



## History Project: A Few Opening Remarks

*Written by Ian Kyer*

"It should come as no surprise that from its humble beginnings in 1971 among a few gifted practitioners able to see the need for and promise of such an organization, the growth and history of the Computer Law Association pretty much tracks the growth and history of technology, especially computer-communications technology, in the U.S. Initially, issues and CLE programs reflected the mainframe world and vendor-supplied software dominating the scene -- liability, regulation, proprietary rights by contract, office automation, databases, carrier competition, taxation and contracting, among others. But it fairly promptly evolved beyond that into the issues and programs focused on a mainframe vendor-independent software industry (due to the "unbundling" of software post 1969) and onward to microcomputers and pre-packaged, even consumer, software for so-called personal computers - involving many of the same issues, but from the very different perspective of multiple independent vendors and many, many more users, so copyright and licensing tended to become the focus, not large systems and general contracting."



*(--Daniel Brooks)*

You will see that our timeline bears out Dan's comments. As the computer industry developed so too did the CLA whose members served its legal needs. The topics discussed at its conferences changed to reflect changes in the IT industry and in methods of distribution. So too as Silicon Valley developed the Association came to have a larger base there and many programs were held there. As the industry grew so too did the CLA and as the industry became more international again the CLA followed suit.

**Dan Brooks himself is worthy of a brief note.** One past CLA president, Richard ("Dick") Bernacchi recalls that in the 1970s and early 1980s "Dan was the "backbone" of the organization. Without his tireless efforts I'm sure that many of us that served in various capacities on behalf of the CLA would have struggled mightily and the organization would not have operated as smoothly and as effectively as it did." Another past president, Paul Bent notes that "during the late 1970s and early '80s, there's no question that he held the organization together in many of the most fundamental ways. He did so with no thought of promoting himself, and he gave tirelessly of his time and personal resources month after month and year after year. (It should be remembered that CLA had no professional administrative help at that time; Dan was the one who, from his own house, managed the lion's share of our administration, organization, and planning.)"

### IT Industry Timeline

**1970-1974:** Era of the Mainframe but Beginnings of the Licensing of Software

**1975-1979:** Rise of the Minicomputer and Dedicated Word Processors

**1980-1984:** The personal computer receives Time Magazine's "Man of the Year" Award. Beginnings of Mass Marketing of Software

**1985-1989:** Visionary Jaron Lanier coins the term "virtual reality" and produces the equipment to experience it.

**1990-1994:** ARPAnet ends. Tim Berners-Lee creates the World Wide Web.

**1995-1999:** Wi-Fi protocol 802.11b is published. CDs outsell vinyl records. 44 million Internet users surf the net.

**2000-2005:** Approximately 1 billion PCs have been shipped worldwide since the mid-'70s. U.S. broadband subscribers reach 28 million. Google goes public.

**1960**

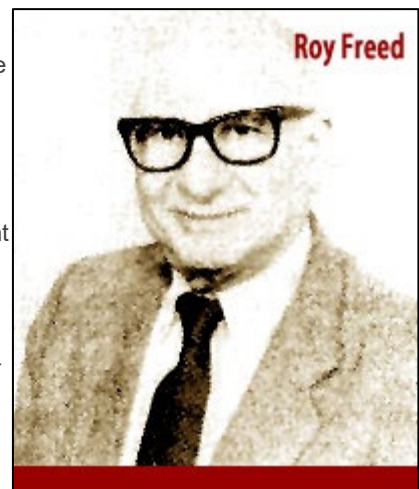
### **Roy Freed Publishes "A Lawyer's Guide Through the Computer Maze"**

Roy Freed was one of the founders of the CLA, its fourth President and in many ways someone who in his writings started the debate about how the law should be adapted to deal with the special issues created by computerization. His article in the November 1960 issue of the Practical Lawyer entitled "A Lawyer's Guide Through the Computer Maze" is seen by many as the seminal piece in what became computer law and is now known as IT law.

**1961-1971**

**Roy Freed, the fourth President of the CLA,** recalls the developments that led in 1971 to the formation of the Computer Lawyers Group and in 1973 to the incorporation of the CLA in this way.

**The establishment of the CLA** was not a completely novel development. Instead, it was a natural, although somewhat tardy, step in the slow recognition of the importance of the expanding availability of computer technology starting essentially in the mid-1950's and its inevitable significance to the diverse substantive aspects of the law. A look at the history that preceded its establishment in 1971 should illuminate the response of the legal profession to the momentous introduction of that technology that provides the first, and probably the only, inanimate machines that mimic to a significant extent the functioning of the human mind as it has come to be recognized to be a biological machine that literally purposefully processes a type of electrochemical signals that people traditionally unwittingly call information. Computers have substantive legal significance largely because a variety of legal issues arise from their use that parallel those produced by the action or inaction of people.

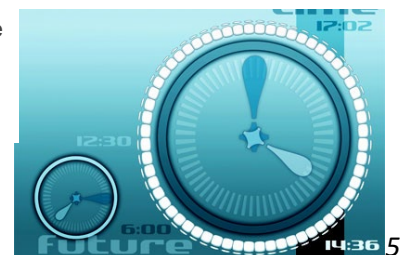


**In October 1960, the University of California in Los Angeles** conducted the First National Conference on Law and Electronics at Lake Arrowhead in California. Despite the ambitions of the sponsors, it was the first and the last and its participants focused almost entirely on possible uses of computers in the legal process. Roy Freed was a voice crying in the wilderness there with his interest in the legal ramifications of their use in society, which attracted only modest attention because the attendees were almost exclusively technical people.

However, **a notable one of them was Ben Kessel**, a computer engineer who was president of Computer Control Company, Inc., of Framingham, MA. He immediately took a deep interest in Roy's attention to the substantive legal ramifications, which he secured largely during their fortuitous ride together in a limousine from the Los Angeles Airport to Lake Arrowhead. In 1964, his company hired Roy as its in-house general counsel, where he served until he entered private practice in Boston to specialize in that field until he retired in 1986.

Then, in November 1960, **Roy's pioneering article that introduced computer law to the world**, "A Lawyer's Guide Through the Computer Maze," appeared in The Practical Lawyer, which was published by the Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association.

