



## THE SUPREME COURT HISTORICAL SOCIETY

# Quarterly

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SPRING, 1981

## Society Holds Sixth Annual Meeting

On May 18th, the Society held its Sixth Annual Meeting at the Supreme Court in Washington, D.C. By action of Linwood Holton, the Society's President, the entire day's events were held in memoriam to Elizabeth Hughes Gossett, the Society's Chairman, who died on April 25th. The annual lecture was presented by Professor George Haskins, Biddle Professor of Law at the University of Pennsylvania at 2:00 P.M. in the Restored Supreme Court chamber in the Capitol. A full house heard Professor Haskins' scholarly and thought-provoking address on the Marshall Court's successful attempt to separate law from politics in the Court's decisions.

At 6:00 P.M., the Board of Trustees held their annual meeting, and among other business elected the following individuals as new officers of the Society: Fred Vinson, Jr., Chairman; Alice O'Donnell, First Vice President; Frank Gilbert, David Lloyd Kreeger and Kenneth Rush, Vice Presidents; Virginia Warren Daly, Secretary; and Peter Knowles, Treasurer. Also elected by the Board to serve on the Executive Committee were Elizabeth Black, Ralph Becker, Charles Duncan, and Sol Linowitz.

Following the meeting of the Trustees, the annual meeting of the general membership was called to order in the Supreme Court chamber. In his report to the Society, President Holton mentioned the renewed sense of commitment and enthusiasm which has influenced the Society's attitude during the past year. As a result of a reexamination of the Society's purpose by the Board last fall, the Society has benefited from the clearer agenda of priorities and objectives. The Board has devoted considerable attention to the careful management of the Society's resources, and has sought to improve and expand its programs during the year. The President was pleased to announce that the Society sponsored a new project in November — the completion of a new Index of the Opinions of Supreme Court Justices, and he reminded the membership of several other Society activities, including the ongoing

Documentary History Project.

President Holton also praised the Society's recent gains in membership, indicating a net growth of roughly ten percent was anticipated by the end of the

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### Law Versus Politics: Haskins Presents Annual Lecture

On May 18th, Professor George Haskins presented the Society's Annual lecture in the restored Supreme Court chamber of the United States Capitol. Haskins, who is the Biddle Professor of Law at the University of Pennsylvania, entitled his address "Law Versus Politics in the Early Years of the Marshall Court."

As he stood on the very spot where Chief Justice John Marshall delivered many of his most famous opinions, Professor Haskins reminded his listeners that Marshall's considerable accomplishments tend to obscure the very real difficulties confronting the Court during those early years. Beneath the apparent historical calm of the period, vibrant clashes of personality, constitutional attitudes, and political ideologies threatened both the Court's effectiveness and its very existence as an independent and coequal branch of the new federal government.

Characterized as perhaps the "greatest judge in the language", Marshall served on the Court with other judges of proven abilities. Nevertheless, prior to 1801 the Supreme Court had been little more than the titular head of the national judiciary, and had done little to presage its later preeminence. Indeed, to some, and perhaps most notably Chief Justice John Jay, the Court seemed destined to languish in relative obscurity. But, Haskins stated, "under Marshall, the Court became the ultimate seat of federal judicial power, and more important, a firm-standing bulwark for a developing rule of law as distinct from the elusive and unpredictable accommodations to the executive and

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## In Memoriam: Elizabeth Hughes Gossett (1907-1981)

Elizabeth Hughes Gossett, the last surviving child of the late Chief Justice Charles Evans Hughes, died on Saturday, April 25 in Detroit after a short illness. Born in the Governor's Mansion in Albany, New York in 1907, Mrs. Gossett was only three years old when her father was appointed by President Theodore Roosevelt to the Supreme Court as an Associate Justice. In 1916, she experienced the excitement of her father's campaign against Woodrow Wilson for the presidency, and shared in the disappointment of his narrow defeat.

Elizabeth Hughes returned with her family to Washington in 1921 when President Harding appointed her father Secretary of State. She attended the Madeira School in McLean, Virginia and majored in history at Barnard College in New York. After taking her degree in 1929, she married one of her father's former law clerks, William T. Gossett. A distinguished young attorney, her husband would become General Counsel to the Ford Motor Company, and serve as a President of the American Bar Association.

In 1930, while her brother was serving as Solicitor General, her father was appointed Chief Justice of the United States by President Hoover. While Chief Justice, Hughes presided over the dedication of the Supreme Court building in 1932, and the first session of Court held in the new Courthouse in 1935. He retired from the bench in 1941, and died seven years later.

