



THE SUPREME COURT
HISTORICAL SOCIETY

Quarterly

VOLUME XXXIV

NUMBER 3 , 2016

41st Annual Meeting Held on June 6, 2016

For the 41st time, the Annual Meeting of the Supreme Court Historical Society was conducted in the Supreme Court Building in Washington, DC. The opening event was the Annual Lecture given by Associate Justice Stephen G. Breyer, Jr. Members and guests assembled in the Supreme Court chamber for a presentation derived from the topics considered in the Justice's recent book **The Court and the World: American Law and the New Global Realities**. This work focuses on contemporary legal discussion about the relationship of American law to the evolving world legal order. In particular, many legal scholars are questioning how foreign law is relevant to the interpretation of the Constitution of the United States.

In his introductory remarks, Gregory Joseph, President of the Society, observed that Justice Breyer's topic focuses on one of the most discussed developments in the evolution of law in this generation. "As important as the subject, this discourse is all the more so as it is the consequence of a lifetime of reflection by one of the world's leading jurists."

Mr. Joseph said he would highlight only a few of Justice Breyer's many accomplishments to allow time for the presentation. The Justice received a B.A. from Stanford University, after which he was a Marshall Scholar at Magdalen College, Oxford. Following his studies at Oxford, the Justice received his law degree from Harvard University, and served as a Law Clerk to Justice Arthur Goldberg after graduation. He then worked in the Justice Department's Anti-Trust Division, and taught at Harvard in both the Law School and the Kennedy School of Government. His public service also included work as Chief Counsel to the Senate

Judiciary Committee from 1978-1980. President Carter appointed him to serve on the U.S. Court of Appeals for the First Circuit and he served as Chief Judge of that Court from 1990-1994. President Clinton nominated Justice Breyer to succeed Justice Blackmun and he took the oath of office on August 3, 1994.

June 6, 2016 was the second occasion on which Justice Breyer presented the Annual Lecture, having first filled that role on June 5, 2000. That discussion focused on Cherokee law.

Following the lecture, Society members and guests toured the building. Because of the popularity of these tours in recent years, members have been offered a chance to do so prior to the lecture, or immediately following it. In total, more than 150 people had the opportunity to learn more about the Court under the direction of the Office of the Curator of the Court. Tour guides provide information about the construction of the building, and historical insights into the history of the Court as well. The Society is very grateful

to Curator of the Court, **Catherine Fitts**, and to the Director of Tours, Nikki Peronace and other members of the Curator's staff for directing these tours.

At 6:30 PM the Annual Meeting of the Board of Trustees was convened in the Supreme Court chamber by President Joseph. Other officers present on June 6 were Chairman of the Board, **Ralph I. Lancaster**; **Philip Kessler**, Secretary of the Society and Chair of the Nominating Committee; Vice Presidents **Dorothy Goldman** and **Chilton Varner**;

Photo by Steve Petteway



Utilizing the topic of his recent book, Justice Stephen G. Breyer, Jr. spoke about the relationship of the Supreme Court of the United States to the evolving world legal order.

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A Letter from the President



In this issue you may notice a change to the masthead at the bottom of this page: the omission of the name Frank D. Wagner as an Advisory Editor. The Society recently lost a great friend in Mr. Wagner, who provided important assistance following his retirement as Reporter of Decisions of the Supreme Court. During Mr. Wagner's service as

Reporter from 1987-2010, his office prepared 82 volumes of the U.S. Reports, more than any of his predecessors. Professor Stephen Wermeil, writing on Scotus blog, described the significant responsibilities of the Office of the Reporter: "The small office with only eleven employees is responsible for technical editing, proofreading and cite-checking all of the Court's opinions, writing the syllabi that summarize the decisions and accompany their release, and preparing the opinions for final publication." After managing this work with great facility for more than two decades, Mr. Wagner retired but he continued his association with the Society by working on the production of the *Quarterly*. We are grateful for his interest in and assistance to the Society and express our condolences to his family.

Each year the Society has the great good fortune of receiving the benefit of the time and talents of many persons, from Justices of the Supreme Court to officers and employees of the Court, leading Supreme Court advocates, legal scholars and numerous others. Justices are kind enough to introduce, and in some cases deliver, scholarly lectures. Leading academics and legal practitioners deliver most of the lectures, introduced by Justices and recorded for posterity — always in writing and frequently by audiovisual means. Scholars and practitioners submit original articles for publication in the **Journal of Supreme Court History**, and many provide instruction to the dozens of high school teachers who participate in Summer Institute each June.