**ALI-ABA was headed by Paul Wolkin, Esq., who also was editor of that journal.** He immediately sensed the importance of that subject and set up seven consecutive national conferences to explore its scope and named Roy its general chairman. Those were the first conferences on that subject and its initial one took place at the Mayflower



Hotel in Washington, DC and attracted 300 people, who included both lawyers and computer specialists. Roy invited the late Lee Loevinger, Esq., to give a major talk at it.

**Around that time, the Special Committee on Electronic Data Retrieval** in the ABA came into existence. It probably originated out of a project led by innovative Prof. John Harty, a lawyer, at the School of Public Health of the University of Pittsburgh. In the early 1960's, with a grant from the Ford Foundation, his group demonstrated a batch processing system for searching for legal materials, the first of its kind. Through a series of developments, it was the seed for the Lexis system introduced by Mead Data Central, an offshoot of the Mead paper company. The members of that committee included Judge Vincent Biunno, Reed Lawyer, a patent lawyer, Prof. Reed Dickerson of Indiana University Law School, a specialist in legislative drafting, David Link, a tax lawyer in Chicago, Robert P. Bigelow, an in-house counsel at John Hancock Life Insurance Company in Boston, who became fascinated by Roy's attention to those substantive legal issues, Roy, and some others. Roy was a lone wolf on that committee promoting attention to the legal ramifications.

Soon, that committee was elevated to the Standing Committee on Electronic Data Retrieval of the ABA. It sponsored programs at ABA conventions and published the journal MULL: Modern Uses of Logic in Law, which was edited by Prof. Layman Allen, initially at Yale School until his colleagues tired of his focus on applications of Boolean algebra for drafting legislation, such as the Internal Revenue Code, and he comfortably and productively moved to the University of Michigan. Lee Loevinger also was a member of that committee.

For the 1964 Convention of the ABA in New York, Roy's wrote a mock trial to demonstrate how to introduced computer related records into evidence. To dignify its sponsorship, its Business Law Section was recruited for that role. However, at the very last minute, it abruptly and without explanation withdrew its sponsorship. Nevertheless, the trial went forward with great success. Judge Wilfred Fineberg of the First Circuit Court of Appeals proudly and enthusiastically served as the judge. AmJur2nd published its text.

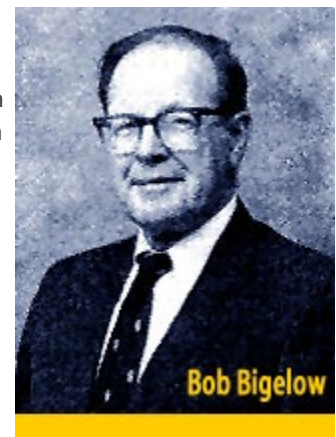
**Later, that committee was succeeded** by the present Section of Law, Science, and Technology of the ABA. However, its persisting overwhelming focus on applications of computer technology in the legal process to the almost complete exclusion of the already obvious potential important substantive legal ramifications of computers caused a number of its members, including particularly Roy and Bob Bigelow, to become restive. They and the others wanted an independent organization that would provide forums for the exclusive consideration of those legal ramifications and that would be free from the bureaucratic constraints of the ABA.

**Consequently, at the 1971 conference** in Atlantic City, NJ of the Association of Computing Machinery, a professional association of computer specialists, seven people met together extemporaneously to form the CLA. They included Roy and Bob Bigelow, some computer specialists who quickly dropped out of the picture, and two in-house counsel of computer related companies.

### **1971 CLA's First Tentative Steps**

**The Association that would become known as** the Computer Law Association or CLA began with an informal meeting in 1971 at a conference in Atlantic City, New Jersey of the Association of Computing Machinery, a professional association of computer specialists. One of the participants at that informal meeting, Robert ("Bob") Bigelow, recalled it this way in 1996 on the 25th anniversary.

**In May 1971** Fred Lafer, General Counsel of Automatic Data Processing, was one of several lawyers involved in computers and telecommunications attending the Spring Joint Computer Conference ("SJCC") in Atlantic City, New Jersey . He suggested to these lawyers that they meet for dinner and a discussion of current legal developments in the industry . Seven lawyers attended this May 18 dinner.



Three were inside counsel (Fred Lafer, Steve Beach and Nate Snyder) and four were from private practice (Roy Freed, Ed Grenier, Milt Wessel and Bob Bigelow) . At dinner, at a time when electronic research and computer law periodicals were not easily available, Steve Beach, General Counsel of Service Bureau Corp ., informed the group that three weeks earlier the Eighth Circuit had rendered its opinion in Clements Auto Co. v. Service Bureau Corp ., 444 F. 2d 169, 2 CLSR 143, a major contract case.

**The group reached two conclusions:**



**1. Meetings like this could be a useful educational tool** for those doing what came to be called "computer law ." An important component of such meetings would be learning about recent developments from those directly involved .

**2. Such meetings would be an opportunity to meet and get to know other lawyers** who shared a common interest, and who might some day be sitting opposite them at the negotiating table .

With these points in mind, the seven dinner companions became the Computer Lawyers Group .

**A planning meeting in New York followed** in July, and the first formal meeting was held at the National Lawyers Club in Washington on November 2, 1971 . A list of attendees is provided in Appendix II to the 25th Anniversary volume [link to 25th volume]. A further meeting was convened in Washington, May 19,1972, immediately after that year's SJCC .

**Bob Bigelow would remain involved** in the association for the next 35 years, serving at various times as secretary, conference organizer, President and institutional memory. In keeping with his long time involvement, he assisted in gathering materials for this timeline.

Other recollections of the founders can be found in the special 20th Anniversary Volume as well as the 25th Anniversary volume.

### **1973 CLA is Incorporated**

**The Computer Lawyers Group** that had begun informally in 1971 became a District of Columbia non-profit association in 1973.

