



THE SUPREME COURT
HISTORICAL SOCIETY

Quarterly

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Justice Marshall Retiring After Twenty-Four Years on the Court

In a letter to the President delivered on June 27, 1991, Justice Thurgood Marshall announced his retirement from the bench due to poor health and advanced age. At the time of his announcement, Justice Marshall was only a few days shy of his 83rd birthday and had served on the Supreme Court bench since October 2, 1967. Many tributes have been written to Justice Marshall commemorating his career and service to the nation and particularly noting his accomplishments in the field of civil rights. *The Journal of Supreme Court History* will contain more lengthy tributes to Justice Marshall, but in this issue we would like to acknowledge his many contributions to the law of this country

throughout his distinguished career.

Justice Marshall's career commenced when he entered private practice in Baltimore after his graduation with honors from Lincoln University and Howard University Law School in 1933. In 1934 he became associated with the National Association for the Advancement of Colored People (NAACP) where he served in many capacities, including service as its chief legal officer and Director-Counsel of the NAACP Legal Defense and Educational Fund. During his tenure with the NAACP, Marshall worked diligently to obtain civil rights for underprivileged Americans

—continued on page ten



On the steps of the Supreme Court building on May 17, 1954 (left to right) George E. C. Hayes, Thurgood Marshall, and James Nabrit, Jr. smile over the judgment handed down by the Court that segregation in public schools is unconstitutional. According to Glen M. Darbyshire, former clerk to Justice Marshall, "The Judge" (as Justice Marshall prefers that his clerks call him) displays a copy of this photograph on his desk enclosed in a small block of plastic, a reminder of one of his great accomplishments.

UPI/Bettmann

A Letter from the President



Leon Silverman

This issue of the *Quarterly* includes a retrospective to Justice Thurgood Marshall, who announced his retirement at the close of the Court's last term. Justice Marshall served the Court to his greatest capacity throughout his 24 years on the high bench.

During that time he championed the rights of the disadvantaged. The product of his energy and determination has helped to secure equal justice under law for all Americans.

It is fitting that the Society pay homage to Justice

both endowment and membership income will also begin to support a new oral history program on the Supreme Court to be conducted in cooperation with the Federal Judicial Center. This was one of several programs recommended for funding this year by the Program Committee which is chaired by E. Barrett Prettyman, Jr. The second project is a ten-year update of the academically acclaimed *Index to Opinions* which the Society first co-sponsored with Kraus-Thompson, Inc. in 1981. This book will bring current the only printed index of the Justices' opinions categorized by Justice.

The Program Committee also committed to continuing support to the Documentary History Project headed by Dr. Maeva Marcus. It is anticipated that Volume Four of this eight-volume series will appear in 1992. It will be a documentary history tracing the statutory development of the federal judiciary during its first decade. Subsequent books will include one volume on the Eleventh Amendment and the cases in which states were sued in federal court and three volumes on the cases heard by the Court between 1790 and 1800.

Still another project approved for funding this year is the First Annual National Heritage Lecture which will be held at the Supreme Court on November 7th. Society members should receive their invitations to this prestigious lecture series no later than the first week in October. Justice Anthony Kennedy has graciously agreed to serve as the inaugural speaker for this event, which is a cooperative effort by the Supreme Court Historical Society, the U.S. Capitol Historical Society and the White House Historical Association. Those attending the lecture will also be invited to a reception in Justice Kennedy's honor immediately following his address. Additional details appear elsewhere in this issue of the *Quarterly*. Since seating is limited to 300, and the members and friends of all three sponsoring organizations are being invited to attend, I urge Society members who wish to attend to return their reservations promptly.

Leon Silverman

The Supreme Court Historical Society *Quarterly*

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Editor Alice L. O'Donnell
Managing Editor Kathleen Shurtleff
Consulting Editor Kenneth S. Geller

Marshall in the *Quarterly*, as we have for so many of his distinguished predecessors on the Court. Several tributes will also appear in the Society's 1992 *Journal of Supreme Court History*.

The *Journal* will be mailed to all current Society members in December. As part of our effort to return the Society's membership publications to a regular schedule, Volume 4 of the 1991 *Quarterly* will also be mailed in December, and subsequent issues will appear on a quarterly basis.

The Society's publications program also currently includes work on a collection of illustrated biographies of the Justices which will be published by Congressional Quarterly, Inc. This project is proceeding on schedule and the manuscript will be completed by June 30, 1992. Like the Society's other publications, this project is under the careful supervision of the Publications Committee, chaired by Kenneth S. Geller.

