Baron Inv. v. Bonnie Springs Family Ltd. P'ship*, 356 P.3d 511 (Sept. 17, 2015), the Supreme Court of Nevada adopted **Restatement Second of Contracts § 154(b)** in holding that mutual mistake could not be the basis for rescission of a contract where one party bore the risk of the mistake. In that case, a real-estate development company sought to rescind a multimillion-dollar agreement to purchase undeveloped land in Nevada, alleging that both parties to the agreement “mistakenly believed there would be sufficient access and water rights for a subdivision on the property.” In adopting § 154(b) and affirming the trial court’s order granting summary judgment for the seller, the court reasoned that the developer bore the risk of the mistake because it was a sophisticated purchaser that drafted the contract itself, yet it failed to account for water access and basic infrastructure for a large neighborhood located in a remote area of Nevada. The court concluded that, because the developer had not done its due diligence, and because there was no evidence that the seller represented that water and utilities would be available, the developer “assumed the risk by proceeding with the contract despite having limited knowledge of the actual conditions,” and the contract would not be rescinded on the basis of a mutual mistake.

In *EverBank v. Marini*, 2015 VT 131 (Oct. 16, 2015) the Supreme Court of Vermont adopted in large part **Restatement Second of Contracts §§ 174-176**. In that case, which was brought by a mortgage lender seeking foreclosure on residential property, the court reversed a grant of summary judgment for one co-mortgagor—who had alleged that the mortgage was void as a result of duress in its signing—and remanded for trial as to whether the mortgage was voidable. The court relied heavily on the Restatement in analyzing whether or not the contract was void or voidable, noting that the Restatement established “an appropriate general framework to differentiate between the two varieties of improper conduct and their attendant impacts on and consequences for the bargaining process.” The court then adopted §§ 174-176 as they related to duress, excepting, in accordance with Vermont law, those provisions that dealt with physical compulsion. The court considered the co-mortgagor’s evidence that, on the night before she signed the mortgage, her ex-husband (the other co-mortgagor) wielded a pair of scissors, berated her repeatedly in front of her children, and threatened to divorce her, if she would not sign. It ultimately determined that this was insufficient evidence of duress, because the alleged

actions did not constitute a “threat of imminent physical violence” upon her at the time she signed the mortgage, since the signing did not occur until the following day. The court remanded for the trial court to determine whether the alleged threatening behavior rendered the mortgage voidable based on the factors set out in the Restatement.

In another foreclosure action, *Erkins v. Alaska Trustee, LLC*, 355 P.3d 516 (July 31, 2015), the Supreme Court of Alaska adopted **Restatement Second of Contracts § 15**. In that case, a home mortgagor alleged that he had been incapacitated as a result of being on strong pain medication at the time that he obtained his mortgage, and thus contended that the contract was void. The court determined that the effect of incapacity on a contract’s validity was an issue of first impression in Alaska, and adopted § 15 for the proposition that incapacity rendered a contract voidable, rather than void. Because the defendant lender had been assigned the note without knowledge of the mortgagor’s alleged incapacity, the defendant was a holder in due course and was immune from the mortgagor’s incapacity defense under Alaska law.



Restatement of the Law, Consumer Contracts Reporters Oren Bar-Grill of Harvard Law School, Florencia Marotta-Wurgler of New York University School of Law, and Omri Ben-Shahar of University of Chicago Law School.

THE INSTITUTE IS CURRENTLY WORKING ON RESTATEMENT OF THE LAW, CONSUMER CONTRACTS, WHICH LARGELY FOLLOWS THE STRUCTURE OF THE SECOND RESTATEMENT, BUT IS MORE NARROWLY FOCUSED. TO JOIN THE MEMBERS CONSULTATIVE GROUP FOR THIS OR OTHER PROJECTS, VISIT THE PROJECTS PAGE ON THE ALI WEBSITE AT WWW.ALI.ORG/PROJECTS.

Supreme Court of India Cites Laura Little in Judicial-Appointments Opinion

This fall, the Supreme Court of India issued an opinion addressing constitutional changes to its judicial-appointment process. In the process of tackling this issue, the Court relied extensively on scholarship by ALI member Professor Laura Elizabeth Little of Temple University Beasley School of Law.