Bob Bigelow, one of the founders, recalled it this way in 1991:

**As our mailing list expanded, and our meetings became larger, the Steering Committee decided in October 1972 a more formal organization was needed. The minutes of that meeting relate:**

**Mr. Marks stated that the law of the District of Columbia was particularly helpful in the formation and operation of non-profit associations, and volunteered to take care of the incorporation. Members present expressed their great appreciation to Mr. Marks and agreed with his suggestion that the group be designed for tax purposes as a professional association and not an educational association, that it be tentatively denominated the Computer Lawyers Association, and that the first board of directors consist of the steering committee. With only a moderate amount of kicking and screaming from those selected, the first officers will be: Lafer, president; Marks, vice president; Bigelow, secretary-treasurer.**

**With a change from the proposed name, CLG became the Computer Law Association, Inc. on January 12, 1973.**



Herb Marks from Washington, another founder recalled in 1991:

There was some reluctance to formalize the organization. However, after some debate, it was concluded that in order to maintain the momentum and to facilitate future development, it was necessary to formally organize. The decision to do this was reached at a special meeting in early October, 1972. The third program was held later in October, 1972.

The name "Computer Lawyers Association, Inc." was reserved on October 18, 1972. The name was changed to Computer Law Association when the Articles were filed. The Articles of

Incorporation were filed January 12, 1973. The first Board of Directors meeting was held on March 28, 1973, at which meeting the Bylaws were approved. Rounding out the formalities, the IRS provided a favorable tax ruling on October 30, 1973. I dwell on these mundane formalities because I acted as corporate and tax counsel for the organization and qualification of the Association, and accordingly, remember this effort. I also cite this to show that attorneys who deal with the domestic, international and foreign regulation of data and other communications and related matters often possess other skills.

The Association continued the meeting pattern of the Computer Lawyers Group. The meetings often had an informal segment when attorneys could sit around a table and discuss their experience with various computer law issues. One of the reasons for founding the Association was to provide a forum for such exchanges.

#### *1975 First International Meeting of the CLA in Japan*



In August 1975 Richard ("Dick") Bernacchi of the CLA co-chaired the First USA-Japan Joint Computer Law Conference in Japan. Mr. T. Hayakawa of the Japanese Computer Law Association was his co-chair. In 1991 on the 20th anniversary, Dick Bernacchi recalled:

"One of the most memorable events I can recall was the first USA/Japan Joint Computer Law Conference, co-hosted in Tokyo by CLA and its Japanese counterpart in 1975. Roy Freed, Professor James Chandler and I participated in the conference, where I first met Professor Takeo Hayakawa, who was the "papasan" (I hope I spelled it right) of computer law in Japan. The conference left a strong impression with me as it reflected CLA's willingness to reach out to exert its positive influence in the world community.

It was the first conference of its kind, held at a time when most other people were not focusing on international or global markets much less the unique computer law issues posed by those markets. I viewed it as a very forward thinking activity on CLA's part."

Dick Bernacchi served as President of the CLA and remained active in the CLA for many years. He also trained such other CLA notables as Mark Gordon, who became the President of the CLA in 1993.

Bob Bigelow recalled the CLA's early efforts at Internationalization in this way:

"Although the CLA began as a domestic US organization, international issues have been on the minds



of its members from the very beginning, even before its incorporation . At the third meeting, October 27, 1972, Kenneth Katz of the Canadian Department of Communications, and Professor Bryan Niblett, Chairman of the Law Specialist Group of the British Computer Society, spoke on "Some International Aspects of Computer Law" . In August 1975 the CLA co-sponsored a meeting in Japan with the Japanese Computer Law Association. This was followed by a major international meeting in Toronto in 1978, co-sponsored by the Jurimetrics Committee of the Canadian Bar Association."

### ***1976 First US West Coast Conference***

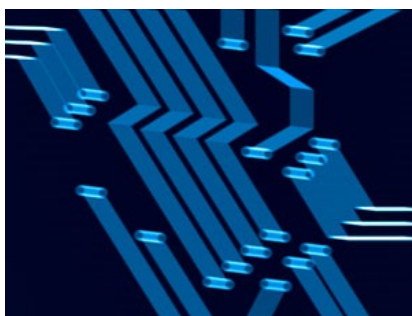
**The CLA began as a Washington based association** and it took 5 years before a conference was held outside of the District of Columbia. Not surprisingly the CLA's first foray out of DC was for a conference held in San Francisco, not far from Silicon Valley. Paul Bent, who would later be President of the CLA and a force for professional organization within the CLA, chaired the conference. It provided an overview of the "State of the Art" in various aspects of Computer Law. CLA returned to the West Coast yearly for many years. Many of those conferences were held in Silicon Valley or its environs, with the occasional visit to Los Angeles. Paul Bent chaired a number of the early West Coast events.

**Herb Marks recalled in 1991:**

**The mission of the Association was perceived as educational. Therefore, very early, we became concerned that all of our meetings were held in the East Coast, usually in Washington. We decided that this must be remedied and it was. During my Administration, we held the first West Coast meeting. We then set about trying to schedule meetings in other locations. Further, we adopted an executive structure which included regional vice presidents in order to try to achieve better national coverage.**

### ***1978 First Canadian Meeting***

In 1978 **Dan Cooper, who would later become the first non-US lawyer to be president of the CLA**, co-chaired a program on System Design and Acquisition Considerations in Toronto with Bob Bigelow. The Jurimetrics Committee of the Canadian Bar Association co-sponsored the event. Dan Cooper was the father of computer law in Canada and an important early mover in the CLA's efforts to become more international.



### ***1980 Program on Computer Software***

In March 1980 in San Francisco Paul Bent and Dan Brooks chaired the first CLA program dedicated exclusively to the issues surrounding the development, marketing and acquisition of software.

Programs as early as 1971 and 1972 had dealt with software protection among other issues. But the 1980 program was the first to deal solely with the legal aspects of software's life cycle. Over time the amount of program time dedicated to hardware issues would decline and software issues would dominate the Association's programs until the mid 1990s when the Internet became the dominant issue.