Mrs. Gossett exhibited in her own life the same commitment to excellence and dedication to public service which had characterized her father's brilliant career. As her three children grew older, she increasingly devoted her considerable energy and abilities to important civic projects. She served for many years as a trustee of Barnard College, and was Vice President



Photo of Mrs. Gossett dedicating a plaque at her father's birthplace as it appeared in The Post-Star of Glen Falls, New York on June 3, 1976.

of the founding trustees of Oakland University in Rochester, Michigan. Mrs. Gossett was a member of the Detroit Urban League, Vice-Chairman of the Trustees of the Merrill-Palmer Institute, and a board member of the Kingswood School of Cranbrook.

But it was as a founder, President, and Chairman of the Board of the Supreme Court Historical Society that Mrs. Gossett was perhaps best known. As Mr. Justice Lewis F. Powell, Jr. has noted, she "inherited from her father a respect — almost a reverence — for the Supreme Court as an institution. She viewed the Court as the ultimate guardian of the liberties that Americans cherish."

The following are excerpts from the tributes to Elizabeth Hughes Gossett delivered by Dean Lowell Eklund of Oakland University at a memorial service held on April 28 at Christ Church-Cranbrook, Bloomfield Hills, Michigan, and by Chief Justice Warren E. Burger at the Annual Meeting of the Society on May 18 in the Supreme Court, Washington, D.C. Said Dean Eklund:

*"I stand here very humbly aware of the awesome assignment that is mine to translate the deep emotions of the heart into the language of the mind in a meaningful way hopefully appropriate to the circumstances.*

*On Saturday, April 25, 1981 each one of us was impoverished by the passing from this life and our lives of Elizabeth Hughes Gossett. Her special — almost unique — quality of intellect, wisdom, quiet yet irresistible leadership; her Christian example of caring, of grace, and humanity all combined to render her a dominant force for good and a noble inspiration for everyone of us here whose life she touched — often repeatedly — in especially significant and helpful ways. This remarkable woman — an everready resource of wise counsel and loving interest and support — we shall all miss deeply and longingly.*

*We all have special memories of Elizabeth Gossett. It was for some of us a great privilege to know, to learn from, and to love her, starting in the early pioneer days of Oakland University some 23 years ago when she gave so freely to that fledgling, unproven institution at a stage when for more conservative and less caring people it was considered a personal and professional hazard too risky to assume with all out commitment. But Elizabeth Gossett was there, day after day, with her incomparable counsel and support.*

*We all know well of the many outstanding contributions Elizabeth Gossett has made to her community and her nation. As one of the progeny of a distinguished American statesman and architect of our legal and governmental structure, she acknowledged and honored his eminent paternal legacy*



Mrs. Gossett relaxing at her Bloomfield Hills, Michigan home shortly after her election as President of the Society in the Spring of 1975.

*with a modesty, dignity and grace — that we all had cause to admire and to respect.*

*As the beloved wife of over fifty memorable years of a distinguished and internationally recognized lawyer, she complemented and shared in a near-professional manner and role his widely acclaimed status and identity.*

*As a compassionate and sensitive libertarian she was a champion of civil rights in speech, in document, and in action. Her cultural influence in matters educational and directly in the arts is evidenced in her community's unusual accomplishments and progress in these enlightened pursuits. Her inordinate interest in history and law brought to fruition her own conception: The Supreme Court Historical Society which she founded and led for many years as President and Chairman of the Board.*

*Her arid pursuit of self-directed scholarship and perpetual inquiry rendered the model of enlightened individual responsibility for self-improvement and personal growth — the essential objective of education.*

*But mostly — and through it all — we shall remember Elizabeth Gossett for being a very special, kind and loving friend — the common privileged bond we all — all of us in this room — share so proudly and gratefully today — and tomorrow, and for all the tomorrows to come. . . .*

*And now as each of us contemplates his or her*

*own terrestrial life absent of our dear friend, Elizabeth, may we be consoled and fill our sense of emptiness by the words of the philosopher who wrote: "The purpose of life is not to be happy; it is to be useful — to be honorable — to be compassionate — it is to matter — to have it make some difference that we have lived at all."*

*And today we are witnesses to the tangible, glorious example of one who when among us emphatically had it make some difference that she lived at all. And we are all of us — the beneficiaries of her noble life. . . ."*

And Chief Justice Burger said:

*"When this Society evolved six years ago from the Historical Advisory Committee, Elizabeth Hughes Gossett was called upon to be our first President. She had literally 'grown up' in the Supreme Court, during her father's first service as an Associate Justice, and later while he was Chief Justice when she was a young woman.*

