



# Quarterly

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NUMBER 3

## Date Set for Eleventh Annual Meeting

The Executive Committee has approved Monday, May 12, 1986 as the date for the Society's eleventh annual meeting. Invitations will be mailed out to members between thirty and forty-five days preceding the meeting. As in previous years, reservations for the black tie reception and dinner held the evening of the annual meeting will be confirmed on a first-come basis upon receipt of a paid reservation request. Each member will be entitled to bring one guest. The Annual Meeting Committee, chaired by J. Roderick Heller, III, has set the ticket cost at \$75.00.

Among the scheduled events for the May 12th meeting, will be the annual lecture, to be delivered this year by Pro-

fessor Daniel Meador of the University of Virginia Law School, and an informal reception at the Society's headquarters building following the lecture. No charge will be made for either of these events. A special exhibit will be on display in the Society's building illustrating some of the work involved in preparing the recently published first volume of the *Documentary History of the Supreme Court of the United States, 1789-1800*. As an added event, Court Curator Gail Galloway and her staff will conduct a tour of the Court, including some of the private rooms not usually open to the public.

## Court Celebrates Fiftieth Anniversary of Building



Despite the extensive excavation required, and the high quality of workmanship and materials devoted to the building itself, the project was completed for \$95,000 under budget in 1935.

On Monday, October 7, 1985, the Supreme Court of the United States celebrated the 50th Anniversary of the opening of the Supreme Court Building. The corner-stone of the building had been laid on October 13, 1932, but the building was not completed and occupied until 1935. Completion of this magnificent building represented construction of the first building designed expressly for the use of the Supreme Court.

At a special commemorative session of the Court, held at four o'clock in the Supreme Court Chamber to mark the anniversary of the first session of Court held in the new building, October 7, 1935, the Honorable Erwin Griswold appeared for the Supreme Court Bar, Attorney General Edwin Meese, III appeared on behalf of the Department of Justice and William W. Falsgraf, Esquire appeared on behalf of the American Bar Association. Chief Justice Warren E. Burger made a response from the Bench.

In conjunction with the anniversary celebration, the Office of the Curator of the Court prepared two special exhibits dealing with the construction of the building. The first deals with the physical planning and construction of the building and features photographs of the architect, Cass Gilbert, artisans and sculptors, and shows the building in various stages of completion. It also contains drawings and

—continued on page eight



## In Memoriam: Associate Justice Potter Stewart

On December 7, 1985, retired Associate Justice Potter Stewart died in New Hampshire after suffering a stroke. He had retired from the Court on July 3, 1981.

Justice Stewart received a recess appointment to the Supreme Court from President Dwight D. Eisenhower on October 14, 1958, to replace Justice Harold H. Burton, who had resigned. Stewart was confirmed by the Senate on May 5, 1959, by a 70-17 vote. At the time of his retirement as a justice, he pointed out that when he had received his appointment to the Court he was 39 years old, the youngest federal judge in the country at that time, and he thought he'd better leave before he was the oldest. He said he thought it was "better to go too soon than to stay too long." His desire was to retire while his health was good and he could enjoy time with his family.

Justice Stewart had become ill while visiting his daughter in Putney, Vermont. He was hospitalized in New Hampshire where he died. Funeral services were held on December 11, 1985 in the National Cathedral in Washington, D.C. At the service, Lloyd N. Cutler eulogized the Justice, a friend whom he had known since their undergraduate days at Yale. Below are excerpts of Mr. Cutler's remarks:

When we attended Yale College and Yale Law School, most of us thought that Potter's future would be in national elective politics. How right or wrong we were will never be known. In 1954, after he won his first election to the Cincinnati City Council, he was offered a chance to become a Sixth Circuit judge. After a weekend of characteristic deliberation, he took it. Four years later Mr. Justice Burton of Ohio retired. Potter was a natural choice for the seat. His track record on the court of appeals had demonstrated a keen analytical mind, an even judicial temperament, a respect for legal tradition, and a sensitivity to the rights of the underprivileged.

It was this last quality that created Potter's only confirmation problem. Because the October 1958 Term was about to begin, President Eisenhower sent Potter's nomination to the Senate along with a recess appointment. Potter had written a Sixth Circuit opinion that carried the principle of *Brown v. Board of Education* case beyond what southern Democratic senators of that era could politically accept. He had also voted to grant a writ of habeas corpus to a black prisoner because of an unusually hasty nighttime trial without opportunity for counsel. This was the occasion for Potter's best, if not his best known, aphorism: "Swift justice demands more than just swiftness." The southern Senators held up Potter's confirmation for almost the entire Term, leaving him in the dread dilemma of all recess appointees on the bench — having to make decisions that could defeat his own confirmation.

Potter survived that predicament, winning confirmation in May 1959 by a vote of 70-17. The only southerner to vote for him was Senator Smathers of Florida. Six days later came the unkindest cut of all. Smathers took the floor to say that he had missed the debate and that if he had heard Senator Russell's speech against Potter before voting, he would have voted nay. Such were the political imperatives for a moderate southern Democrat in 1959.

Potter believed that most cases turned on the quality of the oral argument, and he contributed enormously to that quality. Within the first ten minutes he would often ask: "Counsel, to prevail in this case, don't you have to persuade us that . . ." — and then he would state the central issue without the self-serving spin that most lawyers put into the "Questions Presented" portion of their briefs. He did so without suggesting how he would answer himself, and in many cases I believe he was not ready to answer until after the argument was over.

Potter's opinions were unusually informative to the lawyers in the case. As Learned Hand said of Cardozo: "He never disguised the difficulties, as lazy judges do who win the game by sweeping all the chessmen off the table: like John Stuart Mill, he would often begin by stating the other side better than its advocate had stated it himself." When he ruled against you, you at least knew why.