### ***1981 Membership Jump***

**The CLA began in 1971 with 7 members.** The fall meeting that year attracted 38 attendees. Dan Brooks who would serve as President of the CLA in the mid 1980's recalls that by 1981 there were 516. members listed in the CLA Directory, but largely through the efforts of Michael Keplinger several Washington meetings in the 1980 and 1981 and Paul Bent at several California programs including the Silverado Resort program in California in 1982, membership really took off. At these programs there were substantial sign-ups at the door due to the then membership-discount structure. Supplements to the CLA

directory were published in September 1982 adding 152 members and in March, 1983 adding a total (including 9/82) of 231. Michael Keplinger played a key role in the US government's efforts following the CONTU Report to have copyright accepted as the form of legal protection for computer programs. He would serve as President of the CLA in the early 1980s. Paul Bent played a key role in the development of software leasing. He would become President of the CLA in the early 1990s.

**Dan Brooks, who himself was a source of energy and insight for the CLA for many years, tells of the significance of Mike and Paul and their programs as follows:**

Aside from the first convocations among the initial visionaries and their associates, there are a couple of programs and people that deserve special mention for their early and substantial contributions. They occurred at the time that the microcomputer was emerging from garages and basements of early adopters into the limelight of what have become known as the personal computer industry, Silicon Valley and the overall technology boom. In March, 1980, Paul Bent, General Counsel of Century Financial Services, organized a very successful program in San Francisco entitled "Computer Law: Developing, Marketing, and Acquiring Software." Now readily recognizable industry figures such as Dan Fylstra from Personal Software - VisiCalc and Bruce Coleman - Boole & Babbage as well as computer lawyers such as Roy Freed, Bill Fenwick, Reed Lawlor, Susan Nycum, Dick Bernacchi, and Gordon Davidson, were all speakers on areas such as the emerging mass market for software and microcomputer technology.

**In October, 1981, Mike Keplinger, of the Copyright Office,** organized a wildly successful program in Washington, DC entitled "Computer Software Protection: A Pragmatic Approach." High powered speakers from government, industry and private practice such as Jon Baumgarten, Mort Goldberg, Roger Milgrim, George Bosworth, and Tom Lynch played to packed houses filled with eager practitioners. In uncertain times of an evolving technology sector, they produced unusually valuable materials for the growing number of practitioners encountering their first technology enterprises and transactions. [link to Milgrim letter] What had been a modest Association with a few hundred members, only a handful from foreign countries, suddenly doubled in size and reach.

**These are just two examples of the generally superior, well informed** and anticipatory speakers and programs that have made CLA a premier sponsor of technology programs. In addition to the efforts of members such as Paul and Mike, the Association's footprint and megaphone also became bigger because of frequent and vocal support from a couple of non-members that were authors and nominal competitors, at least in the CLE business. Neither Dick Brandon nor his lawyer side-kick, Sid Segelstein, Esq., ever became members, but as indicated on the brief memorial note, they shared the perception of need for and promise of an organization such as CLA as well as a vision that growing the pie was more important than grabbing at a larger piece of the existing pie for themselves.

### ***Untimely Deaths***

#### **1981 Death of**

DICK H. BRANDON  
SIDNEY SEGELSTEIN

**Dick H. Brandon and his perennial side-kick Sidney Segelstein, Esq. were such pioneers in what we call Computer Law.** Both were friends to many members of the Association. Regrettably, what distinguishes Dick and Sid from Roy Freed, Bob Bigelow and the many other members of the Association that were also pioneers in Computer Law is their unfortunate and untimely death – together – when Dick's new, high performance Mitsubishi dove into a Dakota field on their way home from a vacation trip to Alaska in 1981.

**Many members may know** of Dick and Sid from their book – Data Processing Contracts: Structure, Contents, and Negotiation – first published in 1976. It was a pioneering effort. Despite their untimely demise in 1981, that book is now in its third edition by reason of revisions by George Brandon, Dick's oldest son, and a co-author, John Halvey, a partner of George's at Milbank, Tweed, Hadley & McCloy. Dick was also the author of at least five other books, Management Standards for Data Processing; Management Planning for Data Processing; Project Control Standards; Data Processing Organization and Manpower Planning; and Data Processing Management: Methods and Standards.

**I met Dick as a young associate** of Cadwalader in the mid-70s. I was dispatched to assist The Bowery Savings Bank in cutting a computer deal for a system to replace their aging Univac 490s. At the table was the Bank's technical and contract consultant, Dick Brandon. He had suggested using his good friend and co-author as the lawyer on the deal, but those were the days when client-loyalty still counted for something, and Cadwalader was The Bowery's lawyers. I later learned of his low expectations for the youngster from Cadwalader. I suspect that they dropped further when one of my first questions was whether his first name was Richard. Suffice it to say that it isn't.

**The Bowery deal took a while to negotiate**, and the Bank eventually decided to go with a Burroughs system, where Dick and I both had the privilege of meeting and dealing with another pioneer and member of the Association, Ed Langs. Fortunately, Dick was able to get beyond first impressions and we became quite good friends, professionally. He was even kind enough to send me an autographed copy of his book when it was published a few months after the deal was done.

**Sid was a Harvard law graduate** practicing in New York City with a small firm Goldstein and Schrank. It is not clear at this point just when Sid first met and befriended Dick. What is clear is that Sid was Dick's lawyer. But there was more to their bond than just that. Their bond had invisible origins but very visible effects. In fact, the bond may have grown out of what I think was Dick's secret wish to become a lawyer. He loved law. Sid was able to fill Dick's curiosity about law in the friendly context of computer transactions. Sid had a very special ability to communicate his deep legal knowledge in very simple terms.

**In preparing for this memorial**, I reviewed several amateur video tapes made back in the early days of the PLI Computer Law Institute that included talks by Dick and Sid. Regrettably, none of the footage was of a quality permitting capture and sharing any of it here. However, I did get to hear Sid's wonderful story about an advertisement for a watch that he saw in an airline seat-pocket magazine. It was quintessential Sid and Dick, and quintessential computer contracting, early 70's style. The ad promoted a titanium case, crush proof, shock proof, water proof down to 1000 feet, solid state, atomic powered watch that would keep time to the microsecond for over a century and tell the day of the week of any date within that century. Yet it came with a LIMITED 30 day WARRANTY.

