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Memorial Service Pays Tribute to Leon Silverman

Leon Silverman, who served for more than twenty-two years as President and Chairman of the Board of Trustees, was honored at a memorial service held at the Century Club in New York City on April 22, 2015. Mr. Silverman died in January at the age of 93. Gregory Joseph observed in opening remarks, that “This is a send-off which Leon would have enjoyed; he never shrank from being the center of attention, but always did so with good humor.” The intention of the Memorial was to go beyond a recitation of Mr. Silverman’s many professional accomplishments and awards “. . . to capture some of the elements of the man as well.” Speakers included professional colleagues and personal friends, and written and recorded tributes from four Justices of the Supreme Court of the United States.

Robert B. Fiske, a former President of the American College of Trial Lawyers, commented that “Leon Silverman’s story is a great American success story. Born of immigrant parents from Poland, his father died when Leon was only 3 years old after which he was raised by his mother, a seamstress, and his grandparents. From these humble beginnings he rose to become a highly respected leader of the bar in New York and nationally, and became the head of the litigation department of a major law firm, among other roles.”

Mr. Fiske discussed Leon at a time when Leon had been asked to conduct a politically sensitive investigation into charges against the U.S. Secretary of Labor. His review

was extremely thorough, but after extensive investigation he found that there was insufficient evidence to bring charges. The end product was considered to be thorough and exemplary, and the findings were bound into in a very thick report. Leon took good advantage of it at the press conference, standing on a copy of the report in order to reach the microphone. When he had tough questions at the conference he said simply “I stand on my report.”

Mr. Fiske said that Leon was a sage counsel with whom everyone wanted to consult and he could always suggest an approach to a case that would be successful. He was constantly involved in mentoring, advising and

advancing the professional careers of lawyers with whom he worked.

Judge Jed Rakoff characterized Leon as a “veritable force of nature.” During the years they worked together at Fried Frank, Judge Rakoff realized that a large number of litigation partners considered themselves to be Leon’s children, because he trained, molded, mentored and inspired them. Leon knew an enormous amount about the law and



Leon Silverman served in major leadership positions of the Society for more than twenty-two years.

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A Letter from the President



The tribute to Leon Silverman contained on several of these pages is a fitting memorial to a leader of unparalleled importance in the history of the Society. In his more than two decades of leadership, he initiated enduring and important programs, expanded publications, increased membership, elevated the profile of the Society, and was instrumental in putting the Society on a sound financial footing. Our

current status rests largely on the foundation he worked tirelessly to create and promote, and we are delighted to pay this tribute in his memory.

Many of the Society's most significant programs, publications and activities today trace directly to Leon's vision and to the financial stability he secured to permit expansion of Society operations. One to which I call particular attention is the Society's website. No, Leon was not a techie. But he was acutely aware that the website serves, in the words of current Board Chair Ralph Lancaster, as "our window to the world." The site has been updated extensively in recent months with substantially increased content. The video component now affords direct access to many Society presentations from the past several years. Significant lectures now available for viewing include the 2015 Annual Lecture on *Magna Carta: Our Shared Tradition*, delivered by The Right Honourable, the Baroness Hale of Richmond, Deputy President of the Supreme Court of the United Kingdom, which is available with the click of a mouse. It was highly engaging and informative.

New website content also includes original video interviews with speakers in the Leon Silverman Lecture Series and authors of pieces published in the **Journal**. These interviews are unique to the site and provide added insight into many subjects. One notable interview is with Professor Kevin J. McMahon, the most recent recipient of the Society's *Erwin N. Griswold Book Prize*. This prize is awarded on an occasional basis when a book published about the history of the Supreme Court is considered sufficiently noteworthy to merit special recognition. Professor McMahon is only the seventh person to receive this prize, which was named in honor of Dean Erwin N. Griswold, the Society's Chairman of the Board from 1987 until his death in 1994.

Prof. McMahon's prizewinning book is **Nixon's Court: His Challenge to Judicial Liberalism and Its Political Consequences**. Prior to delivering his lecture on April 30, 2015, Professor McMahon was interviewed by Clare

Cushman, the Society's Director of Publications, at our headquarters building, Opperman House. I will whet your appetite with a few highlights. Ms. Cushman asked how many vacancies on the Supreme Court President Nixon filled. Prof. McMahon responded that he had an almost unprecedented opportunity to replace four Justices in the early part of his Presidency (particularly important as there was no late part to his Presidency). These included the Chief Justice as Earl Warren had announced his retirement shortly before President Nixon's election. Prof. McMahon observed that President Nixon had three specific criteria for his nominations: he sought out individuals highly qualified to serve on the Court (we set aside one nominee, whose name need not be mentioned); he looked for individuals who were reliably conservative; and, perhaps most significantly, he sought candidates who offered some political symbolism in their nomination to the Court. To evaluate his success in satisfying those goals, unexpected problems and challenges encountered in the process, and for other insight into the Nixon nominees to the Court, I encourage you to view the video at www.supremecourthistory.org (click on the Video tab at the top of the page).