*She met, and later married, one of Chief Justice Hughes' clerks, William T. Gossett, who became one of the distinguished leaders of our profession and a leading member of the Bar of this Court.*

*Her article on her father in the 1976 Yearbook of the Society, revealed not only her love and reverence for her father, but her reverence for this Court, and a keen understanding of its place in American life.*

*We could not have found anyone better suited to be the first President and one of the founders of this Society. She brought to its work the inherited talent for leadership which characterized her distinguished father. She brought a vast first-hand knowledge about the Court from the 21 years her father served here. She brought a glow of warmth, a zest and drive to all the activities launched since the Society began.*

*Her sudden passing has left a gap in our ranks and has taken a very dear friend whom all of us admired and loved. We shall miss her sorely."*

By action of the Board of Trustees, the Society has established the Elizabeth Hughes Gossett Memorial Fund for those who might wish to make a contribution to the Society in her memory.

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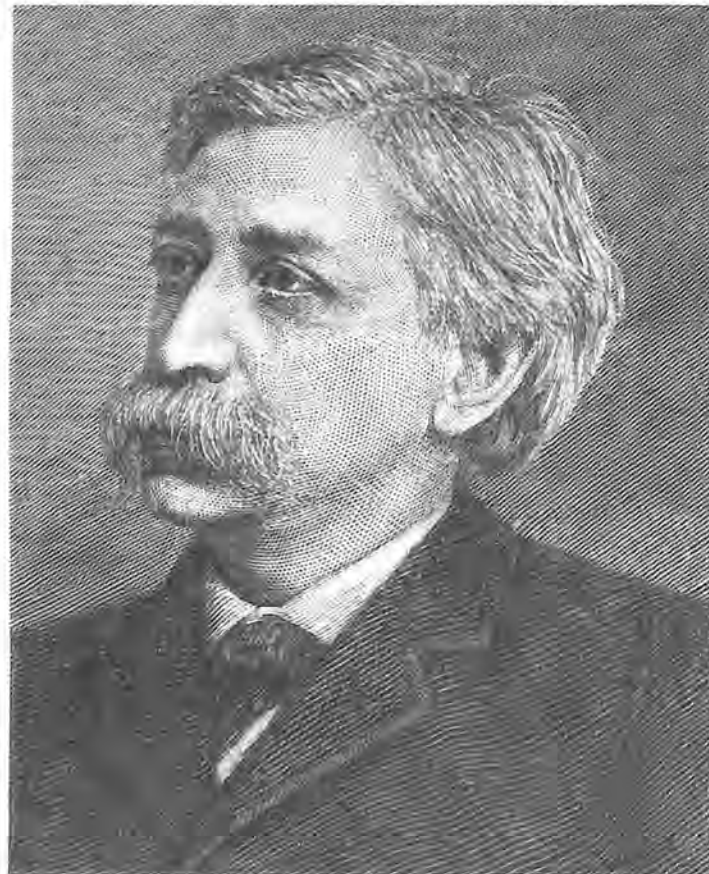
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## Melville Weston Fuller: Eighth Chief Justice of the United States

Born on February 11, 1833, Melville Weston Fuller was the second son of Frederick A. Fuller and Catherine Weston Fuller, of Augusta, Maine. His mother was the daughter of Nathan Weston, Jr., a justice on the Supreme Court of Maine. His father also came from a distinguished old New England family, his first American ancestor having been a signer of the Mayflower Compact. Frederick Fuller attended Dartmouth College, where he met and became friends with a classmate who would become one of the country's greatest lawyers, Daniel Webster. Like Webster, Fuller became a lawyer, and achieved a degree of prominence in his law practice in Augusta.

Despite this heritage, Melville Fuller would scarcely benefit from his father's professional reputation and status. Shortly after his birth, his parents separated; his mother subsequently won a divorce from her husband on the grounds of infidelity. She took custody of the two small boys, and returned to live with her parents, giving piano lessons to help pay for her children's support. Frederick Fuller remarried in 1839, and had five children by his second wife. The obligations of his new family left him either unable or unwilling to provide any substantial financial assistance to Melville or his brother. Financial insecurity and the social ramifications of a broken home were factors which significantly affected young Fuller's early childhood.



Fuller as he appeared at the time of his nomination as Chief Justice in 1888.