Each of our lectures and programs furnishes a unique insight into current scholarship on the history of the Court. Utilizing the website, supremecourthistory.org, thousands of viewers each month access not only about the Society's lectures and programs but also a wealth of historical information about the Court. Content is added frequently, and the information is provided to all interested scholars, students and other viewers without charge, as a public service.

Another key area in which outside assistance plays a critical role is the Membership Program. You will read more about that in the story on the Annual Meeting, but I would be remiss if I did not mention this yearly campaign is conducted by an all-volunteer cadre of busy practicing lawyers who

donate their time and resources to introduce the Society and its work to colleagues and associates. This organization of more than 50 chairpersons is coordinated each year by a National Membership Chair whose job is to identify state chairs, and work with them to foster membership growth. For the last two years Robert Anello has filled that role with great ability, and we grateful to him and his network of state chairs for their important efforts.

While outside contributions to the success of activities such as publications and programs are relatively easy to discern, another area that frequently involves voluntary contributions is the Acquisitions Program under the guidance of Society Vice President Dorothy Goldman, in conjunction with the Office of the Curator of the Court and Curator Catherine Fitts. Through this activity we seek to acquire items of unique importance to the history of the Supreme Court. The collection includes portraits, publications, furniture and other items closely associated with Justices and other aspects of Court history. On page 9 of this magazine you will read about the recent purchase of an oil portrait of Henry Baldwin. While we allocate funds each year to support the growth of the collection, that funding is limited, so we rely upon the generosity of persons who are willing to donate items to the collection. An excellent example of this kind of volunteer support is a recent donation made by Society Trustee Frank Gilbert and his wife Ann. The Gilberts donated recently several extremely unique and important items related to the career of Frank's grandfather, Justice Louis Brandeis. While an article giving specifics about the gift will appear in the next magazine, I cite this generous donation as representative of many gifts that have grown the collection beyond what would be possible with the necessarily limited funding the Society has available for purchases.

It is your generosity that allows the Society to accomplish its mission of collecting, preserving, and disseminating the history of the Court. You should have received a letter recently encouraging you to make a gift to the Annual Fund, which we hope you will entertain favorably. This year's campaign also features the introduction of the John Marshall Circle, which encourages support of the Society in a way that provides financial support to the Society, while at the same time, offering unique benefits to participants. It is an exciting new program you will want to consider if your circumstances allow.

On behalf of the Officers and Trustees of the Society, I would like to thank you for your past and continuing support of the Society. We cannot conduct this work without your participation and assistance. We work hard to ensure that the programming and publications meet the highest standards and that your contributions are marshaled carefully. I look forward to continuing the work with you and again thank you for your support.

Cregory P. Joseph

Treasurer **Carter Phillips**; and Legal Counsel **Robert Juceam**.

Important programs, activities and accomplishments of the year were highlighted in the opening comments. **Kenneth Geller**, Chairs the Program Committee. The Leon Silverman Lecture Series, named in honor of the Past President and Chairman of the Board, is the centerpiece of these activities. The current series focuses on the Supreme Court and the Progressive Era. Many Society lectures have been taped by C-Span and subsequently broadcast to a wide audience. Other significant program efforts include the Summer Institute for Teachers providing training to teachers from around the nation. Teachers come to Washington to learn about and experience the work of the Court first-hand. Special resource people participate in the training, including experts who work in, or practice before the Court.

The Society is proud to support the Supreme Court Fellows Program overseen by the Counselor to the Chief Justice, **Jeffrey Minear**. This program provides one-year fellowships at the Supreme Court of the United States, the Administrative Office of the U.S. Courts, the Federal Judicial Center, and the U.S. Sentencing Commission. Fellows have an opportunity to make significant contributions to the work of the judicial system during their tenure.

The Society participated in a number of cooperative programs during the year, partnering with the Historical Society for the Courts of New York, the Georgetown University Law Center, the Fred W. Smith National Library at George Washington's Mount Vernon, the John Marshall Foundation and the

Smithsonian Institution. We were honored to have Chief Justice John G. Roberts, Jr., participate in a program in New York City at which he was the principal speaker. The event garnered extensive press coverage which raised awareness of the historical societies and their activities. (An article about this event appeared in the previous issue of the *Quarterly*.)

The Publications Committee under the leadership of **Donald B. Ayer** oversees the production of the **Journal of Supreme Court History** and occasional special topic books. The highlight of the year was the publication of the one-volume history of the Federal Judiciary published by Oxford University Press. The book was developed in close cooperation with the Federal Judicial Center and provides the first concise reference book on the federal judiciary.

