

College Columns

News and Views from The American College of Bankruptcy

Publications Committee Report



▲ Evelyn H. Biery

By Evelyn H. Biery

The Publications Committee is continuing the projects that it has previously embarked upon, including the following:

- (a) The Memorial Lecture Subcommittee will continue to work with our Scholar In Residence, Leon Forman, to present an ethics lecture. It is our hope that it will take place in a resort and will become an annual event sponsored by the Committee, under the auspices of the College.
- (b) *College Columns* Subcommittee has published bi-annual issues of the *College Columns* and will continue to do so. We encourage everyone to provide to us Judges' favorite stories, information on our Fellows who have a life outside the practice of law, and items on the achievements and honors of our Fellows.
- (c) The Law Review Articles Subcommittee will continue to review seminar papers and law review articles during the year and forward the most impressive to the College Fellows, as we did with the article on ethics by Jerry Smith and Sally Neely.

At present we have the following committees:

- (a) Memorial Lecture Subcommittee: John Barrett, Richard Broude, Jan Hayden, Simon Kimmelman and Michael Reed.
- (b) *College Columns* Subcommittee:

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Chairman's Report



▲ Raymond L. Shapiro

By Raymond L. Shapiro

We continue to grow in membership, activities and stature. As a stand alone organization that will shortly reach 400, we represent a cross section of distinguished professionals engaged in the insolvency field throughout the United States and in foreign countries.

For the past year we have been fine tuning our structure. A hard-working Board of Regents, under the able leadership of Merrill Francis, carefully evaluates each potential candidate. To assist them, we have created two special committees, one to screen Foreign Fellows nominations and the other to screen candidates from the Judiciary. The Board of Regents conducts its activities independent of the Board of Directors. You can be assured that every candidate receives a careful and fair evaluation.

A dedicated and responsive Board of Directors administers College activities with a commitment to expand our functions and provide a useful forum to exchange ideas that will enhance our profession. They have mandated that management of College affairs be performed with fiscal responsibility, and our President, Neal Batson and our Treasurer, Bettina Whyte, monitor that mandate. However, we could not achieve our financial goals without supplemental support through our Patrons and Sponsors Program. Previously, we

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At Large

Scholar-in-Residence:

Leon S. Forman

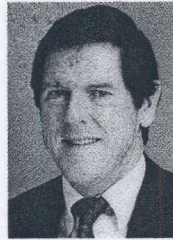
Counsel

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Executive Director:

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American College of Bankruptcy
11350 Random Hills Rd., Suite 800
Fairfax, VA 22030-6044
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Nomination Procedures for Eleventh Class

▲ Merrill R. Francis

By Merrill R. Francis

In mid-April of 1999, Merrill R. Francis, Chair of the Board of Regents, will write to each Fellow requesting that nominations, together with biographical information and other supporting data, be forwarded to each Circuit Admissions Council by May 30, 1999. Fellows are reminded that the nominations should be complete and that substantial due diligence is required in order to make it likely that a candidate will receive an invitation; incomplete and insubstantial nominations are less likely to receive favorable consideration. Nominations for Judges should be forwarded to Leonard H.

Gilbert, (Chair, Judicial Nominating Committee), and nominations for Foreign Fellows should be forwarded to Daniel M. Glosband (Chair, Foreign Fellows Nominating Committee). Thereafter, each Circuit Admissions Council will review nominations received for that Circuit (other than Judges and Foreign Fellows) and begin the process of making recommendations to the Board of Regents. Each Fellow within a Circuit will receive the names of the proposed Fellows (other than Judges and Foreign Fellows in that Circuit) and be asked to comment on each proposed Fellow. Final Circuit Admissions Council recommendations will be forwarded to the Board of Regents, which will meet on Wednesday, October 6, 1999, in San Francisco in conjunction with the meeting of the National Conference of Bankruptcy Judges. Invitations to new Fellows for the Class of 2000 will be sent out in mid-November of 1999. ☞

Bankruptcy History Committee Report

▲ R. Neal Batson

By R. Neal Batson

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

Jerry Patchan, Director, Executive Office for United States Trustees, and The Honorable Mary D. Scott, President Elect of the National Conference of Bankruptcy Judges, have agreed to co-chair the Committee. Murray Drabkin, Leon S. Forman, Professor Lawrence P. King, The Honorable Joe Lee, The Honorable Randall J. Newsome, The Honorable John K. Pearson and Gerald K. Smith have agreed to serve as members of the Committee. If you have any information which you think will be useful to the Committee, please contact any of the Committee members. ☞

Mailing Labels for Address Changes

If you change your affiliation, address, or telephone number, the College can provide to you mailing labels so that you will be able to send to the Fellows of the College an announcement of the change. The mailing labels are to be used only for that limited purpose.

Please contact Suzanne Bingham, Executive Director of the College, to obtain a set of mailing labels.

Spring 1999 Meeting

The annual meeting will be held on March 12 and 13, 1999, in Washington, D.C. The Board of Directors will meet on Friday afternoon, March 12, from 12:00 noon to 4:00 P.M. The registration materials will be forwarded to you under separate cover around the time you receive this issue of *College Columns*.

Nonnomination Procedures for Judicial Fellows



▲ Leonard H. Gilbert

By Leonard H. Gilbert

Over the past several years the number of names submitted to the Judicial Nominating Committee in any one year has been inconsistent, ranging from two to over twenty.

This has somewhat frustrated our quest to find well-qualified candidates. Next year we hope that three elements will coalesce to bring forth additional nominations: growing membership interest, the Committee's review of judicial membership nationwide and the recent change in the bylaws of the College.

The bylaws, as recently adopted, now provide that a member may nominate a judicial candidate from the member's district (previously not allowed) but may not vote on that candidate. The candidate must be licensed to practice law in the highest court of any state for not less than fifteen years and the principal activity of practice must have been primarily in the area of bankruptcy law for a period of substantially all of the prior ten years. Additionally, the candidate must have been a bankruptcy judge for at least five years and must meet all of the other qualifications for membership required of a non-judicial candidate. Finally, a nomination form must be completed and timely submitted to the Chair of the Judicial Nominating Committee—a letter or telephone call will not suffice.