Politically, the Weston and Fuller families were Jacksonian democrats in an area where Federalists and Whigs were in the majority. Although the Jacksonians carried much of the country in the presidential election of 1832, they were still a minority viewed with disdain in conservative Federalist Maine. Political antipathy was probably responsible for a rift within the South Parish Congregational Church, which eventually forced Fuller's mother and her parents to resign their membership in the Church when Melville was seven. In 1839, Fuller's mother, grandparents and uncle, Daniel Weston, were brought before a parish tribunal to answer charges that they had permitted younger members of the parish to square dance at parties held in the Weston home. Although considered acceptable a generation earlier, dancing was now viewed as impious and improper behavior by the conservative congregation. Daniel Weston was excommunicated for his role in undermining local morality; the others were persuaded to resign. Shortly thereafter, Fuller's family changed their affiliation to St. Mark's Episcopal Church in Augusta, Maine.

Shame and ridicule were an inevitable result of Fuller's family situation. The political and religious intolerance of his neighbors taught young Fuller both the value of patient adherence to his own convictions, and a special sensitivity to the beliefs and problems of others. He developed an inner reserve and strength, and a stubborn perseverance which carried him through immediate difficulties. Thus, as a young man, Fuller had already acquired many of the characteristics which would distinguish his professional career.

At the age of 16, Fuller entered Bowdoin College in Brunswick, Maine. He received a strong classical education, and he was elected to Phi Beta Kappa. His most notable achievement at Bowdoin was not to be revealed in public honors, however, but in the records of the college library. During his four years at Bowdoin, Fuller read more books in the library's 5,000 volume collection than any other student. Even as a child, Fuller had possessed a strong interest in reading and literature, and his grandfather's library had provided a ready supply of challenges. Though his earliest works are now best forgotten, Fuller was a prolific and accomplished local poet. When his mother died in 1854, a grief-stricken son expressed his sorrow in a poetic tribute:

*I may not flee it; in the crowded street  
Or in solitude but all forgot  
Tis ever there, a visitant unmeet  
Deep in my heart the worm that dieth not.*

*There is no consolation in the thought  
That from her lips no chiding words were spoken  
That her great soul on earth for nothing sought  
Toiling for me until its chords were broken.*

*Too late the knowledge of that deep devotion  
Too late belief of what I should have done  
Chained to my fate to suffer the corrosion  
Of my worn heart until life's sands are run.*

*Why should I weep? Why raise the voice of wailing?  
Why name the pangs that keep me on the rock  
Or prayers or tears alike were unavailing  
She has gone home. I cannot call her back.*

*And I alone must wander here forsaken  
In crowded streets or in secluded spot  
From that sad dream, oh, never more to waken  
Or cease to feel the worms that dieth not.*

Not long after his mother's death, Fuller entered Harvard Law School, where he attended lectures for six months. He was admitted to the Bar of Maine in 1855, and returned to Augusta where he took a position editing a local newspaper. A year later, dejected over a broken engagement to a young lady, Fuller left Augusta to seek his fortune in the West.

Fuller moved to Chicago, and joined the law firm of Pearson & Dow. Through a peculiar set of circumstances, Fuller became Dow's partner the following year. Pearson, it seems, had been living for some time in a boarding house operated by Miss Emily Chapman, who sued him for failing to pay his bills. Fuller represented Miss Chapman, and won a judgment in her behalf despite Pearson's defense that he had been living with the claimant with her consent, and for her "accommodation, edification, entertainment and benefit." Deeply in debt, Pearson left the firm, and moved to Springfield, Illinois, where he was later fatally shot by a policeman during a street brawl.

Between 1857 and 1864, Fuller devoted little of his time to his law practice. He became an active participant in local Democratic Party and Chicago politics. Although he was personally opposed to slavery, he rejected the position of the radical abolitionists which he viewed as dangerous and socially divisive. Fuller witnessed firsthand the civil strife which resulted from passage of the Kansas-Nebraska Act of 1857, serving as a staff correspondent for the *New York Herald*; unfortunately, none of his articles carried a by-line, and it is impossible to determine exactly which articles were written by Fuller. In 1858, Fuller joined the political entourage of Stephen Douglas, who was campaigning for the United States Senate against a relatively unknown Republican candidate named Abraham Lincoln. Following Douglas' victory, Fuller turned his attention once again to the practice of law. But his heart was not really in it; he was constantly in debt, and the partnership with Dow was dissolved in 1860. Fuller's predilection for politics had left him little time or energy to establish himself as a lawyer. However, he did pause briefly from his political activities in June, 1858, to marry Calista Ophelia Reynolds. In the next few years he became the father of two daughters, and was faced with growing responsibilities. In 1862, Fuller formed a new partnership with Charles H. Ham. Things were extremely difficult at



Chief Justice Fuller around the turn of the century.

first. The Civil War disrupted business, and Fuller went further into debt. In 1864, his wife died of tuberculosis, leaving him the awesome responsibility of raising his two young daughters by himself. Responding to this crisis, Fuller threw himself into his work, devoting his considerable energies for the first time to establishing himself as a practitioner. He quickly built a reputation for himself, and gained a new level of prominence and financial security.