The Society's membership campaign is also progressing and membership currently stands at 4,100 with a goal of 4,500 that Membership Committee Chairman Frank Jones hopes to achieve by the end of the Society's fiscal year. This growth not only ensures there will be adequate support for the Society's publications and other program endeavors, it also provides a critical pool of volunteers with the needed expertise and interest to promote the Society's many worthwhile endeavors.

There are probably few Society members, for example, who are yet unaware that the Society is currently attempting to raise an endowment of \$2.5 million in net funds. We have received somewhat over \$2.4 million in contributions and pledges to date. If you have not already made a personal pledge or donation, I urge you to do so now.

Already the endowment is helping to ensure the Society's financial stability and is providing financial support to facilitate the valuable work of the Court Curator Gail Galloway and her staff. Last year endowment interest income helped to fund a \$25,000 Society pledge to the Court, much of which was used to support the Curator's refurbishment of the Ladies' Dining Room in the Court building. The Society has made a similar pledge for the current fiscal year.

It is anticipated that the Society's general funds, which include

Endowment Fund Donors of \$25,000

As of August 31, 1991

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Mr. William J. Harte
Mr. David Lloyd Kreeger
Mr. Jeremiah Marsh
Mr. Dwight Opperman
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Judicial Fellows Program Seeking Applicants

The Judicial Fellows Commission invites applications for the 1992-93 Judicial Fellows Program. The Program, established in 1972 and patterned after the White House and Congressional Fellowships, seeks outstanding individuals from a variety of disciplinary backgrounds who have an interest in judicial administration and who show promise of making a contribution to the judiciary.

Four Fellows will be chosen to spend a calendar year, beginning in late August or the first of September 1992, in Washington, D.C. at the Supreme Court of the United States, the Federal Judicial Center, the Administrative Office of the United States Courts or the United States Sentencing Commission. Candidates

must be familiar with the federal judicial system, have at least one postgraduate degree and two or more years of professional experience. Fellowship stipends are based on salaries for comparable government work and on individual salary histories but will not exceed the GS 15, step 3 level, presently \$65,753.

Information about the Judicial Fellows Program and application procedure is available upon request from Vanessa Yarnall, Administrative Director, Judicial Fellows Program, Supreme Court of the United States, Room 5, Washington, D.C. 20543. Tel. (202) 479-3374. The application deadline is November 15, 1991.

Brockholst Livingston: A Learned Advocate

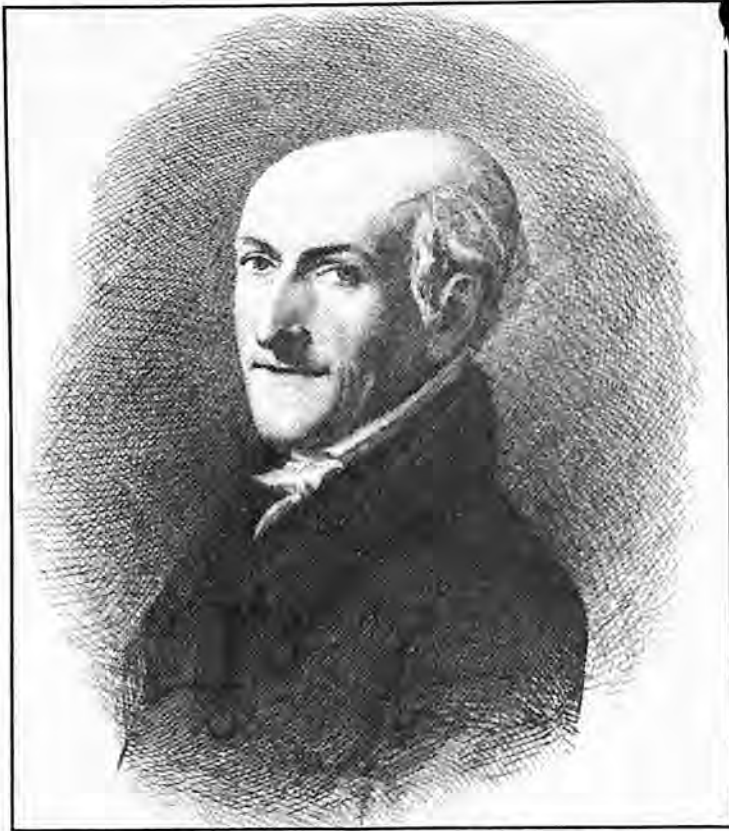
Brockholst Livingston's career intertwined with many of the important events of American history, including the Revolutionary War and the development of the new nation's diplomatic ties, the development of the anti-federalist party and ultimately, the development of the Supreme Court as a powerful national institution. His friends and colleagues included such greats of the American political scene as James Madison, John Jay and John Marshall. His associations also encompassed a few more notorious individuals, including Aaron Burr and Benedict Arnold. Despite his many important friends and achievements, Brockholst always seemed to be overshadowed in history by his associates.