Many trial and appellate lawyers have a tendency to stereotype judges as disposed for or against the government, or big corporations, or poor people, and we are prone to tailor our arguments to our analysis



Associate Justice Potter Stewart  
(1958-1981)

of the judge. Sometimes even experienced Supreme Court advocates fall into this habit. But this was never a good way to persuade Potter Stewart. Perhaps his finest judicial quality was his imperviousness to labelling. The most perceptive students of the Court found him difficult to categorize as activist or passivist, as liberal or conservative, as leaning toward or away from any particular political or social view. They cannot find these characteristics because he removed them from his judicial work.

Chief Justice Warren Burger also attended the service for Justice Stewart and cited the many judicial contributions of the man with whom he had shared the high bench for over a decade:

Discussions in Conference and over the lunch table showed that he was intimately familiar with the genesis of the Fourth Amendment.

### THE SUPREME COURT HISTORICAL SOCIETY

## Quarterly

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Editor . . . . . Alice L. O'Donnell  
Assistant Editor . . . . . David T. Pride

and indeed all of the Bill of Rights. . . . His careful preparation in advance of oral argument manifested itself in many ways. The intensity and vigor of his presentation was tempered by a sense of humor. All of us who served with him have heard him say that "this fellow across the table," meaning one of the justices, "maybe is dead wrong on that first case this morning but he is right on the second and third case," and so relations must be conducted accordingly.

When I first came to the Court in 1969, I had urged the American Bar Association to reexamine the Canons of Judicial Ethics, and I was requested to designate a member of the Court to serve on the Bar Commission dealing with this subject. Potter Stewart accepted this assignment and his balanced view of the responsibilities of a judge and his proper concern for the appearance of justice made him a most valuable member of that body. It was appropriate that a justice with his roots in Ohio should have a major voice in reexamining and restating those standards for it was Chief Justice Taft, an early predecessor of Potter Stewart on the Court of Appeals for the Sixth Circuit, who had authored the Canons of Judicial Ethics.

In common with others in the legal profession, he had grave reservations about making sweeping revisions of procedure in criminal justice

on a case by case basis. I think he would have preferred to rely on the rule-making process where the generality of experience could be taken into account, rather than have sweeping new rules made on the basis of one hard or difficult case. His dissents on some of these may well be influential in the future.

On the day of Justice Stewart's death, Justice Powell summarized the feelings of his associates and friends in the following words:

Justice Stewart's ability as a jurist of great distinction is documented in some 80 volumes of the U.S. Reports. His highly constructive role in the day-to-day functioning of the Court can only be known by those privileged to serve with him. He often led in working out a consensus. He had the rare ability to be, at the same time, a forceful advocate and a generous colleague.

Justice Stewart is survived by his wife Mary Ann, and his children Potter, Jr. and David.

## The Supreme Court in Philately

On February 27, the post office issued a new stamp in the Great Americans series honoring Hugo L. Black. This stamp is the latest stamp to be issued relating to the legal profession in general, and the Supreme Court in particular.

The earliest stamps issued connected with the Supreme Court are two stamps issued in the Presidential series honoring William Howard Taft, the nation's 26th president and its 10th Chief Justice. It was Taft who persuaded Congress to authorize the construction of the present Supreme Court building. The Court building is commemorated on a 3 cent purple stamp in the National Capital Sesquicentennial Series of 1950.

Later, when the cornerstone for the Supreme Court building was laid, Chief Justice Charles Evans Hughes said "The Republic endures and this is the symbol of its faith." This famous line was used on the stamp which commemorated the Centenary of the birth of Charles Evans Hughes in 1962. Hughes served as an Associate Justice from 1910 until 1916 when he resigned to become the Presidential Candidate for the Republican Party. In 1930 he returned to the Supreme Court as Chief Justice and served in that capacity until 1941.

Chief Justices John Jay and John Marshall were commemorated in the Liberty series in 1955 and 1958. In 1948, another Chief Justice, Chief Justice Harlan Fiske Stone was honored by a 3 cent stamp. The first day of issue for this stamp was in Chesterfield, New Hampshire, Stone's birthplace.

The widest distribution of any stamp associated with the Supreme Court was achieved by the "Flag over the Supreme Court," issued in sheets, coils, and two different stamp booklets. That stamp even exists in counterfeit form.

"The Great Dissenter," Associate Justice Oliver Wendell Holmes, has the distinction to appear not only on sheet, coil and booklet stamps, but also on the outside of a 1962 stamp booklet selling 24 fifteen cent stamps for \$3.60.

The new Hugo L. Black stamp, issued to commemorate the centennial of his birth, February 27, 1886, is a five cent stamp and bears a portrait of the Justice. A specially designed cachet envelope bearing the new stamp of Hugo L. Black and officially postmarked "First Day of Issue" will be available for sale through the Society. The envelope bears a picture of Justice Black in the left corner with a facsimile of

his signature, and brief biographical information on the reverse side of the envelope.

The envelope sold by the Society will be in the format commonly used by stamp collectors as a "first day cover." It will have one Hugo Black stamp, one 1981 "Flag over the Supreme Court" stamp, and one 1950 Sesquicentennial of the National Capital stamp featuring the Supreme Court Building, and will be cancelled in Washington, D.C. and bear the words "First Day of Issue." The cost for the first day cover envelope with three stamps will be \$2.75.

Other stamps commemorating the legal profession include the stamp commemorating the American Bar Association's 75th anniversary in 1953, depicting a frieze from the Supreme Court Chamber entitled "Liberty Under Law." "Contemplation of Justice," a statue by James Earle Fraser, appears on a 10 cent stamp issued in 1977. This statue is located on the left side of the staircase leading to the front door of the Supreme Court. The words "People's Right to Petition for Redress" appears along the top and left sides of the stamp.

Many of the stamps described above are available for sale at the kiosk, singly, in blocks or in first day covers. Sales information on these stamps is available upon request. Please address all orders or inquiries to the Society at the office address, 111 Second Street, N.E., Washington, D.C. 20002.