Other new video content on the website includes the first two lectures in the 2015 Leon Silverman Lecture Series *The Supreme Court & Reconstruction*; the lecture given by popular author James Swanson concerning the Warren Commission and the Assassination of President Kennedy; and a wonderful program honoring the 30th Anniversary of the Appointment of Justice Sandra Day O'Connor.

On the back page of this issue of the Bulletin is the schedule for the two remaining programs in the Leon Silverman Lecture Series this October. I hope you will consider attending in person. Registration is available through the website or by telephoning the Society's office at (202) 543-0400. The modest ticket price will gain you admission to a stimulating and rewarding evening.

Members can take great pride in the quality of the programs and publications produced by the Society. Eminent scholars and authors contribute the fruits of their research and produce fascinating and enlightening commentary on the important history of the Supreme Court of the United States. The Society's work is supported by your generosity, both through the payment of annual dues and contributions to the Annual Fund. I can assure you that your funds are husbanded carefully and that they are essential to conducting the work of the Society, which does not receive any federal or other governmental funding to underwrite expenses. On behalf of the other Officers and Trustees of the Society, thank you for your generous, continuing support.

Cregory P. Joseph

legal history and it was tempting to test him. "One day I went in to see him with a piece of legal trivia, asking Leon if he knew that Roger Taney was so despised that he carried a gun when he rode circuit duty." With characteristic quickness, Leon said he knew that, and that it was all right, because under the separation of powers if Taney had used the gun he would have judicial immunity. But what Leon most liked to talk about was the state of the legal profession. He was worried that with ever greater economic demands on lawyers, that the lawyer statesman principle was in jeopardy of disappearing. He was determined to do his best to counter that trend. The Judge concluded his remarks observing that many great lawyers have been inspired by and owe their careers in part to Leon's influence and leadership, and that he too considered himself to be one of Leon's children.

In a video-recorded tribute, Justice Ruth Bader Ginsburg stated that "Leon Silverman was a prince among lawyers; a sage counselor to the well-heeled. But he also devoted much of his time to advancing the cause of justice, [to make it] equal and accessible to all. . . . Leon's constant effort in all his affiliations was to encourage lawyers to work for the public good; to provide legal services to people without the wherewithal to pay; to help repair tears in their lives; to turn despair into hope for the future."

The Society's Executive Director, David Pride, characterized Leon as "a dynamo possessing a vision of what the historical society should be about." His efforts were crucial in shaping and fostering the Society's programs, publications, and fundraising efforts. Accomplishments under his leadership included the establishment of: an annual lecture series; a program of historical reenactments of important Supreme Court cases; a special publications program exploring a variety of Supreme Court related topics; a program to train high school teachers how to teach about the Supreme Court in schools; and an organized fundraising campaign. While Leon downplayed his fundraising abilities, they were formidable. One example was an evening when he invited Dwight Opperman to dinner to solicit financial help for the Society. When reporting on the conduct of the evening he said "I expect it was one of the most expensive meals Dwight has ever had, and I made him pay for dinner too." The next day the Society received a check for \$1 million.

One of Leon's greatest innovations as a leader of the Society was to "court the Court" in order to establish and maintain close channels of communication with the individual Justices. He made regular visits to the Justices to keep them informed of programs and activities and to ask for their ideas of how the Society might better fulfill its mission and make a demonstrable difference in educating the public about the Supreme Court and the federal judiciary. Leon invited the Justices to introduce speakers, write for the **Journal of Supreme Court History**, give lectures and



David Pride commented that one of the important things Leon did during his Presidency was to involve members of the Supreme Court in many aspects of the Society's work, including presenting the Annual Lecture. Leon is pictured with Justice Scalia following the Justice's delivery of the 19th Annual Lecture in 1994.

otherwise be involved in and identified with every aspect of the Society's mission.

In a recorded video interview, Justice Clarence Thomas referred to the visits Leon made on behalf of the Society, observing that "it became more of a wonderful, enormously successful, caring friendship. . . He was a fabulous ambassador for the Supreme Court and for promoting the history of the Court, and was wonderful to the membership of the Society and the Court. Institutionally, the Court benefitted enormously from his work at the Society. From my personal standpoint and that of my colleagues and the members of the Court's staff where he was well respected and revered, he will be deeply missed."