The 4:1 opinion rejected an act and constitutional amendment that would have given politicians control over judicial appointments, similar to the nomination and confirmation process used in the United States. The Court quoted Professor Little's scholarship on judicial independence, and the "complex problem posed by moral issues of gratitude and loyalty to judges who 'owe' their jobs to political benefactors." Professor Little's article deals with the topic at issue, with reference to appointment of judges:

This complexity emerges to a great degree from the process of nomination and confirmation, which often generates, or at least reinforces, a judge's sense of loyalty and gratitude to her benefactors. ... To omit from these concerns the effect of any change on the ultimate quality of judicial decisionmaking would, of course, be a mistake. Thus, in studying any new selection procedure, we must contemplate the procedure's potential for creating and invigorating a judge's feelings of loyalty and gratitude to her benefactors. The foregoing should, therefore, not only shed light on the process of federal court decisionmaking in general, but also give much needed guidance for evaluating proposed changes to judicial selection.

Laura E. Little, Loyalty, Gratitude, and the Federal Judiciary, 44 AM. U. L. REV. 699, 754-755 (1995).

Professor Little, who also serves as Senior Advisor to the Dean at her law school, is an Associate Reporter on the Restatement of the Law Third, Conflict of Laws, project. A joint project meeting with Advisers and MCG participants was held on October 22 when three chapters were presented for discussion.

The Institute's Principles of the Law, Government Ethics, project seeks to enunciate a set of principles or best practices that will both reflect the emerging law of government ethics and provide guidelines to shape its future development. The project will focus on standards applicable to the operations of the legislative and executive branches.

Supreme Court Advocates-on-Record Ass'n v. Union of India, W.P. (C.) 13 of 2015, S.C., 16 Oct. 2015.

Conflict of Laws



ABOVE

Associate Reporter Laura Little of Temple University, James E. Beasley School of Law, Associate Reporter Christopher Whytock of University of California, Irvine School of Law, and Ralf Michaels of Duke University School of Law

TOP RIGHT

Catherine Kessedjian of University Panthéon-Assas Paris II

RIGHT

George Bermann of Columbia University School of Law, and William Dodge of University of California, Davis School of Law



Notes About Members and Colleagues

In October, Judge **Thomas L. Ambro** of the U.S. Court of Appeals for the Third Circuit received the A. Sherman Christensen Award from the American Inns of Court at its 2015 celebration of excellence at the Supreme Court of the United States, hosted by Associate Justice Elena Kagan. Judge Ambro was recognized for his exceptional leadership to the American Inns of Court movement.

ALI member Judge **Michael M. Baylson** of the U.S. District Court for the Eastern District of Pennsylvania and his wife Dr. Frances Batzer Baylson, a clinical professor at Thomas Jefferson University, have donated works that are part of a new exhibit featuring the book art of Henri Matisse, which opened at the Morgan Library & Museum in New York City on October 30.

In October, **Mark A. Behrens** of Washington, DC, a partner at Shook, Hardy & Bacon LLP and co-chair of its Public Policy Group, received the U.S. Chamber Institute for Legal Reform's Individual Achievement Award. The award honors individuals whose outstanding work has contributed to improving the U.S. civil-justice system. Mr. Behrens was recognized in particular for his advocacy before state legislatures and courts, and his years of writing and briefing on liability issues.

In October, Professor **George A. Bermann** of Columbia Law School, the chief Reporter of the first-ever Restatement of the U.S. Law of International Commercial Arbitration, led a bench-bar dialogue at the U.S. Courthouse in Manhattan with John Pierce of WilmerHale. The event was cohosted by former Chief Judge of New York **Judith S. Kaye**.

Elizabeth J. Cabraser is one of six partners in Lief Cabraser Heimann & Bernstein LLP to receive *Benchmark Litigation* 2016's California "State Litigation Star" award. She is the firm's cofounder and heads its personal injury, mass torts, and environmental group. Ms. Cabraser was also recognized as one of the "Top 250 Women in Litigation" and as a "Top Trial Lawyer."

In October, Judge **Harry T. Edwards** of the U.S. Court of Appeals for the District of Columbia Circuit received the 2015 Marshall-Wythe Medallion at a dinner in his honor at William & Mary University. The medallion is the highest honor conferred by the William & Mary law faculty and recognizes members of the legal community who have demonstrated exceptional accomplishment in law.

Kenneth C. Frazier was honored on October 8 at the Executive Leadership Foundation's 2015 Recognition Gala, which pays tribute to individuals and corporations who support diversity, inclusion, and achievement in business. Mr. Frazier received the Foundation's Achievement Award, honoring his accomplishments as chairman and CEO of Merck & Co., Inc., one of the largest biopharmaceutical companies in the world.

Barry Friedman of NYU School of Law, the head Reporter for ALI's new Principles of the Law, Police Investigations, directs students participating in the Policing Project, a nonprofit organization he founded to facilitate democratic standards in policing.