Members of the committee considered projects beyond the traditional print medium, and the first project was **Legal Eats**. This conversation and discussion with **Justices Ruth Bader Ginsburg, Sonia Sotomayor** and Supreme Court Curator **Catherine Fitts**, was moderated by the Society's Director of Publications **Clare Cushman**. Presented in the Smithsonian Museum of American History, participants discussed food traditions associated with the Court, including

historical anecdotes and personal observations and traditions.

The Acquisitions Committee chaired by Society Vice President **Dorothy Goldman** plays an important role in Society activities. Ms. Goldman works closely with the Office of the Curator to search out items of importance, and the collection has grown consistently. Objects from the collection are utilized in displays

created by the Curator of the Court for visitors to the Court. Other objects are displayed on an extended basis, and some are used in the Chambers of the Justices and others in the Justices' Dining Room. But many of these pieces appear in areas of the building open to the public.

Vice President **Vincent C. Burke III** chairs the Gift Shop Committee. The Shop offers books written by and about Justices, general histories of the Court, and other printed materials to enhance understanding of the Court and the Justices. The shop participates in off-site sales at gift shows held around the metropolitan area and is open after Society lectures and other programs.

The National Membership Campaign was spearheaded again this year by **Robert J. Anello**. He assembled and

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Photo by Steve Petteway



Four State Chairs visited with National Membership Chair, Robert J. Anello, Jr. Pictured Left to right are: Dawinder Sidhu, Troy Giatras, Robert J. Anello, Arthur Siegel, and James London.

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, <http://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

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coordinated a team of more than fifty volunteer state chairs to disseminate information about the Society to colleagues and others within their sphere of influence. The role of National Chair is a difficult and time-consuming job, but is essential to the continued well-being of the Society. Awards were presented to successful state chairs later in the evening in recognition of their efforts on behalf of the Society.

Other important officers and Trustees of the Society include Treasurer, **Carter G. Phillips**. He oversees the Society's funds and provides important advice and assistance on other aspects of the Society's work. **James B. O'Hara** manages the Society's extensive library. The collection continues to grow as new books are published. A significant part of the collection includes out-of-print volumes and antique volumes. Work is underway to digitize the collection to preserve these fragile and aging books. Digitized volumes will provide an important research tool for scholars. Digitized material will be presented in an easily accessible form, and will have the added benefit of allowing word searches to facilitate research. Two grants have been received to underwrite the cost of digitizing the collection, and the process is underway although it will take some time to complete.

Immediately following the opening remarks, Mr. Joseph turned to the business portion of the meeting. He called upon **Philip Kessler**, Secretary of the Society and Chair of the Nominating Committee, to present candidates for election to the Board of Trustees and other offices.

The Nominating Committee presented a slate of candidates for nomination to election to an initial three-year term as a member of the Board of Trustees. The nominees were: **Bradley J. Butwin; Richard Cullen, Lewis J. Liman, Jami Wintz McKeon, Elizabeth Papez, Jonathan M. Rozoff and David Rubenstein**.

A second list of candidates was presented and nominated to serve an additional three-year term as a member of the Board of Trustees. The nominees were: **J. Bruce Alverson, Hilarie Bass, David Beck, Leonora Burger, Evan Chesler, Michael Cooper, Stephen Cozen, Laurie Webb Daniel, Brackett Denniston, James Goldman, Christopher Handman, Paul Hilal, A. E. Dick Howard, Neal Katyal, Philip Allen Lacovara, Alan Levine, Robert Long, Deanne Maynard, Teri McClure, William McGuinness, Ted Mirvis, Steven Molo, Lucas Morel, Gary Naftalis, Ronald Olson, Barry Ostrager, Michael H. Park, Carter Phillips, Leon Polsky, Abe C. Reich, Steven Shapiro, Mathew Staver, Cathleen Douglas Stone, Stephen Susman, Anton R. Valukas, Alan**

Vickery, Seth P. Waxman, Tal Weberg, W. Foster Wollen and Dean Ziehl.

The final slate of candidates was for the nomination of officers and members at large of the Executive Committee. These candidates were nominated to serve a three-year period in the offices indicated: **Ralph I. Lancaster, Chairman; Jerome Libin, Vice President; Chilton Varner, Vice President; and Philip Kessler, Secretary.** Those nominated to fill a one-year term as a Member-at-Large of the Executive Committee were: **Robert Anello, Charles Cooper, Kenneth S. Geller, Robert Giuffra, Teri McClure, James Morris, John Nannes,**

James B. O'Hara, Theodore Olson, Leon Polsky, Richard (Doc) Schneider and Seth P. Waxman.