The Committee recognizes that there are a number of excellent judges throughout the country who should be considered. Accordingly, the Committee has conducted a review of the *Judicial Almanac* in an effort to begin to identify those persons and seek out their nominations in accordance with the process established in the bylaws.

The selection process is quite intense and very time consuming. Once a candidate has been identified, one or more of the Committee members undertakes a thorough investigation, contacting persons in the area having actual knowledge of the candidate, seeking out confidential evaluations. The information provided by this process, the nominat-

Nonnomination Procedures for Foreign Fellows



▲ Daniel M. Glosband

By Daniel M. Glosband

The texture of the Class of 1999 will be significantly enhanced by the addition of four distinguished Foreign Fellows. Under the final year of John Barrett's chairmanship, the selection committee of Grant Newton, Jay Westbrook, Lewis Kruger, Bruce Leonard, Richard Gitlin, Gerry Smith, Peter Totty and Dan Glosband conducted several conference call meetings and exchanges of correspondence to collect nominations, perform due diligence and recommend candidates to the Board of Regents. Distillation of an initial list of 16 suggestions resulted in the four nominees accepted by the Regents.

Each new Fellow comes cloaked in impressive credentials. Gary Colter is from Toronto, is Vice-Chairman of KPMG and has served as financial advisor to the debtor or major creditors in virtually every major recent Canadian restructuring. He was a founding Director of the Insolvency Institute of Canada, is past President of the Canadian Insolvency Practitioners Association, a Director of INSOL International and Chairman of the Canadian government appointed Advisory Committee on Insolvency Legislation that led to recent reforms in Canadian insolvency law.

Neil Cooper of Buchler Philips in London is equally dazzling. He is a prolific speaker and author on insolvency matters, is the President elect of INSOL International and was its primary representative to the UNCITRAL Working Group on the Model Law on

ing form and the practical experience of the Committee members then form the basis for several Committee deliberations before the final list is established. Once agreed upon, the list is submitted to the Board of Regents for its consideration and approval or disapproval as with all members nominated to the College. At present the judiciary represents over twenty percent of the membership.

The distinguished and hard-working members of the Committee are: Susan Freeman, David Heiman, Stuart

Cross-Border Insolvency. He has acted as Trustee, Receiver or Provisional Liquidator in numerous UK, African and Asian insolvencies.

From Western Europe, Dr. Hans-Jochem Luer is one of Germany's leading insolvency lawyers. A partner in Heuking Kuhn Luer Heussen Wojtek in Cologne, he has been chairman of the Insolvency Committee of the German Bar Association since 1990 and recently finished his term as Co-chairman of the Creditors Rights and Insolvency Subcommittee of the International Bar Association. He has published numerous articles in German and English in addition to his active representation of debtors, liquidators and trustees in domestic and international insolvency matters.

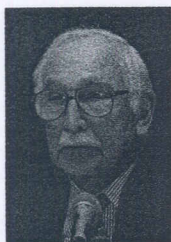
Finally, but only alphabetically, Shozo Miyake of Miyake, Imai & Ikeda Law Offices in Tokyo. Recognized as the dean of the Japanese bankruptcy bar, he was recently featured in a *Wall Street Journal* article because of his work as Trustee of Crown Leasing Company, Japan's biggest case ever with Y1.18 trillion of debt. Mr. Miyake publishes and speaks regularly and, in May, completed his service as chairman of the Insolvency Committee of the Inter-Pacific Bar Association. For several years, he has been co-chair of the International Insolvency Treaty Subcommittee of the International Bar Association.

Selecting Foreign Fellows and involving them productively in College activities provides both challenges and opportunities. As John Barrett's successor to chair the Foreign Fellows nominating committee, I would welcome your suggestions in both respects. 🏛️

Hertzberg, The Honorable Lloyd King, Kenneth Klee, Lillian Kraemer, Sally Neely, Robin Phelan and David Sykes.

All members of the College are encouraged to "Take a Moment," think about a judge that you know who you believe is extremely well qualified to become a member, check the College roster and, if he or she is not already a member, fill out a form NOW and submit it to the Committee Chair. Your efforts will benefit the College and be appreciated by the members. 🏛️

Educational Program Spring 1999



By Leon S. Forman

Plans have been completed for another outstanding Educational Program at the Annual Meeting of the College in March, 1999, as announced by Leon S. Forman, Scholar-in-Residence. Three exciting topics will be presented on Saturday morning, March 13, 1999 by three distinguished panels of experts. The program will be led off at 9:00 A.M. with a discussion of electronic filing in Bankruptcy Court, a process already well established in the Southern District of New York. This Panel will be chaired by Cecelia Morris, the well-known Clerk of the Bankruptcy Court of that District, who supervised the installation of electronic filing in New York and is thoroughly experienced in its operation. Ms. Morris will be ably assisted in her presentation by Ronald M. Martin, Holland & Hart, Colorado Springs, Colorado, Chair of the Electronic Filing Committee of the College and the leader of the College's efforts to become informed in this area, and by Michael Mills, Davis, Polk & Wardwell, the technical wizard of law office accommodation to the Internet. Electronic filing in bankruptcy is happening, or about to happen, in many other districts; are you prepared?

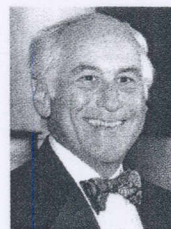
The second Panel will discuss an

always interesting subject on pitfalls in preparing and processing plans and disclosure statements. The presentation will be made by Alan B. Miller, Weil, Gotschal & Manges, New York; The Honorable Ralph R. Mabey, LeBoeuf, Lamb, Greene & McRea, Salt Lake City, Utah; and Robert A. Greenfield, Stutman, Treister & Glatt, Los Angeles, California, three thoroughly experienced and scholarly experts in this field. Lawyers must constantly be alert to traps lurking among the difficult issues encountered in working up a plan and getting it confirmed. These three Panelists have been there and know where to look.