In 1866, Fuller married Mary Ellen Coolbaugh, the daughter of one of Chicago's most prominent bankers. The marriage was an extremely good one. Between 1867 and 1874 the couple had eight children, seven of whom survived childhood. Fuller's practice flourished, due both to his new familial connection, and to his own skill in meeting the legal needs of Chicago's leading businessmen. Throughout the 1870's, Fuller's prominence as one of Illinois' leading attorneys continued to grow. In 1872, he was admitted to the Bar of the Supreme Court of the United States, and subsequently argued cases before the Chase and Waite courts. During the latter part of the decade, Fuller gained a reputation for his literary as well as his legal accomplishments. Joining the Chicago Literary Club in 1877, Fuller met many of the notable intellectual leaders of his day. Considered by his peers a delightful and

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## Fuller (continued)

articulate speaker, Fuller was frequently asked to address this distinguished group of local literati.

In 1884, Fuller's close friend, Grover Cleveland, was elected President. Cleveland increasingly depended upon Fuller's advice, especially concerning various appointments. Though a frequent guest at the White House, Fuller never used his personal relationship with Cleveland to seek favors for himself. Despite the President's efforts to press him into public service, Fuller declined an appointment as Chairman of the Civil Service Commission, and later as Solicitor General, pleading that the demands of his family and practice precluded his accepting a position in the government. Cleveland finally prevailed upon his friend in 1888 to accept a position which even Fuller could not refuse — Chief Justice of the United States.

Shortly after moving his family to Washington, Fuller purchased a large brick mansion on Massachusetts Avenue near Dupont Circle. A commodious and friendly home for his large family, the house frequently served as the site of the Justices' conferences, being far more comfortable than the Court's inadequate accommodations in the Capitol. Though Fuller made friends easily by virtue of his gracious manner and subtle wit, he found himself increasingly unable to contend with the demands of Washington society. As a result of the Court's growing caseload and his considerable administrative responsibilities, Fuller withdrew from an active participation in the social life of the capital, reflecting a trend toward self imposed seclusion and preoccupation with the work of the Court that has characterized the lives of Supreme Court justices ever since.

Throughout his tenure on the Court, Chief Justice Fuller served with subtle diplomacy and quiet dignity. Though an able lawyer of diverse experience, he did not seek personal fame, assigning opinions in the most prominent and important cases to his brethren. Fuller was an unusually gifted conciliator, respected by his fellow Justices for his capable leadership and administrative acumen. Justice Samuel Freeman Miller — who served with Taney, Chase and Waite before Fuller — and Justice Oliver Wendell Holmes — who sat with White, Taft and Hughes after Fuller — both agreed that as a presiding officer, Fuller was the most successful Chief Justice they had known.

As the years went by, the strain of Fuller's demanding schedule began to take its toll. Fuller never fully recovered from the shock of losing his wife in 1904; after his wife's death, his health was uneven, and his energy sapped. His physical condition deteriorated considerably in 1909, and it became obvious to Fuller and the other members of the Court that he was beginning to fail noticeably under the strain of the Court's demanding pace. Having served almost twenty-two years — the third longest tenure of a Chief Justice — Melville Fuller died on July 4, 1910. Noting that Fuller had outlived most of his contemporaries, Jus-

tice Holmes accurately assessed the nation's response to Fuller's death: "I think the public will not realize what a great man it has lost."

## Sixth Annual Meeting (continued)

current fiscal year. This, said Holton, in concert with the nearly completed implementation of a single annual billing cycle for the Society's membership is expected to substantially increase membership revenues in Fiscal Year 1982. President Holton cited this, and similar improvements in other areas, as providing a firmer economic foundation on which the Society could base its plans for the coming few years. A Program Advisory Committee, he noted, was appointed to set short and long-term goals and would soon be providing the Board of Trustees with its report. Advance planning is already underway to commemorate the 50th anniversary of the United States Constitution. President Holton also mentioned that the Society's Board of Trustees was giving serious consideration to the acquisition of a modest permanent headquarters for the Society, though he indicated this project would require a great deal more planning and some major fund-raising efforts.

The Chief Justice of the United States, Warren E. Burger, presented a memorial eulogy to Elizabeth Hughes Gossett in commemoration of her many contributions to the Society.