Mr. Joseph called for a motion to elect the candidates to the positions indicated in the Report of the Nominating Committee. A motion was made, seconded, and a vote was taken. The motion was carried. All candidates were elected to the offices as presented. The Annual Meeting of the Board of Trustees was then adjourned following a motion and approval of the motion.

For the awards portion of the meeting, Justice Samuel Alito joined Mr. Joseph at the podium. Mr. Joseph expressed gratitude to Justice Alito for his generous support to the Society throughout the years of his service on the Bench. The first prizes awarded were presented to the winners of the Hughes Gossett Literary Prizes for outstanding articles published in the **Journal of Supreme Court History**. The award recognizing the most outstanding submission written by a student was presented to **Evan C. Rothera**, a Ph.D candidate for his article *The Tenacious 'Twin Relics': Republicans, Polygamy and the late Corporation of the Church of Jesus Christ of Latter Day Saints v. the United States*. The senior prize was awarded to **Lt. Colonel**

Photos by Steve Petteway



Society Trustee Christopher Landau received an award from Justice Alito in recognition of support of the Gala.



Gary Naftalis of Kramer Levin Naftalis & Frankel is accepting an award from Justice Alito.



Photos by Steve Peteway

Gala donors, (left to right) John Brewer who clerked for then-3rd Circuit Judge Alito, Steven Storch and Bijan Amini were photographed with Justice Alito.

Matthew S. Van Hook of the United States Air Force. Professor Van Hook is both an assistant Professor of Political Science and a Flight Instructor at the United States Air Force Academy. The article for which he received the award was *“Founding the Third Branch: Judicial Greatness and John Jay’s Reluctance.”*

Awards were presented to recognize the work of the successful State Chairs under the direction of **National Membership Chair, Robert Anello**. Through the efforts of Mr. Anello and the members of his committee, a decade-long decline in membership was reversed this year.

Seven state chairs were recognized for their successful work. They were: **Francis X. Dee of New Jersey; Troy Giatras of West Virginia; James London of Tennessee; Mark MacDougall of Washington, DC**. Justice Alito congratulated each award winner and assisted by presenting the marble stones presented in recognition of important contributions to the work of the Society.

Further awards were presented in recognition of significant support to the Society. Under the direction of **Robert Guiffra, Chair of the Development Committee**, the members of that committee work to secure financial support for the Society. Fund-raising efforts include an Annual Fund campaign and requests to both corporate and foundation giving. The Third New York Gala organized and promoted by the members of the Committee, was held on Feb. 26, 2016. The event not only exceeded the fundraising goal, but also surpassed the two previous events. Two leading members of the legal community were recognized at the Gala: **David Leitch of Bank of America**, and **Greg Palm of Goldman Sachs**. Both Mr. Leitch and Mr. Palm are closely acquainted with the Court as both clerked at the Supreme Court. They have both continued an interest in and connection to the Supreme Court. The Gala was greatly enhanced by the display of important historical documents loaned for the occasion by **Society Vice President Dorothy Goldman**.

The Galas have become an important way to support the work of the Society, and awards honoring some of the donors to the event were recognized. Awards were also presented to major donors whose contributions support other projects

and programs. Mr. Joseph expressed particular gratitude to each of the Society’s Vice Presidents for their continuing support and generosity. They are: **Vince Burke, Dorothy Goldman, Jerry Libin, Mrs. Thurgood Marshall, and Chilton Varner**.

Justice Alito assisted Mr. Joseph in presenting awards to the special donors. Those recognized were: **Bijan Amini and Steven G. Storch, Storch Amini and Munves; Robert J. Anello, Morvillo Abramowitz Grand Iason and Anello; Bradley J. Butwin, O’Melveny and Myers; Mark S. Cohen, Cohen and Gresser; Dorothy Tapper Goldman; William J. Haynes, II; Gregory P. Joseph, Joseph Haage**



Mark S. Cohen (right) was photographed when he was recognized for his support of the Society.

Aaronson; Philip J. Kessler, Honigman Miller Schwartz & Cohn; Christopher Landau, Kirkland Ellis; Thomas C. Leighton, Thomson Reuters; William G. McGuinness, Fried Frank Harris Shriver and Jacobson; Joseph R. Moderow; Steven F. Molo, Molo Lamken; Gary P. Naftalis, Kramer Levin Naftalis; Michael H. Park, Consovoy McCarthy & Park; Carter G. Phillips, Sidley Austin; Kelly J. Shackelford, Liberty Institute; Michael W. Smith, American College of Trial Lawyers; Chilton D. Varner; Tal M. Weberg, and David C. Weinstein.

