



THE SUPREME COURT
HISTORICAL SOCIETY

Quarterly

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Retired Supreme Court Justice John Paul Stevens Dies at Age 99

Retired Justice John Paul Stevens died on July 16, 2019, in Ft. Lauderdale, FL. Justice Stevens had one of the longest terms of service to the Court, spanning three and a half decades. In 2010, he retired at the age of 90, only the second Justice in the history of the Court to retire at that advanced age. For the last nine years of his retirement he remained very active and engaged in numerous activities. In addition, he authored several books during his retirement, including *The Making of a Justice*, an autobiography of his first 90 years. The Justice spoke frequently at law schools and to law-related organizations throughout the country and internationally, and at special events at the Court.

Born in Chicago IL., Stevens grew up, was educated, and worked in the Midwest. He received his education from Northwestern University and the University of Chicago, and later practiced law in the Chicago area. Often described as a quintessential Midwesterner, his approach to the law and life was informed through his experiences there. Even after many years in Washington, he had not lost that outlook. Upon learning of his death, Chief Justice Roberts provided a tribute in which he commented on Justice Stevens' character: "A son of the Midwest heartland and a veteran of World War II, Justice Stevens devoted his long life to public service,

including 35 years on the Supreme Court. He brought to our bench an inimitable blend of kindness, humility, wisdom and independence. His unrelenting commitment to justice left us a better nation."

After becoming President, Gerald Ford was advised there would be an opening on the Supreme Court. He asked Attorney General Edward Levi to make recommendations for suitable candidates. Levi quickly identified John Paul Stevens as an appropriate nominee. Stevens had been a lifelong Republican, but he did not have a record of political or judicial activism and had no connections to



The body of Justice John Paul Stevens lay in repose in the Great Hall of the Supreme Court Building on July 22, 2019, with former clerks taking turns standing in respect around the coffin.

Washington. The opening on the Court came shortly after the Watergate scandal and this lack of political association made him an appealing candidate to both parties. Stevens was confirmed only three weeks after he was nominated.

Upon joining the Court, Stevens quickly earned a reputation as a hard worker, a person of great ability, integrity, and courtesy. He continued to enjoy that reputation throughout his tenure on the Court. Another pattern he maintained throughout his service on the Bench was that of wearing bow ties. He continued to express this fashion preference throughout his life. Many reporters and students of the Court noted that during oral argument he was kind and courteous to legal counsel, often holding his questions

Justice John Paul Stevens continued on Page 3

Photo credits Collection of the Supreme Court of the United States

A Letter from the President



President Chilton D Varner

The Annual Meeting of the Society on June 3 heralded the conclusion of one fiscal year and the approach of another. The article about the meeting in this magazine gives details, so I will just say it was another wonderful and successful day. The conversation between Justice Clarence Thomas and David Rubenstein was remarkable and generated a burst of enthusiasm and energy that carried over throughout the evening and into the new

fiscal year.

As we move into the fall season there is a palpable sense of renewal and vitality. Events for FY 2020 include the 2019 Leon Silverman Lecture Series. Invitations were mailed and information has been on the Society's web site for some time, but I call your attention to the series in case you have not yet had a chance to review the materials. The series focuses on "Dissents in Supreme Court Opinions." It is a bit of a departure from previous series which focused more on specific time periods or biographical subjects. These four programs focus on four topics: "*The Dissent as Concurrence—From Fletcher to Whitney*"; "*Dissents from Outside the Judiciary—The Southern Manifesto as a Dissent in the Brown Decisions*"; "*Prescient Dissent—Justice Bradley and the Slaughter-House Cases*" and "*The Lone Dissenter-- Justice William H. Rehnquist*." Speakers have been drawn from leading scholars and experts, and include our own Trustee Charles J. Cooper who will speak about his previous "boss", Justice William H. Rehnquist. These thought-provoking lectures allow members to engage in continuing scholarship on the work of the Supreme Court. Please check your schedules to see if you might attend any of these events.