In September, **Michael G. Goldstein**, executive vice president of The Gottlieb Organization, was selected as a Fellow of the American College of Employee Benefits Counsel, which recognizes attorneys who have dedicated their careers to the field of employee benefits.

In November, San Francisco-based senior counsel **Michael Alexander Kahn** of Crowell & Moring LLP received the 2015 "Trial Lawyer Hall of Fame" award, from the Litigation Section of the California State Bar. The award is presented to an individual who has excelled as a trial lawyer, and whose career exemplifies the highest of values and professional attainment.

Professor **Herma Hill Kay** is the 2015 recipient of the Triennial Award for Lifetime Service to Legal Education and to the Law, which will be presented by the Association of American Law Schools at the opening of its Annual Meeting on January 7 in New York City.

California Supreme Court Justice **Goodwin Liu** was a keynote speaker at the Yale American Constitution Society conference on Law and Inequality on October 17. In addition, on November 11, in Cambridge, MA, Justice **Liu** and **Diane P. Wood**, Chief Judge of the U.S. Court of Appeals for the Seventh Circuit, spoke on making justice accessible at the Inaugural Distinguished Morton L. Mandel Annual Public Lecture hosted by the American Academy of Arts and Sciences. Judge Wood was also named a commissioner on the Academy's recently formed Commission on Language Learning, a national effort to study the current state of U.S. foreign-language learning.



Judge McKeown receives award.

On October 17, Judge **M. Margaret McKeown** of the U.S. Court of Appeals for the Ninth Circuit received the Georgetown University Law Center's Robert F. Drinan, S.J., Law Alumni Public Service Award. The award honors Georgetown Law alumni whose careers enhance human dignity and advance justice.

Erin E. Murphy of New York University School of Law, the Associate Reporter for Model Penal Code: Sexual Assault and Related Offenses, addresses technical challenges in forensic DNA in her new book *Inside the Cell: The Dark Side of Forensic DNA* (Nation Books 2015).

ALI President **Roberta Cooper Ramo** was profiled in the Alumni Class Notes feature of the Fall 2015 edition of *The University of Chicago Law School Record*. The article highlights President Ramo's career and her recent acceptance of the ABA medal for "conspicuous service to the cause of American jurisprudence."

In October, ALI Director **Richard L. Revesz** appeared before the House Committee on Energy and Commerce, Subcommittee on Energy and Power, testifying that the EPA's Clean Power Plan is well-justified under the Clean Air Act and the Constitution.

Professor **Jane Stapleton** of the University of Texas School of Law has been elected as a Corresponding Fellow of the British Academy, joining more than 1,000 scholars elected for their distinction in the humanities and social sciences.

The 2015 graduating class of the University of Pennsylvania Law School selected Professor **Catherine T. Struve** to receive the Harvey Levin Memorial Award for Teaching Excellence. She previously won this award in 2003 and 2009.

Jeannie Suk of Harvard Law School, an Adviser for Model Penal Code: Sexual Assault and Related Offenses, is the author of "St. Paul's School and a New Definition of Rape," featured in *The New Yorker*, which discusses ambiguities in the definition of rape.

Mary-Christine Sungaila, a partner in the Orange County office of Haynes and Boone LLP, has been appointed to the Judicial Council's Appellate Advisory Committee by the Chief Justice of California, and the State Bar of California Appellate Courts Committee. Each appointment is for a three-year term.

Aaron D. Twerski of Brooklyn Law School, who served as the Co-Reporter for Restatement Third, Torts: Products Liability, will receive the William L. Prosser Award during the Association of American Law Schools annual meeting on January 8, 2016, in New York City. The award recognizes law teachers who make outstanding contributions in scholarship, teaching, and service in torts and compensation systems.

Judge **William H. Webster**, the former Director of both the FBI and the CIA, has received the first annual Judge William Webster InfraGard Lifetime Achievement Award from the InfraGard National Members Alliance at its national congress in Chantilly, VA. InfraGard is a partnership between the FBI and the private sector dedicated to sharing information and intelligence to prevent hostile acts against the United States and its critical infrastructures.

Chief Judge **Diane P. Wood** of the U.S. Court of Appeals for the Seventh Circuit is the first woman to receive the Department of Justice's John S. Sherman Award, which recognizes individuals who have made "substantial contributions to the protection of American consumers and the preservation of economic liberty" through their commitment to sound antitrust enforcement and policy.

IF YOU WOULD LIKE TO SHARE ANY RECENT EVENTS OR PUBLICATIONS IN THE NEXT ALI NEWSLETTER, PLEASE EMAIL US AT NOTES@ALI.ORG.