The presentation of awards concluded the business and Mr. Joseph thanked all those present, offering thanks again to Justice Alito for his assistance, and the meeting was

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Lt. Colonel Matthew S. Van Hook (right) received the senior Hughes Gossett Literary Prize. He is photographed here with Justice Alito during the awards ceremony.

The Leon Silverman lecture series

The Leon Silverman lecture series has in recent years been divided into two segments—one in the spring and one in the fall, with each segment containing two lectures. The 2016 series follows this pattern. The general theme of the 2016 programs has been: “The Supreme Court and the Progressive Era.” The two spring lectures have now been successfully completed.

On May 11, 2016 Polly J. Price, Dean of the Faculty and Professor of Law at Emory University School of Law, was the featured speaker. Her topic was: “The Supreme Court and the Chinese Exclusion cases.” Dean Price was introduced that evening by Scott Harris, Clerk of the Supreme Court.

Beginning in 1882, Congress passed a series of laws impeding the immigration of Chinese laborers into the United States, and restricting re-entry of the Chinese who wished to return to their American homes after relatively short visits to China. Not surprisingly, this legislation prompted challenges in the Courts. In the late 1880s and through the 1890s, the Supreme Court heard a number of appeals collectively called “The Chinese Exclusion Cases.”

The background is this: on the West Coast there was widespread animosity against immigrant Chinese labor. While some of this opposition may have been racially motivated there was also the fear that employers welcomed the cheap foreign labor. The local population exhibited real fear that immigration not only took away job opportunities, but also kept wages arbitrarily low. Anti-immigrant legislation was therefore popular, and local members of Congress were apt to promote and endorse it because their opposition would spell peril at the polls.

Legal challenges to the law were common, but also complex. They not only raised constitutional issues, but also questions relating to treaty obligations. As lower court decisions reached the Supreme Court, the Justices initially reacted with great uncertainty, as if unsure about the proper avenue of procedure. Justices in the majority in one case would sometimes find themselves in dissent in the next even if the issues had much in common.

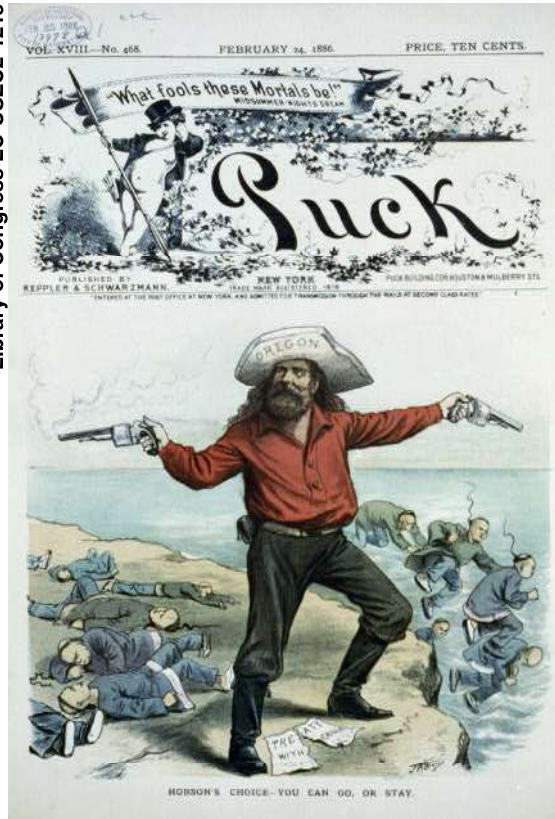
Dean Price built her lecture on an analysis of the

immigration case of perhaps greatest importance *Chae Chan Ping vs. U. S.* [130 U.S. 581 (1889)]. Chae had initially entered the United States legally, had lived and worked as a laborer in California for some years and then returned to China for a visit. Prior to leaving, he obtained the required re-entry certificate in compliance with the law. However, while he was in China, the law was amended and the re-entry certificate was invalidated. As a result, he was not permitted to return.

Aside from the perceived unfairness of this treatment, there were multiple legal questions. Could the law be applied retroactively? Was the law in violation of US treaties with China? Were there 14th Amendment issues? Although not raised at the time, a modern audience would note the obvious racial implications of the Congressional legislation.

Surprisingly, the Supreme Court decision in the case was unanimous, with Justice Stephen Field writing the opinion of the Court. Justice Field (a Californian himself) held that immigration was a matter of national sovereignty, that the power of Congress over such sovereignty issues was absolute, and that the Court had no constitutional authority to alter or negate congressional action on immigration issues.

Dean Price’s analysis of the case was profound. The



Many Western citizens felt threatened by the growing Chinese immigrant population. That anger is the basis of this cartoon. The Chinese Exclusion cases grew out of legal issues associated with the controversy.