Michael Rauch one of Leon's law partners, said he wished to acknowledge how much Leon meant to him and to others as a mentor, a partner, a leader of litigation practice and leader of the firm. When he first started working he thought Leon "was confused and thought my name was 'Kid.' It took me a little time to realize there were a number of others he called Kid, but it didn't take me long to appreciate that Leon exemplified the very best of what a young lawyer could

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**Managing Editor Kathleen Shurtleff
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“Leon Silverman” Continued from Page 3

aspire to be as a practicing lawyer. Over the years the more time I spent with him and worked with him, the more clear that became—He exemplified the kind of integrity, devotion to ethics, professionalism, the excellence that he always tried to bring to our clients and tried to inspire us to bring to our clients. He set a standard for us, motivated us to try to live up to his formidable examples. For me he embodied the value and meaning of a true partnership; he cared about the firm, its history, and he cared about his partners. What I got from the way he behaved was that at its most satisfying, a law partnership is not just people doing the business of law, it is people in it together, who respect and value one another’s individuality, and give each other the opportunity to thrive. . . . [W]hen I looked back over the more than 35 years I worked with him, the thing I remember is Leon himself. I looked for a word to describe him, and for me Leon was “endearing” in every way. I remember how much fun it was to be with him, to practice law with him, to meet the challenges with him. It was fun partly due to his love of language, partly because of his love of the give and take, partly because of his extraordinary sense of humor. In my experience all of these things pervaded all of the experiences and relationships over the years.”

Another previous law partner, Matthew Gluck, said he wanted to talk a little about the lighter side of Leon. “Leon was not taciturn, but Leon did not have a lot of sayings he passed along. A couple I do remember are “Nobody ever said

what a stupid silence,” and ‘Kid, after 60 none of the pains go away.’ No one could emulate his presence. Whenever Leon was finished delivering whatever he said, there was silence; everyone was thoroughly intimidated. A few times when it was necessary to present evidence in court about what the firm had done, Leon would give direct testimony. Another person in the firm would take the follow up. Imagine cross-examining someone about what Leon had just said; no one had the nerve to do it. It was not a coincidence that people stayed with the firm, and modeled themselves after him. To remember him as a great litigator and great leader of the bar is fine, but we are all here because of who he was.”

Justice Kennedy introduced a lecture in the Leon Silverman Lecture Series shortly after Leon’s death. In his opening remarks Justice Kennedy commented that “ Leon was simply wonderful. . . . He was a dynamo of energy; one of those dynamos who had great professionalism, great dignity and great admiration for the law. He broadened the base of this Society by searching for members nationwide. He also searched for academics and highly talented writers and scholars nationwide to contribute to the Society’s publications. . . . The history of the law and the history of our freedom must not be lost because we must transmit the ideals of our country to the next generation. . . . It is so important that we teach the next generation that they are the trustees of a tradition that can only be understood if it is taught; and teaching is a conscious act. Leon understood that so well and that is the purpose of this Society.”



Justice Anthony M. Kennedy delivered the first National Heritage Lecture Nov. 7, 1991 shortly after Mr. Silverman became President of the Society. (left to right) Leon Silverman, Justice Lewis F. Powell, Josephine Powell, Dean Erwin Griswold, Justice Kennedy and Senator Roman Hruska.

Ralph Lancaster, a close friend of Leon's and a past President and current Chairman of the Board of the Society, also spoke. He observed that the standing-room-only audience in a large conference room was a well-deserved tribute to Leon. As noted by all the speakers, Mr. Lancaster said he was an incredible human being. "My first real acquaintance with Leon began at a meeting of the American College of Trial Lawyers. In those days, past presidents went out and came back and announced who the new officers would be. To my amazement they announced that I would be the treasurer. At the recess, the first person I saw was Leon. I caught up with him and said "Mr. Silverman thank you very much." He responded, "What for?" I said, "For appointing me Treasurer." Leon replied, "What makes you think I voted for you, kid?" Mr. Lancaster spoke of the great partnership Leon enjoyed with his wife Rita for over 65 years, "and there is no question in my mind that Rita and Leon were a team throughout that period. We have something for the family: a resolution passed by the Executive Committee of the Supreme Court Historical Society within a week of his death." Printed copies of the resolution were then presented to Rita and other members of the Silverman family.