The final presentation will again feature the highly successful innovation of last year's program, namely, Hot Tips and Hot Topics. The Panel will include three excellent practitioners and teachers, knowledgeable and authoritative in bankruptcy law, David Epstein, King & Spaulding, Atlanta, Georgia and University of Alabama Law School; Sally Neely, Sidley & Austin, Los Angeles, California; and Richard Toder, Zalkin Rodin & Goodman, New York. The Panelists will review and comment upon the latest, and most interesting and most important decisions of which all lawyers should be aware in practicing bankruptcy law.

The Educational Program has always been well attended, so make your reservations early. ☞

Directory Committee Report



By Joel B. Piassick

New Directory of Fellows Available in Early 1999

A new Directory of College Fellows is now at the printer and will be available for distribution in the first quarter of 1999. The Directory will be in a new letter-sized looseleaf format that will allow it to be updated each year as new Fellows are added to the College. The Directory will include an alphabetical listing of all Fellows as well as additional listings by Circuit and State. The biographies of each Fellow will be included under a tab for his or her Class and cross-referenced to the alphabetical listing.

Special appreciation is due to the West Group, which is printing our new Directory at no cost to the College, and to Suzanne Bingham and her staff, who put in endless hours updating, assembling, and proofreading the new Directory.

When you receive your new Directory, please verify all of the information in your biography and the various indices, and please provide any changes, in writing, to Suzanne at the College office.

We are in the process of finalizing an option that will allow each Fellow to elect to purchase, at his or her individual cost, an upgraded binder that will be gold embossed with the seal of the College and the individual Fellow's name. We anticipate that the cost of the upgraded binder will be approximately \$30, depending, of course, on the total quantity ordered. You will receive a letter outlining this option and the cost once all of the details have been arranged. ☞



SAVE THE DATE

College/All Fellows Luncheon
12:00 - 2:00 P.M.

October 6, 1999

San Francisco Marriott
San Francisco, California

8:30 - 11:00 A.M. Board of Directors Meeting
10:00 - 12:00 P.M. Board of Regents Meeting
2:00 - 3:00 P.M. Board of Regents Meeting

(continued)

Honors and Achievements

S. Ward Greene, Duke University '73, has been elected to serve as President of the Multnomah Bar Association, the largest voluntary bar in Oregon. The MBA is comprised of almost 4,000 lawyers and judges practicing in the Portland metropolitan area.

Greene practices with Greene & Markley, P.C. in Portland and is a member of the Fifth Class of College Fellows. His firm focuses on bankruptcy, collection, real estate and commercial law. ☞

Distinguished Service Award Selection Process




By Gerald K. Smith

I have once again been requested to chair the Selection Committee to review nominees for the Distinguished Service Award and make a recommendation to the Board of Directors. Other members of the Committee include The Honorable. Conrad Cyr, Prof. Frank Kennedy, Prof. Lawrence P. King and Jay Alix. On behalf of the Selection Committee, I am requesting nominations. Please drop me a note or give me a call with any recommendations prior to January 30, 1999. My telephone and fax numbers are: (602) 262-5348 (phone) and (602) 262-5747 (fax).

Past recipients of the award are Prof. Frank R. Kennedy, Prof. Lawrence P. King and our Scholar-in-Residence Leon "Babe Ruth" Forman.

The award criteria are:

- the recipient must have made significant accomplishments in improving the administration of justice in the insolvency and bankruptcy field;
- the recipient must have provided distinguished service consistently rendered over a considerable period of time or a single outstanding achievement in a particular year (The fact that a single achievement may have occurred before the year of recognition is not material.);
- the accomplishments must arise from voluntary activities rather than for services rendered to a client as a paid professional (This is not intended to exclude members of the judiciary, Congress, or the academic community.);
- it is preferred that the recipient be a member of the American College of Bankruptcy, but it is not mandatory; and
- the recipient must distinguish himself or herself or his or her institution in a manner and in matters that are consistent with the goals and purposes of the College. 

Acknowledgements

The American College of Bankruptcy would like to acknowledge and thank the following 1999 Patrons and Sponsors without whose help our educational sessions and events would not be possible.

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Please note that this list is in progress of accepting additional Patrons and Sponsors.

Pro Bono Committee Report


By David T. Sykes



▲ David T. Sykes

The Pro Bono Committee has received two grant applications over the past few months—one from the Volunteer Legal Services Project of Monroe County, New York (located in Rochester), and one from the Consumer Bankruptcy Assistance Project of Philadelphia, Pennsylvania. The President of the College has approved the Monroe County application, and the members of

the Pro Bono Committee are currently reviewing the application from the Philadelphia project.

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

Law School Educational Program Report



By Honorable Roger M. Whelan

In keeping with Ray and Neal's message that all members of the Board should consider "an overall vision for the future of the College," I am suggesting that serious consideration be given to the implementation of a long-term educational project that was raised and briefly discussed at the March 1998 meeting — namely, organizing and sponsoring the establishment of a Masters Program in Insolvency and Bankruptcy Law at select institutions throughout the nation.

At this time efforts are being made to locate a law school that will be responsive to considering the establishment of a Masters Program and cooperating with the College in formulating a comprehensive curriculum and employment of one or more of our College Fellows for the Masters faculty. A major decision to be made by the College at this time is the funding of such a program and ascertaining the availability of our academic fellows to participate as faculty members for such a program — e.g., in the capacity of visiting professor, outside lecturer,

etc. Further details will hopefully be available at the time of our March meeting, and it is hoped that the University of Minnesota Law School may be a willing participant in such a program. Moreover, as the planning moves forward and the concept of a Masters Program becomes more viable, the College may want to form a link with one of our related professional organizations (e.g., American Bankruptcy Institute, National Bankruptcy Conference, Commercial Law League of America, Association of Former Bankruptcy Judges, National Conference of Bankruptcy Judges, American Bar Association, etc.) for the purpose of providing additional funding for the establishment of a truly national program.