Photo by Steve Petteway/Collection of the SCHS



Dean Polly Price of Emory University discussed the history of the Chinese Exclusion cases in her lecture on May 11.



Photo by Steve Petteway/Collection of the SCHS

The *Lochner* case was the basis of discussion between Professors Paul Kens (right) and Randy E. Barnett (left), with Professor Victoria Nourse as the moderator.

Progressive Era Supreme Court was careful about its relationship with the executive and legislative branches and the Court exhibited some concern on this question. She also placed the decision in the context of labor/management issues which were current in the late nineteenth century.

While *Chae Chan Ping vs. US* was the major case she discussed, Dean Price noted another of the Chinese exclusion cases which had enduring importance. *US vs. Wong Kim Ark* [169 US 649 (1898)]. This case was an effort by the Supreme Court to interpret the citizenship clause of the 14th Amendment. The Court ruled that Wong was an American citizen because of his birth in this country.

On May 25th, the second event in the Silverman Series was titled “A Conversation on *Lochner*,” referring to *Lochner vs. New York* (198 US 45 1905), a case celebrated for the clashing economic views of the majority and the dissenters. Associate Justice Stephen G. Breyer Jr. introduced the program. Unlike many programs in the lecture series, the program on May 25 did not follow the typical format of a single-speaker lecture. It was instead, a “conversation” between Randy E. Barnett, Professor of Legal Theory and Director of the Center for the Constitution at Georgetown University Law Center, and Paul Kens, Professor of Political Science at Texas State University. Professor Victoria Nourse, also of the Georgetown Law Center, was moderator. The *Lochner* case has become a celebrated classic, although its importance was not recognized until long after the decision itself.

The facts are relatively simple. In 1895, the New York legislature passed a law limiting the working hours for journeymen bakers. The limitation set was 60 hours a week. For obvious reasons this law had widespread support from progressive activists and from supporters of the incipient labor movement. But the law had significant opposition also. Many, if not most, of New York City bakers were small businesses with only a few employees. The owners often ran their little bake shops from the basements of their homes. Profit margins were slim, and the legislation threatened the

very existence of many of these businesses. Joseph Lochner owned and ran a bakery in Utica, New York. He was charged under the law of forcing his employees to work longer than the 60 hour maximum. After trial, he was sentenced to pay a small fine. Lochner appealed his conviction through the courts of New York and ultimately to the Supreme Court. By a 5-4 vote in an opinion written by Justice Rufus Peckham, the Court reversed his conviction and declared the New York law unconstitutional. There was vigorous dissent from Justice John Marshall Harlan and Justice Oliver Wendell Holmes, Jr. The discussion between Professors Kens and Barnett was spirited, and two different views emerged. Professor Kens noted that the New York law was like many other laws, enacted under the general umbrella of the “police power of the states.” States have generally legislated to license businesses and professions, claiming a wide ranging authority to protect the health and well-being of the citizenry. Professor Barnett stressed the other side of the coin. This kind of legislation can easily be used to discriminate against ethnic and religious groups and to protect strong and well-entrenched elements from competition. In any event, it curtails the liberty of relatively weak business owners who are starting on the smallest of scales.

This discussion format has not been often been used in the Silverman lectures. But moderator Nourse kept the program moving with insightful questions and comments and the large audience seemed favorably responsive to this different approach. The whole evening was characterized not only by the rich insight of the participants but also by the atmosphere of good humored debate.

Two lectures remain in the series and will take place this fall. On November 2 Professor James W. Ely, Jr. of Vanderbilt University will discuss the Supreme Court’s rulings of property rights during the Progressive Era. On November 26, Professor Brad Snyder of the University of Wisconsin will lecture on the celebrated *Sacco Vanzetti* case. Seats are still available for both lectures and can be obtained by calling the Society’s office at (202) 543-0400, or through the website, www.supremecourthistory.org.



Joseph Lochner, whose bakery in Utica, New York is shown above, contested the law that made it illegal for bakers to work more than 60 hours a week.

Teachers Attend 22nd Supreme Court Summer Institute By Taylor Coats, Street Law, Inc. Intern

In June, the Supreme Court Historical Society collaborated with Street Law, Inc. to host the 22nd annual Supreme Court Summer Institute for Teachers. This professional development program offered five dozen middle and high school social studies teachers the opportunity to come to Washington, D.C., and participate in an in-depth exploration of the Supreme Court of the United States. Using a variety of interactive teaching methods and materials, teachers learned how to teach about the judiciary in exciting and relevant ways. The Institute demonstrated how to use an array of resources, including legal experts and media, in the classroom. Upon their return to their various schools, teachers will share their new knowledge about the Court and interactive teaching methods with their colleagues.