In Memoriam

ELECTED MEMBERS

Willie L. Hudgins, Jr., Reston, VA; **A. Kodzo Paaku Kludze**, Accra, Ghana

LIFE MEMBERS

Frederick Randolph Anderson, Jr., Washington, DC; **Richard J. Bartlett**, Glens Falls, NY; **Dickinson R. Debevoise**, Newark, NJ; **Herbert J. Hansell**, Washington, DC; **Henry Phipps Hoffstot, Jr.**, Pittsburgh, PA; **Theodore A. Kolb**, San Francisco, CA; **Joseph R. Lowery**, Belleville, IL

New Members Elected

On October 16, the Council elected the following 75 persons:

Nicole Andreson, Burlington, VT
Sharon R. Barner, Indianapolis, IN
Donald W. Beatty, Columbia, SC
Charles A. Blanchard, Washington, DC
Roland E. Brandel, San Francisco, CA
Irene Calboli, Fort Worth, TX
David G. Campbell, Phoenix, AZ
Jonathan G. Cedarbaum,
 Washington, DC
Roland W. Chamblee, Jr.,
 South Bend, IN
Brent O. E. Clinkscale, Greenville, SC
Amelia Craig Cramer, Tucson, AZ
Melinda Davis Lux, Greenville, SC
Michelle Madden Dempsey,
 Villanova, PA
Ilana H. Eisenstein, Washington, DC
Brian T. Fitzpatrick, Nashville, TN
Aaron D. Ford, Las Vegas, NV
Stephen John Gageler,
 Sydney, Australia
Stacey Putnam Geis, San Francisco, CA
Michael J. Gerhardt, Chapel Hill, NC
Abbe R. Gluck, New Haven, CT
Jeremy M. Goldman, San Francisco, CA
Andrew T. Guzman, Los Angeles, CA
Douglas Hallward-Driemeier,
 Washington, DC
David A. Hardy, Reno, NV

Kristin Nicole Henning,
 Washington, DC
Chris Jay Hoofnagle, Berkeley, CA
Mitchell A. Imanaka, Honolulu, HI
Phyllis Ann James, Las Vegas, NV
Robert A. James, San Francisco, CA
Lisa L. Johnsen, Seattle, WA
Herman N. Johnson, Jr.,
 Birmingham, AL
Abdul Kallon, Birmingham, AL
Liza Ilona Karsai, Chicago, IL
Cheryl A. Krause, Philadelphia, PA
Timothy P. Law, Philadelphia, PA
Gerard J. Lewis, Jr., Philadelphia, PA
Monica M. Marquez, Denver, CO
Jenny S. Martinez, Stanford, CA
Michael C. Massengale, Houston, TX
D. Stephen Mathias, New York, NY
Tamarra Matthews-Johnson,
 Birmingham, AL
Don J. McDermott, Jr., Dallas, TX
Rita M. McKinney, Greenville, SC
Peter S. Menell, Berkeley, CA
John Cruse Merchant, Cincinnati, OH
Ralf C. Michaels, Durham, NC
Eric S. Miller, Burlington, VT
S. David Mitchell, Columbia, MO
Paul Mogin, Washington, DC
Gerald L. Neuman, Cambridge, MA

Wendy L. Patrick, San Diego, CA
John Pelander, Tucson, AZ
David D. Powell, Jr., Denver, CO
Richard J. R. Raleigh, Jr.,
 Huntsville, AL
Neil M. Richards, St. Louis, MO
Theodore Ruger, Philadelphia, PA
Adam F. Scales, Camden, NJ
Alexander C. Schoch, St. Louis, MO
Ingeborg Schwenzer,
 Basel, Switzerland
Michael N. Simkovic, Great Neck, NY
Jacqueline A. Simmons,
 Bloomington, IN
Abbe Smith, Washington, DC
Rosa Solis-Rainey, Las Vegas, NV
Nicole France Stanton, Phoenix, AZ
Lior Jacob Strahilevitz, Chicago, IL
Linda Sugin, New York, NY
Pamela J. Thomason, Long Beach, CA
Donald B. Verrilli, Jr., Washington, DC
Linda Lea M. Viken, Rapid City, SD
Maurice A. Watson, Kansas City, MO
Charles K. Wiggins, Olympia, WA
John Shepard Wiley Jr.,
 Los Angeles, CA
Norma J. Williams, Los Angeles, CA
Edwin D. Williamson, Washington, DC
Joseph Helden Zwicker, Pittsburgh, PA

Property



TOP LEFT

Molly Van Houweling of University of California, Berkeley School of Law, and Associate Reporter Sara Bronin of University of Connecticut School of Law

LEFT

Thomas Gallanis of University of Iowa College of Law, and Associate Reporter Tanya Marsh of Wake Forest School of Law

ABOVE

Reporters touch base at the end of joint project meeting.

