



THE SUPREME COURT HISTORICAL SOCIETY

Quarterly

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CHICAGO GROUP FOUNDING SCHS ILLINOIS CHAPTER

Enthusiastic members of the Supreme Court Historical Society will meet in Chicago on November 10 to celebrate the founding of an SCHS Illinois chapter. Brought together for a full slate of festivities will be current Historical Society members from Illinois and other states, many new members, and an array of honored guests. Mrs. Carol Hoekstra, Chairman of the dinner, is being assisted in the arrangements by volunteers from many Chicago communities and organizations. They are planning the program as a patriotic celebration emphasizing the history of the Supreme Court and its role in our governmental structure.

Mrs. Hoekstra and her committee members hope to increase public awareness of the importance of our democratic institutions and the need to preserve them through hard work, dedication and participation. They want to develop an understanding of our country's judicial system, emphasizing the U.S. Supreme Court's role over two centuries in preserving our Constitution.

The schedule of events for the evening, to be held at the historic, beautifully restored Palmer House, includes a reception, educative films and displays. During the banquet the famous violins of Franz Benteler will perform patriotic music including George Washington's inaugural march.

Those attending the November 10 banquet will become founding members of the Illinois chapter in addition to being members of the Society nationally.

Invitations will be sent out over the next several weeks. Tickets are \$100 per person. Present members of the Society will be asked to pay only \$50 and will be honored at a special reception just prior to the formal reception for new members.



Chief Judge Howard T. Markey, liaison between the federal judiciary and bicentenary era groups, and SCHS Founding Member.

CELEBRATING FREEDOM

Commemorations Planned as Oldest Constitution Nears 200

Since its creation, the United States has grown from an infant nation to a world power; its population has surged from four million to 220 million; its annual budget has increased from 5 million to 500 billion dollars. Yet, the United States Constitution, our instrument of freedom, has been altered but twenty-six times. No nation has changed so much while keeping its governing principles so firmly intact; no written constitution has endured so long. It is therefore fitting that programs are already underway to commemorate the 200th anniversary of the drafting of the Constitution in 1787 and of the bicentennial of other significant related events which occurred between 1787 and 1800.

Three bills have been introduced recently in the House and the Senate to bring timely federal planning to the celebrations. The bills, introduced by Representative Bennett, Representatives Wright and Rhodes, and Senators Baker and Byrd, call for

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BICENTENARY

(Cont. from page 1)

the establishment of a "Citizen's Commission for the Commemoration of the Bicentenary Era."

The proposed Commission would generate interest in, encourage observance of and sponsor educational programs about historical events between 1776 and 1800 such as the Constitutional Convention (1787), the first Joint Session of the United States Congress (1789), George Washington's inauguration (1789), the initial convening of the Supreme Court (1790), and the establishment of the nation's capitol in Washington (1800). The Commission would be chaired by The President of the United States, and composed of The Chief Justice, President of the Senate, and Speaker of the House, state and federal officials, appointees from each of the three branches of the federal government, and from each of the four supporting historical organizations — the Supreme Court Historical Society, the White House Historical Association, the United States Capitol Historical Society and the Washington National Monument Association. All three bills are awaiting action when Congress reconvenes in the fall.

In other areas, Chief Justice Burger will be appointing a committee of the Judicial Conference of the United States on the Bicentennial Era before the end of the year. In the interim, the Chief Justice has appointed the Chief Judge of the United States Court of Customs and Patent Appeals, the Honorable Howard T. Markey, to act as liaison between all bicentenary era groups and the federal judiciary. Judge Markey previously served as Coordinator of the Bicentennial Committee of the Judicial Conference, related to the 1976 bicentennial of the signing of The Declaration of Independence.

Already underway are several private efforts to commemorate the 200th anniversary of the Constitution. One of these is "Project 87," jointly sponsored by the American Historical Association

and the American Political Science Association, and co-chaired by the project's originators, Richard B. Morris and James MacGregor Burns, past presidents respectively of the sponsoring organizations. Project 87 seeks to stimulate in the coming decade a rigorous and searching reexamination of the Constitution and the political system that has grown up around it. The project is conceived in three stages. Stage 1, to extend through the end of this decade, will encourage scholarly research in various areas of constitutional study. Stage 2, to begin early in the 1980's, will focus on public education, seeking to develop new materials for teaching the Constitution and politics in schools, and producing programs for public television and radio about the Constitution. Finally, Stage 3, starting in the middle of the next decade, will encourage public participation in community forums and debates on constitutional issues.

