



THE SUPREME COURT
HISTORICAL SOCIETY

Quarterly

VOLUME XXXIV

NUMBER 4, 2012

2012 Leon Silverman Lecture Series

The Leon Silverman Lecture Series has now concluded its 2012 presentations. This year the series followed a new schedule, stretching the program offerings out over a period of months. The change seemed to have a favorable response from attendees. Instead of four or five lectures pressed into a three month period, the program was spread over a much longer time. The

The general structure of this year's lectures was a tracing of property law from the concept of the founders—particularly Madison—to the modern era. A final lecture dealt with the special issues raised in Native American cases before the Court.

As usual, a distinguished group of scholars from academic centers across the United States were the presenters. On March 14th, Professor Jonathan O'Neill of Georgia Southern University spoke on the topic "The Founders and Property Law—An Overview."

On May 2nd, Professor James W. Ely, Jr., Milton R. Underwood Professor of Law Emeritus at Vanderbilt University School of Law, addressed the topic: "Property Rights and the Gilded Age." On May 23rd, Mark R. Killenbeck, Davis Distinguished Professor of Law at the University of Arkansas, discussed "James



Photos by Steve Pettaway

Professor Jonathan O'Neill spoke about the Founders' vision of the importance of property law in a constitutional setting.

first of the five lectures was in mid-March; the last in mid-November. Because of this more leisurely pace, attendance was near capacity at all five events.

The series was built around the general theme: "The Supreme Court and Property Rights." There was some daring involved in this choice. Property law is perhaps the most comprehensive and far-ranging area of legal study. Property issues can be mundane or extremely complicated. Even lawyers whose practices center on property can be unaware of complex constitutional issues which have appeared throughout history.



Professor James W. Ely spoke about how property law was interpreted by the Supreme Court during the last decades of the 19th century, commonly referred to as the Gilded Age. This period was characterized by ever increasing industrialization.

Continued on Page 3

A Letter from the President



Gregory P. Joseph

For the first time in its history, the Society will hold a fundraising dinner to help underwrite educational activities and publications. The Inaugural Gala Event will be held on Wednesday March 13, 2013 at the Plaza Hotel in New York City. Past fundraising efforts have focused

primarily on appeals to individuals, corporations, law firms and other public minded organizations. These efforts have been successful, but the Society's many activities require additional funding, and many organizations of a similar character have found this mode of fundraising to be effective and enjoyable.

Much credit is due David Leitch, Chair of the Development Committee and of the Gala Committee, who has worked assiduously to make this dinner a success. Two outstanding lawyers and former Supreme Court law clerks, Paul Cappuccio (General Counsel of Time Warner) and Ted Ullyot (General Counsel of Facebook), will be recognized. Mr. Cappuccio clerked for Justice Antonin Scalia in the 1987 Term, and then served as a clerk to Justice Kennedy the following year. Mr. Ulloytt clerked for Justice Scalia several years after Mr. Cappuccio's service. This personal experience with the Court fostered a lasting and deep interest in and respect for the institution and its role and contributions to the greater fabric of American life.

Guests at the Gala will not only enjoy a wonderful meal but will also have the unique opportunity to view one of only nine extant copies of the Constitution from its first official printing. The Constitution that will be on display at the event is the only copy held in private hands and is rarely available for public viewing. Society Vice President Dorothy Goldman has graciously agreed to exhibit the document and its shell case for this special event. While the case itself is not as old as the document it contains, it is also historically significant as it has been autographed by a number of prominent

Americans. Both items will be displayed throughout the evening.

I am confident that this event will be a wonderful success and invite you to join us on March 13th. The back page of this issue has contact information for the Gala.

The Gala will be only one of a number of outstanding Society events this year. The 2013 Silverman Lecture series will focus on the individuals behind the Court's Civil Rights Cases. The first lectures will take place beginning in April in the Courtroom, with the final lectures taking place in the fall of the year. Prominent historians will speak about such important cases as *Loving v. Virginia* and *Bell v. Maryland*.

The 2013 Frank C. Jones Reenactment will focus on the landmark baseball antitrust case *Flood v. Kuhn*. The reenactment will be held on May 22nd in the Courtroom, and we anticipate a sold-out event.

The Annual Meeting will be held on Monday June 3, 2013 and we are honored that Justice Antonin Scalia and his co-author Bryan Garner will deliver the Annual Lecture, speaking about their popular book **Reading Law: The Interpretation of Legal Texts**.

The Society will again partner with the Historical Society of the New York Courts and host a program on October 25, 2013, focusing on New York native Robert Jackson as the Solicitor General of the United States. A panel discussion with former Solicitors General will be an added feature of the program.

None of these programs would be possible without the participation and support of the members of the Society. Your interest and financial support are critical to the success of all the Society's endeavors. On behalf of the other Officers and Trustees of the Society, I would like to express gratitude for your past support, encourage your continued participation, and express the hope that you will choose to attend Society events as your schedule allows. Please visit our website, www.supremecourthistory.org, for further information about events and to access enrichment materials that are available there.

Gregory P. Joseph



Professor Richard A. Epstein spoke about the Supreme Court and the Takings Clause, with special emphasis on the early twentieth century.

Madison and the Commerce Clause.” Professor Richard A. Epstein of the University of Chicago addressed the topic: “The Supreme Court and the Takings Clause,” with particular emphasis on the early twentieth century. His talk was given October 10, 2012.

Finally, on November 14th, Professor Angela R. Riley, Director of the UCLA American Indian Studies Center, spoke on the special issues relating to Native American lands. Professor Riley brought a special perspective to her talk. She is a citizen of the Potawatomi Nation of Oklahoma and currently serves as Chief Justice of her tribe’s Supreme Court.



Professor Mark R. Killenbeck addressed the topic of James Madison and the Commerce Clause. The Professor was photographed immediately after his lecture with his wife Professor Anne Killenbeck (right) their daughter Jessica, and Justice Sotomayor.

As with past series, attendees at the lectures were enthusiastic and appreciative. A reception followed each lecture.