The Livingston family was founded by Robert Livingston (1654-1728) who emigrated from Scotland to New York and became a fur trader and a power in the affairs of the colony. He settled in Albany where he married the daughter of a wealthy Dutch patroon and set up an estate called "Livingston Manor". This estate ultimately consisted of 160,000 acres spread throughout Dutchess and Columbia counties.

Henry Brockholst Livingston was born in New York City in 1757 but grew up in New Jersey where his father, William Livingston served as governor of the state during the Revolution. He grew up at the family home, "Liberty Hall" which was located in Elizabethtown, New Jersey. The Livingston family was an important political force in the late eighteenth century and early nineteenth century New York and was divided into two parts, called the "Manor branch" and the "Clermont branch". Brockholst's cousin, Robert R. Livingston, served as Chancellor of New York from 1777-1801, was a member of the Continental Congress and helped to draft the Declaration of Independence. While serving as Chancellor he administered the oath of office to George Washington. He later served as minister to France 1801-04 where he concluded the negotiations for the Louisiana purchase.

Brockholst Livingston was educated at Princeton University where he was a student with James Madison. After leaving the University he read law briefly with James Kent until the outbreak of the Revolutionary War. In 1774 Livingston's sister Sarah Van Brugh Livingston married John Jay thus aligning the family with another powerful force in the New York and national political scene. Jay was already closely aligned with the family as he practiced law in partnership with "Chancellor" Robert R. Livingston.

The Livingston family was actively involved in the Revolutionary War. Brockholst served as a captain on General Schuyler's staff during the War and participated in the Battle of Saratoga under the command of Benedict Arnold. By the age of nineteen he had achieved the rank of major and subsequently was promoted to lieutenant colonel. While Brockholst was in upstate New York, his family experienced much of the turmoil of war. His father was governor of New Jersey at the time and the Governor's Mansion itself eventually became a casualty of warfare. His sister wrote a letter in November 1777 describing the situation and noting that the house had served for six weeks as a "Guard House, for a Bullock Guard, the first instance I believe of a Governor's House being so degraded." In describing the



Justice Henry Brockholst Livingston
(1806-1823)

damage, she noted that the troops "have left only two locks in the House, taken off many pains of glass, left about a third of the paper hanging, burnt up some Mahogany banisters, a Quantity of timber, [and] striped the roof of all the lead."

Livingston's military career ended when John Jay went to Spain to serve as the United States Ambassador taking Brockholst along as his private secretary. The post not only provided Brockholst an honorable removal from the military arena, but the beginning of a political career, as well as the chance to travel and study. Family correspondence indicates that initially the relationship between the Jays and Livingston was congenial, but later deteriorated. The stress may have been the result of the difficulty in making the transition from being "Colonel" Livingston to a situation where his conduct and finances were monitored by his brother-in-law. Indeed, Sarah refers to him in her letters as "the Colonel." Some of the irritation may have been the result of living in a strange country with few associations outside the family circle. Sarah suggests that another secretary at the Embassy, Carmichael, incited Livingston against Jay because he feared Jay would promote Livingston to Carmichael's detriment. Indeed, Sarah observes "[i]n short, I'm well persuaded he [Carmichael] has in the most artful manner endeavored all along to make Mr. Jay and the Colonel dissatisfied with each other. . . ."

Relations between the Jays and Livingston became difficult and Sarah wrote a long letter to their father on June 24, 1781 complaining about Brockholst's behavior. In the letter she noted "My brother's temper I always knew to be irritable to an unhappy excess, but I flattered myself that that generosity of disposition

which I had remarked with pleasure in our family would secure us from impoliteness except at times when his passions were not under the influence of his reason and which I would readily have pardoned. But I was mistaken. A constant captiousness and sulkiness has without ceasing marked his conduct" Family letters reveal that Brockholst threatened to leave Europe on several occasions, but Jay persuaded him it would damage his reputation and political future. Livingston stayed in Spain for the duration of the mission, but he developed a life-long antipathy to Jay and was frequently a conspicuous and vocal critic of Jay.

The diplomatic delegation broke up when Jay was sent to Paris to negotiate a treaty with the British. Livingston left Madrid on February 7, 1792 and sailed from Cadiz on the 11th of March that year carrying dispatches to Congress. His ship was captured by the British frigate "Quebec" on April 25, but Livingston managed to destroy the dispatches before he was taken prisoner. The British brought him to New York where he was detained in the Provost jail under the order of the Military governor of New York, on the grounds of carrying messages to Congress. Ironically, Livingston's cellmate in New York was a Jay, Sir James Jay. Jay was probably planted in Livingston's cell in an attempt to obtain information which could be used against Congress. As a further dramatic element, Livingston was considered a potential hostage against the life of a British officer who had been condemned to death in retaliation for a wrongful execution by the

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Brockholst Livingston's cousin, Robert R. Livingston, helped to draft the Declaration of Independence, served as a member of the Continental Congress, and practiced law with John Jay.