The Bicentennial Council of the Thirteen Original States Fund, Inc. is sponsoring the "Great American Achievements Program," which began in 1977. Each year there will be a different historical theme, with 1987 focusing on "The Federal Union." Under this program, there will be annual commemorative conferences, publication of educational materials and newsletters, grants of scholarships, book and achievement awards, and the encouraging of other groups to undertake commemorative activities.

The American Enterprise Institute for Public Policy Research has established "A Decade of Study on the Constitution." Running from 1978 through 1987, the study will review the constitution in a non-legal fashion, interpreting it as a whole rather than focusing on specific clauses. There will be annual commemorative conferences, conferences at universities, the publication of full-length scholarly studies and shorter essays, the creation of new courses of study for high schools and colleges, panel discussions for broadcast on public television, and coordination with programs in other nations.

More than twenty other public and private organizations are also planning special commemorative events. The Supreme Court Historical Society, in addition to supporting federal legislation and Project 87, has set up two internal committees to plan further involvements in commemorative activities: the "Constitutional Bicentenary Planning Committee", chaired by Richard B. Morris, and the "Advisory Committee on Participation in Historical Programs", chaired by Professor Stanley Katz, President of the American Society for Legal History. The Supreme Court Historical Society welcomes news about plans for other major projects commemorating the Bicentenary Era so that we may keep our readers informed and encourage support for relevant programs.

Chief Justice John Marshall (Ed Holmes) led the U.S. Supreme Court in America's infancy. His outspoken views in favor of a strong national government and a Supreme Court equal to Congress and the President made him a stubborn opponent of Thomas Jefferson. This photo is from the film series, "Equal Justice Under Law."



JOHN MARSHALL'S TRIUMPHANT RETURN

Historic Films Available

by David Maloof
Supreme Court Intern

He served as the head of a branch of the United States Government longer than any man in history and he was perhaps the greatest interpreter of our Constitution. He was John Marshall, "the great Chief Justice," and he returns to the courtroom in the film series *Equal Justice Under Law*. It is estimated that this series of five films has been viewed by more than two million people, making them the most successful films ever made about the Supreme Court. The historic films are still available for free loan or purchase to members of the Supreme Court Historical Society and for rental or purchase to the public at large.

The five films dramatically portray the personalities, issues and debates surrounding the major decisions of John Marshall. Three of the films treat crucial Supreme Court decisions: *Marbury v. Madison* (1803) which established the doctrine of judicial review; *McCulloch v. Maryland* (1819) which affirmed the sovereignty of the federal government and expansively interpreted the "necessary and proper" clause in holding that Congress could establish a bank which the states could not tax; and *Gibbons v. Ogden* (1824) which recogniz-

ed the supremacy of Congress' extensive powers under the commerce clause. The remaining two films depict the Aaron Burr treason trial (1807), which upheld an unpopular defendant's right to a fair trial and established the President's accountability to the law. This trial, in which John Marshall presided as a circuit justice, was a precedent relevant to the Nixon tapes case. E.G. Marshall provides evocative narration for all of the films.

Judges, lawyers, educators, film critics and the general public have all been enthusiastic in their praise of the films. Attorney Bruce Schragger characterized one: "My general feeling is that most films are made for immature audiences and look down at their audiences. This film appears to be aimed at a more intelligent group and I feel it is more conducive to discussion." Robert Kelly of the New York State Department of Education said that the films "...lend personality and life to important historical figures." Columbia Features commented that: "Both the subject matter and the dramatizations are fascinating," and a student at

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Highlights of the SCHS Fourth Annual Meeting

The Fourth Annual Meeting of the Supreme Court Historical Society successfully concluded with a gala banquet on the evening of May 14, 1979. Preceding the banquet was a full day of events, including several business meetings, tours of the Supreme Court Building and the second annual scholarly lecture.

The Executive Committee of the Board of Trustees held its quarterly meeting in the morning, followed by a luncheon. Several important resolutions were passed during the meeting, including approval of the FY 1980 budget for the Society.