Mr. Joseph thanked all the participants for providing



Rita and Leon Silverman were married for over 65 years. Ralph Lancaster observed in his tribute that "... there is no question in my mind that Rita and Leon were a team throughout that period."

He spent so much of his life devoted to public causes, to the government and the profession; to this Court, and understood that as part of what a lawyer does." "For me and others now, and I think well into the future, he will be a model of what every lawyer should be."

Resolution of Tribute to Leon Silverman

WHEREAS, within the past week, the Supreme Court Historical Society lost a strong, forward-thinking leader, and a generous and knowledgeable mentor, when Chairman Emeritus Leon Silverman passed away;

WHEREAS, his service as a leader of the Society for more than twenty-five years, including service as President for eleven years starting in 1991 followed by service as Chairman of the Board of Trustees for eleven years beginning in 2002, is unequalled in the history of the Society;

WHEREAS, his leadership provided the impetus for expanded membership, new, innovative and expanded educational programming and publications efforts, financial stability and improved relationships with Members of the Court, with key personnel at the Court, and within the legal community;

NOW THEREFORE be it resolved, that the members of the Board of Trustees of the Supreme Court Historical Society hereby express the Society's profound appreciation of, and gratitude for, Mr. Silverman's unparalleled contributions to, and leadership of, the Society, and commemorate that expression of gratitude by adopting this Resolution of Tribute which will become a permanent part of the records of the Supreme Court Historical Society.

FURTHER, be it resolved that a copy of this Resolution will be provided to his family as a tangible expression of the gratitude of the Society.



Justice Ginsburg observed in her video tribute to Leon that "Leon was a prince among lawyers. . . ."

a glimpse into the character of Leon Silverman. He then announced that the closing tribute would come from a videotaped interview with Justice Stephen Breyer.

"Leon Silverman was a great lawyer. . . . But more than that, to me, he symbolized something. He was a symbol of a lawyer who understands that a lawyer is a fiduciary who owes a duty not just to his client but to the public at large.

Form Your Battalions and Fight: Justice Holmes, His Law Clerks, and French Novels

By Todd C. Peppers*

Less than one month after the death of Justice Holmes, an essay appeared in the *Columbia Law Review*. Simply entitled “Holmes,” the short piece was written by Columbia Law School Professor Karl Llewellyn. The piece was oddly disjointed, as Llewellyn seemed to simultaneously celebrate and excoriate the myth of the Magnificent Yankee. Towards the end of the essay, Llewellyn writes “I believe a man [is]



Harvard Law Library

An article published a month after Justice Holmes’ death offended many of his former clerks. The author hinted that the Justice had not always been thorough in his work. Holmes’ clerks were quick to come to his defense.

seen best when he is seen also as a *man*, one of the homo, only so-called *sapiens*, tribe,” before making the case that Holmes was a mere, flawed mortal:

It lends glory to the gallant fighter for human rights and social needs to discover that he was interested in neither; but could fight for them, and fight! This man to whom modern painting was “a bottle of guts”; to whom The Massachusetts Twentieth Cavalry was throughout life a symbol of the Best; who, to our knowledge, has neglected records while writing opinions; who loved French novels and left undigested the very economic and sociological works he himself had acclaimed as needed guides; this man who at times would rather turn a phrase than think – Why does pulse race, why do eyes water dangerously, as we think of him no longer here? Because he was human.

When former Holmes law clerk Augustin Derby (October Term 1906) – now a New York University law professor – read Llewellyn’s article, he was deeply offended by the examples of Holmes’ humanity. Taking a page from Justice Holmes, who history tells us once advised President Franklin Roosevelt to “form your battalions and fight,” Derby sounded the trumpet and rallied the troops to battle.

The opening salvo of the counterattack was a letter from Derby to Llewellyn himself. While a copy of the letter no longer survives, Derby must have inquired as to the factual basis of Llewellyn’s charges that Justice Holmes was a flawed mortal. In a letter dated June 6, 1935, Llewellyn addressed the one allegation which most wounded Derby,

namely, the claim that Holmes “neglected the [court] records while writing opinions.” Llewellyn wrote:

The source on which the statement you quote is based on former Chief Justice Taft when he was teaching at Yale. He told the class in Constitutional Law, in which I was a student, of a case in which an opinion of Holmes’ had overlooked what Taft felt to be the vital portion of the record; that he had spoken to Holmes about it, and that Holmes had explained to him that he had not read that portion of the record. This is the one concrete case for which I can quote a source first hand.