Meetings and Events Calendar At-A-Glance

(for more information, visit www.ali.org)

Below is a list of upcoming meetings and events. This schedule may change, so please do not make travel arrangements until you receive an email notice that registration is open.

2016

January 21–22

2016 JANUARY COUNCIL MEETING
Philadelphia

February 5 (JOINT)

Restatement of the Law, The U.S. Law of International Commercial Arbitration
Philadelphia

February 23

Members Reception
Hosted by K&L Gates LLP and Kim J. Askew
Dallas, TX

February 25 (JOINT)

Restatement of the Law, The Law of American Indians
Philadelphia

February 26

Discussion of ALI's U.S. Law of International Commercial Arbitration Project
Co-Sponsors: Atlanta International Arbitration Society and the State Bar of Georgia
Atlanta, GA

March 1

Members Reception
Hosted by Astigarraga Davis and José I. Astigarraga
Miami, FL

March 2

Members Reception
Hosted by Carlton Fields Jordan Burt, P.A., and President and Chief Executive Officer Gary L. Sasso
Tampa, FL

March 3 (Advisers)

March 4 (MCG)

Restatement of the Law, Children and the Law
Philadelphia

March 24 (JOINT)

Principles of the Law, Government Ethics
Philadelphia

March 31 (Advisers)

Principles of the Law, Police Investigations
Philadelphia

Saturday, April 2

International Advisory Panel, Reporters, and Counselors on Restatement of the Law Fourth, The Foreign Relations Law of the United States

At the close of the American Society of International Law Annual Meeting

Washington, DC

April 8 (JOINT)

Restatement of the Law Third, Torts: Intentional Torts to Persons
Philadelphia

April 19

Members Reception
Hosted by The University of Vermont and President E. Thomas Sullivan
Burlington, VT

April 20

Members Reception
Hosted by Choate, Hall & Stewart LLP and Chairman John A. Nadas
Boston, MA

May 16–18

2016 ANNUAL MEETING
Washington, DC

June 7 (Advisers)

June 8 (MCG)

Project on Sexual and Gender-Based Misconduct on Campus: Procedural Frameworks and Analysis
Washington, DC

June 15 (JOINT)

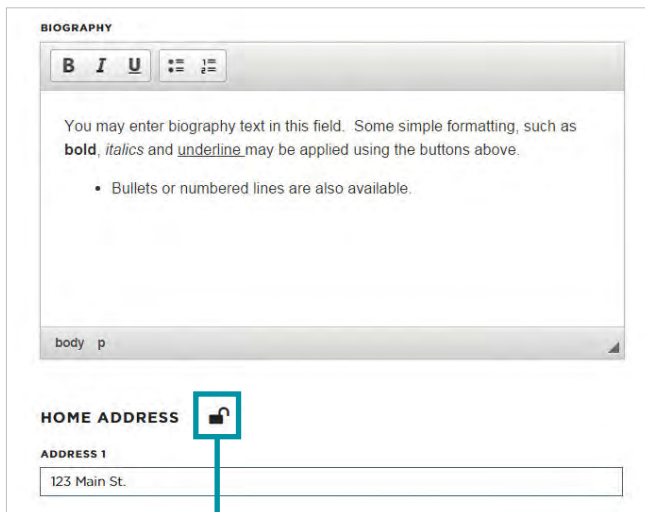
Principles of the Law of Election Administration: Non-Precinct Voting and Resolution of Ballot-Counting Disputes
Washington, DC

Thursday, October 20

Friday, October 21

2016 OCTOBER COUNCIL MEETING
New York

Website Tour: Member Profile



A lock symbol appears next to all contact information. An open lock indicates that this information is visible to signed-in members. A closed lock means the information is private. Click on the lock to change the designation.

Signing in to the ALI website as a member provides access to several members-only content areas. One of the new features is an expanded Member Directory where members may add or edit short biographies.

To access your directory entry, sign in to the website and click on the **Members** page. From here, click on **View Your Profile**. To revise your profile, click on the **Edit Your Profile** button.

You may edit any field that appears in the new window. Please note that biography or security changes will be made immediately; changes to additional information will be reviewed by ALI staff before it appears on the website.

WEBSITE FEATURES AVAILABLE TO ALI MEMBERS:

- Download project drafts
- View past project comments or submit a new comment
- See full member profiles, including biographies and unlocked contact information
- Propose a new member
- Apply for MCG financial assistance
- Earn free CLE through LawPass