British of an American officer.

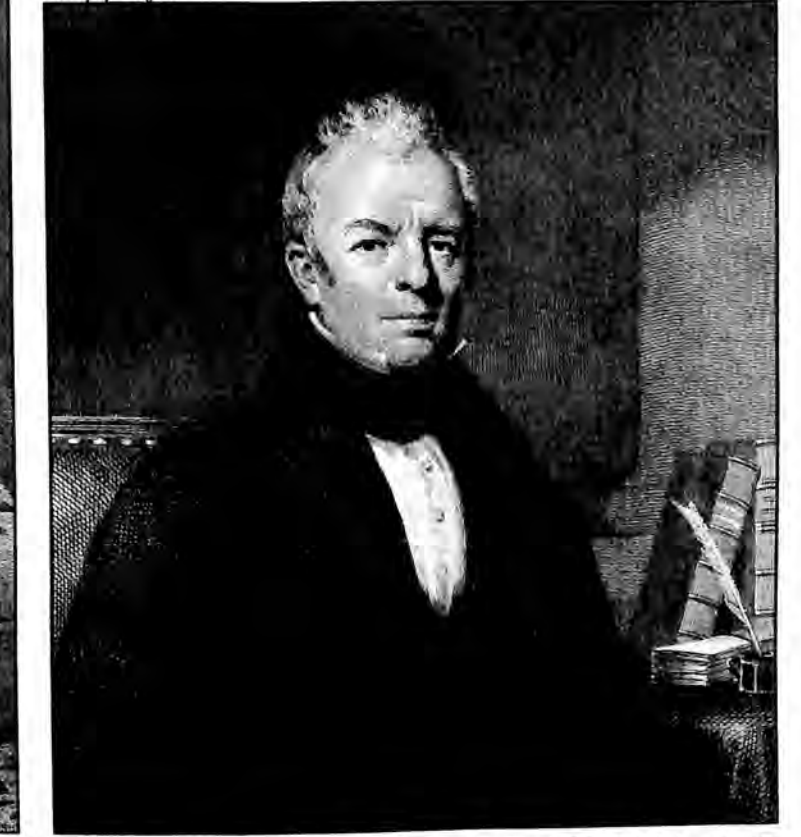
Livingston was finally paroled, however, after which he went to Albany where he studied law under Peter Yates. He had read law in his Princeton days and perhaps studied independently while he was in Spain. He gained admittance to the bar in 1783 after which he settled in New York City. It was at this juncture that he officially dropped the "Henry" in his name, though family correspondence from earlier years indicates that he was commonly referred to as Brockholst earlier in his life and perhaps had never used the name Henry. At any rate, he had two other Livingston cousins in New York also named Henry and whether to avoid confusion or simply because he never used it, he dropped the appendage. He became a respected practitioner of the law and perhaps not surprisingly, entered the political forum. He also gained a reputation as a speculator in banking and securities.

Livingston was elected to the twelfth session of the New York Assembly for the first time in 1786, and he eventually served three terms with the Assembly. During the early years of his law practice he was associated with Alexander Hamilton and Aaron Burr, serving as co-counsel for the defense with both of them in a notorious case referred to as "The Manhattan Well Mystery" which involved the discovery of the body of a young woman in a well and the subsequent trial of her fiancé for her murder.

Brockholst eventually became the leader of the "Manor" branch of the Livingston family which became embroiled with the "Clermont" branch of the family in land disputes. This branch of the family was headed by Chancellor Robert Livingston who considered Brockholst "as somewhat given to duplicity." Despite this negative expression, Robert offered Brockholst the