Llewellyn’s response did not satisfy Derby, and on June 6, 1935, he immediately fired off a letter to Justice Holmes’ former law clerks. After alerting the troops of Llewellyn’s “weird” essay, and quoting from the passage listed above, Derby stated that he was writing a review of Llewellyn’s essay. Like every good soldier, Derby needed ammunition for the attack – and he asked the former clerks to provide “a statement...as to whether, during your time with the Justice, he ever neglected the records while writing opinions.”

The Holmes law clerks quickly formed their battalions, and to a man they expressed their distain and outrage for Llewellyn’s allegations of Holmes’ dereliction of his judicial duties. “Nasty and preposterous” is how former clerk Francis Biddle (October Term 1911) characterized Llewellyn’s claims. “He [Holmes] concentrated more intensely on the work before him than any other man I have ever known.” “Absurd,” cried Leland B. Duer (October Term 1909). “He [Justice Holmes] always studied them [the record] himself.” “I heartily agree with you that the Justice did not neglect records. No more conscientious Judge has ever lived to my knowledge,” roared Arthur Sutherland, Jr. (October Term 1927). “[I]t seems to me that the scurrilous remarks need no refutation,” sneered Lloyd Landau (October Term 1918). “I know that he read each record with scrupulous care.”

Former law clerks Irving S. Olds (October Term 1910) and Vaughn Miller (October Term 1917) were equally offended by Llewellyn’s comments, and they suggested that Justice Holmes’ superior intellect and memory created the false illusion that the Justice had cut corners. “His [Holmes’] peculiar ability to grasp the essential facts, from records and from his notes made during argument, in less time than was required by others no doubt accounts for the [false] impression,” wrote Miller. Olds echoed Miller. “Mr. Justice Holmes had the most alert and retentive mind of anyone of my acquaintance...[i]n view of his familiarity with existing decisions, he was able expeditiously to deal with all problems involved in these cases.”

Only one of Holmes’ clerks conceded that the Justice may not have read every word of every legal brief. “The Justice was near the end of his term on the Court when I was with

him,” wrote John E. Lockwood (October Term 1928), “and I suspect that he read fewer records than he may have done when he was younger.” Lockwood quickly added, however, that the Justice never relied solely on his law clerk’s review of the record. “He seemed to have a sort of feeling of moral obligation to read the document itself [namely, the document reviewed by the clerk] and, so far as I recall, he always did.” There is no historical evidence that Lockwood was drummed out of the Holmes law clerk corps for comments which gave aid and comfort to the enemy.

Having dealt with the first count of Llewellyn’s indictment, the law clerks aimed their heavy guns at other accusations contained in the article. First and foremost, the clerks attacked Llewellyn’s outrageous claim that Justice Holmes was derelict in his judicial duties by reading naughty French novels. Olds writes:

While I have often been told of the Justice’s fondness for French novels, he never read a single one during my year with him. However, he did read a number of works on economic subjects. Justice Holmes was primarily a philosopher and a deep thinker, and a critic who describes him as a man “who at times would rather turn a phrase than think” simply betrays his own ignorance of the man about whom he is writing.

Former clerk Stanley Morrison (October Term 1919) also challenged the allegation that Justice Holmes had dangerous literary tastes. “During my year with him he read no such [French] novels nor did his conversation indicate any particular preference for them. He did read some French, but it was all in legal works.”

One former clerk decided to offer empirical evidence into the record regarding the specious claims of literary negligence. Landau consulted Justice Holmes’s reading list (a list the Justice diligently kept throughout his life) and concluded that “[t]he record speaks for itself, and the proportion of French novels is infinitesimal.” As for his own clerkship experience, Landau wrote that “I read to him on numerous occasions and knew that the overwhelming mass of his reading was philosophical, biographical, historical and sociological.” Thus, while Landau took the dangerous step of conceding the presence of degenerate French novels in the Justice’s voluminous library, the implication is that their corrosive influences were dampened by the collected works of such acceptable writers as Aristotle, Cicero, John Locke, and Sir William Blackstone.

Not content to limit his spirited defense to the Justice’s judicial and literary failings, Landau also belittled Llewellyn’s assertion that the Justice did not like modern art.

Of course the Justice’s eyes were not attuned to extremes of post-impressionistic and mathematical modern art. He revelled [sic] in his own excellent collection of etchings from Rembrandt, Whistler, Seymour Haden, etc., and far preferred them to

a painting by Picasso [sic], just as he preferred a Beethoven symphony to concatenations of Stravinsky or Hindemuth. But certainly this should not arouse Mr. Llewellyn’s displeasure.