An upcoming issue of the **Journal of Supreme Court History** will contain the text of the lectures. The last two lectures given by Professors Epstein and Riley, were taped and have been aired by C-Span 3.

Those two programs can be accessed through C-Span’s

website for a limited period of time. In addition, those lectures can be found in the Archives section on the Society’s website, www.supremecourthistory.org.

The 2013 Silverman Lecture series marks the 20th anniversary of the program named for the Society’s Chairman of the Board, and past President, Leon Silverman. The topic of the lectures will be “People Behind the Court’s Civil Rights Cases” and each lecture will focus on the background and circumstances of the actual litigants involved in the famous landmark cases. The series will again be divided into two parts, with the first lectures taking place in the Spring of 2013, and the remaining programs in the Fall of 2013. As



Professor Angela Riley (left) poses with her husband Josh Schwartz and Justice Ginsburg immediately after presenting her lecture about Native American property rights and the Supreme Court.

soon as dates, speakers and topics have been finalized, information will appear on the website. Invitations will be mailed to all active members of the Society.

The next Frank C. Jones Reenactment will revisit the landmark case of *Flood v. Kuhn*, the case that dealt with major league baseball and anti-trust law. The program will be presented on May 22, 2013. Additional information will be posted on the Society’s website.

Quarterly

Published four times yearly in Spring, Summer, Fall, and Winter by the Supreme Court Historical Society, 224 E. Capitol Street, N.E., Washington, D.C. 20003. Tel. (202) 543-0400, www.supremecourthistory.org. Distributed to members of the Society, law libraries, interested individuals, and professional associations.

Managing Editor Kathleen Shurtleff
Advisory Editor James B. O’Hara
Advisory Editor Frank D. Wagner

The William J. Brennan Courthouse: The Renaissance of a Palace of Justice

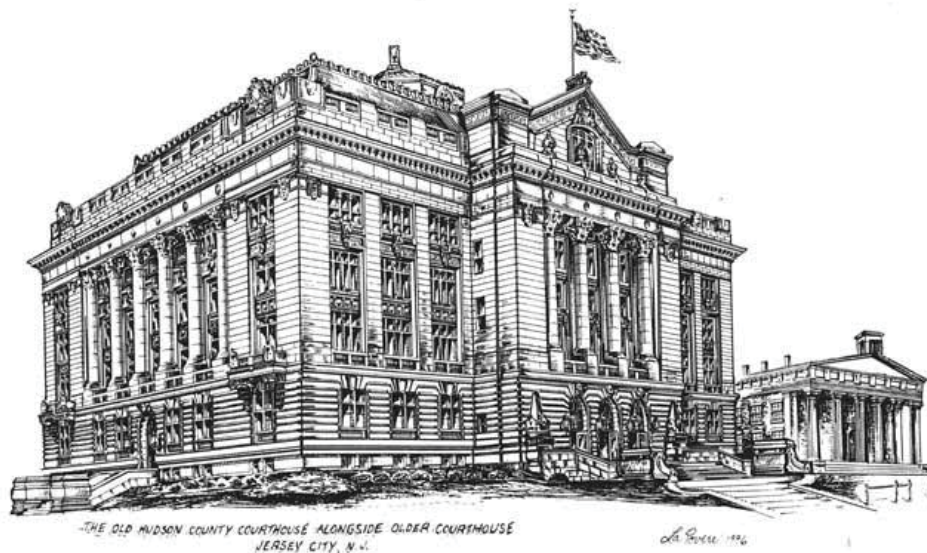
The William J. Brennan Courthouse, located in Newark, New Jersey, has had a long and sometimes troubled history. Designed to serve as the seat of Hudson County's judicial system, it filled this purpose from its opening in 1910 until 1966. When the courts and offices were relocated to the adjacent Hudson County Administration Building, the courthouse stood empty and neglected for some years. Plans were underway for its demolition when in the mid-1970s a successful campaign was mounted to save and restore the building.

The building had a glorious beginning when it opened on September 10 in 1910. Designed in the beaux-arts style by Hugh Roberts at a cost of \$3.3 million, the building was modeled on Italian Renaissance palaces. The exterior of the courthouse boasted granite walls, bronze window frames and doors, Corinthian columns, and a low flat copper dome surmounted by the torch of victory. The interior and decoration were designed by Francis Millet, who was the director of decoration for the 1893 Columbian Exposition. Eight columns of Italian green marble graced the center of the building and created an interior court covered by a dome. An architectural historian wrote recently that the rotunda "with its rich materials, columns, balustrades, arches and dome shows the sumptuousness of Neoclassical Revival design." The courtrooms were ornate and richly appointed and each is illuminated by a stained glass skylight.

Given the great expense, costly design and careful ornamentation of the building, it seems an unlikely candidate for possible demolition some fifty years later, but that was the case. Indeed, the \$3.3 million

construction cost was considered by many to be outrageous in 1910, and a committee was created to investigate the costs. In spite of the great expense and care involved in its construction, it lay derelict and was slowly decaying until some county employees, impelled

by the beauty of the building, began restorative work in the mid 1970s, slowly bringing it back to its former splendor. The restoration program garnered a preservation award from the Victorian Society in America in 1988. The building is now listed on the National Register of



The Essex County Courthouse was built in the beaux-arts style in the 1920s. It was renamed for Justice William J. Brennan, Jr.

Historic Places, protecting it for the foreseeable future.

The building reopened in 1985 for use in civil cases, and once again became the home of important judicial business. In 1989, the building was renamed for native son Associate Justice William J. Brennan, Jr. Born in Newark in 1906, Justice Brennan received a judgeship to the New Jersey Superior Court and served as Hudson County's assignment judge from 1949-1951. He was then elevated to the Appellate Division of the Superior Court, and subsequently to the Supreme Court of New Jersey. He was serving there at the time of his nomination by President Eisenhower to serve as an Associate Justice on the Supreme Court of the United States.