On September 24, the Society partnered with the Fred W. Smith National Library for the Study of George Washington and Mount Vernon to present a conversation with Justice Neil M. Gorsuch. The interview focused on Justice Gorsuch's new book, **A Republic, If You Can Keep It** and Justice Gorsuch was interviewed by the President and CEO of Mount Vernon, Dr. Doug Bradburn. Mount Vernon hosted the event at the estate in an auditorium only a short walk from the mansion itself. A capacity audience attended. The second half of this reciprocal program will be given at the Supreme Court in 2020 and you will receive information about that program as soon as details have been finalized. An article on the event at Mount Vernon will appear in the next issue of the *Quarterly*. The Society has partnered with Mount Vernon

on two previous occasions to present programs. The estate has a close connection to Supreme Court history not only because President Washington appointed the first members of the Court, but also because his nephew, Justice Bushrod Washington inherited the estate, making a direct connection between the estate and a member of the Court.

I alert you to the Society's most important fundraising and social event, the fifth New York Gala which will be held on March 18, 2020, in New York City. This year the event will honor Michael R. Bloomberg, founder of Bloomberg LP and Bloomberg Philanthropies. Mr. Bloomberg is an extraordinary businessperson, philanthropist, author, and public servant. His achievements, of course, include service as the 108th Mayor of New York City. The New York Gala provides an extraordinary way to honor individuals who have made important contributions to the fabric of American Society and the legal system of the Nation. On March 18, Mr. Bloomberg will receive the Society's highest honor, the Amicus Award for extraordinary service to the country and the judiciary. Preparations are underway for what will surely be an outstanding evening. In addition to providing a way to honor distinguished Americans, the Gala also serves the purpose of helping to provide funding to support the educational and other programs of the Society. There is a dedicated email address for the event: gala@supremecourthistory.org. Please send an email for details. We hope you will sign up to sponsor a table on that evening.

While I hope many of you will be able to participate in the Gala, I realize it is not possible for all. As President of the Society, I take this opportunity to thank you for your support without which the Society could not function. It is a privilege to work with you as we strive to enrich and disseminate the history of the Supreme Court of the United States. If you cannot support the Gala, I hope you will consider making a contribution to the Annual Fund. As a non-profit organization, the Society depends upon your participation and continuing generosity to support its programs, publications and other activities that are the core of our work.

Chilton D. Varner

Quarterly

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Managing Editor Kathleen Shurtleff
Advisory Editor James B. O'Hara

until later in the argument. But it was also noted that his courtesy in waiting to ask questions did not belie a timidity or reluctance to pose difficult and probing questions. Rather, most often his questions were insightful and cut to the heart of the matter, and sometimes to the weaknesses in the argument.

Past colleagues on the Court commented on the keenness of his mind, his kind and helpful nature, his courtesy to his colleagues, and his modesty. Several observed that he extended those same courtesies to attorneys arguing before the Court. Justice Thomas said... “[i]n almost two decades as colleagues on the Court, he was an unfailingly collegial, courteous, and kind colleague. Since his retirement, we have missed him greatly as a member of the Court, and now will miss him even more profoundly as a friend.” Justice Breyer said that “John understood how the rule of law forms a necessary part of our constitutional democracy. He understood that laws are designed primarily to serve those who live under them. His work reveals that understanding.”

Retired Justice Kennedy noted that “[h]e was emphatic always in asking this question: Is what the Court about to do fair to the injured party?” Justice Alito said that “[t]hroughout his long and dedicated career, he [Stevens] brought a penetrating, pragmatic, and distinctively singular intellect to bear on the most important legal issues of the time.” Justice Sotomayor said that “Justice Stevens was impossible not to like: affable, humble, and unfailingly kind... His decency, integrity, and commitment to principle were unparalleled.”