Landau had not read the entire Llewellyn piece, relying instead on quotations provided by Derby. One can only imagine how Landau would have reacted to Llewellyn’s additional assertions that Holmes’ humor “rested thirty per cent on easy – even lazy – juxtaposition of high judicial office and profanity” or that Holmes was tardy in returning books to the Library of Congress – accusations that Derby did not include in his letter to the law clerks.

As the rhetorical smoke cleared, two of Holmes’ clerks fired a final volley against Llewellyn’s patriotism and his basic grasp of facts. “Of course it is impossible for one who, like Karl Llewellyn, served in the German Army in its march through Belgium to understand the affection which Mr. Justice Holmes held for his old regiment,” wrote Landau scornfully. “The accuracy of Mr. Llewellyn’s article is well illustrated by his reference to the Massachusetts Twentieth Cavalry,” sniffed Sutherland. “The gentleman might at least have taken the trouble to find out in what branch of the service the Justice fought the Civil War” [Holmes fought in the 20th Massachusetts Volunteer Infantry, nicknamed the “Harvard Regiment”].

Despite the withering covering fire laid down by the former clerks, Derby never wrote the promised review of Llewellyn’s essay. Maybe he took the advice of former clerk Morrison, who advised Derby that “in answering Llewellyn the great danger is in taking him too seriously.” Or maybe he stumbled upon the following comments that Holmes himself once made, namely, “I don’t read ‘em [briefs] when they are long and I don’t care who knows it either...I don’t see why they [the lawyers] don’t suggest something and leave it to our imagination like a questionable French novel.” In one breath, Justice Holmes had directly confirmed that he didn’t pore over every word of every record before the Court as well as indirectly admitted that he was familiar with the naughty ambiguities employed by French authors - how could Derby possibly win the day when Justice Holmes had already breezily confessed to the charges leveled against him? A strategic, but honorable retreat was the only recourse.

Today, former law clerks routinely defend the judicial reputations of their former justices in a variety of ways, from appearing at confirmation hearings to writing law review tribute pieces. One would be hard pressed, however, to find a group of former clerks as dedicated to preserving their justice’s place on Mount Olympus as the “boys” who clerked the Great Dissenter.

*Todd Peppers is a professor at Roanoke College and the author of *Courtiers of the Marble Palace: The Rise and Influence of the Supreme Court Law Clerk*.*

Footnotes can be found on our website at www.supremcourthistory.org on the publications page.

“To the Public of Charleston,” By Lauren VanDyke*

A pamphlet titled “To the Public of Charleston,” by Associate Justice William Johnson (1804-1834) was recently acquired by the Curator’s Office with the assistance of the Supreme Court Historical Society. Johnson’s letter to his fellow Charlestonians illuminates an important chapter in Charleston and antebellum history, while providing insight into the elusive Justice’s thoughts on major political issues of the day.



Collection of the Supreme Court

William Johnson, Associate Justice 1804-1834. Artist unknown, oil on canvas, early 19th Century.

On June 16, 1822, news broke in Charleston of a slave rebellion plot, what would become known as the Vesey Plot. The suspected insurrection, planned for the following month, involved thousands of free and enslaved blacks who lived in and around Charleston. The city’s recent suppression of the African Methodist Episcopal Church, whose membership was nearly 3,000 in 1820, provided the catalyst for the revolt. Denmark Vesey, a local Methodist leader and free man, was later identified as the leader of the “diabolical plot...to trample on all laws, human and divine; to riot in blood, outrage, rapine...and conflagration, and to introduce anarchy and confusion in their most horrid forms.” (Official Report of the Court of Magistrates and Freeholders, 1822)

In an atmosphere rife with fear of slave revolts, panic quickly flared. Police arrested slaves as armed guards surrounded the city. Justice William Johnson quickly learned of these actions. Concerned, he penned an anonymous letter titled “Melancholy Effect of Popular Excitement,” that was

published by a local newspaper and warned against the public’s rush to judgment.

The letter cautioned against a rash action and recalled a story from a suspected slave insurrection in Georgia a decade prior. There, following rumors of a plot, military troops had patrolled the area for signs of a rebellion. During the patrol, a horn was sounded by a drunken cavalry member causing confusion among the troops that a call to rebellion had been sounded. A frenzied search began for the slave trumpeter who had sounded the call, and a slave named Billy was subsequently found to be sleeping with a horn nearby and was arrested. Johnson wrote, “The Court of Magistrates and Freeholders was selected from men of the first respectability in the neighborhood; yet in fact, although no evidence was given whatever as a motive for sounding the horn, and the horn was actually found covered in cobwebs, they condemned that man to die the next day!”