Elizabeth Black, Secretary of the Society, and Chairman of the Nominating Committee, presented names for consideration by the members of the Society, and those in attendance elected the following trustees to new three year terms: Elizabeth Black, Vincent Burke, Charles T. Duncan, Lita Annenberg Hazen, Linwood Holton, Earl W. Kintner, Sol Linowitz, William P. Rogers, and William Swindler.

The meeting was adjourned and was followed by the Sixth Annual Reception and Dinner. The reception was held in the East and West Conference Rooms of the Supreme Court building. Music was provided by a string ensemble of the United States Marine Band which set the tone for a pleasant hour of conversation and mingling. Dinner followed in the Great Hall, which was set with round tables, with plants and flags lining the marble walls. Following dinner, Ralph E. Becker, the Annual Event Chairman, made a few brief welcoming remarks, and introduced the "Sea Chanters" of the United States Navy Band. Under the direction of Chief Musician James L. Turks, the Sea Chanters performed a program which included several traditional songs of the sea. At the conclusion of the performance, Mr. Becker closed the day's events by thanking those who had participated in making the evening such an enjoyable one, and wished everyone a pleasant evening.

## Residences of the Court: Past and Present Part III: The Past Fifty Years

On October 13, 1932, three years before the Court would actually hold its first session in the first structure specifically designed and constructed for its use, Chief Justice Charles Evans Hughes presided over the laying of the cornerstone of the Court's present building. In his remarks, the Chief Justice attributed the building of the new courthouse to the "intelligent persistence" of his predecessor, Chief Justice William H. Taft, and proclaimed to those assembled for the ceremony, and to the nation as a whole, that "the Republic endures, and this is the symbol of its faith."

The construction of the new Supreme Court building represented the culmination of a campaign to acquire suitable permanent quarters for the Court that went back at least to the 1850's. Robert Mills, Architect of the Capitol at the time, urged the Congress to provide the Court with improved quarters:

"The deaths of some of our most talented jurists have been attributed to the location of the Courtroom; and it would be but common justice in Congress to provide better accommodations for its sittings. . . ."

In 1860, the Court moved from the dark and damp ground floor chamber it had occupied in the Capitol since 1810 to the old Senate chamber directly above it on the first floor. Although the refurbished Senate chamber provided the Court with the most suitable environment it had ever enjoyed, the twelve rooms allocated by the Congress for the Court's offices, library, and storage files remained inadequate. By the



The Supreme Court of the United States as it appears today.

turn of the century, the expanding workload of the Court had rendered the storage problem critical. Even though the justices maintained their offices in their homes, the space provided the Court in the Capitol was hopelessly crowded by the end of Chief Justice Fuller's tenure in 1910. The small rooms were arranged inconveniently throughout the old Senate wing, making efficient administration impossible. Receiving little congressional attention, the Court struggled to make do with what it had as best as it could.

This was the situation which confronted William Howard Taft when he succeeded Chief Justice White in the summer of 1921. As President, Taft had championed efficient and effective public administration, and had introduced several specific ideas for administrative reform of the federal judiciary. In 1923, Taft was provided with an opportunity to make the Congress aware of his dissatisfaction over the inadequacy of the Court's physical accommodations in the Capitol. When Senator Charles Curtis assigned the least desirable space in the entire building to the judiciary, ostensibly because the Court was thought unlikely to put up a fight, the Chief Justice determined to make an issue of the Court's clearly inadequate quarters. Initially, Taft considered a campaign directed at pressuring Congress to assign the Court additional space; characteristic of his administrative genius, however, he soon recognized that rather than spending his energy fighting the Congress for precious space in its own building, he would do better to fight for an entirely separate new courthouse. But the Court's "poor-relation" status and the lack of funds budgeted for the Court combined to thwart Taft's initial push for a new building.

Senate passage of a bill authorizing \$50 million for new public buildings in 1925 provided Taft with the political opportunity he had been waiting for. Despite opposition from many, including some of his fellow justices who feared public criticism of such a bold plan and who questioned the proposed move as a serious breach of tradition, Taft pressed hard his campaign for a new Supreme Court building. He attributed opposition to the fact that some of his peers were more influenced by considerations of the past than of the future.

Taft's overtures to Senator Reed Smoot of the Senate Committee on Public Lands and Surveys to include in the Senate's appropriations bill a specific provision for purchase of suitable land and sufficient funds to construct a new courthouse failed to produce the desired legislation. Fortunately for Taft, the Senate bill conflicted with the House bill and was sent to a joint conference. The final Conference Report attested to the success of Taft's considerable lobbying efforts — it authorized the Secretary of the Treasury "to acquire a

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## Residences of the Court *(continued)*

site for a building for the use of the Supreme Court of the United States." While the fact that the Congress was very visibly expanding its own physical accommodations through new construction during this period certainly helped make Taft's insistence upon the need for a new courthouse more politically palatable, there is no question that it was Taft's personal commitment and efforts that resulted in legislative action favorable to the Court.