In 2010, the Hudson County Office of Cultural Affairs and Tourism created a special video honoring the centennial of the building: "A Link to the Past: A Vision of the Future: The Hudson County Justice William J. Brennan Court House." The video can be accessed through the Hudson County website, by clicking on the link *The Justice William J. Brennan*

Richard La Rovere



Courtesy of Essex County

The rotunda area of the courthouse is surmounted by a dome and ornamented with murals. The first floor of the area is converted to a performance venue once a month.

Court House.

In 2002, Thomas A. DeGise was inaugurated as the Hudson County Executive in the Brennan Court House. On that occasion a local gospel singer, Rhudell Snelling, performed the national anthem in the marble-lined rotunda. Mr. DeGise said the performance was wonderful and described the music as reverberating off the marble columns. The impressive acoustics of the building suggested to Mr. DeGise that the rotunda area would make a wonderful area in which live music could be performed. And so, a concert venue was born.

Concert goers know the venue as the **Brennan Coffee House (BCH)**, where the slogan is “*We do Justice to Good Music.*” On the third Friday of most months, the rotunda area becomes a concert stage. A series of foldout tables staffed by volunteers appears, and areas of the rotunda are curtained off. Audience members can purchase brownies, cheesecake, bottled water, wine and coffee to enjoy during the concert. What makes this venue a little unique is the fact that all patrons must go through metal detectors on the way to their tables, and there are armed guards present throughout the evening. Notwithstanding these “challenges,” the

concerts draw audiences of as many as 120 people. To date, the performers have been almost exclusively folk musicians. Performances have been given by musicians such as Kate Jacobs and Tom Paxton. The inaugural performance was given on October 15, 2004, with Jane Kelly Williams, Barbara Beeman and Bill Bannon performing. An Open Mic session concludes each concert. The BCH is produced by the Hudson County Office of Cultural Affairs & Heritage Affairs/Tourism Development.

The Coffee House is temporarily on a hiatus because the murals on the dome and on the 4th floor will be preserved and restored. It is anticipated that it will take approximately one and a half years to complete the necessary work. The murals, and the entire building, are on the National & New Jersey Registers of Historic Places. It was entered on August 19, 1970. The muralists include: C.Y. Turner; Howard Pyle; Francis Millet; Kenyon Cox; and Edwin I. Blashfield.

The Brennan Court House is one of the most important landmarks in Hudson County. During its history it has gone from being the jewel of the community, to an eyesore, and is now restored and a proud part of the community. Perhaps there was a little “luck of the Irish” at play in the preservation and rejuvenation of this Court House—a fitting association for a building named in honor of a distinguished jurist who rose from Irish roots.

In nearby Essex County, New Jersey, a memorial statue of Justice Brennan graces the front steps of the County Hall of Records. At the dedication ceremony

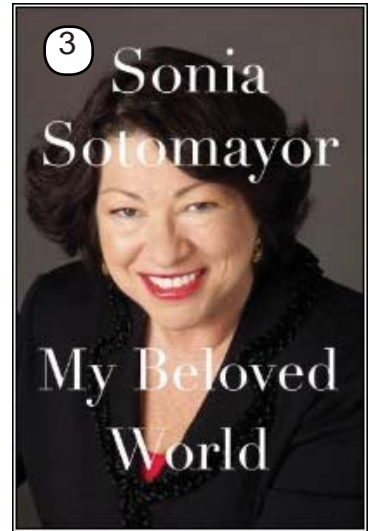
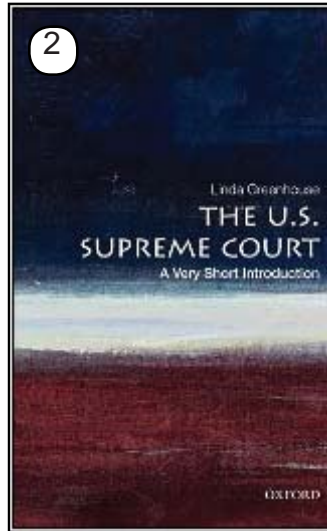
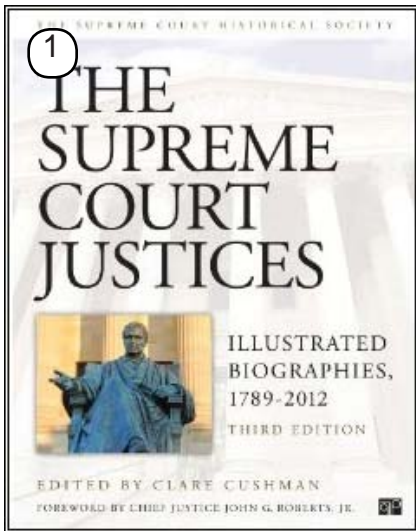


The playful motto for the Brennan Coffee House is “We do Justice to Good Music.” To date, all performances of the Coffee House have been by folk musicians.

held on the front steps of the Essex County Hall of Records, Joseph D’Vincenzo, Jr., the Essex County Executive, said of Brennan that he was “. . . a strong believer in protecting every American’s civil rights and personal freedoms, [and] helped define our country during the 34 years he served on the Supreme Court. We hope that his statue, on the front steps of our Hall of Records, will inspire our children to believe that perseverance and hard work can help them achieve their goals. We invite the public to join us on June 3rd, as we honor this distinguished son of Essex County with the first

statue dedicated at our Governor Complex since ‘seated Lincoln’ in 1911.”

Please visit our giftshop online at SupremeCourtGifts.org or call to place your order. All current Historical Society members receive the Member's price in red. Gift memberships can also be purchased through our website and by phone. Please call 1(888)539-4438 to place your order or if you need assistance.