Both the court building and the jurists who have distinguished its bench have been the subjects of numerous stamp designs by the U.S. Post Office.



# Bushrod Washington: The Forgotten Federalist

**Editor's Note:** This article is based upon research conducted by Martin McGurn, a summer intern at the Society, who also contributed to its writing.

Bushrod Washington was a veteran of the Revolutionary War and a prominent advocate of the ratification of the Constitution. At the time of his Supreme Court appointment, he was the youngest man to have received an appointment to the high bench. His death, in 1829, ended thirty years of Supreme Court service — a tenure exceeded by only seven other justices in the Court's 197-year history. In eulogizing him, his colleague, Associate Justice Joseph Story said, "In him the love of justice was the ruling passion . . . His wisdom was the wisdom of the law, chastened, and refined, and invigorated by study, guided by experience . . . constantly enlarging itself by a close survey of principles."

Despite the respect in which he was held by such friends as Justice Story and Chief Justice John Marshall, and his lifelong devotion to public service, Associate Justice Bushrod Washington is little remembered. His career on the Court partly eclipsed by his more famous colleagues and the historical prominence assigned to his family name is now attributed to the fame of his uncle, George Washington.

Bushrod Washington was born on June 5, 1762 in Westmoreland County, Virginia. As a child he was privately tutored, the custom for children of his class, and he graduated from William and Mary College at the age of sixteen in 1778. Upon completion of college, in 1778, Washington volunteered for duty in the Continental Army. He joined a cavalry unit which was under the command of the Marquis de Lafayette. Serving as a private of dragoons, Washington was involved in the final stages of the War of Independence, seeing action at Green Spring and later witnessing the surrender of Cornwallis at Yorktown.

Washington returned to his *alma mater* in the Spring of 1780 to study law under George Wythe. He shared classes with John Marshall, and the two future justices initiated what became a lifelong friendship. Prior to Marshall's departure in August 1780, he and Washington helped to found the Phi Beta Kappa Society — then a secret fraternity. Though Marshall left the school after only six months, Washington remained at William and Mary through the Fall, obtaining far more extensive formal education at law than was afforded most American law students of the day. He received still more training by studying for two years under a prominent Philadelphia attorney, James Wilson. Wilson himself was later to be named as one of George Washington's first appointments to the Court, and was to be succeeded by Bushrod Washington in 1798.

Washington began his law practice at the age of twenty-one in Westmoreland County. He later moved to Alexandria, Virginia, where he hoped to find " . . . a wider sphere for the exercise of his talents." In 1787, he joined John Marshall in the Virginia House of Delegates. Both men went on to serve as members of the Virginia Convention for the Ratification of the Constitution. Among the proposed Constitution's advocates, Washington was singled out for comment by James



Associate Justice Bushrod Washington  
(1799-1829)

Madison " . . . as a young gentleman of talents."

Following a victorious effort to secure ratification, Washington moved his law practice to Richmond, the state capital. There, in the years ahead, he sometimes faced his long-standing friend, Marshall, as an adversary before the Court of Appeals — then the state's highest court.

However, Washington did not possess Marshall's extensive experience as a legal practitioner. Being more a student of the law, his efforts were directed principally at the accumulation of legal knowledge. Apparently, the intensity with which Washington studied the law was widely renowned. One contemporary observer, Thomas Pickering, felt Washington's health had been affected, saying: " . . . [his] indefatigable pursuit of knowledge and the business of his profession has deprived him of the sight of one eye . . ." David Paul Brown, a Philadelphia attorney who, some years later, witnessed Washington's performance as a trial judge riding circuit extolled him as: " . . . perhaps the greatest *nisi prius* judge that the world has ever known . . ." Despite this high praise, Brown also found some fault in Justice Washington's singular focus on his profession, noting that: " . . . [his] literary reading was so limited that it is questionable whether he ever knew who was the author of *Macbeth*."

If Washington's boundless enthusiasm for the law had distracted him from pursuing a broader education, this same enthusiasm, and the in-depth understanding of legal principles which it permitted, made Washington an excel-

lent teacher of the law. Many aspiring attorneys sought to study under him, with Henry Clay being perhaps his most famous student.

In addition to being a dedicated student of the law, Washington maintained a close relationship with his family. He married Julia Ann Blackburn, the daughter of one of his uncle's aides-de-camp, in 1785. The couple had no children, and Mrs. Washington's health proved frail throughout much of her life, but she nevertheless accompanied her husband wherever his duties took him, including the arduous trips required of riding circuit. Devoted to one another, when the Justice died in 1829 his wife survived him by only three days.

Washington also maintained a very close relationship to his Uncle George. The famous General and President, having no children of his own, viewed Bushrod as his favorite nephew. He financed Bushrod's legal apprenticeship under Wilson and, in 1798, also assisted his nephew in obtaining a nomination for a seat in Congress. Prior to the election, however, Justice Wilson's death opened a seat on the high court. President Adams was said to have favored placing either Washington or John Marshall on the Court to re-establish Virginia's representation which had lapsed with the resignation of Justice John Blair in 1795. Both men being eminently qualified, the President first offered the seat to Marshall, noting:

. . . [Marshall] ought to have preference . . . He is older at the Bar than Mr. Washington, and I know by experience that seniority at the Bar is nearly as much regarded as in the army.

Marshall, however, declined the nomination as he also had intentions of running for Congress. But, in his letter to President Adams, he recommended Washington for the seat. Adams' offer of a nomination to the Court was too great an opportunity for Washington to pass up. He explained his reasons for acceptance in a letter to his uncle dated October 19, 1798:

Richmond October 19th, 1798

My dear Uncle

Upon my return to this place I met with a Commission from the President of the United States appointing me one of the Judges of the Supreme Court. This appointment I have accepted, and was induced thereto by the strongest motives.