The formulation and implementation of a long-range educational project such as the Masters Program will serve as a lasting Monument to the reputation and educational goals of our College will be clearly consistent with the expressed purpose of the College which is "to fund and assist projects that enhance the highest quality of Bankruptcy practice, including undergraduate programs related to Bankruptcy and Insolvency." (Article II, Section 2 of the Bylaws of the American College of Bankruptcy (emphasis added). ☞

All Fellows Luncheon Fall 1998

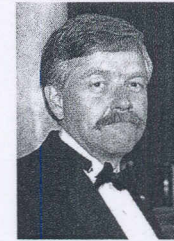
By Leon Forman

The Fall All Fellows Luncheon was held on October 22, 1998, in Dallas, at the Wyndham Anatole Hotel preceding the commencement of the National Conference of Bankruptcy Judges. Chairman Raymond L. Shapiro presided. The luncheon program included an outstanding educational presentation on "What Every Bankruptcy Lawyer Should Know About Taxes." The moderator for the program was Leon S. Forman, the College's Scholar-in-Residence, and the Panel was led by Paul Asofsky, Tax Division, Weil, Gotchal and Manges, Houston, Texas, one of the most knowledgeable lawyers and scholars in this field. Asofsky was ably assisted on the Panel by one of our Fellows, actually a member of the Board, Grant

Newton, Professor of Accounting, Pepperdine University, Mailbu, California, an expert in bankruptcy tax law, and by Grover Hartt, III, Assistant Chief, Civil Trial Section, Southwestern Region, Department of Justice, Dallas, Texas, who has had many years experience in dealing with tax matters in bankruptcy and has become one of the federal government's top representatives in this field.

The Panel covered the impact of the automatic stay on tax activity by governmental units, the role of the Internal Revenue Service in bankruptcy cases, establishing tax liability in bankruptcy, the burden of proof in tax matters, and various related questions. The material was well received by an attentive audience, which participated energetically with questions at the end of the session. The College is most appreciative of the substantial contribution to the success of the luncheon on the part of this distinguished Panel. ☞

On Line Committee Report



By Ronald M. Martin

On-Line Filing: Our own Cecelia Morris, Clerk of the Second Circuit Bankruptcy Court, and I will be given some time at the March Annual Meeting to do a presentation for all of you on Internet filing. We will be joined by Michael Mills of New York, who is one of the top legal technology wizards but also has extensive experience as a bankruptcy lawyer. Michael has been operating under the system that Cecelia and her staff put together creating a "paperless court" in the Big Apple. Currently Cecelia and Michael are working on an "Attorney Case Filing Manual." This will deal with topics from the lawyer perspective, including: review of documents within the firm, formatting, security within the firm, designation of staff, the appropriate functions for attorneys and paralegals in the preparation of documentation, organizing the firm around handling of notices and paper copies, and various other nitty gritty topics that become extremely important for lawyers involved in the prospect of electronic filing.

Under Cecelia's direction are there electronic filings not only for Chapter 11 but now also for Chapter 7 cases being filed in that District.

In March we will be taking you into what court filing will look like in the 21st Century, and if you just cannot wait to get a glimpse of what it may look like, check out the web site at <http://www.NYSBC.USCOURTS.GOV>.

See you in March in Washington, D.C.! ☞

Publications Committee Report

continued from page 1

Harry Dixon, John Kozyak, Cecelia Morris, Robert Sable and Blaine Schwabe.

(c) Law Review Articles Subcommittee: Tom Ambro, Don Bernstein, Dan Cohn, Hon. Burton Lifland, Joel Pelofsky, Isaac Scott and Walt Taggart.

If you would like to serve on one of the subcommittees, please contact me at your convenience. ☞

Minutes of Board Meeting Spring 1998

By Evelyn H. Biery

**American College Of Bankruptcy
Board Of Directors Meeting
March 13, 1998
Approved October 22, 1998**

A meeting of the Board of Directors of the College was conducted on Friday, March 13, 1998, at the Cosmos Club in Washington D.C.

Those who participated in the meeting included the following: Raymond L. Shapiro, Gerald K. Smith, R. Neal Batson, Myron M. Sheinfeld, David T. Sykes, Bettina M. Whyte, Evelyn H. Biery, Merrill R. Francis, John A. Barrett, Harry D. Dixon, Jr., Stuart E. Hertzberg, David A. Lander, Louis W. Levit, Hon. Ralph R. Mabey, Prof. Grant Newton, Jerome Shulkin, Paul M. Singer, Hon. Roger M. Whelan, Joel B. Zweibel, Leon S. Forman, William J. Perlstein and Suzanne A. Bingham.

The minutes of the November 19, 1997 meeting of the Board of Directors were approved.

David Sykes reported on the work of the Pro Bono Committee and a questionnaire that was forwarded to College Fellows. The Committee proposed that the College provide funds to organizations that assist in training individuals who provide pro bono services in the consumer bankruptcy area. On motion duly made and seconded, the Board approved the proposal of the Pro Bono Committee. As recommended by the Pro Bono Committee, the College will provide funds to assist bankruptcy pro bono programs designed to educate lawyers, law students, paralegals and other volunteers about consumer bankruptcy. No single grant will exceed \$500, and the total amount of the grants will not exceed \$5,000 over a two-year period. Each grant application will contain information about the pro bono program, its proposed educational program, and the specific uses to which the funding would be dedicated. The pro bono grants will be administered by the Pro Bono Committee and will be subject to the approval of the President of the College. College Fellows will be encouraged to report on programs that are being developed in their districts.

College Counsel William Perlstein reported that, under the Lobbying Disclosure Act, lobbying is defined to cover oral and written communications to covered officials on behalf of a client concerning (a) the formulation, modification or adoption of federal legislation; (b) a federal rule, regulation, or executive order; or (c) any program, policy or position of the United States Government. Testimony presented before Congress or submitted for the public record of a hearing is specifically excluded from the definition of lobbying. Therefore, any activity by College members relating to formal appearances before Congress is outside the scope of the Lobbying Disclosure Act. William Perlstein also reported on additional matters under the Act, such as the requirement for registration if certain amounts of money are expended by the College, a certain number of contacts are made within a certain period of time, or a certain percentage of time is devoted to the contacts.

William Perlstein also reported on the continuing analysis of whether the College should

change its state of incorporation to Virginia and indicated that at this time the analysis is incomplete. Virginia has an explicit provision protecting directors for their actions and omissions other than for willful violations of their duties. Nebraska statutes are not so explicit. Simply as a matter of monitoring, it is easier for William Perlstein to monitor the laws of Virginia because of his proximity.