- 1) The U. S. Supreme Court: A Very Short Introduction - Item #113106**
 Everyday Price \$11.95 - **Member's Price \$9.56**
 For 30 years, Pulitzer Prize-winning journalist Linda Greenhouse chronicled the activities of the U.S. Supreme Court and its justices as a correspondent for the New York Times. In this Very Short Introduction, she draws on her deep knowledge of the court's history and of its written and unwritten rules to show readers how the Supreme Court really works. A superb overview packed with telling details, this volume offers a matchless introduction to one of the pillars of American government.
- 2) The Supreme Court Justices Illustrated Biography, Third Edition - Item #113205**
 Everyday Price \$135.00 - **Member's Price \$108.00**
 The Supreme Court Justices: Illustrated Biographies, 1789–2012, Third Edition, provides a single-volume reference profiling every Supreme Court justice from John Jay through Elena Kagan. Lively anecdotes along with portraits, photographs, and political cartoons enrich the text and deepen readers' understanding of the justices and the Court. The volume includes an extensive bibliography and is indexed for easy research access. Hard cover.
- 3) My Beloved World - Item #113151**
 Everyday Price \$27.95 - **Member's Price \$22.36**
 The first Hispanic and third woman appointed to the United States Supreme Court, Sonia Sotomayor has become an instant American icon. Now, with a candor and intimacy never undertaken by a sitting Justice, she recounts her life from a Bronx housing project to the federal bench, a journey that offers an inspiring testament to her own extraordinary determination and the power of believing in oneself. America's infinite possibilities are envisioned anew in this warm and honest book, destined to become a classic of self-invention and self-discovery.
- 4) Supreme Court Seal Knit Throw - Item #07525**
 Everyday Price \$76.95 - **Member's Price \$61.56**
 What a beautiful accent for any decor! This 100% acrylic throw is knitted with seven vibrant colors. It is machine washable, so you can use it to keep warm this winter. Made in the U.S.A., this throw measures 4' x 6'.
- 5) Standing Cube Paperweight - Item #5103**
 Everyday Price \$44.95 - **Member's Price \$35.96**
 Reflecting a rainbow of colors through its many beveled edges, this desk accessory is made of optical crystal, one of the highest grades of crystal available. Uniquely notched on one corner allowing it to stand on-end to catch as much light as possible. The Supreme Court Seal is deep etched into the cube and it comes ready for giving in an elegant gift box.
- 6) Leather Thermos and Mug Set - Item #5040**
 Everyday Price \$39.95 - **Member's Price \$31.96**
 This leather set comes with a thermos and two miniature travel mugs. The set features the "Seal of the Supreme Court".
- 7) Multifunction Pen - Item #3774**
 Everyday Price \$18.95 - **Member's Price \$15.16**
 A fantastic multifunction pen! Not only is there a pen, but a soft stylus for your media device on the cap. Opposite the writing end is a laser for presentations and a mini flashlight for emergencies.
- 8) Ceramic Coffee Mug w/ Pewter Seal: Slate Blue - Item #5702 & Burgundy - Item #5701**
 Everyday Price \$22.95 - **Member's Price \$18.36**
 These 16oz ceramic coffee mugs are available in either burgundy or slate blue. A pewter "Seal of the Supreme Court" is located on the face of these mugs. This item is both dishwasher-safe and microwave-safe.
- 9) Cutter & Buck Leather Folder - Item #112907**
 Everyday Price \$165.00 - **Member's Price \$132.00**
 Classic style has never been this functional. This business companion, constructed from genuine top grain leather and debossed with the "Seal of the Supreme Court", is able to carry everything a modern professional needs in vintage style. Zippered closure. Interior organizer includes 2 USB memory flash drive holders and 2 pen ports. Gusseted document pocket. 3 business card holders. Media pocket. Slash pocket. Includes 8.5" x 11" Cutter & Buck writing pad.
- 10) Laptop/Brief Bag - Item #7760**
 Everyday Price \$39.95 - **Member's Price \$31.96**
 This padded travel bag fits laptops, netbooks and other portable media devices up to 14". It has a top zippered compartment with durable outer shell and handle. There is a large front zippered accessory pocket to store your cell phone, power adapter, cables and accessories. The "Seal of the Supreme Court" is imprinted on the front. It measures 12"x 15" x 1".
- 11) Traveler Media Case - Item #7755**
 Everyday Price \$12.95 - **Member's Price \$10.36**
 This padded travel sleeve fits iPad, iPad2, Kindle, 10" Netbook, DVD Players and other portable media devices. It has a top zippered compartment with durable outer shell and handle. There is a front zippered accessory pocket to store your power adapter, DVDs, cables and accessories. The "Seal of the Supreme Court" is imprinted on the front. It measures 12"x 9" x 1".

WANTED

In the interest of preserving the valuable history of the highest court, The Supreme Court Historical Society would like to locate persons who might be able to assist the Society's Acquisitions Committee. The Society is endeavoring to acquire artifacts, memorabilia, literature and any other materials related to the history of the Court and its members. These items are often used in exhibits by the Court Curator's Office. 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, 224 East Capitol Street, N.E. Washington, D.C. 20003 or call (202)543-0400. Donations to the Acquisitions fund would be welcome. You may reach the Society through its website at www.supremecourthistory.org

Four Questions about the First Woman to Clerk at the United States Supreme Court

By Judge Larry A. Jordan, Ret.*

I recently learned who the first woman law clerk was at the Supreme Court of the United States. I was very surprised and elated about my discovery, but I also felt a sense of ignorance. To see if others were more knowledgeable, I started asking the lawyers at my mediations the following four questions.

1. Who was the first woman to clerk at the Supreme Court of the United States?
2. What year did she clerk?
3. For whom did she clerk?
4. From which law school did she graduate?

I have asked approximately 100 lawyers these four questions, and as of this writing, only one lawyer has been able to answer any of my questions. (Douglas Strandberg of Friday Harbor guessed the law school that she attended.) I am confident that some lawyers in Washington State know the answers, but the lawyers I spoke to confirmed that they all shared my ignorance. The answers follow below.

1. Helen Lucile Lomen. (She dropped the Helen and was known as Lucile, or Miss Lomen at the Supreme Court, Lucy to her friends, and Lu to her family.)
2. The year was 1944-1945.
3. The Justice was William O. Douglas.
4. The law school was the University of Washington.