I was very unwilling to abandon a profession, to which I was much attached, and to the study of which I had devoted the greatest part of my life. A situation which permits me to pursue it, and to improve the knowledge which I have acquired in this science, without endangering my sight (already considerably injured) could not fail to be agreeable to me.

Independent of this consideration, I could not upon a small piece of poor land in Westmoreland have paid the debts which I owe, & supported my family.

Knowing the wish you had, that I should be a candidate for Congress, I have felt much uneasiness lest my acceptance of this appointment should be disagreeable to you. The desire of attempting to serve my Country in that line

— Continued on next page



At the age of 23, Washington married Julia Ann Blackburn. They were rarely apart in their 44-year marriage.





## Washington (continued on page five)

had also created in myself an anxiety for success in the election, altho' I foresaw the extreme inconvenience which could result from it, in my private affairs; I was however unwilling to make the sacrifice. I trust that this candid statement of my situation will be an apology with you for having relinquished my first intention, and I flatter myself that my services will not be less useful to my Country in the office which I now hold, than they would have been in the legislative Councils.

I am just preparing to go upon the Southern Circuit, & shall if possible leave this place tomorrow.

From the best information which I could collect, there is very little doubt, but that a federal man will be sent from our district: whether Genl. [Henry] Lee, or Mr. Landon Carter will offer is not certainly ascertained; but I believe it will be the latter. —

Mrs. W. Joins me in love to my aunt & yourself, and believe me to be most sincerely

My dear Uncle  
Your affect. Nephew  
B. Washington

Easily confirmed by the Federalist-dominated Senate, Washington took his oath of office February 4, 1799. His service on the Court spanned most of what is today referred to as "the Marshall Era." During Marshall's tenure, the Chief Justice laid to rest whatever doubts existed as to whether or not the Court would assume its constitutional role as a third pillar of government. He enhanced the Court's prestige by capably massing the Court to speak with a single voice on numerous early landmark decisions. Yet, even if this period in the Court's history is so dubbed, it is in some measure reflective of Justice Washington's accomplishments. Washington was perhaps Marshall's strongest supporter in this effort. He disagreed in opinions with the Chief Justice only three times in the twenty-nine years the two shared the bench. Indeed Justice Story, himself remembered for his staunch adherence to Marshall's Federalism, once credited Justice Washington with persuading him to suppress a dissent by expressing the view that, "delivering dissenting opinions on ordinary occasions weakens the authority of the Court, and is of no public benefit."

When it was time to take a stand on an issue, Washington was not timid in expressing himself. One such occasion came in the case of *United States v. Bright*. The circumstances of the case placed Washington's personal prestige on the line and also tested the extent of the Court's power. *Bright* presented the question of whether federal courts had the absolute jurisdiction over all admiralty and maritime cases. Charles Warren described the case as being a "dangerous clash . . . between the Pennsylvania and United States officials, in a dispute which had been in existence between the two sovereignties for about twenty-five years." Gideon Olmstead and a number of his companions had been captured by the British during the American Revolution. They were being held on a British sloop as prisoners when they rebelled and took possession of the vessel. As they were

steering for a United States port, only five miles from the coast, they met up with a brig belonging to the state of Pennsylvania. The crew of this brig decided to capture the British ship as a prize for their state. When they brought the prize to the proper authorities, a dispute ensued over who should get the reward. The case was first argued in a Pennsylvania Court of Admiralty in Philadelphia which decided that only one-fourth of the money would go to Olmstead and his associates. The remainder would go to the Pennsylvania State Treasurer, since the state owned the brig which had laid claim to the British prize.

Olmstead appealed the decision to a federal court chartered by Congress under the Articles of Confederation and the Pennsylvania court's decision was then reversed. The Pennsylvania court was instructed to sell the vessel and to turn over the proceeds to Olmstead and his compatriots. The state court refused to acknowledge federal jurisdiction in the case. The vessel was sold, and the proceeds went to the state Treasurer whose subsequent death only served to complicate the proceedings. In 1802, in a federal court chartered by Congress under the new Constitution, Olmstead sued the deceased Treasurer's daughters, who now had the money. Olmstead again received a favorable ruling in federal court only to have the State of Pennsylvania ignore the decision. The Governor of Pennsylvania ordered Michael Bright of the state militia to resist any efforts made to carry out the "decree of the . . . judge of the district court of the United States." When the marshal of the court came to serve the court's order, he was met with muskets and bayonets. For this act, General Bright and others were indicted and brought to trial before Justice Washington and District Court Judge Richard Peters. Justice Washington and Judge Peters found the defendants guilty of obstructing the process of the federal courts and sentenced them to prison.

The decision involved some personal risk for Justice Washington, who continued to ride circuit in Pennsylvania without escort. Washington's steadfast commitment to his principles, in this case the Federalist principle that state judicial authority was subordinate to federal judicial authority, led Justice Story to comment some years later that:

[Justice Washington] was remarkable for an uncompromising firmness. Of him, it may truly be said, that the fear of man never fell upon him.

If Justice Washington had the courage of his convictions, he was rarely inclined to drawing public attention to himself for it. Accordingly, while he made himself felt in conference, he readily accepted Chief Justice Marshall's desire to act as spokesman for a unified Court. Washington himself wrote only seventy majority opinions in over thirty years. In addition, he wrote two concurrences, six *seriatim* and one dissenting opinion. Notably, he expressed his dissatisfaction with the majority opinion in *United States v. Fisher* (1804) through abstention.

If historians have not adequately recognized Justice Washington's substantial contributions to the Court because of his more famous brethren, Marshall and Story, this obscurity has not extended to his private life — perhaps unfortunately in this instance.