**In a nutshell, that was the crusade** in which Dick and Sid found common ground. The mutual groping by unsure and often naïve users and vendors in those early days. Many computer deals were more akin to joint ventures than the buyer-seller forms prepared by counsel for sellers. In fact, software was only just emerging as a separate product and main-frames ruled the day. There used to be long debates between users and vendors about just what the term "source code" meant, much less user access to it.

**Dick was a driven and very bright person.** At age 11, he arrived in the U.S. from Holland with his mother, both of them survivors of the holocaust by the barest of margins. His father had not survived. Dick spoke not a word of English and was understandably undernourished after three years of literally living under a table in Northern Holland hiding from the Nazis by day and being a courier for the underground by night.

**Knowing these things about him, he once shocked me** when he described his early years in the U.S. as "excruciating." What I have just described is more than just excruciating. Dick's U.S. existence had to be better than that.

**Only later did I realize what an eloquent statement Dick had made about his own character.** His boyhood in the U.S. was excruciating because of his brilliance, his need to get things done, and to get them done right. He arrived here young and ill equipped to meet his already high standards of performance. Lesser people might have excused shortfalls in their performance based on their wrenching experiences in Europe, lack of preparedness for life in the U.S. and knowing that even if they loafed along they were much better off here than in the Europe of that day. Not Dick. He just raised the bar higher to accommodate the improved situation and was pained by his inability to deliver up to his standards.

**Those early years** are probably also what gave Dick his deep appreciation for every moment of life and thus helped create the drive that served him (and those of us privileged to know him) so well.

In any case, Dick's quickness and energy stood him in good stead. He eventually had a distinguished career at Columbia University and landed a job with IBM in 1955. By then he had married a fellow graduate student, Sonya. The first of their



children, George, was born in 1956. Two others followed, Doug and Marja. Sid had two children, but they were with Dick and Sid on that fateful trip to Alaska.

**Dick did a stint at Diebold** and then, in 1964, struck out on his own by forming Brandon Applied Systems, Inc. That proved to be a very successful management and technical consulting firm for the next several years. In the late '60s, Dick decided that he needed to get into publishing. He brought in a friend – Barry Nathan – then with Van Nostrand/Reinhold & Company, the eventual publisher of Dick and Sid's book, to enter the publishing business as Brandon Systems/Press. The resulting capital requirements and the recession of the late '60s conspired and eventually led to a Chapter XI filing by Brandon Applied Systems.

But that was only a momentary setback. **Dick was not easily defeated.** He and Charles P. Lecht – then President and Chairman of Advanced Computer Techniques Corp. - even had a widely publicized open debate. Eventually, Mr. Lecht and Dick created an affiliate of ACT called ACT-Brandon Inc. to continue Dick's international management consulting and technical consulting. As the fact of a debate may suggest would be the case, ACT Brandon had a short run. Dick left about two years later for Brandon Consulting Group. There Dick once again flourished. He even created a U.K. offshoot called Brandon Information Systems that was eventually sold to NYNEX.

**In 1977 or so, in addition to their other activities, Dick and Sid teamed up** for about a three year run producing seminars with Joe Auer. Joe is still in that business and known as International Computer Negotiations or ICN. Joe and Charles E. Harris are co-authors of Major Equipment Procurement, published in 1983. Joe reports that it was Dick who suggested that Van Nostrand approach Joe to do such a book.

**In 1981, Dick was quoted** in a Business Week article to the effect that "As many as 500 [user vs. vendor] cases are now in the courts, 10 times more than a decade ago." Dick went on to mention that since most cases are settled before getting to court, such figures represented only the tip of the iceberg. That single quote found its way into numerous newsletters, articles and the like. It was about the only quantitative estimate respecting the growth of Computer Law that other authors could cite.

**Dick's brilliance and energy** left those of us privileged to know him in awe. Sid seemed to be able to keep up with him. Most of the rest of us could not. Both were more than just early adopters of the automation mantra. Dick traveled with luminaries. Dick was technically gifted. He had an ability to pass that along in understandable terms to businessmen, and to lawyers such as Sid and myself. Dick had technical and management insights rare in those early days where few had the slightest idea what computers did and even fewer knew how to use them. Sid had the ability to absorb all that and cogently apply what was then a very fuzzy body of law.

**But that was not all. Although always moving at 150 miles per hour, Dick and Sid had very human sides.** They had time to take a callow young associate from Cadwalader under their wing and show him the ropes. They even gave him and the new PLI Computer Law program a boost by taking time out from incredibly busy schedules – the very schedule that led to Dick's need to fly, to his eventual love of flying and ultimately to his and Sid's untimely deaths – to be speakers. They willingly did so several times. That was at a time when they were running their own competing programs with Joe Auer. Moreover, as most members of the Association well know, speakers fees are all but unheard of on the CLE circuit, so they did this for love of their subject and the people with whom they found themselves. They also supported the Computer Law Association with mentions at their own programs as well as PLI's. All this from men already luminaries in the emerging Computer Law business. They were focused on making the pie bigger rather than their own share of it.

**They both also had family sides.** Although by then divorced and always a very private person, Dick was very proud of his kids and told you so. Sid shared those traits. Typically, Dick would tell you in a staccato burst of specifics about George, Doug or Marja's latest and greatest achievements. Sid would ramble on a bit more with corroborative details. As between Dick and myself, the subject of kids arose more frequently than with Sid. As a Columbia grad, Dick never missed an opportunity for some good natured provocation of me, a Princeton grad, with stories about the great achievements of his Yale oldest son.

**In sum, Dick's vision and industry were unique among early proponents of computer technology and among all but a few of the early practitioners of what Association members know as Computer Law.** Sid's analytical ability and practical legal insights complemented Dick's computer knowledge nicely at a time when application of the law to technology was at its

earliest and least certain stages. Together they knew the computer business and the difficult technical, business, and legal issues and risks that it presented to vendors and users alike. They both knew how skillfully and cheerfully to teach those of us following them to address the issues and balance the risks.