Lomen's Background

Lucile Lomen was born in Nome, Alaska, on August 21, 1920. Both her grandparents moved to Nome during the gold rush at the end of the 19th century. Her paternal grandfather was a lawyer who was appointed to the Alaska Territorial Court by Calvin Coolidge in 1925 and again by Herbert Hoover in 1930. Her father was a prominent businessman with the Lomen Commercial Company and a member of the Alaskan Territorial Senate. Her family temporarily moved to Seattle in 1934, but because of a fire that destroyed much of the Alaska home, the family continued to reside in Seattle. Lomen graduated from Queen Anne High School in 1937. She later attended Whitman

College in Walla Walla and graduated with honors in 1941. In 1947, Lomen wrote that Whitman “prides itself on its friendliness and . . . is largely devoted to the grooming of students who will later enter the professional schools.” She also wrote that “[n]ow that I look back on my college career the outstanding part of my life at Whitman consists of living, working, and playing with people.”

Lomen applied to and was accepted by the University of Washington School of Law, which had been admitting women from the time it began in 1899. In 1941, many East Coast law schools did not admit women. There were three women in her graduating class. She was Law Review Editor, vice president of the Law Review board, published several articles (including an article on constitutional law for which she received a prize), and graduated first in her class. Ann Lomen Sandstrom, one of Lucile's three younger sisters, says “I was always in awe of Lu—my first mentor. She taught me how to study and the fun of learning. She had an intense focus on schoolwork, and later on law.”

Of course, after the United States entered World War II, many of the male students did not return to law school, which affected the recruitment of law clerks. In those days, the Associate Justices each had only one law clerk, making the choice particularly important. Prior to that time in history, there had been no women law clerks in the Supreme Court. In 1944, Justice Douglas wrote to Judson F. Falknor, Dean of the University of Washington Law School, who had supplied him with four of his previous clerks. Justice Douglas indicated that he would hire a woman if she “is absolutely first rate.” Dean Falknor recommended Lomen. After checking with faculty at his alma mater, Whitman College, and receiving very favorable recommendations, Douglas hired Lomen. Lomen later described Justice Douglas as very businesslike at the Court and someone who could do legal research faster than anyone she had ever known. In 1964, Lomen wrote that in addition to the professional growth that occurred from associating with Justice Douglas, “a more concrete benefit is the number of doors that have been opened to me as a woman in the profession because of that year.” Justice Douglas described Lomen as having “a fine mind” and “a great capacity for work.” Lomen often worked 16 hours a day and would sleep on a couch in her office.

While at the Supreme Court, Lomen socialized with the secretaries, and although the other clerks accepted her, she felt there were differences based on gender, age, legal education, and geography. Most of the other clerks were from the East Coast and were educated at such prestigious law schools as Harvard, Yale, and Columbia, as well as the University of Chicago. Lomen once stated that she and a law clerk from Wisconsin were considered westerners, and the two of them “thought differently” from the way the other eight thought.” She said, “I never knew if my problem was because I was a woman or because I was younger, or what.”

After clerking for a year, Lomen

returned to Washington state and worked as an assistant state attorney general for three years. Thereafter she worked at General Electric from 1946-1983, retiring at corporate headquarters as compensation and benefits counsel. Her sister Ann said that “the entire Lomen family was extremely delighted when, after retirement, she chose in 1989 to return to Seattle.” Lomen died on June 21, 1996, at the age of 75.

Lomen’s Legacy

Lucile Lomen was a true pioneer in many ways. Certainly, life in Nome in the 1920s must have been difficult. From the description of her work ethic, those early frontier years must have helped form her values and penchant for hard work. She clearly demonstrated her legal abilities while a law student at the University of Washington. She wrote several scholarly articles, had many leadership positions, and graduated first in her class. Justice Ruth Bader Ginsburg, in a speech given at Wellesley College on November 13, 1988, said that Lomen’s “Washington Law Review: Note on the Privileges and Immunities under the Fourteenth

Amendment, published in 1943 had had remarkable staying power. Lomen’s student note appears this very semester on Harvard Law Professor Laurence Tribe’s Constitutional law seminar reading list.” To say that Lomen was ahead of her time is more than true, as it was not until 1966 that the next woman law clerk was hired

at the Supreme Court when Justice Hugo Black hired Margaret Corcoran.

Lomen was lucky to live in a place that afforded her many opportunities, including the opportunity as a woman to attend law school. As Lomen wrote in 1946, “[t]oo many women in the profession have been discriminated against to make it a worthwhile enterprise for one

who is not interested in good hard work.”

The University of Washington Law School and its graduates should celebrate the fact that Kelly Testey is the first woman dean, and that 1944 graduate Lucile Lomen was the first woman law clerk at the Supreme Court.

Lomen’s observations about the differences between her and the other clerks are very insightful. Gender equality has a positive effect that is not easy to define but clearly exists in most institutions, including the judiciary. As Lomen observed, geographic diversity can also be important.

Originally printed in the Washington State Bar News November 2011, and is reprinted here with permission.

Judge Larry Jordan, Ret., served on the King County Superior Court for a decade. Before taking the bench, he served from 1975-1991 as a commissioner of Division 1 of Washington State Court of Appeals. He is currently a mediator/arbitrator at Judicial Dispute Resolution.



Lucile Lomen was the first woman to serve as a clerk to a Justice of the Supreme Court of the United States. She remained “the one and only” female clerk for more than 20 years until Justice Black hired Margaret Corcoran as a clerk.

Bethmann - Corbis

Dear Old Friends: Trivia Quiz

By Professor James B. O'Hara

Presidents and Supreme Court Justices travel in the same circles, and often are acquainted long before either has reached high rank. But in some cases, warm friendships are of very long standing. Here we list some Presidents. Can you identify the Supreme Court Justice who was a long-time friend? (Note: the Justice involved was not always appointed to the Court by his friend). The answers can be found on pages 12 and 13.