Chief Justice Taft remained intensely concerned about every detail of the building project. His years of public service had taught him the importance of close supervision of administrative details. He used his considerable influence to assure a location befitting the highest court in the land. He understood more clearly than most that the location of the Court had unusually rich symbolic meaning: the completion of L'Enfant's scheme for the capital city, and the physical fulfillment of the Constitution's provision for three coequal departments of the national government. Consequently, the location of the Supreme Court building could not be left to routine political chicanery. Having waited nearly 150 years for a building of its own, the Court would only accept the best.

Having seen to it that the new building would remain on Capitol Hill, on a prime piece of land laying due east of the Senate Wing once occupied by a building in which the Court had held sessions, Taft insisted that the Court, and not the Congress, have primary control over the project. At a Saturday conference in 1928, the Justices authorized the Chief Justice to inform the Congress that the Court had endorsed a proposed bill drafted by Taft and Justice Van Devanter concerning construction of the new courthouse. Following congressional hearings, the Congress enacted a revised version of the Court's bill which was entirely acceptable to the Chief Justice and the Court. Pursuant to the legislation, a commission was created, and both Taft and Van Devanter were named as members. The selection of the Chief Justice as the Commission's chairman further ensured the Court's control over the project.

On April 10, 1929, the Commission retained the services of the distinguished American architect, Cass Gilbert. Trained in the best traditions of the beaux arts, and previously associated with the well-known firm of McKim, Mead and White, Gilbert had received widespread acclaim for his Minnesota State Capitol Building, the Woolworth Building, and the Federal Commerce Building. A former president of the American Institute of Architects, he served as a charter member of the Washington, D.C. Commission of Fine Arts, and was personally well known and respected by Taft.

In May, 1929, the architect presented his preliminary sketches and plans to the Commission. In the Commission's report to Congress, it stated that "it has

been the purpose to prepare a building of simple dignity and without undue elaboration...The sum of \$9,740,000 is hereby recommended to be appropriated." In December of the same year, Congress adopted the Commission's report and recommendation, and authorized the Commission to proceed with construction.

Gilbert clearly considered the Court to be the most significant commission of his entire career. In an entry in his diary dated December 12, 1929, he wrote the following:

"This opens a new chapter in my career and at 70 years of age, I am now to undertake to carry through the most important and notable work of my life. I have built other buildings that are larger and more costly, some that were no doubt more difficult, but none in which quite the same monumental qualities are required."

For Gilbert, the commission to design a new courthouse for the Supreme Court of the United States was perceived as an opportunity to create a monument to the ideals of the Republic — to liberty, and equal justice for all under the law. With perfection as his goal, he designed a structure inspired by classical forms rich in history and symbolic significance. Constructed by skilled craftsmen working with the finest materials, the building was conceived from the beginning



Chief Justice Taft, "...a man of intelligent persistence."



Friezes on the east (top) and west (bottom) walls of the Court chamber symbolizing the majesty of law and power of government, and the powers of good and evil separated by justice, truth and wisdom.

as more than a mere office or workplace — it would be a great national monument to the country's founding principles, and to the belief that the only sovereign of a free people is the law.

Sixteen columns of white Alabama marble support the imposing west portico of the building, which shelters the principal entrance of the Court and its great bronze doors. Weighing 6½ tons each, the doors slide into wall recesses when open. When closed, they reveal eight panels created by sculptor John Donnelly, Jr. depicting historic scenes concerning the development of the law from classical antiquity through the founding of the American republic. Beyond the great doors is the Great Hall, reminiscent of Greek temples and Gothic cathedrals, and unquestionably one of the most imposing public spaces in the nation. Double rows of



Detail of the frieze on the south wall of the Court chamber.

marble columns rise to support the coffered and richly detailed ceiling. Beneath the ceiling, the frieze is ornamented with medallion profiles of great lawgivers, and beneath the frieze, busts of former Chief Justices stand in silent vigil. At the east end of the Great Hall, two impressive oak doors open into the building's central room, the Supreme Court chamber. Measuring 82 x 91 feet, the courtroom is dominated by the raised mahogany bench and the nine chairs behind it. Twenty-four columns of richly veined Light Sienna Old Convent marble from Italy support the 44 foot high ceiling, above the walls of ivory buff Spanish marble are Adolph A. Weinman's impressive carved panels. On the north and south panels are depicted great Christian and pre-Christian lawgivers; on the east and west panels are allegorical scenes symbolizing the majesty of law and power of government, and the powers of good and evil separated by justice, truth and wisdom.