Benno C. Schmidt, Professor of Constitutional Law at Columbia University, delivered this year's lecture to a capacity audience in the restored Supreme Court Chamber in the U.S. Capitol, at 2 pm. His lecture was entitled "Principle and Prejudice: Race and the Supreme Court During the Progressive Era." Drawing on his on-going research for the Oliver Wendell Holmes Devise, Professor Schmidt traced a series of constitutional cases involving race relations which have influenced the Supreme Court civil rights decisions of recent years. He discussed several cases heard during the Progressive Era with specific emphasis on the tenure of Chief Justice Edward Douglass White.

The general membership meeting held at 6 pm in the Supreme Courtroom was well attended. President Gossett gave her annual report at the meeting, highlighting the many revisions and innovations in the Society's program of work during the past year. The election of Trustees was held, and

Chairpersons of the various standing committees made their reports. During the meeting of the full Board of Trustees, following the membership meeting, SCHS members were invited to participate in a tour of the Supreme Court Building conducted by Curator Gail Galloway.

The annual reception began at 7 pm in the East and West Conference Rooms leading up to the formal dinner at 8 pm in the Great Hall. The black tie affair was truly a splendid occasion, and the hall was filled to capacity with Society members and their guests. Greetings were delivered by President Gossett and Ambassador Ralph E. Becker, Chairman of the Annual Meeting Committee. Following a magnificent seven-course dinner, the guests were treated to brief remarks by The Chief Justice and an after-dinner speech by Associate Justice William J. Brennan, Jr. Justice Brennan's talk focused on the importance of scholarly research projects, such as the SCHS Documentary History for the first decade of the Supreme Court and the preservation of our legal and cultural heritage.

The climax of the evening was the entrance of the U.S. Army Strolling Strings ensemble. The 20 violinists strolled around the tables in the candlelit hall and performed a selection of classical and popular musical numbers.

Chairman Becker and Annual Meeting Committee members Alice O'Donnell and Linwood Holton were commended for their outstanding preparation and coordination of the Fourth Annual Meeting.



Professor Benno C. Schmidt of Columbia University, SCHS guest lecturer, and his daughter enjoy the May 14 reception.



James J. Bierbower, newly-elected Trustee and SCHS Membership Chairman, pictured at the Annual Meeting with Mrs. Bierbower.



Merlo J. Pusey, elected to the Board of Trustees on May 14, is also Chairman of the Yearbook Advisory Board.



Trustee Margaret Chase Smith with SCHS Executive Director Betty Crites Dillon.

New Committee Appointments

President Elizabeth Hughes Gossett has announced several new appointments for the Society's standing committees and the creation of some new positions in the Supreme Court Historical Society.

James J. Bierbower has been appointed Membership Chairman, succeeding Fred M. Vinson, Jr. (see article on new Trustees, opposite).

Former Virginia Governor Linwood Holton has been named First Vice-President of the Society, and Chairman of the Budget and Finance Committee, succeeding Earl W. Kintner. Richard B. Pilkinton and David A. Sacks have been appointed to serve on that committee.

A new committee has been created: the Advisory Committee on Participation in Historical Programs. This committee will be an important one — recommending and coordinating the Supreme Court Historical Society's participation in the programs of affiliated organizations, such as conferences, meetings, exhibits, and projects. Stanley N. Katz, Bicentennial Professor of the History of American Law and Liberty at Princeton University and President of the American Society of Legal Historians, has accepted the chairmanship of this committee.

Frank Gilbert, Chief Counsel, Landmarks and Preservation Law with the National Trust for Historic Preservation and grandson of Supreme Court Justice Louis Brandeis, has been appointed by President Gossett as Special Advisor for Permanent Headquarters. Mr. Gilbert will assist Executive Director Betty C. Dillon in locating an appropriate headquarters site for the Society.

BIERBOWER, PUSEY, SMITH ELECTED TO BOARD

At the General Membership meeting in May, three outstanding individuals were elected to serve three-year terms on the Supreme Court Historical Society's Board of Trustees: James J. Bierbower, Merlo J. Pusey and Margaret Chase Smith.

James J. Bierbower is a partner in the Washington, D.C. law firm of Bierbower and Rockefeller. He holds an LL.B. from Georgetown University and an LL.M. from George Washington University. Mr. Bierbower has served as Chairman of the American Bar Association's General Practice Section and served three terms in the ABA House of Delegates. He is a past President of the Bar Association of the District of Columbia. He has been named Membership Chairman for the Society.