This year's participants examined several current cases, including *Whole Woman's Health v. Hellerstedt*, *U.S. v. Texas*, and *Fisher v. Texas*. For each case, teachers learned effective, hands-on strategies for teaching about the Constitution, discussing controversial issues, and exploring the functions and operations of the Supreme Court. One of the Institute's strengths is the opportunity it provides for teachers to engage in the very strategies they will be using with students in the classroom. This builds teacher



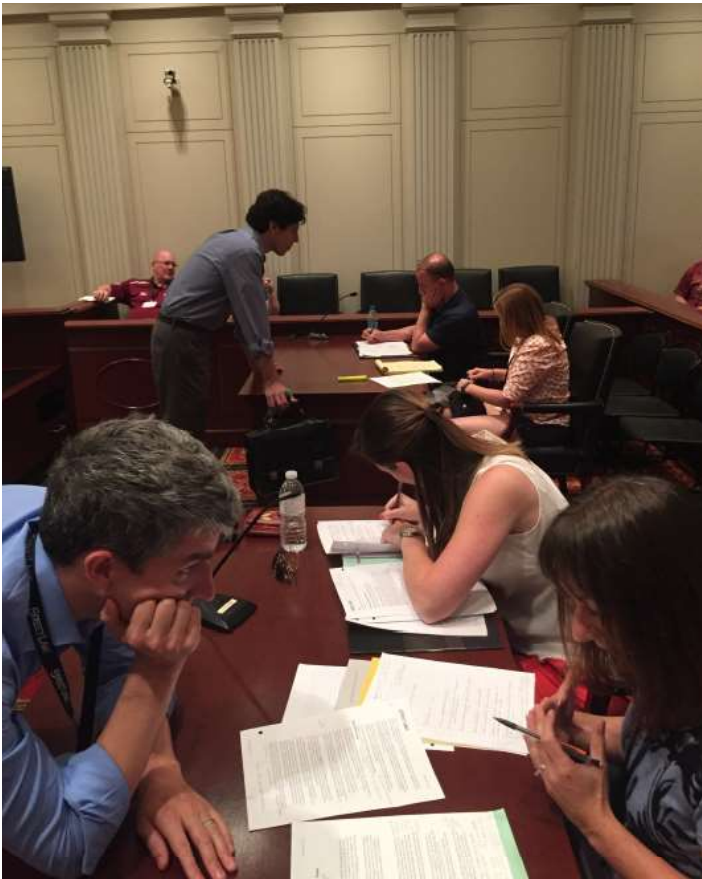
Teachers participate in the moot court, held in Georgetown Law Center's replica Supreme Courtroom.

confidence in the implementation of those strategies. One participant praised this approach "because it demonstrated the process to actually implement it in class."

One factor that makes the Supreme Court Summer Institute a dynamic and exciting experience for the teachers is the participation of appellate lawyers, educators, and journalists who serve as resource experts. These experts helped deconstruct complex constitutional issues, coached teachers through activities and simulations, and provided insider information about the Court's operations. For example, Chris Landau, head of the appellate litigation practice at Kirkland & Ellis, opened one session of the Institute with a lecture describing how cases get to the Supreme Court and the process of arguing a case there. One participant remarked "...the caliber of presenters was way more than I could have ever expected."

During the Institute's Moot Court (conducted in Georgetown Law Center's impressive Supreme Court Institute Moot Courtroom), teachers acted as petitioners, respondents, and justices to simulate oral arguments. They were coached by luminaries of the Supreme Court bar, including Robbins Russell partner Roy Englert, Paul Hastings partner Stephen Kinnaird, deputy assistant Attorney General Beth Brinkmann, assistant to the Solicitor General Zack Tripp, Bancroft partner Erin Murphy, and King and Spalding associate Paul Mezzina. Several of these experts had been involved in briefing or arguing the case the teachers mooted (*U.S. v. Texas*). Teachers raved about quality and helpfulness of this session; one teacher stated "The moot court was awesome...The in-depth look at the Supreme Court was beneficial on so many levels--intellectually and motivationally."

One of the most popular sessions was a lunch with former



Teachers debrief the moot court and discuss ways to use similar strategies in their classrooms.



Teachers preparing to argue in the moot court with their expert coach, Beth Brinkmann.