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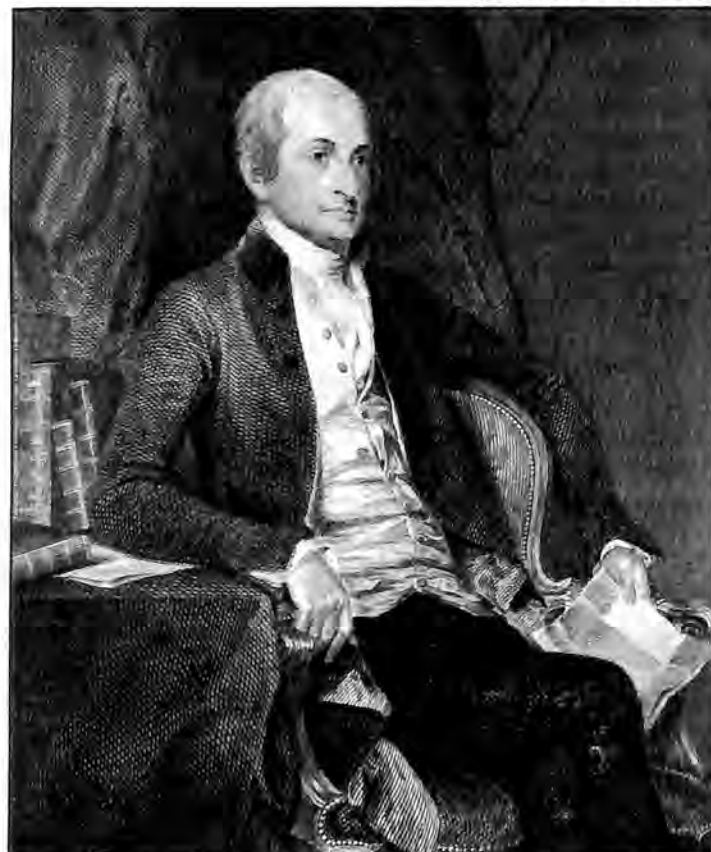
James Kent was a major influence in Brockholst Livingston's life, first studying law under him, and later joining him on the New York Supreme Court.

5

Livingston (continued) Chancellorship of New York in 1801, and later in his life made more positive comments about him. Brockholst's antipathy to Jay came to the surface again when Jay ran for governor of New York. Livingston circulated highly critical unsigned pamphlets attacking Jay and campaigned systematically against him. However, Jay won the election. Coming swiftly upon the heels of this skirmish came the controversy over the treaty Jay had negotiated with the British, commonly referred to as the "Jay Treaty". Many people were outraged over the terms and Jay was maligned throughout the country. In New York he was hanged in effigy on at least one occasion at which Livingston was present.

Perhaps as a result of his antipathy to Jay, or perhaps because of his early associations with Madison, Livingston became increasingly anti-Federalist in his political thinking. He became associated with DeWitt Clinton and Aaron Burr and worked with them to promote the Jefferson-Burr ticket in 1800, the New York gubernatorial campaign and Clinton's Senatorial campaign in 1802. Having allied himself with the victors, Livingston was duly rewarded. In fact, the Livingston family in general profited greatly from the victories receiving several important state posts including two in-laws, Morgan Lewis and Smith Thompson, who received appointments to the New York Supreme Court as Chief Justice and Associate Justice, respectively. Brockholst was promised the next vacancy and accordingly was appointed a puisne judge of the Court in 1802. There he joined his previous associate James Kent.

Office of the Curator, Supreme Court



Livingston never shared the Supreme Court bench with John Jay, whose tenure as the first Chief Justice preceded Justice Livingston's term of office by nearly a decade. This may have been just as well since the numerous junctions at which the two men's careers intersected were marked by bitter rivalry.

On the Court Livingston developed a reputation for being independent and energetic. He wrote 149 opinions in only four years and in a time when personal expression was rather unusual, he led the Court in the largest number of independent expressions. The Court was involved in the work of a developing commercial society with a major port, and Livingston became increasingly involved in maritime and prize case litigation as well as commercial litigation. He brought previous experience to his work for while he was practicing law he was retained as counsel for all French prizes brought into America.

One of the dissents he wrote is a particularly humorous opinion concerning a fox hunt. The case involved a gentleman who rode all day to the hounds in pursuit of a fox. Just as he was closing in for the kill, a local farmer killed and claimed the fox. The case came to the New York Supreme Court on appeal. After summarizing the facts of the case, Livingston commented:

This is a knotty point, and should have been submitted to the arbitration of sportsmen, without poring over Justinian, Fleta, Bracton, Puffendorf, Locke, Barbeyrac, or Blackstone, all of whom have been cited; they would have had no difficulty in coming to a prompt and correct conclusion. . . . But the parties have referred the question to our judgment, and we must dispose of it as well as we can, from the partial lights we possess, leaving to a higher tribunal the correction of any mistake which we may be so unfortunate as to make. By the pleadings it is admitted that a fox is a "wild and noxious beast." Both parties have regarded him, as the law of the

Harvard Law Art Collection



In contrast to his rivalry with Jay, Livingston enjoyed very good relations with the Justices with whom he shared the Supreme Court bench. Among his close friends was Joseph Story, who frequently visited Livingston's home in New York when the two men were not tending to their Court duties in Washington.

nation does a pirate, "Hostem humani generis," and although "de mortuis nil nisi bonum" be a maxum of our profession, the memory of the deceased has not been spared. . . ."