1. George Washington
2. William McKinley
3. Franklin D. Roosevelt

4. James Madison
5. Abraham Lincoln
6. Woodrow Wilson
7. Calvin Coolidge
8. Harry S. Truman
9. John F. Kennedy
10. Lyndon B. Johnson

The "Unusual" Supreme Court Clerk Nominee

By Margaret Peachy*

"My second nominee is somewhat unusual." This was the first line written by New York University School of Law Dean, Russell Niles, in support of Rita E. Hauser's candidacy for a clerkship with Chief Justice Earl Warren. The letter was written in October of 1958 and what was "unusual" about the recommendation was that the candidate was a woman.

Dean Niles' recommendation was indeed unusual; up until 1958 only one woman had served as a clerk to a Supreme Court Justice. Her name was Lucile Lomen and she clerked for William O. Douglas during the 1944-45 Term.

Ms. Hauser did have an interview with the Chief Justice, but was not hired. As she mentions in a note accompanying the recommendation letter, she recalled Warren saying that he was not ready to hire a female clerk. He was on the Court for eleven more years and never did hire a woman. The next woman selected to serve as a clerk was Margaret Corcoran who worked for Justice Hugo L. Black in the 1966 Term.

A copy of the letter and Ms. Hauser's note were recently given to the Harvard Law School Library by Harvard Law School Dean Martha Minow. For such a short document it reveals much about a time in this country when sexism and gender discrimination were powerful adversaries for women.

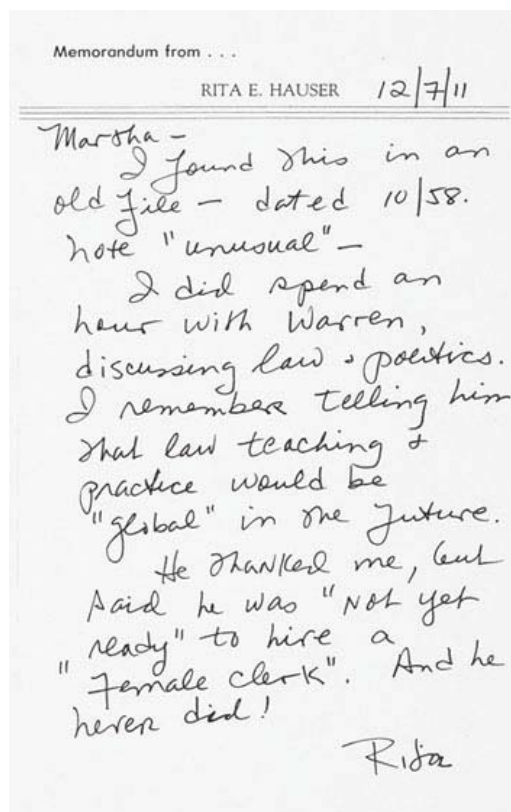
Editors' Note:

Ms. Hauser is a woman of many achievements. She has been a trailblazer for women not only in the law, but also in politics and foreign affairs.

Because Warren did not hire her as a clerk, Hauser accepted an offer with the US Department of Justice in the Appellate Tax Division. She later joined Richard Nixon's first presidential campaign and became well known as a speechwriter and a campaign strategist. Later she practiced law in the international law department of a New York law firm. From 1969-1972, Hauser served as the US Representative to the United Nations Commission on Human Rights and as a member of the United States delegation to the twenty-fourth UN General Assembly. She was the head of the American branch of the International Center for Peace in the Middle East from 1984-1991 and participated in secret diplomatic negotiations which culminated in Palestine's public recognition of the State

of Israel and the Palestine Liberation Organization's renunciation of terrorism in 1988.

**Margaret Peachy is a research librarian at the Harvard University Law School Library.*



This note in Rita Hauser's own handwriting recounts her experience as she interviewed with Chief Justice Earl Warren for the position of clerk. Warren did not hire Hauser, telling her he was not yet ready to have a female clerk.

Objects from the Collection: Miguel Covarrubias' "The Inauguration"

Franz Jantzen, Collections Manager

As we approach Inauguration Day 2013, let us take the opportunity to examine a print in the Court's collection which depicts the same event eighty years ago, Inauguration Day 1933, as seen through the eyes of one of the most renowned illustrators of his generation, Miguel Covarrubias (1904-1957).



The editors of *Vanity Fair* magazine asked their best-known illustrator to create a special poster commemorating the inauguration of Franklin D. Roosevelt.

A largely self-taught artist, Covarrubias grew up in Mexico City and moved to New York in the 1920s. Soon after his arrival, his distinctive rounded, stylized work caught the eye of art directors for magazines such as the sophisticated *Vanity Fair*, where it began appearing regularly on the cover and for special inside illustrations. After Democratic presidential candidate Franklin D. Roosevelt was elected in 1932, the editors of *Vanity Fair* decided to have their best-known illustrator create a special poster of the upcoming inauguration. They published it twice, both as the centerfold in the magazine's March 1933 edition and as a larger poster, which sold separately for \$1.00.

"The Inauguration of Franklin D. Roosevelt" depicts the moment at which Chief Justice Charles Evans Hughes swears in the new president by placing a laurel wreath on Roosevelt's head, who is shown standing tall and grinning broadly. Directly above, two angels herald the event with the blowing of trumpets. On the platform with Roosevelt and Hughes are Eleanor Roosevelt, Vice-President John Nance Garner, and the outgoing President Herbert Hoover, among others.

The media crowds at the bottom of the steps below the platform, where a phalanx of microphones awaits. An all-male crowd of onlookers mingles on the right below Corinthian columns and red velvet drapery. The sole reference to the Depression is "The Forgotten Man" wearing a sandwich board. The Washington Monument and a meandering Potomac River can be seen beyond the Capitol, which may strike a modern viewer as artistic license since inaugurations are now held on the west side of the Capitol, but in 1933 they still took place on the east side and thus the perspective is accurate.