Supreme Court clerks. Teachers had the opportunity to eat and chat with several recent clerks, including Elizabeth Wilkins (senior counsel for the Attorney General of DC and former clerk to Justice Kagan), Ishan Bhabha (attorney at Jenner & Block and former clerk for Justice Kennedy), Jenn Bandy

(attorney at Kirkland & Ellis and former clerk to Justice Thomas), Kwaku Akowuah (attorney at Sidley Austin and former clerk for Justice Breyer) and Haley Proctor (attorney at Cooper & Kirk and former clerk for Justice Thomas).

The week-long program culminated in a visit to the Supreme Court to hear decisions handed down. Participants gushed about the lasting impression that this Institute will have on them and their teaching. The opportunity to hear decisions at the Supreme Court was described as a particularly powerful experience. One participant mentioned that “The ability to work with/hear from experts in the field-- to see the Supreme Court in action and have a reception at the court-- it felt like a once in a lifetime experience for anyone. But to be able to bring this back into the classroom is truly incredible.”

With the collaboration and financial support of the Supreme Court Historical Society, the Supreme Court Summer Institute has become one of the nation’s leading professional development experiences for teachers-- enriching, reputable, and effective. This year’s participants will enhance the educational experiences of thousands of students all over the country, developing the next generation of knowledgeable and active citizens!

Society Acquires Portrait of Justice Henry Baldwin

By Maya Foo*

Earlier this year, the SCHS acquired a portrait of Associate Justice Henry Baldwin, who served on the Court from 1830 to 1844. A Connecticut native, Baldwin graduated from Yale at the age of seventeen and later opened his own successful law firm in Pittsburgh. Active in the community as a businessman and politician, he was given the nickname the “Pride of Pittsburgh” and was elected to the House of Representatives in 1816. In the House, Baldwin defended General Andrew Jackson’s military decisions in the First Seminole War (1817-1818) and was a staunch supporter of the general when he ran for President a decade later.

As President, Jackson nominated Baldwin to the Supreme Court on January 4, 1830, and he was confirmed by the Senate two days later. Baldwin joined the Supreme Court during the era of Chief Justice John Marshall, a period known for a cohesive Bench which announced many unanimous decisions. Baldwin apparently had ideological differences with the other justices from the start and soon informed the

President that he wanted to resign. During his first term he dissented seven times, likely a record for a junior justice. In 1832, he suffered a mental breakdown possibly due to stress over financial investments and he missed the subsequent term, but did not resign and returned to the Court in 1834.

Baldwin’s increasingly defiant behavior and angry exchanges with the other justices fractured the previously tranquil nature of the Marshall Court. He often argued with Justice Joseph Story, who wrote in a letter that Baldwin’s opinions “are so utterly wrong in principle and authority, that I am sure he cannot be sane. And indeed, the only charitable view which I can take of any of his conduct is that he is partially deranged at all times.” Towards the end of his life, continued poor financial investments put the Justice

heavily into debt. He died in poverty in 1844—just two years after this portrait was painted—and his friends were forced to pay for his funeral.

*Maya Foo Exhibition's Coordinator



Justice Henry Baldwin, 1842, George D'Almaine, Oil on canvas

Collection of the Supreme Court Historical Society

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John Hunter, British Columbia
 Graham Edwin Price, Alberta

adjourned. The traditional black tie reception and dinner started at 7 PM with the East and West Conference Rooms as the setting for the reception. The Annual Dinner was held in the Great Hall. When dinner was convened, Mr.

Joseph gave a brief greeting and thanked the members of the Court for their participation. The members of the Court who attended that evening were: **Chief Justice John G. Roberts Jr., and Associate Justices Clarence Thomas, Ruth Bader Ginsburg, Stephen G. Breyer, Jr. and Samuel Alito.** Mr. Joseph called upon the Chief Justice to deliver the traditional toast to the President of the United States, after which dinner service commenced.

At the conclusion of dinner, Annual Meeting Chair **Dorothy Goldman** expressed gratitude for the outstanding assistance of **Marshal Pamela Talkin** and the members



A special ensemble of the Children's Choir of Washington under the direction of Joan Gregoryk provided the after-dinner concert on June 6.

of her staff who coordinate all the physical arrangements in the building necessary to make the evening successful. She then announced the after-dinner concert. It was performed by the Chamber Ensemble of the Children's Chorus of Washington

(CCW). Members of the Chamber Ensemble are identified based on their demonstrated vocal and musical abilities as well as their commitment to CCW. CCW is widely recognized as one of the country's leading youth choruses and provides outstanding choral music education to young vocalists from throughout the metropolitan Washington, D.C. area. The concert was performed under the direction of Joan Gregoryk, founder and artistic director of the Chorus and was accompanied by Donald Cotton. The concert marked the conclusion of another successful Annual Meeting.