After further discussion, Livingston concluded that, in his opinion, the fox should have gone to the gentleman who "at peep of day, would mount his steed, and for hours together, 'sub jove frigido,' or a vertical sun, pursue the windings of this wily quadruped. . . ."

Despite his substantial workload on the Court, Livingston kept his hand in the political arena and there are some indications that he had been promised a position on the Supreme Court of the United States even while serving on the New York Supreme Court. At any rate, in 1806 upon the death of Justice William Paterson of New Jersey, Jefferson offered Livingston the vacancy.

Livingston took his place on the Supreme Court bench in 1806. He fitted in well with the early Marshall Court's customs of congeniality and collegiality. He particularly enjoyed the camaraderie between the Court members as they lived and worked together in a boarding house setting during the Court term. In 1808 Story described his associate in a letter to Samuel Fay: "Livingston has a fine Roman face; an aquiline nose, high forehead, bald head, and projecting chin, indicate deep research, strength, and quickness of mind. I have no hesitation in pronouncing him a very able and independent judge. He evidently thinks with great solidity, and seizes on the strong points of argument. He is luminous, decisive, earnest and impressive on the bench. In private society he is accessible and easy, and enjoys with great good humor the vivacities, if I may coin a word, of the wit and the moralist."

Story's description of Livingston coincides with other contemporary accounts showing that despite his occasional flares in temper, Livingston was considered a cultured, genial man by associates and colleagues. Livingston was married three times, having been widowed twice. He was married first to Catharine Keteltas, second to Ann Ludlow and then to Catharine Kortright. Two of his wives were Livingston cousins. He was considered a good family man and a leading man of the community. His interests encompassed many areas and he was an accomplished classical scholar. He was a patron of educational institutions, a trustee of the American Academy of Languages and Belles Lettres, a founder of the New York Historical Society, and a trustee of Columbia University. In 1847 Kent described Livingston as "very polished in his address and courteous in his manners . . . tall, thin, graceful, and rapid and elegant as a speaker." However, when his temper was involved, it occasionally involved violence and he fought several duels including one as early as 1777. In 1798 he killed his opponent in a duel.

Somewhat at odds with his career on the New York Supreme Court bench, Livingston rarely dissented on the Marshall Court. This was probably attributable in large measure to Chief Justice Marshall's persuasive personality and desire to have a united Court, and perhaps in part to the close proximity in which the Marshall Court members worked and lived. Writing his friend Fay in 1812, Story described the collegial atmosphere of the Marshall Court brethren by saying: ". . . So far as my judicial duties go, I find myself considerably more at ease than I expected. My brethren are very interesting men with whom I live in the most frank and unaffected intimacy. Indeed, we are all united as one,



Smith Thompson shared the New York Supreme Court Bench with Livingston and succeeded Livingston on the U.S. Supreme Court Bench in 1823.

with a mutual esteem which makes even the labors of Jurisprudence light." Livingston and Story had very cordial relations and Livingston invited Justice and Mrs. Story to be guests in his home in New York. On several occasions Story traveled to New York and visited the Livingston family before he and Livingston set out to Washington to attend the Supreme Court term.

Livingston wrote only seven opinions between 1807 and 1811. In his 17 Terms on the bench he wrote a total of forty-nine opinions, writing thirty-eight opinions of the Court. He dissented only three times and wrote 3 statements. He also wrote seven separate opinions and one concurring opinion. Records indicate that while he voted with the majority in the Dartmouth College case he had prepared a separate concurrence which he later decided not to file. During his tenure on the Court he seemed to revert to the federalism of his earlier years, perhaps because of Marshall's strong influence. His writing style was concise, factual and less florid than that of many of his contemporaries and sometimes touched with humor.

Eight of the opinions Livingston wrote for the Supreme Court of the United States concerned prize ship cases. Most legal scholars feel that his more substantive work was performed on the New York Court and James Kent commented that Livingston was the only judge on that court capable of refuting Kent's arguments in the fields of French and civil law. While Livingston participated in many of the great landmark cases of the Marshall Court, most of the opinions were written by Chief Justice Marshall, leaving the other brethren to write opinions in the less important cases.

--continued, next page

Livingston (continued)

Livingston was assigned to the Second Circuit while he served on the Supreme Court bench. His letter to Timothy Pitkin of June 28, 1813 describes his duties and expresses his concern over Congress' proposal to change the dates and locations of the circuit courts:

The fall session is now held at Rutland [Vermont] on the 3rd of October, which follows so closely on the court which is held at Hartford on the 17th day of September as to enable the Judge who holds these courts to finish the business of both without returning home or [suffering] an unnecessary detention on the road. If this term, as is contemplated, is changed on the 15th of November, the Judge must return home and set out again in a very inclement season, and when the roads in Vermont are almost impassable, and perform a Journey out and [back] home, of between six and seven hundred miles for the sole purpose of holding a court at Montpelier . . .