In addition to the Great Hall and the Court chamber, the main floor of the building provides space for the individual justices' chambers — or offices — and several reception and conference rooms. Located on either side of the Court chamber are two elliptical or spiral staircases which wind their way from the Court's basement to its top floor. The Court's third floor is occupied by a 200,000 volume law library. Paneled in American oak, the library's walls contrast with the marble of the lower floors. The main reading room is enriched with carved figures and pilasters designed and executed by Matthew Brothers, Carvers. Additional office and storage space is provided on the ground and second floors, and the garage, print shop, and carpentry shop are located on the basement level.

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## Residences of the Court *(continued)*

Working with sculptor Robert Aiken, Gilbert provided for appropriately symbolic carvings for the exterior of the building, equal in dignity and importance to the richly detailed and meticulously executed work of the interior. Perhaps the single most celebrated detail of the entire building is the sculptured allegory filling the pediment over the west portico. Carved over the inscription "Equal Justice Under Law", the composition depicts "Liberty enthroned" looking confidently into the future, flanked on the right by "Order", always vigilant against any attack on liberty, and on the left, by "Authority", in watchful restraint, yet ready to enforce the dictates of justice.

In a regrettable slight of fate, neither Taft nor Gilbert lived to see the completion of their creation. The Chief Justice died in 1930, with construction on the new building barely started. Gilbert died four years later, with completion of the project still fourteen months away. To their successors, Chief Justice Hughes and architects Cass Gilbert, Jr. and John R. Rockart, went the responsibility for completing the project, and presiding over the opening of the Court in 1935. To a remarkable degree, the completed structure achieved the Commission's goal of "simple dignity", and stands as a testament to the remarkable vision and accomplishments of its principal patron Chief Justice Taft, and its inspired architect, Cass Gilbert.



Cass Gilbert (third from left) died before the project was completed, and was succeeded as project architect by his son, Cass Gilbert, Jr. (far right).

## For the Careful Reader

The Winter issue of the *Quarterly* incorrectly identified William Wetmore Story, the sculptor of the Marshall statue shown on page one, as a nephew of Justice Joseph Story. In fact, he was Justice Story's son.

## Annual Lecture *(continued)*

legislature."

Professor Haskins' thesis presents the view that Marshall's success did not result primarily from shrewd politics, or a policy of accommodation, but rather from Marshall's commitment to establishing the Court as a court of law, and his conscious effort to work for the separation of law from politics in the Court's deliberations and opinions. Through a careful discussion of several cases, Haskins developed his theory by demonstrating how the Court's action asserted the supremacy of law and sought to remove law actions in the courts from the vagaries of political action. In attempting to describe in rather complete detail the circumstances surrounding the Court's action in *Marbury v. Madison*, and Marshall's handling of Aaron Burr's trial, Professor Haskins drew into sharp contrast the conflicting approaches of Chief Justice Marshall and President Thomas Jefferson in the use of their respective offices. He also discussed Associate Justice William Johnson's decision in the case of *Gilchrist v. Collectors of Charleston* (1808), emphasizing that even this staunchly Republican and anti-Federalist Jeffersonian appointee shared Marshall's conviction that neither the President nor his ministers had any inherent power to "sport away the vested rights of others."

The battleline in Professor Haskins' view, was not so much drawn along partisan lines as it was upon whether or not the federal judiciary was to be treated as an independent and coequal branch of the government, or as an adjunct to the power of the party in majority in the Congress and to the President in the White House. Without seeking to minimize the importance of Marshall's own strongly held political views, Haskins convincingly supported his central argument through a discussion of several less well-known cases, and by citing the willingness of Justices Johnson and Story to support Marshall's understanding of the separation of powers and the supremacy of law. The true dimensions of the struggle between Jefferson and Marshall, said Haskins, may not have been readily perceived by Americans rooted in a colonial experience where judges often exercised considerable non-judicial authority. Yet, his conclusion is that over time, the painstaking efforts of Marshall and his able colleagues served to educate the American people to a new understanding of the separation of law and politics, and of the Court's unique role as the special guardian of the Constitution. "Thus," said Haskins, "the doctrine of the supremacy of law, historically at least as old as Magna Carta, and effectively used to check the usurpation of Stuart kings, was in this country turned into an instrument to control the actions of popularly chosen officials and legislators."

From the enthusiastic reaction of those who heard Professor Haskins' lecture, it appears that his thesis and defense won the support of those in attendance, and that the doctrines of the separation of powers and the supremacy of law remain popular ones.