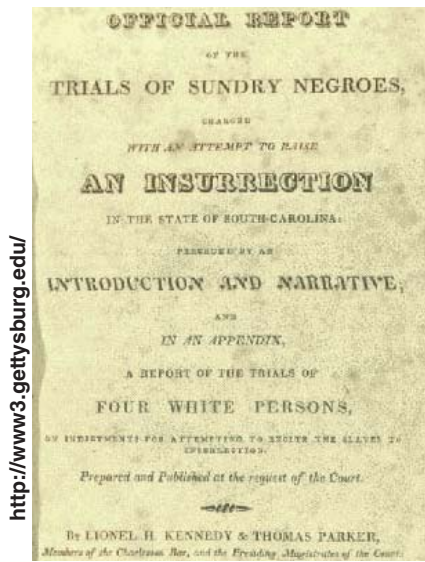
Johnson’s letter appeared in print on June 21, shortly after Charleston had convened its own Court of Magistrates and Freeholders to begin trying suspected conspirators in closed sessions. The timing of the publication, though unintended by Johnson, seemed to invite comparison between the court referenced in Johnson’s tale and the one now formed in Charleston. This coincidence sparked a storm of controversy and Johnson was identified as the author of the letter. He was attacked in the press and ridiculed for insinuating that the Freeholders Court was committing what was tantamount to murder by rashly condemning the imprisoned slaves.

These accusations severely tarnished Johnson’s reputation. Rumors swirled through Charleston regarding his attitude towards slaves and the conspirators. Members of the Freeholders Court demanded an apology from Johnson, repeating their request almost daily. Ultimately Johnson felt his reputation had been so damaged that he needed to make a public statement clarifying his actions. On July 6, 1822, therefore, he issued his pamphlet, “To the Public of Charleston,” to review the entire course of events. He explained his actions and motivations in publishing his cautionary tale, saying “I could not see what offence could be given by a piece which at its utmost, could only be construed to call upon the reader to ‘pause and reflect.’” He claimed he did not intend to interfere with the activities of the Court; his hope was only that the letter “might have a good effect in deterring men from propagating false reports, and sporting with the fears of the people.”

Despite his efforts to assuage the public’s concerns and promote judicial restraint, Johnson’s cautionary tale fell on deaf ears. The controversy served to only further enflame public support for the Court, despite the fact that few people knew much about its activities. Members of the Court were urged to continue their work, and enjoyed much encouragement from the public. Johnson, in turn,

never fully repaired his damaged reputation. Private correspondence from Charlestonians illuminates their sentiments. One gentleman was disappointed that Johnson “had been drawn in to an unpleasant controversy” and that although his letters were well-intentioned, they were also “indiscrete.” Another writer found Johnson’s reply to the court “very lame” and thought the Justice should find himself “humbled” by the situation.

After over a month of closed-door trials, the Court of Magistrates and Freeholders adjourned. Approximately 130 black men had been arrested, with nearly 40 transported away from the county and 35, including Vesey, executed. Johnson’s actions in the aftermath of the Vesey Plot presaged his ultimate disassociation with Charleston. Through successive court cases and



http://www3.gettysburg.edu/

Denmark Vesey, planned a slave revolt in the Charleston area. It did not happen, but frightened and enraged citizens instigated repressive measures in reprisal as illustrated by this poster.

political controversies over the next decade, Johnson found himself so at odds with his native city that he chose to depart and ultimately died far away in New York. Johnson’s published letter “To the Public of Charleston” remains a testament to his devotion to justice and to his native city.

For more information on these events in the life of Justice Johnson, see “Divided Loyalties: Justice William Johnson and the Rise of Disunion in South Carolina, 1822-1834” by Timothy S. Huebener. *The Journal of Supreme Court History*, 1995, p. 19-30. For additional information on the Vesey Plot and attitudes toward slavery in the antebellum South, see *Deliver Us From Evil: The Slavery Question in the Old South*, by Lacey K. Ford (2009).

Ms. VanDyke is the Exhibits Coordinator in the Office of the Curator of the Supreme Court of the United States.

The Supreme Court Historical Society Co-Hosts The Supreme Court Fellows Program’s Annual Lecture and Dinner

When the Supreme Court Historical Society and the Supreme Court Fellows Program join together to host programs and share fellowship, the outcome is always memorable. This was particularly true on March 5, 2015, an especially snowy day in Washington, when nearly nine inches of snow kept most residents inside. But the snow was no match for supporters of the Fellows Program and the Society.