*They were very special people, professionals and pioneers in Computer Law to whom we all owe a great deal.*

**Daniel T. Brooks**

**April 15, 1996**

### ***1983 CLA Hires First Executive Director***

The Washington, D.C. area was the home base of the CLA. In the early years the offices and homes of some of the Washington lawyers served as the CLA offices. Dan Brooks and his wife Barbara deserve special notice for their significant contribution in this regard .

**In 1983 Barbara Fieser joined the Association as our first Executive Director.** Shortly thereafter the CLA rented an executive office across the Potomac in Virginia. Barbara remained the CLA executive Director until 2005.

### ***1985 Denver Program***

**In 1985 Steve Mains working with Professor John Soma hosted a March program for the CLA in Denver.** It is notable as the first CLA program that dealt exclusively with the problems of the microcomputers and the mass distribution of computer software - a sign of the changing times in the IT industry.

John Soma would join the board of the CLA and serve on it for many years.

### ***1985 First Annual Update Meeting in Washington***

Many CLA members look forward each year to the annual update meeting of the CLA. This meeting was first held in May 1985 in Arlington Virginia under the chairmanship of Dan Cooper. This meeting also saw the creation of an international special interest group under the chairmanship of another Canadian, Ian Kyer. The International SIG started the publication that year of the International Update Newsletter.

### ***1985 A Membership Snapshot***

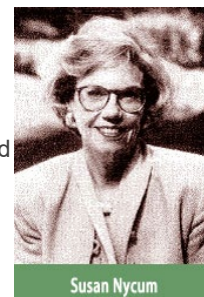
**John Fieser, a geographer and statistician** and the husband of Barbara Fieser, the CLA Executive Director, periodically provided the Association with a graphical representation of its membership.

### ***1986 A Canadian Becomes President***

In 1986 Dan Cooper a Canadian from Toronto became the first non-American to be President of the CLA. Dan had long been an active participant in CLA events. In 1978 and again in 1983 he had chaired conferences of the CLA in Toronto. In 1985 he had chaired the first annual update meeting in Washington and had been the prime mover behind the creation of special interest groups (or "birds of a feather" meetings as he called them).

### ***1987 First Woman to be President***

**After 16 years, the CLA had its woman President** in 1987 when Susan Nycum from California assumed the office. Susan served for two years during which time the CLA held its first European meeting in Amsterdam. Only fittingly the planning for that meeting began in Cambridge England at an IBA meeting attended by Susan, Dan Cooper the CLA's previous President, Dinant Oosterbaan, one of the CLA's first



European members and Ian Kyer, then chair of the CLA's International committee.

**Since 1987 the CLA has had many women serve as President.** They include Karen Casser, Dianna Mackenzie, Esther Nunes and Amy Lynne Williams. In 2003, Esther from Sao Paulo, Brazil had the distinction of being the first non-American to become President. That honor ought to have fallen on Vanessa Marsland several years before. Vanessa from London England served for many years on the board and was in line to become President. She, however, was unable to assume office for personal reasons.

### ***1988 First European Meeting of the CLA***

On June 1 - 3, 1988 the CLA held a conference in Europe for the first time. This Amsterdam program was the result of discussions that had been held between Dan Cooper and Ian Kyer from Toronto and Dinant Oosterbaan from Amsterdam. Dinant had visited Toronto in the fall of 1986 to speak at the first meeting of the Canadian members of the CLA, organized by Ian Kyer.

Dan Cooper, one of the CLA executives and a fellow Torontonion, also spoke at the conference. The three became friends and began to talk about taking the CLA to Europe. In the summer of 1987 they met again at an International Bar Association conference in Cambridge England. That became a planning session for the CLA Amsterdam program to be held in 1988. All three chaired the Amsterdam meeting. The conference in Amsterdam also acted as the first meeting of the International Federation of Computer Law Associations or IFCLA. CLA co-sponsored other European conferences with IFCLA in Munich in 1990, Stockholm in 1992, Bath, England in 1994 and in Brussels in 1996.

### ***1988 Software Distributorship Contracts Forms Collection***

The CLA has long been a publisher as well as a source of excellent conferences. Dan Brooks and others worked to publish much of the conference materials in the 1970s. Meetings were transcribed, either by a court reporter or on videotape, and made available in written or video format to members or others. In 1988 Paul S. Hoffman editor the first of a series of forms collections. From 1993 to 1996 the CLA would publish a series of annual essay collections. Other volumes were done on selected topics - international treaties by Bill Tanenbaum, pamphlets on state taxes by Paul Hoffman and a glossary by Bob Bigelow . 1996 saw the publication of the first of the "Current Issues Publications Series"---The Internet and Business: A Lawyer's Guide to the Emerging Legal Issues , edited by Joseph Ruh, Jr .

### ***1991 CLA Celebrates its 20th Anniversary***

The CLA celebrated its 20th anniversary in April 1991 in Washington at its annual update meeting, chaired by Jay Westermeier [link to . The Association marked the event with a 20th Anniversary program entitled Where We Have Been, Where We Are and Where We Are Going. A brief history of the Association edited by Bob Bigelow and Ian Kyer was also published.

#### **Jay Westermeier recalls:**

I was asked to chair the CLA's 20th Anniversary Conference in 1991. As part of the 20th Anniversary Program, I moderated a video "Meeting with the Founders" that was recorded at American University. Professor John Doolittle and his students at American University produced the video. In thanking Professor Doolittle and his students for producing the CLA Founders video, we thanked them for providing a historical as well as "informative and interesting documentation of the people who are responsible for founding CLA and the field of computer law itself".

The 20th Anniversary Dinner Program was held at the Grand Hotel, Washington, D.C. Oliver R. Smoot was the President of CLA at the time and presided over the anniversary dinner. The video of the "Meeting with the Founders" was played at the dinner. Fred Lafer was one of the founders who participated in the video meeting. He was a former Senior Vice President and General Counsel of Automatic Data Processing, Inc., past president of ITAA (then "ADAPSO"), and the first president of CLA. Nathan ("Nate") Snyder, Herb Marks, Roy Freed, Bob Bigelow, Ed Grenier and Milton R. Wessel participated in the videotaped meeting . Two founders were not able to participate.