Particularly damaging to the Justice's reputation has



General George Washington and his family at Mount Vernon. The First President's will provided that his nephew, Bushrod Washington, would receive the estate with a provision that Justice Washington was to free Mount Vernon's slaves. He did so, but was later unjustly accused of having ignored his uncle's wishes.

been an accusation concerning the very sensitive issue of slavery. As executor and principal heir to his Uncle George's estate at Mount Vernon, Bushrod was instructed in the former President's will to free Mount Vernon's slaves upon the death of Martha Washington, the President's wife. Though many of the slaves had already been freed by the time Martha died in 1802, Bushrod did in fact free the remainder, in accordance with his uncle's wish. However, he subsequently brought his own slaves to Mount Vernon in an attempt to return the by then dilapidated property to a profitable operation. But, this detail has escaped the notice of some historians, and led them to conclude that the Justice simply ignored his uncle's last wishes. Worse still, when the Justice did finally conclude in 1821 (as his uncle had determined two decades before) that a large slave contingent could not support themselves "on the produce of their labor" at Mount Vernon, Washington sold over half of his slaves. This evoked considerable criticism by some of Washington's contemporaries, particularly abolitionists, who felt he should have followed the example of his uncle and freed them.

His public comments defending this course of action cast

the Justice in an extremely bad light for today's readers who have been led to believe Washington was not only trafficking in human flesh, but profiting from some sort of ill-gotten gain. Actually Justice Washington did believe that slavery should be gradually eliminated, and as the lifetime president of the American Colonization Society, he supported efforts to encourage voluntary emancipation and relocation of freedmen in Africa. If his ownership of slaves subjects him to censure by today's moral standards, it should be remembered that both Thomas Jefferson, who penned the words "all men are created equal," and his famous uncle freed their own slaves only posthumously.

When Justice Washington died, on November 26, 1829, he had served longer on the Court than any of his predecessors. His service was crucial to the Court's development as an equal third branch of government as well as to the development of a sense of national unity. Rather than being remembered as a pro-slavery reactionary, he should more accurately be recalled as an appropriate heir to George Washington's private legacy of Mount Vernon, and his public legacy of a new American democracy.



**Fiftieth Anniversary** (continued from page one)  
sketches prepared by Cass Gilbert and correspondence relating to the construction.

The second exhibit is dedicated to William Howard Taft who was the principal advocate for the construction of a building for the exclusive use of the Supreme Court. When Taft became Chief Justice in 1921, the Supreme Court was meeting in a room in the Capitol building which had been remodeled for the Court's use in 1859. The total space allocated for the use of the Court consisted of only twelve rooms, and both office space and storage space had to come out of this limited area. As a result of the crush, Taft complained that "In our conference room, the shelves have to be so high that it takes an aeroplane to reach them."

In 1925 the Senate passed a bill authorizing \$50,000,000 for the construction of new public buildings, and Chief Justice Taft lobbied hard to see that some of this money was used for "the purchase of land and the construction of a building for the sole use of the Supreme Court." Despite derisive comments from outsiders and even a few from his brethren, Taft continued to press for the construction of a "marble palace" of justice. He encountered stumbling blocks which required additional lobbying and effort to overcome, but eventually money was appropriated "to acquire a site for a building for the use of the Supreme Court of the United States."

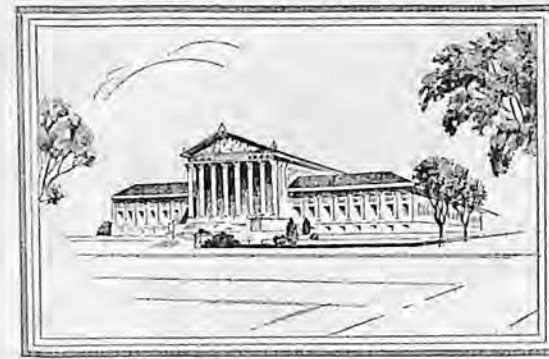
In connection with the Fiftieth Anniversary celebration, the Society issued a duo-tone poster in black and sepia which is suitable for framing. The poster features the artwork from the cover of the programs for the commemorative session. The poster measures 17 x 22 inches and is available at a cost of \$12.50 (the price includes postage), and may be ordered through the office.

### Volume One of the Documentary History Is Released

The first volume of the *Documentary History of the Supreme Court of the United States, 1789-1800*, has been published by Columbia University Press and is now available. The two books which comprise Volume One, *Part 1 - Appointments and Proceedings*, and *Part 2 - Commentaries on Appointments and Proceedings*, are the product of nearly ten years of research jointly sponsored by the Court, the Society, and the National Historic Publications and Records Commission (NHPRC). These are the first published works in a multi-volume series covering the Court's first decade.

In recognition of the release of these two important resource materials, the Society and the Columbia University Press cosponsored a reception on February 7, 1986 at the Supreme Court building. Guests at this reception included Chief Justice Warren E. Burger, members of the Court staff, the Society's officers, officials from NHPRC, representatives from Columbia University Press and other members of the legal and historical communities. The Chief Justice paid tribute to the publications noting:

*The Documentary History of the Supreme Court of the United States, 1789-1800*, concerns only the Supreme Court, but the wealth of material it contains points to how much remains to be investigated in the records of other federal courts. It is my sincere hope that the publication of this unique series will stimulate interest in the history



THE LAYING OF THE CORNERSTONE  
OF THE BUILDING  
FOR THE  
SUPREME COURT OF THE UNITED STATES  
UNDER THE AUSPICES OF THE  
AMERICAN BAR ASSOCIATION



WASHINGTON, D.C.  
OCTOBER THIRTEENTH  
1932

*In the fall of 1932, many of Washington's dignitaries received invitations, similar to the ones above, to attend the laying of the cornerstone for the Court's first building of its own.*

of the Third Branch of government and inspire additional studies of our early federal court system that would provide a great contribution to the forthcoming bicentennial celebration of 1987.

Volume One is available to the general public for \$95.00 from Columbia University Press. Society members may order the books through the Society at a 20 percent discount.