Justice Ruth Bader Ginsburg provided greater insight into her experience with the Justice as she presented a tribute at Justice Stevens’ funeral. Her comments revealed a very personal view.

In the last week of his life, Justice Stevens attended a conference in Lisbon. As the next eldest in attendance, I had the good fortune to ride with him on the sometimes long drives between our meeting place and museums, vineyard and castles. His mind remained vibrant; in route, he spoke of court cases, even footnotes in his opinions, his military service, ball games he attended. His conversation was engaging, his memory amazing....

A main theme in Justice Stevens’ writings, [was] ‘the concept of equal justice under law requires the

State to govern impartially.’ He viewed impartial governance as the most fundamental obligation of all public officers. As to judges, particularly, he cautioned against decisions based on ‘habit rather than analysis or reflection.’ The essence of the judicial craft, he said was to ‘exercis[e] careful, reasoned judgment.’ He exemplified impartiality by his own readiness to listen and his respectful attention to opposing views. In a Capital City with no shortage of self-promoters, Justice Stevens set a different tone. Quick and incisive as his mind was, Justice Stevens remained a genuinely genial, unpretentious, modest man. No jurist with

whom I have served was more open to what he called ‘learning on the job,’ more sensitive to the wellbeing of the communities law exists (or should exist) to serve. He was a model of independence, nonpartisan comity, graciousness, and good humor...

In a letter applauding Justice Stevens on the 30th anniversary of his appointment to the Court, President Gerald Ford commented that Supreme Court nominations are seldom considered when historians assess Presidencies.

‘Let that not be the case with my Presidency,’ Ford continued, ‘[f]or I am pre-pared to allow history’s judgment to rest (if necessary, exclusively) on my nomination... of Justice John Paul Stevens to the U.S. Supreme Court.’ I am among the legions of lawyers and judges who would concur heartily in President Ford’s praise for the ‘dignity, intellect[,] and [absence of] partisan political concerns’ that marked Justice

Stevens’ service on the Court, and to the country.

In tribute to his career and public service, Justice Stevens lay in repose in the Great Hall of the Supreme Court Building on July 22, 2019. Members of the Court, and many of his past law clerks lined the front steps of the building as the coffin was carried into the Great Hall outside the Courtroom where he served for nearly three and a half decades. Justice Kagan, who was appointed to the Court to fill the vacancy created by Stevens’ retirement, made brief remarks in a private ceremony for family and Court employees in the Great Hall. She observed what a great privilege it was to be the individual who succeeded Justice Stevens on the bench. She praised him for his service and commitment to the Court. From 10:30 AM until 8 PM, members of the public filed past



The Courtroom door was draped with black following the death of Retired Justice John Paul Stevens.

Society Members Celebrate the 44th Annual Meeting

The events of June 3, 2019, marked the 44th Annual Meeting of the Supreme Court Historical Society. In something of a departure from tradition, the Annual Lecture was an unscripted interview by David M. Rubenstein with Senior Justice Clarence Thomas, rather than a prepared speech. The event was unique in the history of the Society because it brought together a subject who often eschews publicity with an interviewer who is a leader in the private equity world. This seemingly unlikely combination resulted in a fascinating, engaging, and insightful interview with the longest-serving member currently serving on the Supreme Court.

President Chilton Varner described the participants as “two of the Society’s dearest friends.” In nearly three decades of exemplary service, Justice Thomas now sits as the senior Justice and for many it is difficult to recall a time when Thomas was not on the Court. President Varner outlined a few highlights of Justice Thomas’s interesting and varied career before joining the Court, including service as an Assistant Attorney General of Missouri, an in-house attorney for The Monsanto Corp., and a legislative assistant to Senator John Danforth. Thomas later served as Assistant Secretary for Civil Rights in the Department of Education, and as Chair of the Equal Employment Opportunity Commission. He then served as a Judge on the U.S. Court of Appeals for the District of Columbia Circuit. While he was serving on that Court, President George H. W. Bush nominated him as an Justice of the Supreme Court. He took his seat on the Bench in October 1991.