Merlo J. Pusey is a retired Associate Editor and editorial writer for the *Washington Post*. Mr. Pusey matriculated from the University of Utah and has had a notable career in the field of journalism. In 1952 he received the Pulitzer Prize for Biography for his 2-volume authorized biography of Charles Evans Hughes. Since 1976, Mr. Pusey has served on the Society's Publications Committee and is Chairman of the Yearbook Advisory Board.

Former U.S. Senator Margaret Chase Smith served in Congress from 1940 until 1973. The recipient of 85 honorary degrees, Senator Smith is an active member of many national and international organizations. Her participation in the Supreme Court Historical Society is consistent with many of the objectives she has pursued throughout her career.

Along with the three new Trustees, the following members of the Board were re-elected to three year terms: Patricia C. Acheson, Ralph E. Becker, Herbert Brownell, William T. Coleman, Jr., Newell W. Ellison, Paul A. Freund, Erwin N. Griswold, Joseph H. Hennage, Harvey T. Reid, Whitney North Seymour, Hobart Taylor, Jr. and Mrs. Earl Warren.

This photograph of the homestead of Chief Justice Oliver Ellsworth, "Elmwood" in Windsor, Connecticut is the third in a series of photographs of the homes of the Chief Justices featured in the *Quarterly*. Chief Justice Ellsworth was born in this house in 1745 and later inherited it from his father. The homestead is now owned by the Connecticut State Society DAR.



Photo courtesy of the National Society Daughters of the American Revolution

FILM SERIES

(Cont. from page 3)

the University of Houston felt they "...provided an entertaining as well as an educational boost."

The films have enjoyed a diverse and widespread distribution. They have been broadcast nationally on the Public Broadcasting System. They have been viewed by church, community and professional groups throughout the United States, and, with accompanying teacher's guides available from Pittsburgh public television station WQED, they have served as an important educational tool for hundreds of high schools, colleges and law schools. The four military academies have incorporated the films into their regular course work. The International Communications Agency has shown the films on six continents, from the Inns of Court in London to the Soviet Union. The National Archives, the primary distributor of the series, requires four to six weeks notice on orders because of the films' popularity.

The series was originally produced by the Judicial Conference of the United States in association with the Public Broadcasting Service's national production center at WQED. Professor William F. Swindler, a member of the Board of Trustees and Chairman of the Publications Committee of the Society was a consultant on the project.

Any person or organizations may purchase video cassettes or rent or purchase 16mm films of

the productions. Purchase prices range from \$115 to \$168 per video cassette or film, while purchase of the entire series cost \$550 on video cassette and \$750 on film. Rental fees range from \$11.25 to \$15 per film. For further information on rentals and purchases, contact:

National Audiovisual Center
General Services Administration
Attention: Order Section
Washington, D.C. 20409
(301)763-1896

To obtain teacher's guide which accompanies the films, at a cost of \$1 per guide, contact Educational Services, WQED, 4802 5th Avenue, Pittsburgh, Pennsylvania, 15215.

The Federal Judicial Center provides free loan of the films to employees of the Judicial Branch of the United States Government and members of The Supreme Court Historical Society. For further information on free loans, contact:

Federal Judicial Center
Media Services Unit
1520 H Street, N.W.
Washington, D.C. 20005
(202) 633-6024

Equal Justice Under Law may be videotaped by educational institutions and the copies retained for future educational showings.

Student Interns Assist SCHS Projects

Executive Office Interns

The Supreme Court Historical Society was fortunate to have the assistance of two volunteer student interns at the headquarters office this spring and summer. Although the SCHS Documentary History project has been successfully employing student interns for the past two years, the executive offices have not had volunteer interns until this year.

The first of the interns to come on board was J. Brad Wiggins of Ogden, Utah. A 1979 graduate of Brigham Young University, Brad served with the Society from April until the end of June. An English major, he was able to assist the SCHS staff in a variety of writing assignments including the revision of the Society's membership brochure. He proved to be a valuable asset to the coordination of the Fourth Annual Meeting in May and to the preparation of an in-depth study of the Society's membership activities. Brad will begin studies at the J. Reuben Clark School of Law at Brigham Young University in September 1979.