### 1985 Yearbook Goes to Press

The 1985 *Yearbook* is at the printer and will be mailed to members near the end of March. Articles in the 1985 edition include three papers delivered at the American Bar Association's 1985 General Practice Session in Washington by Stephen Shapiro of Mayer Brown and Platt, former Solicitor General Rex Lee and Professor Craig Joyce of Vanderbilt University. The 1985 *Yearbook* also contains the published version of Judge Antonin Scalia's lecture on historical anomalies in administrative law delivered at the Society's 1985 annual meeting and a comparative law treatise by Dr. Karl-Heinz Millgramm, comparing the Supreme Court of the United States and the Federal Constitutional Court of the Federal Republic of Germany.

Office of the Curator, Supreme Court

## New Members

The following new members have joined the Society between September 1, 1985 and January 31, 1986. A complete listing of the Society's membership as of December 31, 1985 will be published next month in the 1985 *Annual Report*.

#### Arkansas

Ray Baxter Esq., Benton  
Jeff Broadwater Esq., Little Rock  
The Marion County Bar Association,  
Yellville  
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Arthur T. Bridgett Esq., San Francisco  
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Irwin J. Eskanos Esq., Oakland  
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Frank J. Filippi Esq., San Francisco  
Robert P. Herendeen Esq., Salinas  
Ruby Murphy Houser Esq., San Diego  
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Jamie Jacobs-May Esq., Los Gatos  
Verlyn N. Jensen Esq., Costa Mesa  
Steven Kazan Esq., Oakland  
Michael Klynn Esq., Palo Alto

Lynn Anderson Koller Esq., Emeryville  
Daniel E. Leckrone, San Jose  
James L. Lund Esq., Beverly Hills  
Mr. Peter B. Martin Jr., Cotati  
The Honorable S.C. Masterson Esq., San  
Raphael  
Stephen McKae Esq., Oakland  
Judith L. Miller Esq., Bellflower  
Malcom Misuraca Esq., Santa Rosa  
William R. Nicholas Esq., Los Angeles  
James E. O'Brien Esq., Palo Alto  
Larry W. Quan Esq., San Francisco  
Joseph Remcho Esq., San Francisco  
Kenneth W. Rosenthal Esq., San  
Francisco  
Gilford G. Rowland Esq., Sacramento  
Martin A. Schainbaum Esq., San  
Francisco  
Gerald C. Sterns Esq., San Francisco  
James E. Toothman Esq., Los Gatos  
Charles W. Tuckman Esq., San Francisco  
Stanley Walsh Esq., San Francisco  
Roderick Walston Esq., Orinda  
Bernard Weissman Esq., Los Angeles

#### Colorado

Rebecca Love Kourlis Esq., Craig

#### Connecticut

Richard H. Bowerman Esq., Orange  
William K. Cole Esq., Southbury  
James W. Cooper Esq., New Haven  
William R. Davis Esq., Hartford  
Milton P. DeVane Esq., Hamden  
Jack E. Evans Esq., New Haven  
David Goldstein Esq., Bridgeport  
Geoffrey C. Hazard Jr. Esq., New Haven  
Charles S. House Esq., Manchester  
The Honorable Herbert S. MacDonald,  
North Haven  
Norman K. Parsells Esq., Bridgeport  
John H. Reige Esq., Bloomfield  
John A. Speziale Esq., Hartford  
Morris Tyler Esq., Woodbridge

#### District of Columbia

Lisa Anderson Esq., Washington  
Kevin T. Baine Esq., Washington  
James E. Coleman Jr. Esq., Washington  
Herbert E. Forrest Esq., Washington  
The Honorable Alex Kozinski, Washington

Joseph B. McGrath Esq., Washington  
Peter Scheer Esq., Washington  
William B. Schultz Esq., Washington  
State and Local Legal Center,  
Washington  
Rachel B. Trinder Esq., Washington  
William Tucker Esq., Washington  
Thomas J. Whalen Esq., Washington

#### Delaware

Roger W. Arrington Esq., Wilmington  
Thomas L. Clark Esq., Wilmington  
Charles Crompton Jr. Esq., Wilmington  
Andrew B. Kirkpatrick Jr. Esq., Wilmington  
Nancy duPont Reynolds Esq., Greenville

#### Florida

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Jack E. Bowen Esq., Orlando  
Ray Calafell Jr. Esq., Tampa  
Julian Clarkson Esq., Tallahassee  
Tony Cuninghame Esq., Tampa  
Ralph C. Dell Esq., Tampa  
Paul Sidney Elliott Esq., Tampa  
Robert M. Ervin Esq., Tallahassee  
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Roger D. Helms Esq., Winter Park  
Wm. M. Howell Esq., Jacksonville  
Timothy A. Johnson Esq., Clearwater  
Robert Katter Esq., N. Miami  
T. Paine Kelly Jr. Esq., Tampa  
Thomas M. Keresey Esq., Palm Beach  
Walt Logan Esq., Tampa  
Joseph H. Lowe Esq., Miami  
John F. Lowndes Esq., Orlando  
William H. McBride Jr. Esq., Tampa  
John McLaughlin Esq., Tampa  
Larry K. Meyer Esq., Clearwater  
Jackson D. Miller III Esq., Bradenton  
Jacob J. Munch Esq., Tampa  
Sidney H. Parrish Esq., Winter Park  
Aurelio Quinones Esq., Miami  
The Honorable Paul H. Roney, St Petersburg  
R. Mark Shelton Esq., Tampa  
Jon H. Somsen Esq., Orlando  
Richard B. Troutman Esq., Winter Park  
Mr. Russell Troutman, Winter Park  
Roger Vaughan Esq., Tampa  
Bill Wagner Esq., Tampa  
Harold A. Ward III Esq., Winter Park  
Ronald E. Witt Esq., Bradenton