Merrill Francis reported on the admissions procedures and Bylaws provisions pertaining to the selection of College Fellows other than Foreign Fellows and Judicial Fellows. He indicated that the application forms are being revised to require additional detailed information.

Merrill Francis then reported on the admission procedures and Bylaws provisions pertaining to the selection of Foreign Fellows. He indicated that the Board of Regents recommended that there be a separate committee for the Foreign Fellows, with the Foreign Fellows Nominating Committee reporting to the Board of Regents. The Foreign Fellows Nominating Committee could include any Fellow. On motion duly made and seconded, the Board authorized a revision of the admissions procedures and Bylaws provisions so that the Foreign Fellows Nominating Committee will be appointed by the Chair of the Board of Regents after consultation with the Chair of the Board of Directors and the President of the College and may include any Fellow. The Board of Directors further authorized College Counsel and the Chair of the Board of Directors to revise the Bylaws in accordance with the resolution, without further Board approval.

Merrill Francis also reported on the admissions procedures and Bylaws provisions pertaining to the selection of Judicial Fellows. He indicated that there will be a separate committee for Judicial Fellows, with the Judicial Nominating Committee reporting to the Board of Regents. The Judicial Nominating Committee could include any Fellow. On motion duly made and seconded, the Board authorized the revision of the admissions procedures and Bylaws provisions so that the Committee on Judicial Fellows will be appointed by the Chair of the Board of Regents after consultation with the Chair of the Board of Directors and the President of the College and may include any Fellow. No member residing in the district in which a particular judge sits will be allowed to nominate or vote on the nomination of any judicial nominee. As with other nominations, nominations for Judicial Fellows will require a formal and written nomination form. The Board of Directors further authorized College Counsel and the Chair of the Board of Directors to revise the Bylaws in accordance with the resolution, without further Board approval.

Merrill Francis also reported that there is and will be no restrictions on the number of College Fellows. Traditionally, there are no more than forty or fifty total new Fellows every year. There are eleven Foreign Fellows as of this year.

Bettina Whyte reported on the financial situation of the College.

Evelyn Biery reported on the work of the Publications Committee. Because of the cost, the *College Columns* will be published only twice each year.

Leon Forman reported on the educational program for the October meeting. The program will address tax issues and will be presented by Paul Asofsky and a government attorney.

Mickey Sheinfeld reported on the work of the Focus Groups and the bills being formulated for submission to Congress. Suzanne Bingham reported that a staff member for the Judiciary Committee had contacted the College during the Board of Directors meeting in response to the request of the College for an opportunity to make a presentation before Congress with respect to the proposed legislation. On motion duly made and seconded, the Board of Directors authorized Raymond Shapiro to submit (a) a report to the Fellows on the morning of March 14 and (b) a request that the College determine what role the College would play in the legislative process.

In the absence of Joel Piassick, Raymond Shapiro reported on the progress on the College Directory.

Hon. Roger Whelan reported on the College Educational Project, under which the College will assist law schools in presenting courses related to insolvency law. He indicated that he had sent a questionnaire to several Fellows who are professors and that he recommended that there be a committee for the consideration of a possible national L.L.M. program in insolvency law. Jerome Shulkin reported that in December he spent a considerable amount of time with the Dean of the University of Minnesota, who was interested in the program.

Raymond Shapiro reported on electronic filing of pleadings and other papers before the various Bankruptcy Courts.


Jerry Smith reported on the Distinguished Service Award and announced that the recipient for 1998 is Leon Forman. Jerry Smith also reported that the Distinguished Service Award Committee recommended that the College should commend the work of the National Bankruptcy Review Commission through certificates or plaques thanking the members and staff for their contributions to the improvement of the bankruptcy laws of the United States. On motion duly made and seconded the Board authorized the Committee to present the awards to the members and staff and of the National Bankruptcy Review Commission.

Raymond Shapiro reported on the Sponsors and Patrons who made contributions for the 1997-98 fiscal year of the College.

The Board approved the submission of Susan Freeman and Richard Toder to the Fellows as proposed Directors of the College.

Merrill Francis reported that the Board of Regents recommended that Stuart Hirshfield and Sally Schultz Neely be appointed as Regents to fill vacancies. On motion duly made and seconded, the Board appointed Stuart Hirshfield and Sally Schultz Neely as Regents to fill vacancies.

There being no further business to come before the meeting, the meeting was adjourned.

/s/ Evelyn H. Biery 

Selection of Tenth Class

By Merrill R. Francis

Tenth Class

Acceptance Through Publication Date

First Circuit

Robert J. Keach, Esquire
Bernstein, Shur, Sawyer
& Nelson, P.A.
100 Middle Street
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Fax: (207) 774-1127

C. Hall Swaim, Esquire
Hale and Dorr L.L.P.
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Tele: (617) 526-6716
Fax: (617) 526-5000
e-mail: hall.swaim@haledorr.com

Second Circuit

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767 Fifth Avenue
New York, NY 10153
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Fax: (212) 310-8007
e-mail: corinne.ball@weil.com

William J. Brown, Esquire
Phillips, Lytle, Hitchcock, Blaine &
Huber L.L.P.
3400 Marine Midland Center
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Tele: (716) 847-8400
Fax: (716) 852-6100
e-mail: wbrown@phillipslytle.com

Mr. Stephen F. Cooper
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e-mail: mail@zolfocooper.com

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Fax: (215) 963-5299
e-mail: bloo5032@mlb.com

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& Vecchione
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Fax: (973) 596-0545

William H. Shorling
Klett Lieber Rooney & Schorling
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Fax: (215) 567-2737
e-mail: wschorli@interserv.com

Fourth Circuit

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Allman Spry Leggett &
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Fifth Circuit

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Sixth Circuit

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e-mail: jwa@gdm.com

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Shermeta, Chimko & Kilpatrick, P.C.
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Fax: (248) 652-1292

Seventh Circuit

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Hopkins & Sutter
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Fax: (312) 558-6538
e-mail: mbotica@hopsut.com