The second of the Society's interns is Mayhew Wainwright (Wain) Fishburn, Jr. of San Diego, California. Wain was a 1975 graduate of the University of Arizona with a double major in political science and history. He will enter his second year of law school at the University of San Diego in the



J. Brad Wiggins, SCHS student intern.

fall. Wain is assisting the Executive Director, Betty Crites Dillon, in a search for a permanent headquarters for the Supreme Court Historical Society.

The SCHS interns were given a thorough orientation program, and had opportunities to participate in activities with the Supreme Court and congressional interns. Among the highlights of the orientation were tours of the White House, Supreme Court and Folger Shakespeare Library and participation in special congressional seminars.

The Supreme Court Historical Society endeavors to provide its interns with a broad experience in Washington, both academic and practical. College and graduate students who are interested in applying for an internship for next year should contact the Executive Director, stating their interests, qualifications, and availability.

Documentary History Interns

Two student interns are presently assisting Dr. Maeva Marcus and the staff of the SCHS ongoing research project, *Documentary History of the Supreme Court, 1789-1800*. Stephen Tull, a 1979 graduate of American University with a degree in political science, has been working with the project since last fall. Stephen was selected to receive the summer training scholarship contributed by SCHS Vice President Whitney North Seymour in memory of John Lord O'Brian. (Note: This was the second summer training scholarship awarded to an intern at the Documentary History Project. The 1978 scholarship was donated by SCHS Vice President Earl W. Kintner in memory of Rowland F. Kirks. The Society plans to make an annual award in memory of an outstanding member of the Supreme Court bar.) Upon completion of his internship Stephen plans to seek a graduate degree in library science.

The other intern at the project is Heidi Garland, a junior at Harvard University majoring in history and political science. Heidi also received a summer stipend, contributed by the Dronsicks of Hollywood, Florida.

Working fulltime this summer, the two specially selected students are assisting with the research of newspapers and public primary sources from the period 1789-1800. Under the supervision of a trained staff member, the interns participate in locating pertinent material in the manuscript collections of the Library of Congress and in the records of the National Archives.

SCHS to Chair Panel at 1980 OAH Meeting

The Supreme Court Historical Society will sponsor a panel at the annual meeting of the Organization of American Historians (OAH) in San Francisco in April of 1980. Dr. Maeva Marcus, editor of the SCHS-sponsored *Documentary History of the Supreme Court of the United States, 1789-1800* and author of *Truman and the Steel Seizure Case: The Limits of Presidential Power*, presented the original sponsorship proposal to OAH in March of this year and will chair the approved panel next spring. (Dr. Marcus serves on the OAH Pelzer Memorial Award committee. Each year this award is given for the best article written by a graduate student in American History.)

Two scholarly papers will be delivered under the general topic of Appointments to the Supreme Court. Melvin I. Urofsky, Professor of History at Virginia Commonwealth University and editor of the *Letters of Louis D. Brandeis*, will discuss the 1916 nomination of Brandeis as Associate Justice. James M. Buchanan, assistant editor of the SCHS Documentary Project and Ph.D. candidate at the University of Maryland, will present a major paper on the appointment of Charles Evans Hughes to the Chief Justiceship. The papers will emphasize the conflict between progressive and corporate interests in politics during the early 20th Century and its reflection in Supreme Court decisions of that era.

G. Edward White, a member of the faculty of the University of Virginia School of Law and author of *The American Judicial Tradition*, will offer one comment. Paul Murphy, Professor of History at the University of Minnesota and author of *The Constitution in Crisis Times*, will also comment.

A future issue of the *Quarterly* will give specific details regarding time, place and attendance at this session.

Supreme Court Historical Society Upcoming Events

September 17, 1979

Executive Committee Meeting in Washington, D.C. (previously scheduled for Williamsburg) at 10:30 am.

September 26, 1979

Joint Meeting of the Yearbook Advisory Board and the Publications Committee at 10:00 am.

November 10, 1979

Citizens Testimonial Dinner establishing SCHS Illinois Chapter, Palmer House, Chicago.

December 12, 1979

Executive Committee Meeting in Washington, D.C., 10:30 am.

June 9, 1980

Fifth Annual Meeting of the Supreme Court Historical Society in Washington, D.C. (preceding the opening of the American Law Institute).

The Society's 1978-79 audit has been completed by the independent accounting firm of Mathews, Carter & Boyce. The audit report may be examined by any member during business hours at the Society's offices.

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