From In The Green Bag: A 19th Century Primer on Jury Duty and Book Borrowing

The *Green Bag* was a Nineteenth Century periodical which described itself on its title page as "A Useless but Entertaining Magazine for Lawyers." The Volume III, 1891 issue provided its readers a rare glimpse of one of the Justices of the day by including in its pages a biographical sketch of Joseph P. Bradley, a Grant appointee who served on the Court from 1870 through 1892. In the process it preserved two anecdotes involving the Justice which are illustrative of his penchant for dry humor.

In the first anecdote one of Justice Bradley's friends paraphrases the Justice's account of an encounter with a local constable seeking his services in an off-the-bench judicial capacity:

I was walking one morning, rather plainly dressed, near the City Hall, when a man came up and said, "Do you live in the District [of Columbia]?"

I said, "Yes."

"Own property in the District?"

"Yes, I do. But what is that to you?"

"Well," he said, "I want you to serve on a jury. They are short of a jurymen in there, and I'm sent out to get one."

(This was only a short time after I had come to Washington.)

"How long will it take?"

"I don't know," said he. "It may take two or three days."

"But I haven't time, I'm busy."

"Oh, they all say that. I don't accept any such excuse as that."

So I walked along a little way toward the building, as if I were going in.

"But I've business to attend to," said I.

"Oh, well, your business can wait."

"No, it can't—I've got to go to the Capitol. I've important things to attend to there."

At first I thought I would let him take me in, and then I would tip the wink to the Judge, but I concluded that I wouldn't go so far as that, so I said to him, "Are you in the habit of putting Justices of the Supreme Court of the United States in your jury-box?"

In early 1823 Livingston developed pleurisy. His third wife, Catherine Kortright, and his daughter, Susan Ledyard, attended his sick bed. He died on the 18th of March. Marshall wrote Mrs. Ledyard later to convey his sympathy and described Livingston as "my very estimable and ever to be lamented friend." Traveling alone to the next session of Court, Story wrote his wife expressing his regret over Livingston's death saying "I felt exceedingly depressed by the recollections of his loss." The tribute read before the Supreme Court and probably written by Story, notes that, "At the bar he was an ingenious and learned advocate, fruitful in invention, and possessing a brilliant and persuasive elocution. On the bench, his candor and modesty were no less distinguished than his learning, acuteness and discrimination. His genius and taste had directed his principal attention to the maritime and commercial law, and his extensive experience gave to his judgments in that branch of jurisprudence a peculiar value, which was enhanced by the gravity and beauty of his judicial eloquence."

"Why, are you a Justice of the Supreme Court?"

"Yes," said I.

"What name?"

"Bradley," said I, and after I had told him he concluded to let me go.

Justice Bradley's subtle humor was illustrated by another incident which took place while he was an attorney in private practice in New Jersey preceding the Civil War. Bradley was an avid reader and possessed an extensive personal library which exceeded 16,000 volumes.

While at the bar in Newark it happened that several books out of his library, borrowed by an intimate friend, Mr. Frelonghuysen, for a temporary purpose, had been detained rather longer than usual. The two lawyers met each other every other day. Mr. Bradley gravely caused an advertisement to be conspicuously inserted in the daily newspaper, header "Lost or Stolen," and describing the missing volumes. Within twenty-four hours the books came home.

Library of Congress



Justice Joseph P. Bradley was a voracious reader, and this undated photograph shows him pursuing his passion for reading in his chambers. Bradley actually had no middle name, but adopted the initial "P." early in life, possibly in honor of his father, Philo.

Membership Update

The following members have joined the Society between July 1, 1991 and August 31, 1991. Names and honorifics appear as they do on membership applications.

Alabama

Atley A. Kitchings Jr. Esq., Birmingham

Arizona

The Honorable Richard Nichols, Tucson

California

Mr. Andrew A. Ferris, San Diego
James Michael Petrucelli Esq., Fresno
Mr. Manuel L. Real, Rancho Palos Verdes

Connecticut

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Marshall (continued from page one)

throughout the country, with particular emphasis on eliminating educational discrimination. As special counsel for the NAACP, Marshall worked with George E. C. Hayes and James Nabrit, to argue the landmark case Brown v. Board of Education. On May 17, 1954, the Court handed down its unanimous decision which declared segregation in public schools to be unconstitutional.