Covarrubias appears to have been fascinated by Chief Justice Hughes, who he illustrated at least three times between 1932-34, all for *Vanity Fair* (and the sole Supreme Court Justice to receive his attention). The stylized Hughes seen here is very similar to his caricature of Hughes and gangster Al Capone in one of his famous "Impossible Interviews", which were illustrations that featured fictitious conversations between two famous personalities of opposite character.

The Court's copy of this poster, once owned by Chief Justice Hughes, was donated through the Supreme Court Historical Society by his granddaughter, Antoinette Denning. Both it and a print of Covarrubias' "Impossible Interview" will be featured in an exhibit on the iconic public image of Charles Evans Hughes that will go on display in early 2013.



Chief Justice Charles Evans Hughes wearing his robe, a jabot and his skull cap, proffers a laurel wreath to the President.

Answers to Trivia Quiz on Page 10:

1. John Marshall served as a young officer under Washington and was with him at Valley Forge. Later, Marshall ran for Congress at Washington's behest. Marshall revered the first President, regarding him as his mentor, friend and surrogate father.



As a young officer, John Marshall (left) served with George Washington at Valley Forge. Washington was a mentor and great supporter of Marshall but he did not appoint Marshall to the Supreme Court.

2. William Day was a Canton, Ohio neighbor of McKinley's. They were fellow lawyers in Ohio and when McKinley became President, Day became Secretary of State. Theodore Roosevelt actually appointed him to the Supreme Court after McKinley's death.



William Rufus Day (shown center of photo signing a document) was a life-long friend of William McKinley (standing just to the right of William Day). President McKinley appointed him Secretary of State shortly before the Spanish American War erupted.

3. Felix Frankfurter and Roosevelt became friends when both were serving in the Wilson administration. Later, the friendship was renewed when FDR became governor of New York. While Roosevelt was President, the Frankfurters were often guests at Hyde Park, sometimes for Thanksgiving.



President Roosevelt looks on as Justice Felix Frankfurter (right) administers the oath of office to Secretary of the Navy Frank Knox in 1940. Even after his appointment to the Supreme Court Bench, Frankfurter retained close ties with the President.

4. Thomas Todd was an in-law of James Madison. Todd, a widower, was already on the Supreme Court when he married Dolley Madison's sister. Incidentally, it appears that the Todd marriage was the first ever held at the White House.
5. David Davis was appointed to the Court by Lincoln. Years before, when Lincoln was a young lawyer riding circuit in rural Illinois, Davis was the judge. Later, Davis also managed Lincoln's campaign for the Republican Nomination in 1860. After Lincoln's death, Davis was the executor of his estate.
6. Joseph R. Lamar was an elementary school classmate of Wilson in Augusta, GA. Lamar's father and Wilson's father were both Protestant ministers in the town, and their homes were adjacent. Lamar was already on the Court when Wilson became President and Wilson appointed Lamar's successor when Lamar died prematurely.

7. Harlan F. Stone and Calvin Coolidge were college classmates at Amherst, graduating in 1894. Stone's appointments as Attorney General and Supreme Court Justice were both from Coolidge.
8. Senator Harold Burton of Ohio was the ranking Republican on the Committee to Investigate Corporate Corruption during World War II. Democratic Senator Harry Truman of Missouri was Chairman. When Truman became President he appointed Burton even though Burton was from the other political party.



The members of the Supreme Court paid a social call on President Truman at the White House. Truman (center of front row) appointed his friend Senator Harold Burton (on second row, third from the left) to the Supreme Court.

9. Byron R. White first met John F. Kennedy in London when Kennedy's father was the US Ambassador and White was a young Rhodes Scholar. JFK and White even traveled to Europe together before World War II. During the War, their paths crossed again in the South Pacific while both were serving in the Navy. White was actually the officer of the day who made the first report of the PT Boat 109 incident for which Kennedy was commended.

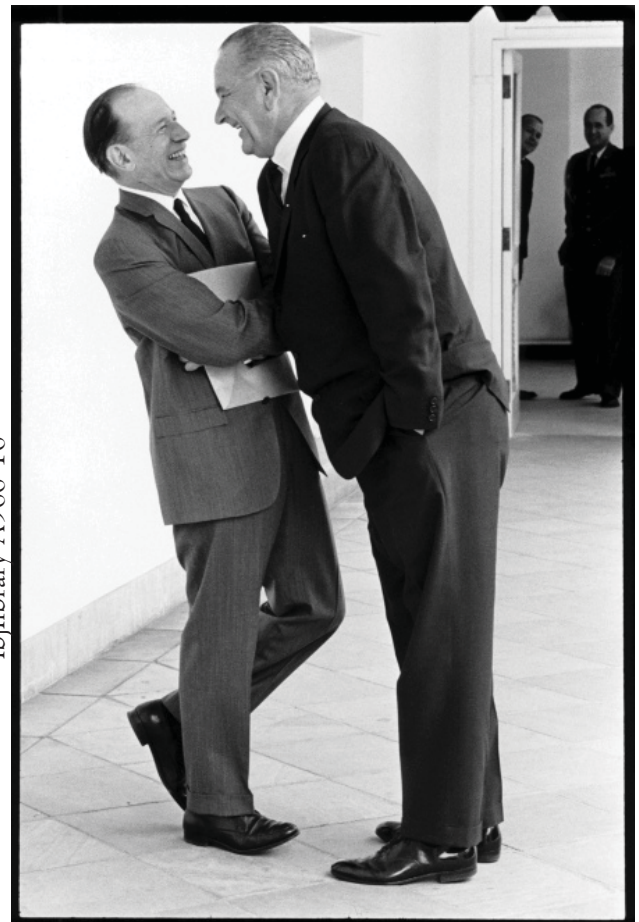
UPI United Press International



Byron R. White (left) first met President Kennedy in England when they were both young men.

10. Abe Fortas first met LBJ when the future President was a Congressman from Texas. Fortas became Johnson's lawyer during the disputed election to the Senate in 1946. Subsequently, when Johnson was Democratic Leader of the Senate, Fortas became one of his closest advisors.