**New Members** *(continued)*

Leo Wotitzky Esq., Punta Gorda

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Marvin S. Arrington Esq., Atlanta  
R. Byron Attridge Esq., Atlanta  
R. Neal Batson Esq., Atlanta  
J. Ralph Beaird Esq., Athens  
Luhr G.C. Beckmann Jr. Esq., Savannah  
Jesse G. Bowles Esq., Cuthbert  
A. Paul Cadenhead Esq., Atlanta  
D. Robert Cumming Jr. Esq., Atlanta  
John J. Dalton Esq., Atlanta  
Hugh M. Dorsey Jr. Esq., Atlanta  
James A. Dunlap Esq., Gainesville  
W. G. Elliott Esq., Valdosta  
Mr. Jule W. Felton Jr., Atlanta  
Albert. Fendig Jr. Esq., Brunswick  
J. D. Fleming Jr. Esq., Atlanta  
William M. Fulcher Esq., Augusta  
Gould B. Hagler Esq., Augusta  
Walter C. Hartridge Esq., Savannah  
Paul M. Hawkins Esq., Atlanta  
Allen I. Hirsch Esq., Atlanta  
Edward H. Johnson Esq., Atlanta  
Hamilton Lokey Esq., Atlanta  
Maurice N. Maloof Esq., Atlanta  
Wallace Miller Jr. Esq., Macon  
A. Montague Miller Esq., Augusta  
J. Frank Myers Esq., Americus  
William U. Norwood Esq., Thomasville  
Eugene G. Partain Esq., Atlanta  
H. Holcombe Perry Jr. Esq., Albany  
J. Kirk Quillian Esq., Atlanta  
Albert P. Reichert Esq., Macon  
Ronald L. Reid Esq., Atlanta  
Robert R. Richardson Esq., Atlanta  
Oscar M. Smith Esq., Rome  
Sidney O. Smith Jr. Esq., Atlanta  
Cubbedge Snow Jr. Esq., Macon  
H. Jerome Strickland Esq., Macon  
Albert W. Stubbs Esq., Columbus  
David H. Tisinger Esq., Carrollton  
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Delilah Brummet Esq., Chicago  
Hammond E. Chaffetz Esq., Chicago  
George T. Donoghue Esq., Flossmoor  
D. Kendall Griffith Esq., Chicago  
David Dean Hiller Esq., Chicago

Everett L. Hollis Esq., Chicago  
Richard B. Kadwick Esq., Chicago  
Mr. Donald E. Lawson, Chicago  
John H. Morrison Esq., Chicago  
Constantine L. Trela Esq., Chicago  
George Vernon Esq., Chicago

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Felson Bowman Esq., Indianapolis  
William J. Cohen Esq., Elkhart  
Stephen M. Coons Esq., Indianapolis  
John F. Crawford Esq., Hammond  
Charles Eugene Fritz Esq., Indianapolis  
Colenn A. Grampp Esq., Evansville  
Maurice J. Holland Esq., Bloomington  
Gregory Alton Horn Esq., Richmond  
Stephen L. Huddleston Esq., Franklin  
Jeffrey L. McFadden Esq., Indianapolis  
Patrick A. Shoulders Esq., Evansville  
Kenneth M. Stroud Esq., Indianapolis  
Frank E. Tolbert Esq., Logansport  
D. Robert Webster Esq., Indianapolis  
Ms. Charlotte A. Weybright, South Whitley

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Foster Ockerman Jr. Esq., Lexington

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William K. Christovitch Esq., New Orleans  
Louis G. Dutel Jr. Esq., New Orleans  
Michael J. Egan Esq., Atlanta  
Warren M. Faris Esq., New Orleans  
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Harry S. Hardin III Esq., New Orleans  
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John F. Cogan Esq., Boston  
Daniel Coquillet Esq., Cambridge  
George M. Ruboy Esq., Norwood  
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Stephen Rubin Esq., Potomac  
H. Russell Smouse Esq., Baltimore

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Ms. Ann E. Weiss, North Whitefield  
Donna L. Zeegers Esq., Augusta

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Mr. Herman Berg, Detroit  
Otis M. Smith Esq., Detroit

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**Missouri**

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Shook Hardy & Bacon, Kansas City

**Mississippi**

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Calvin L. Wells Esq., Jackson

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Eugene Gorrin Esq., Edison  
Joseph H. Kenney Esq., Cherry Hill  
Ms. Linda Mainenti, Lake Hiawatha  
Clifford L. Michel Esq., Gladstone  
Thomas G. Walker Esq., Morristown

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Steven G. Farber Esq., Santa Fe  
Sarah M. Singleton Esq., Santa Fe

**Nevada**

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Ms. Laurie Reed, Las Vegas

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Louis Bender Esq., New York  
Sidney Bender Esq., Garden City  
Bert. A. Blitz Esq., New York  
Barry Bohrer Esq., New York  
Professor Samuel Estreicher, New York

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William H. Gardner Esq., Buffalo  
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Linda Hayman Esq., New York  
William E. Hegarty Esq., New York  
Professor William E. Hellerstein, Brooklyn  
Steven J. Hyman Esq., New York  
William E. Jackson Esq., New York  
Ilyse Susan Jeskin Esq., East Meadow  
Lewis B. Kaden Esq., New York  
Robert Kasanof Esq., New York  
Kelly & Sluys, Pearl River  
David Klingsberg Esq., New York  
Robert Layton Esq., New York  
Alan Levine Esq., New York  
Harvey R. Miller Esq., New York  
Robert H. Morse Esq., New York  
Louis Nizer Esq., New York  
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Harold Rosen Esq., New York  
Shirley Adelson Siegel Esq., New York  
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Lewis M. Steel Esq., New York  
Leonard Toboroff Esq., New York  
Lyman M. Tondel Jr. Esq., New York  
Bernard Ulano Esq., New York  
Mr. Jeffrey Alan Van Detta, Schoharie  
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**Oklahoma**