Tragically, Milt Wessel died May 27, 1991, just a little over a month after the 20th Anniversary meeting. Milt was an adjunct professor at Georgetown University when he died at age 67. He had been a special assistant to the executive director of ADAPSO, the computer software and services association. We sent a copy of the videotape of the April 22nd "Meeting with the Founders" to his widow, Joan Wessel, as a remembrance.

She wrote us the following "thank-you" note:

"Thank you for sending me the videotape of the April 22nd "Meeting with the Founders". It arrived Christmas Eve when two of my sons were here from out of town. With some trepidation, after reading your letter, we all decided that we really wanted to see the tape immediately. It had a wonderful effect on us all, bringing Milton so close once again and reminding us all of the vitality, honesty and brilliant humor that he possessed. Instead of a sad occasion, it was one of warm remembrance and I thank you for sharing it with us. I shall cherish the tape."

*Jan. 3, 1992*

At the 20th Anniversary Program, we also announced the top computer law cases. We continued to recognize the top cases in computer law as determined by a membership survey at the 25th and 30th Anniversary Programs.

### ***1991 First Pacific Rim Conference***

In 1991 **Stephen LaCount chaired** the first of what became a series of Pacific Rim Conferences co-sponsored by the Japanese Electronics Industry Development Association or JEIDA. The program was held in Newport Beach. Steve played a key role in other Pacific Rim programs which were held in Sydney Australia in 1993 [link to picture of Steve and Ian Kyer at Sydney Tower], San Francisco in 1995 and Hawaii in 1997.

### ***1993 CLA Computer Law Companion series Launched***

**Dinant Oosterbaan**, pointing to what was done in The Netherlands, suggested that the CLA published the best of its papers in an annual volume. Ian Kyer and Chris Erickson from Toronto volunteered to select and edit the papers. Chris and Barbara Fieser, the Executive Director of the Association, oversaw the arrangements with the printers. Four volumes were done between 1993 and 1996 under the title The CLA Computer Law Companion.

### ***1993 CLA goes to Australia***

**In an effort to reach out across the Pacific**, the CLA organized a conference in Sydney Australia in February, 1993. Longstanding CLA members Peter Knight and Philip Argy worked to make this program a great success both socially and substantively. Social highlights included a boat tour of Sydney harbor, a visit to the Opera House and a dinner at the Museum of Modern Art.

### ***1993 CLA Starts Tradition of the Monterey Retreats***

**Stephen Davidson and Gervaise Davis III ("Gerry")** have given much to the CLA. Steve became President in 1995 and helped foster the recent European conference initiative., Gerry, a longstanding board member, gave the CLA its first real web page. But what both are fondly remembered for is the excellent series of retreat programs that they chaired in Monterey California. The first entitled From Bits and Bytes to Virtual Reality was held in the fall of 1993. The second in 1996 was a variation on the theme and dealt with the new world of th Internet under the title From Bits and Bytes to Cyberspace.

### ***1994 CLA Conference in Seattle***

The Seattle conference in the fall of 1994 is **notable for several reasons**. It marked the first time that a West Coast meeting of the CLA was held outside California, reflecting the increasing importance of Seattle and its environs in the IT industry. With Microsoft and a host of other IT companies, Seattle could no longer be ignored. That conference also represented the first time

that the Internet was a conference topic. Not surprisingly the presentation by Andy Johnson Laird was a multi-media introduction to the Internet entitled "The Good the Bad and the Ugly". That conference also featured a presentation by William Ferron Jr, on the patentability of software inventions. Since that date the Net and software patents have been of increasing importance.

**William ("Bill") Barron of Seattle chaired the program.** Bill had long been a member of the CLA, having edited its newsletter in the early and mid 1980s.

### ***1995 Large Delegation goes To Sao Paulo***

The CLA has had a special relationship with Brazil for many years largely due to the energy and enthusiasm of Esther Nunes and Ricardo da Silva. Through their efforts the CLA has co-sponsored the ABDI annual Congress on Computer and Telecommunications Law. Many Presidents of the CLA have attended this program held in Sao Paulo or Rio de Janeiro. In 1995 Ian Kyer led a large delegation of CLA members to Sao Paulo, including Jay Westermeyer the program planning chair and Barbara Fieser the CLA Executive Director.

### ***1995 Membership Snapshot***

John Fieser, a geographer and statistician and the husband of Barbara Fieser, the CLA Executive Director, periodically provided the Association with a graphical representation of its membership. Here is what CLA membership looked like in 1995: (coming soon.)

### ***1996 25th Anniversary***

In 1996 the CLA celebrated its 25th anniversary with a gala dinner hosted by then President Jay Westermeyer. The event was marked by the adoption of a new CLA logo and a special commemorative publication.

#### **Jay Westermeyer recalls the anniversary in this way:**

I had the privilege of co-chairing CLA's 25th and 30th Anniversary programs in Washington, D.C. As part of the 25th Anniversary program that I co-chaired with Art Levine, who had been executive director of CONTU, I designed a CLA logo with the assistance of Art Levine's wife. This logo of a globe with the words "Computer Law Association" wrapped around the globe with the symbols for scales of justice, communications and storage media was used thereafter as the CLA logo with the letters "CLA" replacing "25" in the 25th Anniversary logo. I also developed a logo to describe CLA that CLA used on its stationery for many years -- "Representing Information Technology Legal Practitioners Worldwide".

The 25th Anniversary Dinner Program was held at the ANA Hotel in Washington, D.C. on April 25, 1996. William A. Tanenbaum was CLA President and Master of Ceremonies. There was a 50th Anniversary Tribute to ENIAC, the first computer and case awards. Robert Bigelow gave a presentation on the history of CLA. The guest of honor was the Honorable Marybeth Peters, Register of Copyrights, U.S. Copyright Office and long time member of the CLA Board of Directors.

### ***1996 Ed Langs Dies***

**Edward Langs from Detroit was a force in the CLA for many years.** He served as President in 1992-3 and assisted in the organization of and attended the first Australian program.

**He was a constant source of insightful comments and humorous remarks** during board meetings. Long a promoter of Detroit and Michigan generally, he organized a conference in Detroit in 1983 and in Dearborn Michigan in 1989, which included a tour of the Ford Museum.