On that day, the annual Supreme Court Fellows Program Lecture and Dinner, which the Society cosponsored, lit up both the Newseum and the Supreme Court with an engaging program on legal interpretation and a warm celebration honoring the 2014-2015 Supreme Court Fellows.

Over 150 guests attended a public program at the Newseum entitled, “Reading Law: The Interpretation of Legal Texts.” Justice Antonin Scalia and Bryan Garner, who co-authored the book for which the program was named, shared an informative and delightful discussion about time-honored and sometimes conflicting principles for interpreting constitutional provisions, statutes, and contracts. Their lively presentation, which drew upon illustrations from a wide array of sources, revealed how the selection of

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The 2014-2015 Supreme Court Fellows, from left to right: Derek Webb, Matthew Axtell, Zachary Kaufman, and Isra Bhatti.

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interpretive principles affects the resolution of ambiguity in the law.

That evening, over 100 participants gathered at the Supreme Court for a reception and dinner program, which Chief Justice John G. Roberts, Jr., Justice Antonin Scalia, and Justice Sonia Sotomayor attended. The dinner celebrated the 2014-2015 Supreme Court Fellows, Matthew Axtell, Isra Bhatti, Zachary Kaufman, and Derek Webb, and formally welcomed them to the Fellows Program family of alumni, Commissioners, and agency partners. The annual lecture and dinner bring many of the Program's 134 devoted alumni back to the Court year after year.

Readers who are familiar with the Supreme Court Fellows Program know of its singular value for both the Fellows and the judiciary. The program provides a unique opportunity for four talented individuals to study and participate in federal

court administration within agencies at the heart of the federal judiciary. Candidates compete for placements at the Supreme Court of the United States, the Administrative Office of the United States Courts, the Federal Judicial Center, and the United States Sentencing Commission. The application pool draws from attorneys pursuing public service or academic careers, as well as specialists in political science and related fields. The program especially welcomes applications from attorneys who are completing one or more judicial clerkships and who seek to broaden their understanding of the judicial system through exposure to federal court administration.

Fellows learn about the operation of the federal courts through hands-on exposure to judicial administration, policy development, and education. In addition to their research projects and agency service, Fellows attend Supreme Court oral arguments, participate in luncheons with public officials, and share in valuable education programs produced by the Supreme Court Historical Society. The Program encourages Fellows to develop tools and expertise that they can carry forward in academic settings, public service, or private practice after the fellowship year.

Since the founding of the Fellows Program in 1973, the Supreme Court Historical Society has helped to ensure that the Fellows' experiences are both intellectually and professionally rewarding. Each year, the Society has funded the Fellows' participation at the annual Supreme Court Preview at William and Mary College, generously co-sponsored the Supreme Court annual Fellows Program Lecture and Dinner, welcomed Fellows to Society-sponsored lectures, and sponsored the Supreme Court Fellows Alumni Association.

The Fellows Program is administered by the Office of the Counselor to the Chief Justice in cooperation with the other three participating agencies, and with the assistance of the Society. The Fellows Program encourages Society members to share information about fellowship opportunities within their professional communities. Further information is available by accessing the Supreme Court's website, www.supremecourt.gov.



Liza Liberman, Collection of the SCOTUS

Justice Antonin Scalia and Bryan Garner (left) discuss legal interpretation at a program named for their 2012 book, *Reading Law: The Interpretation of Legal Texts*, at the News-eum. (Liza Liberman, Collection of the Supreme Court of the United States).

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

NEW SUPREME COURT HISTORICAL SOCIETY MEMBERSHIPS

January 1, 2015 through March 31, 2015

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Howard M. Persinger Jr., Williamson

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2015 Leon Silverman Lecture Series

October 14, 2015

The Reconstruction of Rights: The Fourteenth Amendment and Popular Conceptions of Governance, Laura F. Edwards

Laura F. Edwards is the Peabody Family Professor of History at Duke University.

October 28, 2015

The Supreme Court and the Slaughterhouse Cases, Randy E. Barnett

Randy E. Barnett is the Carmack Waterhouse Professor of Legal Theory at the Georgetown University Law Center.

The 23rd Annual National Heritage Lecture

October 15, 2015



COOLIDGE FOR PRESIDENT: The President Who Said 'No.'

Amity Shlaes, Bestselling author of *Coolidge*

Thursday, October 15, 2015

Lecture: 6:00 p.m.

Reception & book signing to follow

RSVP by October 8th.

The White House Historical Association

1610 H street, NW

Washington, D.C.

For more information please see WhiteHouseHistory.org