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Joseph M. Culp Esq., Ardmore  
Rose Marie Garner Esq., Stillwater  
Mr. Greg Hollinger, Tulsa  
Ben T. Lampkin Esq., Oklahoma City

James P. Linn Esq., Oklahoma City  
T.W. Nicklas Esq., Lawton  
William G. Paul Esq., Bartlesville  
David K. Petty Esq., Guymon  
L.E. Stringer Esq., Oklahoma City  
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R. R. Bullivant Esq., Portland

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R. Mark Lundquist Esq., Reading  
Howard I. Scott Esq., Pittsburgh  
James Victor Voss Esq., Pittsburgh  
John R. Zonarich Esq., Harrisburg

**Puerto Rico**

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Ernesto N. Mayoral Esq., Hato Rey  
Mario M. Oronoz Esq., Hato Rey  
Etienne Totti del Valle Esq., Hato Rey

**Rhode Island**

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Ralph P. Semonoff Esq., Providence

**South Carolina**

Clinch Heyward Belser Sr. Esq., Columbia  
A. F. Burgess Esq., Greenville  
H. Hayne Crum Esq., Denmark  
Richard J. Foster Esq., Greenville  
William H. Grimball, Charleston  
William W. Kehl Esq., Greenville  
Julian J. Nexsen Esq., Columbia  
Henry L. Parr Jr. Esq., Greenville  
John S. Rainey Esq., Spartanburg  
Edward P. Riley Esq., Greenville  
Mr. David W. Robinson II, Columbia  
William A. Ruth Esq., Hilton Head Island  
E. Randolph Stone Esq., Greenville  
Thomas S. Tisdale Jr. Esq., Charleston  
David H. Wilkins Esq., Greenville

**South Dakota**

David R. Gienapp Esq., Madison  
Michael D. Stevens Esq., Yankton  
Stuart Gerry & Grunewaldt, Sioux Falls

**Texas**

Ms. Sue T. Bentch, San Antonio  
Marcus L. Dobbs Esq., Waco  
Ms. Michele Dunlap, San Antonio  
Mr. James D. Griffin Jr., San Antonio  
Ms. Kay Lynn Grimes, San Antonio  
Mr. John Howell, San Antonio  
Ms. Maria T. LoRusso, San Antonio  
H. Kimball McMahan Esq., Houston  
Ms. Kay L. Reamey, San Antonio  
Edward P. Richards III Esq., Houston  
Mr. Stephen Bruce Rogers, San Antonio  
Mr. Robert Todd, San Antonio  
Ms. Nedra Voorhies, San Antonio  
Tommy G. Warford Esq., Eastland

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Thomas D. Yannucci Esq., Alexandria

**Wisconsin**

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Laurence C. Hammond Jr. Esq., Milwaukee  
Daniel W. Hildebrand Esq., Madison  
Earl H. Munson Esq., Madison  
John S. Skilton Esq., Madison  
Herbert Terwilliger Esq., Wausau  
Richard A. Van Deuren Esq., Milwaukee

**West Virginia**

Vincent V. Chaney Esq., Charleston  
James H. Davis III Esq., Charle-  
ton  
Robert H. C. Kay Esq., Charleston  
Robert W. Lawson III Esq., Charleston

**Foreign**

Conrad M. Black Esq., Canada  
P.L. Fitzgerald Esq., France  
Anthony M. J. Pepe Esq., Canada

## State Chairmen Appointed for Nevada and Wyoming As Membership Committee Reaches for 4,000 Member Goal

The recent appointment of new state chairmen for Nevada and Wyoming gives the Membership Committee at least one representative in each of the contiguous 48 states as well as Puerto Rico. Just eighteen months ago the Committee had only three members, Chairman Justin A. Stanley of Chicago, J. Roderick Heller, III of Washington, D. C. and Judge Griffin B. Bell of Atlanta. Since then the Committee has expanded to include 63 state and local representatives, and has recruited over 1,000 new Society members.

The Committee's goal is to reach a membership total of 4,000 by year's end, and the addition of two new state chairmen will facilitate that effort. However, because the personal approach the Committee has so effectively employed is highly labor intensive, many state chairmen are appointing assistants in large law firms or towns within their regions to aid their recruitment efforts. Members who would like to support this campaign should contact their state chairman. If you don't know your state chairman, contact David Pride at the Society's headquarters at (202) 543-0400.

In addition to the newly appointed chairmen and assistants which appear below, the Society expresses its gratitude to outgoing chairmen Eugene C. Thomas of Idaho and J. David Andrews of Washington for their strong support over the last year and a half. New state chairmen and their assistants are as follows:

**Idaho**                      **Phillip M. Barber, Esq.**  
Hawley, Troxell, Ennis & Hawley  
One Capital Center  
Post Office Box 1617  
Boise, Idaho 83701

**Illinois**  
(Assistants)              **John H. Morrison, Esq.**  
Kirkland & Ellis  
Suite 5800  
200 East Randolph Drive  
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Nevada

**Peter L. Rossiter, Esq.**  
Schiff, Hardin & Waite  
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Chicago, Illinois 60606

**H. Blair White, Esq.**  
Sidley & Austin  
One First National Plaza  
Chicago, Illinois 60603

**Joseph W. Brown, Esq.**  
Jones, Jones Close & Brown  
Valley Bank Plaza  
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Washington

**Ronald M. Gould, Esq.**  
Perkins, Coie Stone Olsen & Williams  
1900 Washington Building  
Seattle, Washington 98101

Wyoming

**Houston G. Williams, Esq.**  
Williams, Porter, Day & Neville  
Durbin Center — Suite 3  
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Casper, Wyoming 82601

Michigan  
(Assistants)

**William T. Gossett, Esq.**  
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**John A. Krsul, Jr., Esq.**  
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Detroit, Michigan 48226

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