He died suddenly in 1996, sending a wave of sorrow through the CLA. The Fourth Volume of the



**Edward Langs**



CLA Computer Law Companion series was dedicated to his memory.

### **1997 CLA Goes to Hawaii**

In keeping with the tradition of taking every second Pacific Rim conference outside of the continental USA, the 1997 program, organized by Ian Kyer and Christopher Erickson with the assistance of Mark Gordon, took place at the Royal Hawaiian Hotel (the "Pink Palace") on Waikiki Beach . The program was co-sponsored by the Japanese Electronics Industry Development Association or JEIDA, which sent a large delegation.

### **1998 Membership Drive**

At the time of the Y2K scare and the Internet boom, interest in IT law was at an all time high. **Steve Davidson, the President in 1998, had been a driving force for increased membership.** During his Presidency he suggested that the CLA push for 2000 members by the year 2000 and recruited Jay Westermeier to lead the campaign. Buttons were prepared and membership efforts were doubled and the goal was achieved.

Jay Westermeier recalls his role in this way: "I was elected to the CLA Board of Directors in 1992. Then President Mark Gordon asked me to chair the CLA Membership Committee. At the time, CLA only had about 1200 members. I remained active on membership for many years even after I became President of CLA in 1997. When Steve Davidson was president in 1996-97, he developed the membership slogan -- "2000 by 2000". In 1998, CLA membership exceeded 2,200 members."

### **1999 CLA Increases its Focus on Internationalization**

CLA had undertaken a number of International ventures before 1999., It held its first Japanese program as early as 1975, its first European conference in Amsterdam in 1988, its first Australian program in 1993. In 1999, however, under the leadership of David Bender, the CLA made a major effort to become even more International.

### **Recollections of David Bender (President, 1 July 1999-December 2000)**

In the year preceding that in which I became president of CLA, I gave some thought to the matter of what I wanted to accomplish, should I become president. **I decided that my most important goal would be to move CLA onto the path of becoming a truly international organization.** At the time, about 10% of the members were Canadian, and a much smaller percentage were from other non-US nations. With the exception of two Canadians, only US nationals had held the office of president. The Board was typically comprised of US nationals, a small number of Canadians, and perhaps a British national. Thus, CLA had only a modest claim to being international, and was largely a US organization.

**The genesis of my decision lay in my work environment.** Since coming to White & Case in 1985, I had seen it morph itself into one of the most internationally based law firms in the world. It was guided by its vision that the need for commercial legal services would grow faster outside the US than in the US. From 1985 to 1998 (when I was doing my thinking about CLA) the number of countries outside the US in which the firm had offices grew from seven to 24. An increasing amount of my own work emanated from countries outside the US, and by the mid-1990s I found myself communicating daily with lawyers in the firm ' s offices outside the US. And from time to time I had to travel to the firm's offices in Japan, Germany, France, Hong Kong, the UK, Brazil, Sweden, and the Czech Republic. I concluded that, with the world becoming a smaller place, an organization like CLA could offer real value to its members by providing them with information about significant events transpiring outside the US, and well as with an opportunity to identify and meet leading IT professionals in other countries. The big question in my mind was how to go about achieving this goal of becoming an international organization.

**It was with this mind-set that one day in 1998 I received from Steve Davidson a call informing me of an approach that had been made to him by a Spanish lawyer, one Enrique Batalla.** As I learned over the next few months from phone and personal conversations with Steve and Enrique, Enrique was proposing a series of five or six (I can ' t recall which) annual conferences, each in a different southern European venue. Enrique would undertake to be the prime mover in planning each of them, although there would be a local planning committee for each conference. Each would be held at a top hotel, and

would include many speakers with established reputations; some would be from Europe, while others would be from the US. The initial conference would be in Enrique ' s home city of Madrid. He thought the second conference should probably be in either Milan or Lisbon, and already had ideas about who to approach in each of those cities to head the planning committee. One key ingredient of Enrique ' s proposal was the type of agreement he contemplated between CLA and the conference organizing company that CLA would need for each conference. He suggested an agreement that relieved CLA of any liability for a loss, and he was confident that he could find a good organizing company that would be willing to enter into such an agreement.

As Steve and I worked through the details with Enrique, I concluded that this proposal had a great deal of merit, and that implementing it could jump-start CLA's transformation into an international organization. It had the potential to increase European membership greatly, to foster the networking among practitioners on each side of the Atlantic, and to expand the types of useful (if not necessary) information that would become available to members. The one major item in Enrique's proposal with which I was uncomfortable was his request for a five- or six-year commitment from CLA. I wanted to do it on a year-by-year basis. If one program looked as though it was reasonably successful, CLA could go forward with the next. But if we concluded that a program was a failure, and saw no likely fix next time around, CLA should be able to abort the process. Enrique agreed to our suggestion of a year-by-year approach. The proposal cleared the Executive Committee, and I believe it was presented to and approved by the Board as well, with Enrique making the presentation. At that point, planning began in earnest for the Madrid conference, scheduled for June 1999.

**The Madrid conference was everything that Enrique had predicted.** The hotel he chose was excellent (I can still remember swimming laps in one of its pools), the conference facilities were good, and he filled the program with well-known European and US lawyers speaking on topics of interest. And the conference hall was full of obviously interested attendees. The conference ran at a financial loss, but it was not CLA's loss. Enrique was able to pinpoint the bases for the financial loss and was confident that, with appropriate attention, they would not be repeated in future conferences. Soon after Madrid, planning began in earnest (Enrique had already done much preliminary planning) for the Milan conference. And CLA was off and running in Europe. Enrique gave each of the subsequent European conferences the same type of attention that he gave to Madrid. It was obvious that he was spending a great amount of time planning each of them, and he made several trips (unreimbursed by CLA) to each of the venues (as well as to some proposed venues that did not pan out) to confer with the local planning committees and the conference organizing companies.

**As I look back on it,** I believe that CLA's series of European conferences has been a highlight of the past several years, and one of the most successful ventures the organization has undertaken. In my view, the biggest single reason for this success can be summarized in a single word: Enrique