Justice Marshall's public career included service on the federal bench and in the Justice Department. In 1961, President

John F. Kennedy nominated Marshall to the Second Circuit Court of Appeals. He received a recess appointment in October 1961, and was confirmed by the Senate on September 11, 1962. He served on the federal bench until his nomination for appointment as Solicitor General of the United States on July 13, 1965 by President Lyndon B. Johnson. Justice Marshall served as Solicitor General until his appointment to the Supreme Court by President Johnson on June 13, 1967. He was confirmed by the Senate on September 1, 1967 and took his seat on October 2nd. Justice Marshall set several historic precedents during his career

UPI/Bettmann



Above: Shown leaving the Supreme Court Building on Sept. 12, 1958 are Marshall and his wife, Cecilia A. Suyat. The Marshalls were married on December 17, 1955. They have two children, Thurgood, Jr., and John William. Justice Marshall was first married to Vivian Burey on September 4, 1929 until her death in February, 1955.

President Johnson nominated Marshall to become Solicitor General of the United States, succeeding Archibald Cox, on July 13, 1965. Pictured at right, on the opening day of the Court term that year, October 11, 1965, are then Attorney General Nicholas Katzenbach (left) and Marshall (right). Katzenbach was quoted as saying "[i]t's no exaggeration to say that a good measure of the civil rights progress we've made is built on what this fellow has done over the years." As Solicitor General, Marshall won over 80% of the cases he argued for the U.S. government.

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At right: During the Little Rock School Integration Case, (left to right) William T. Coleman, Jr., Thurgood Marshall, and Wiley A. Branton argued for the NAACP.

Marshall was Chief Counsel of the NAACP at the time. The Supreme Court ordered the Little Rock School Board to proceed with integration at Central High School.

including becoming the first Afro-American to serve as Solicitor General. With his appointment to the Supreme Court of the United States he also became the first Afro-American to serve on the Court.

In a tribute written to Justice Marshall in 1989 and published in *The Harvard Blackletter Journal*, the author summarized Justice Marshall's career by noting that "[i]t is a tribute to Justice Marshall that he has had the integrity and dedication to make a lifetime commitment to the struggle for justice for all. His life exemplifies what it means to respond dutifully to the call to serve."

LBJ Library



Marshall is pictured above with President Johnson in the Oval Office at the White House prior to his assuming the office of Associate Justice of the Supreme Court. Marshall had close ties with Presidents Kennedy and Johnson. He served as Kennedy's official consultant at the Constitutional Conference on Kenya in London in 1961 and as a personal representative to the independence ceremonies of Sierra Leone in 1961. He also attended funeral services of Kenya's first president, Jomo Kenyatta, in 1978.

LBJ Library



Associate Justice Hugo L. Black officiated at the White House ceremony when Marshall took his oath prior to becoming Solicitor General of the United States. Pictured from left to right are Thurgood, Jr., John, Mrs. Marshall, President Johnson, Justice Marshall, Justice Black and Mrs. Black. Standing in the left corner on the back row is Paul Bender, who was then the Assistant to the Solicitor General.

Invitations Mailed for National Heritage Lecture



Justice Anthony M. Kennedy

The first annual National Heritage Lecture will be held at the Supreme Court building in Washington, D.C. on Thursday, November 7, 1991. The inaugural speaker for this new lecture series will be Justice Anthony M. Kennedy. His address will examine the history of President Roosevelt's failed attempt to enlarge the Court in 1937.

The National Heritage Lecture series was established as a cooperative program by the Supreme Court Historical Society, the U.S. Capitol Historical Society and the White House Historical Association.

Each year the three co-sponsors will choose someone of national prominence with recognized expertise on the history of one of three branches of our federal government to address the members and friends of the three groups. This year's lecture centers on the Supreme Court,

and the Supreme Court Historical Society is serving as host for the first event. In subsequent years this role of "host" will rotate among the three historical societies.

Invitations to the first lecture will be mailed to members and friends of all three groups on September 16, 1991. The lecture will begin at 6:00 p.m. in the Supreme Court chamber. It will be followed by a reception in honor of Justice Kennedy at 7:00 p.m. in the Court's East and West Conference Rooms.

Because seating is limited to 300 persons and the members and friends of all three organizations are being invited, Society members who wish to attend this event are urged to return their reservation request forms and payments as promptly as possible to ensure confirmation. An admission fee of \$75.00 per person is being charged to defray costs of printing and other related expenses. For additional information, please write or call the Society's headquarters at (202) 543-0400.

Acquisitions Committee Notice

In the interest of preserving the valuable history of our highest court, the Supreme Court Historical Society is seeking to contact relatives, associates, or any others who might be able to assist the Society's Acquisitions Committee. The Society is endeavoring to acquire artifacts, memorabilia, literature or any other informa-

tion related to the history of the Court and its members. If any of our members, or others, have anything they would care to share with us, please contact the Acquisitions Committee at the Society's headquarters, 111 Second Street, N.E., Washington, D.C. 20002 or call (202) 543-0400

The Supreme Court Historical Society
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