Eight Circuit

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Fax: (501) 376-6666

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Bryan Cave L.L.P.
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Hamann & Strasheim
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Fax: (402) 344-0588

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Fax: (206) 223-2348

Robert Jay Moore, Esquire
Milbank, Tweed, Hadley & McCloy
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Tele: (213) 892-4501
Fax: (213) 629-5063

Lawrence Peitzman, Esquire
Orrick Herrington & Sutcliffe L.L.P.
777 S. Figueroa Street, Suite 3200
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Fax: (213) 612-2499

Pamela K. Webster, Esquire
Buchalter, Nemer, Fields & Younger
610 South Figueroa St., Suite 2400
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Tele: (213) 891-0700
Fax: (213) 896-0400
e-mail: pwebster@buchalter.com

Tenth Circuit

No nominations received

Eleventh Circuit

Richard P. Carmody, Esquire
Lange, Simpson, Robinson &
Somerville, L.L.P.
Regions Bank Building, Suite 1700
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Birmingham, AL 35203-3217
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Fax: (205) 250-5034
e-mail: rcarmody@lawls.com

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marygrace.diehl@troutmansanders.com

Foreign Fellows

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Tele: (416) 777-3452
Fax: (416) 777-8183

Mr. Neil Cooper - England
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Fax: (0171) 629-9444

Dr. Hans-Jochem Luer - Germany
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Tokyo 160
JAPAN
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Fax: (011) (81) (3) 3356-5255

Judicial Fellows

Hon. William Houston Brown
United States Bankruptcy Judge
Western District of Tennessee
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Memphis, Tennessee 38103
Tele: (901) 544-4174
Fax: (901) 544-4510
e-mail:
William_H_Brown@tnwb.uscourts.gov

Hon. David S. Kennedy
Chief U.S. Bankruptcy Judge
Western District of Tennessee
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Memphis, Tennessee 38103
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Fax: (901) 544-4190
e-mail:
David_S_Kennedy@tnwb.uscourts.gov

Chairman's Report

continued from page 1

had separate fundraising campaigns for each project.

Last year we solicited College membership for Patron and Sponsor contributions on an annual basis so that a single commitment would support all events and projects throughout the year. As it was a success, we have continued the Program this year, and we are very pleased with the support we are receiving from a cross section of the College. By adopting this Program and achieving our financial goals, we are able to maintain a modest dues structure and a modest cost for important College events in October and at our annual meeting in March. We are enormously grateful to all of our Patrons and Sponsors for their participation.

With growth comes greater management challenges. We now have the advice of legal counsel, William Perlstein, and the backup of his firm, Wilmer, Cutler and Pickering, who recommended that we reincorporate in Virginia. We have expanded the projects assigned to Suzanne Bingham, our Executive Director, and her able staff. The size of our organization and the addition of new members each year required a new approach to publishing our Directory. With the able assistance of Joel Piassick, in early 1999 we will have a new Directory distributed to all College members, with a format that will enable us to annually supplement this resource material at reduced expense. We are also grateful for the accommodations granted to us by West Publishing Company in producing this Directory.

As we expand our financial base, build capital reserves through annual initiation fees from new members, and receive support from Patrons and Sponsors, we are provided greater opportunities to fund outside activities. We are now processing pro bono requests from organizations in need of assistance, and we have made a modest beginning to support educational programs directed to insolvency study. As our financial base grows, we will be able to do more in these endeavors.

When called upon, our membership has been most responsive with focus

Spring 1999 Induction Ceremony and Events

By Suzanne A. Bingham

1999 Induction Ceremony And Events March 12-13, 1999

As Washington, D.C. is experiencing unusually warm temperatures through December, it feels like March is here already. We promise to host another elegant Induction Ceremony event for the distinguished bankruptcy and insolvency professionals that have been invited to become Fellows. The Induction is scheduled for Friday, March 12, and will be held at The Corcoran Gallery of Art. Traditionally, the College hosts the Induction Ceremony at the Supreme Court, but this year it was reserved for March due to Judicial Conference meetings. We are excited about hosting the event at The Corcoran Gallery of Art, which is such a historic and beautiful building located across from the White House. Although not confirmed to date, Senator Richard Durbin (D-IL) has been invited to address the Induction attendees.

This year, Leon Forman, College Scholar-in-Residence and coordinator of the educational program, has again arranged an outstanding program. Three exciting topics will be presented on Saturday morning, March 13, starting with a discussion on electronic filing in Bankruptcy Court. The second

group activities. Our Scholar-in-Residence, Leon Forman, was able to testify before Congress on positions supported by the entire fellowship. We are now trying to coordinate activities with the National Bankruptcy Conference in supporting recommended legislation for Congress when it reconvenes and considers bankruptcy reform.

We have a full plate of activities scheduled for our March meeting. Our Scholar-in-Residence has once again assembled outstanding panels. The social component has been well organized by Suzanne Bingham. This forum presents a wonderful opportunity to meet with distinguished members of the insolvency community and to develop relationships with your fellow professionals throughout the country and from abroad. I hope to see all of you in Washington, D.C., this March. ☞

panel will discuss pitfalls in preparing and processing plans and disclosure statements; and the final panel presentation will again feature "Hot Tips and Hot Topics." The All Fellows business meeting luncheon will follow. The dinner will be held at the Metropolitan Club, and we are featuring, once again, the Capitol Steps, a political comedy satire group.

A new addition to the Saturday events is a Spouse Sightseeing Tour of Washington beginning with pick up at the James Madison Hotel at 9:00 A.M. and returning by 1:00 P.M. The tour is \$20.00 per person and includes a tour of the Capitol, The Library of Congress, the Lincoln Memorial as well as surrounding memorials.

The host hotel is the James Madison Hotel in Washington, D.C. You may make your hotel reservations by calling 800-424-8577 or 202-862-1740 and asking for file ACB83F. A block of rooms has been reserved for the College.

Make your reservations early, and note that the Induction Ceremony and other events registration brochure will be forwarded in January. ☞

Pro Bono Project.

We received the following letter from Volunteer Legal Services Project of Monore County, Inc.

Volunteer Legal Services Project of Monore County, Inc.