AP



lbylibrary A966-I6

LBJ gives Abe Fortas the famous "Johnson Treatment." This photo was taken at the White House the day following Fortas' nomination to the Supreme Court.

NEW SUPREME COURT HISTORICAL SOCIETY MEMBERSHIPS

July 1, 2012 through September 30, 2012

ARIZONA

Michael Liburdi, Phoenix
F. R. Stent, Prescott

ARKANSAS

James M. Dunn, Fort Smith

CALIFORNIA

Warren Binder, Pasadena
Brett Cooper, Danville
Anthony P. David, San Francisco
Gregory Dovel, Santa Monica
Alfred V. Ignacio, Santa Clara
Connor S. Klitgaard,
Willow Glen
Carmen R. Larsen, San Jose
Carol C. Leung, Sunnyvale
Jeanne M. Leutza, Orinda
Susan M. Lowe, San Francisco
James W. Maccoun,
Mountain View
Paul S. Norris, Pasadena
Ashley R. Shreffler, Fremont
Sheila Sullivan,
San Quentin Village
Danielle L. Tizol, San Francisco
Aaron D. Zimmerman,
Walnut Creek

COLORADO

Melissa Hart, Denver

CONNECTICUT

Michael Harchell, West Hartford
Aris Kekedjian, New Canaan
Kathleen Beecher Moore, Weston
Charles B. Price Jr., New Haven
Eugene K. Sawin, Hartford
Andy Velez, Stamford
DISTRICT OF COLUMBIA

Scott Craft, Washington
Harry Datcher, Washington
Jeffrey Harris, Washington
Beth Heifetz, Washington
Adam Jed, Washington
Frederick Liu, Washington
Robert W. Ludwig Jr.,
Washington
John C. O'Quinn, Washington
Rufus W. Peckham Jr.,
Washington
John J. Sullivan, Washington

FLORIDA

Christopher Bracken,
Jacksonville
Faye Deusterman, Sanford
John W. Donahoo Jr.,
Jacksonville
Charles P. Pillans III,
Jacksonville

GEORGIA

Diane Marie Amann, Athens
Robert Hughes, Stone Mountain
Christopher J. McFadden,
Atlanta

IDAHO

David Nevin, Boise

ILLINOIS

Aaron Barlow, Chicago
Mark Filip, Chicago
Jeffrey W. Jackson, Bloomington
Gera-Lind Kolarik, Chicago
Edward M. Wagner, Urbana
INDIANA

Terri A. Czaka, Indianapolis

IOWA

Karen Kram, Urbandale

KENTUCKY

Clay M. Stevens, Louisville
B. Todd Thompson, Louisville

MARYLAND

Amar D. Sarwal, Silver Spring
Elizabeth G. Taylor, Chevy Chase

MASSACHUSETTS

Michael Bogdanow, Boston
Paul Dacier, Hopkinton
Leigh-Ann Patterson Durant,
Lexington
Frederic N. Halstrom, Boston
James Coyne King, Boston
Kenneth J. Parsigian,
Auburndale
Stephen L. Wasby, Eastham

MICHIGAN

David Jaffe, Birmingham
Julie M. Janeway, Onodaga

MINNESOTA

Michael V. Ciresi, Minneapolis

NEBRASKA

Michael K. Huffer, Omaha

NEW JERSEY

Stephen Bird, Weehawken
Joseph Braunreather,
New Brunswick
Vernon Byrd, New Brunswick
Judy Laudati, Weehawken
Charles M. Lizza, Newark
Richard Maloney, Weehawken
Barbara McCormick,
New Brunswick
Tracy E. Poole, New Brunswick
Meghan Cherner Ranft,
Weehawken
Jordan Schiffman, Weehawken
Stephanie Sowell,
New Brunswick
Bill Thomas, Teterboro
Kevin Walker, Morristown
Lisbeth Warren, New Brunswick

NEW YORK

Nicolas Bourtin, New York
Laura Jereski, New York
Valdi Licul, New York
Aaron Metlitsky, New York
Michael D. Patrick, New York

OHIO

Louis Chaiten, Shaker Heights

PENNSYLVANIA

John F. X. Reilly, Swarthmore
Craig J. Smith, Philadelphia

SOUTH CAROLINA

Leonard L. Long Jr., Charleston
Dennis J. Rhoad, Moncks Corner

TENNESSEE

John J. Britton, Knoxville
David Chapman, Knoxville
Bruce D. Fox, Clinton
Anna Carylon Fox Hinds,
Knoxville
Dana C. Holloway, Knoxville
Rebecca Brake Murray,
Knoxville
Andrew S. Neely, Knoxville
John Tyler Stephenson, Memphis
David Wade, Memphis
James D. Wilson, Memphis

TEXAS

Keith P. Ellison, Houston
Jay W. Siberman, San Antonio
Jay W. Silberman, San Antonio
Wesley R. Ward, Houston

VIRGINIA

Ron Benson, Arlington
James C. D. Donald, Arlington
Susan E. Schruth, Alexandria
Katherine Twomey, Arlington
Porter Wilkinson, Arlington
Richard K. Willard, McLean

WASHINGTON

Gary A. Tudor, Kirkland

WEST VIRGINIA

David Rader, Charleston

WISCONSIN

Patricia D. McMahon,
Wauwatosa
Reggie Young, Milwaukee
WYOMING

Dan B. Riggs, Sheridan

EUROPE

United Kingdom
Gerard Madden, West Sussex

PLEASE JOIN US FOR THE
SUPREME COURT HISTORICAL SOCIETY
INAUGURAL GALA

HONORING

PAUL CAPPuccio | TED ULLYOT
General Counsel & General Counsel
Time Warner | Facebook

THE PLAZA

Grand Ballroom | 770 Fifth Avenue | New York City

WEDNESDAY, MARCH 13, 2013

6:30 pm Cocktail Party | 7:30 pm Dinner | Followed by Dessert Reception

Business Attire

For more information and to reserve tickets, please contact our Gala Office at:
212-249-6188 or jennifer@emgbenefits.com. Invitation will follow.