Dear Friends:

I was delighted to receive a check for \$470 in today's mail. We are very grateful to the American College of Bankruptcy for the grant to train more lawyers to handle pro bono bankruptcy cases. Please extend our thanks to the members of the grants committee.

Very truly yours,
Hanna S. Cohn
Director

Board Of Director's Luncheon Meeting

Friday, March 12, 1999

Location:

James Madison Hotel

12:30 - 4:00 p.m.

(lunch served)

Induction Ceremony

Friday, March 12, 1999

Location:

The Corcoran Gallery Of Art
500 Seventeenth Street, NW
Washington, D.C. 20006-4804
(202) 639-1700

Dress:

Black Tie (For Inductees), Business Attire (For All Others).

5:30 p.m.

Inductees (Only) To Arrive For Photo Session (Black Tie Requested).

6:30 p.m.

Fellows And Guests To Arrive.

7:00 - 7:45 p.m.

Induction Ceremony. The Corcoran Gallery of Art.

The Keynote Speaker To Be Announced.

7:45 - 9:15 p.m.

Reception. The Corcoran Gallery Of Art.

College Educational Session & Business Meeting Luncheon

Saturday, March 13, 1999

Location:

The Cosmos Club
2121 Massachusetts Avenue, NW
Washington, DC
Telephone: (202) 387-7783

8:00 - 9:00 a.m.

Continental Breakfast

Educational Program - Powell Room, The Cosmos Club

9:00 - 10:15 a.m.

Electronic Filing In Bankruptcy Court - Are You Prepared?

The panel of experts will discuss the electronic filing in bankruptcy court, a process that is already well established in the Southern District of New York. Electronic filing in bankruptcy is happening, or about to happen, in many other districts; are you prepared?

Panelists

Cecelia Morris - Clerk, U.S. Bankruptcy Court, Southern District Of New York
Ronald M. Martin - Holland & Hart
Michael Mills - Davis, Polk & Wardwell

10:15 - 10:30 a.m.

Coffee Break

10:30 - 11:45 a.m.

Pitfalls In Processing Plan and Disclosure Statements

Lawyers must constantly be alert to traps lurking among the difficult issues encountered in working up a plan and getting it confirmed. These three panelists have been there and know where to look.

Panelists

Alan Miller - Weil, Gotshal & Manges
The Honorable Ralph Mabey - Leboeuf, Lamb, Greene & MacRae, L.L.P.
Robert Greenfield - Stutman, Treister & Glatt

11:45 - 1:00 p.m.

Hot Topics And Hot Tips

The panel includes three excellent practitioners and teachers, knowledgeable and authoritative in bankruptcy law.

The panelists will review and comment upon the latest, and most interesting and most important decisions of which all lawyers should be aware in practicing bankruptcy law.

Panelists

David Epstein - King & Spaulding and University of Alabama Law School
Sally Neely - Sidley & Austin
Richard Toder - Zalkin, Rodin & Goodman

1:00 - 2:30 p.m.

Lunch And All Fellows Meeting - Members
New Dining Room.

Spouse/Family Optional Events

9:00 - 1:00 p.m.

Spouse/family guided tour of Capitol, Library of Congress, Lincoln Memorial and Vietnam Memorial (pickup at James Madison Hotel) \$20 per person.

4:00 p.m.

Guided Tour of Holocaust Museum Available.

Dinner Event

Saturday, March 13, 1999

Location:

The Metropolitan Club Of The City of Washington
1700 H Street, NW
Washington, D.C. 20006
Telephone: (202) 835-2500

Please note that due to limited space, only 210 people may attend the dinner. We may not be able to make reservations to accommodate fellows after February 13, 1999.

Dress:

Cocktail Dress

7:00 - 8:00 p.m.

Reception - The Metropolitan Club.

8:00 - 9:30 p.m.

Dinner - Presentation of The Distinguished Service Award.

9:30 p.m.

Performance by *The Capitol Steps* political comedy troupe

Tenth Class-1999 Induction & Events Registration and Reservations

American College of Bankruptcy ♦ 1999 Induction Ceremony, Educational Session and Dinner Event

Name: _____
 Firm: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone: _____ Fax: _____ E-mail: _____

Friday, March 12, 1999 ♦ 7:00 - 9:15 p.m. ♦ Induction Ceremony
The Corcoran Gallery of Art • Washington, DC

Inductees:

Limited to two complimentary tickets (including Inductee) and may purchase additional tickets.

Number of complimentary tickets _____
 Number of paid guests _____ x \$45/person = \$ _____
 Names of attendees (for name tags) _____

Fellows:

Number of Induction Ceremony tickets (including yourself) _____ x \$45/person = \$ _____
 Names of attendees (for name tags) _____

Saturday, March 13, 1999 ♦ 9:00 a.m.- 2:30 p.m. ♦ Educational Session & All Fellows Luncheon
The Cosmos Club, Washington, D.C.

A charge of \$175 includes continental breakfast, the educational session, luncheon and All-Fellows meeting at the Cosmos Club.

I will be attending the Saturday educational session and All-Fellows meeting _____ \$175.00
 Do you request CLE credit? _____ If so, for what state(s) _____
 Do you request CPE credit? _____ If so, for what state(s) _____

Saturday, March 13, 1999 ♦ Reception at 7:00 p.m., Dinner Served at 8:00 p.m. Reception, Dinner,
 Presentation of The Distinguished Service Award and Entertainment by the political comedy troupe The Capitol Steps
Metropolitan Club, Washington, D.C.

Please indicate how many people in your party and which dinner you and your guests would prefer.

Number of people in your party (including yourself) _____ x \$75.00 = \$ _____ (limited to 210 people)
 Number of Chicken Dinners _____ Number of Beef Dinners _____

Spouse/family Guided Bus Tour with Stops at U.S. Capitol, Library of Congress, Lincoln Memorial and Vietnam Memorial

Saturday, March 13, 1999, 9:00 - 1:00 p.m. (Pickup and Dropoff at Madison Hotel)

Number of Tours _____ x \$20= _____

Holocaust Museum Tour -





Number of Guests Who will be Attending On Saturday March 13, 1999 at 4:00 p.m. (No fee, limited to 100 people, no transportation provided)

Number of Guests for Tour: _____

Please RSVP Prior to February 28, 1999 to: Suzanne Bingham, American College of Bankruptcy,
 11350 Random Hills Rd., Suite 800, Fairfax, VA 22030-6044 • Phone: (703) 934-6154 FAX: (703) 802-0207

(May not be able to accommodate reservations after February 13, 1999)

Please charge my:

 OR My check is enclosed in the amount of \$ _____
 Amount _____ Account Number _____
 Exp. Date _____ Signature _____

In Memory of Sidney C. Volinn

By Jerome Shulkin



▲ Sidney C. Volinn

Sidney C. Volinn, a retired chief judge of the United States Bankruptcy Court for the Western District of Washington and a pioneer member of the Bankruptcy Appellate Panel of the Court of Appeals for the Ninth Circuit, died August 23, 1998, at his home in Seattle.

Judge Volinn served the federal courts for 34 years, originally appointed to the bankruptcy bench for the Western District of Washington in 1964 with chambers in Seattle. He later served as chief bankruptcy judge for the Western District and retired as a trial judge in 1993. He was appointed a member of the Ninth Circuit Bankruptcy Appellate Panel in 1981 shortly after that institution was created as a result of Federal legislation enacted in 1978 and soon thereafter became the presiding judge of that body. He remained the presiding judge until a year prior to his retirement from the appellate panel in January of 1998 as a result of his recall for the purpose of continuing his duties as presiding officer of the bankruptcy appellate panel.

The Court of Appeals for the Ninth Circuit was the only Federal Circuit Court to establish an appellate body designed to hear appeals from bankruptcy courts until two years ago when other Circuit Courts of Appeal decided to follow suit. Due to Judge Volinn's leadership and innovations, the Ninth Circuit Bankruptcy Appellate Panel became the model for other Circuit Courts to emulate.

Judge Volinn contributed greatly to the success of the Ninth Circuit Bankruptcy Appellate Panel. One of his innovations was to formulate what has become known as the "opt-out" rule. This rule, now adopted by other federal circuit courts, provides for an automatic appeal to the Bankruptcy Appellate Panel unless the parties involved in the appeal elect otherwise. Until this rule was promulgated, the Ninth Circuit Appellate Panel had been underutilized. The opt-out rule increased the case load of the Bankruptcy Appellate Panel, making it a viable and useful entity, and afforded relief to the district courts by reducing the number of bankruptcy appeals to the district courts.

As a trial judge, Judge Volinn presided over many important cases in Western Washington, including the bankruptcy of the Seattle Pilots baseball franchise in 1970.

Judge Volinn was born in 1917 in Boston, Massachusetts. He received his law degree in 1942 from Boston University, where he was elected to the Law Review. He served in the United States Army from 1942 until 1945, when he was discharged with the rank of First Lieutenant. He and his wife Ilse then moved to Seattle where he was to reside for the remainder of his life. His first job in Seattle was as an enforcement attorney with the Office of Price Administration from 1946 to 1948, after which he entered the private practice of law until his appointment in 1964. The name of the firm was Geraghty, Volinn & Lundin.

Active in community affairs, Judge

Volinn served as chairman of the Seattle Library Board of Trustees in 1972. He was an early member of the Board of Directors of R.E.I., serving a term as chairman. He was a member of the Washington State Bar Association, the National Conference of Bankruptcy Judges and the American College of Bankruptcy.

A great lover of the outdoors, he with his family were avid hikers and backpackers. In addition to hiking and skiing, he enjoyed bicycling and worked actively for the establishment of bicycle trails in Seattle including the Burke trail. For years he regularly bicycled between his home in Northeast Seattle and the courthouse in downtown Seattle, a distance of approximately eight miles. His good physical condition, in addition to a positive mental outlook, enabled him to make a valiant fight against the cancer that ultimately took his life. Judge Volinn is survived by his wife Ilse, daughter Jane Preuss and son-in-law Rolf Preuss, granddaughter Thea Preuss and grandson Sasha Preuss of Seattle, son Ernest Volinn of Hopkinton, Massachusetts, brother George Volinn of Long Boat Key, Florida, and numerous nieces and nephews. He was preceded in death by a sister, Ruth Schoeniger.

A caring and unselfish man, Judge Volinn possessed an attitude of great concern for the welfare of his fellow human beings. He was a devoted family man and was much loved and admired by his family, his friends and his colleagues. He served as a thoughtful educator and mentor for numerous law clerks and lawyers as well as for his fellow judges. ☞

Executive Director's Report



By Suzanne A. Bingham

As the March 12-13 date approaches, we are looking forward to inducting new distinguished bankruptcy and insolvency professionals as Fellows into the American College of Bankruptcy. The College continues to grow with currently 388 Fellows and an expected 33 additional Fellows from the Tenth Class. This will bring the College membership to 421 for 1999. Also invited to join in

the Tenth Class were four Foreign and two Judicial Fellows. Welcome to those nominees that join as Fellows!

Make your reservations early for the 1999 Induction Ceremony and events. Leon Forman, Scholar-in-Residence, has coordinated an exciting educational program scheduled for Saturday, March 13, that will provide both CLE and CPE credits. The educational program and luncheon will be held at the Cosmos Club. As in past years, we will have available CLE/CPE forms following the educational program. A College business meeting will be conducted during the luncheon following the educational program. The Holocaust Museum tour will begin at 4:00 P.M. and the newly added Spouse Sightseeing Tour will begin at 9:00 A.M.

and to conclude by 1:00 P.M. (visits to the Washington sights of the Capitol, The Library of Congress, Lincoln Memorial as well as other surrounding memorials) The two-day event will conclude with a dinner at the Metropolitan Club and live entertainment featuring the Capitol Steps.

The College Directory has been updated and forwarded to the West Group for printing. The College extends its appreciation to West Group Publishing for providing the courtesy printing. We hope the Directory will provide easily accessible information for all College Fellows. It will be a great reference for locating experienced bankruptcy and insolvency professionals both nationally and internationally. It is expected that the Directory will be forwarded in early January. ☞