Mr. Rubenstein, a co-founder of The Carlyle Group, is an important figure in the financial world and a noted philanthropist whose largesse has focused often on public service projects of historical importance to America. A sampling of his generosity includes funding the restoration of the Washington Monument following earthquake damage. His particular love of important historical documents motivated him to purchase and make available for display precious historical documents, including a copy of Magna Carta which is currently on display in the National Archives.

Although he practiced law briefly, Mr. Rubenstein moved into the financial sector and the company he co-founded has become a titan of the private equity world.

The Annual Lecture forum brought these two extraordinary figures together for a conversation about Justice Thomas’ career on the Court. Many Court observers have commented on the Justice’s seeming reluctance to pose questions to attorneys during oral argument. But the interview revealed

the thoughtful, perceptive, and often gregarious side of Justice Thomas. The audience was captivated by the conversation. For those who were not present, C-Span recorded the interview and it can be accessed in its entirety from the Society’s web site.

The interview with Justice Thomas set a high standard for the remainder of the day. Once again, tours of the Court building were provided through the courtesy of the Office of the Curator of the Court, Catherine Fitts. The tours were under the immediate direction of Visitor Programs Manager Nikki Peronace and a number of experienced docents. Tours were divided into small groups and participants were able to

visit areas of the Court not accessible to the public. The tours provided information about the history, construction, and decorative elements of the building, as well as information about how the Court functions. These tours have been an added bonus on the day of the meeting over the course of many years, and the Society is grateful for this courtesy.

The annual meeting of the Board of Trustees was convened at 6:30 PM in the Supreme Court Chamber. Mrs. Varner called the meeting to order, welcoming the Trustees, and summarizing some of the most significant events of the past year. She discussed the activities of Committees that perform so much of the work of the Society. The Development Committee, chaired by Vice President **Robert Giuffra**, seeks to obtain meaningful financial support to help underwrite the costs of operating Society activities and programs. Through the hard work of this committee, supplemented by the generosity of Trustees, members of the Society, and public spirited organizations, funds are raised to underwrite the production of publications and educational seminars and on-



Justice Clarence Thomas discussed his life and career during an interview with David M. Rubenstein as the Annual Lecture.

Photo credits Collection of the Supreme Court of the United States



Justice Thomas shares a laugh during his conversation with David M. Rubenstein. Justice Thomas is the longest serving Justice on the Court.

going programs. Programs such as the Summer Institute for Teachers are funded through these sources.

One of the most significant tasks undertaken by the Development Committee is the New York Gala held every other year. Mr. Giuffra and others on the Development Committee work closely with **Gregory Joseph**, Chair of the Board of Trustees, to solicit support for these events. The previous Galas have been very successful and the next Gala will be held on March 18, 2020. These programs provide an opportunity to honor individuals who are outstanding leaders in the legal and historical community on a national scale. Funds raised through the events allow the Society to continue and expand its important work of exploring the history of the Supreme Court of the United States.

Don Ayer chairs the Publications Committee. This Committee coordinates the production of **The Journal of Supreme Court History**, published three times a year, and any special publications. **The Journal** has continued to receive praise and there has been increased usage and readership both with printed volumes and through electronic media. The scholarship contained in **The Journal** is now available and utilized by a wide range of scholars. The Society's most recent special publication, **Table for Nine: Supreme Court Food Traditions and Recipes**, has been well received. While it is a functional cookbook, it is also an institutional history, revealing ways in which camaraderie and good working relationships have been encouraged between members of the Court through sharing meals with one another. Currently a new publication is under development which will be an informative and richly illustrated **Visitor's Guide to the Supreme Court**. The anticipated publication date is some time in 2020. The volume will be a great boon

to the hundreds of thousands of yearly visitors to the Court and will include historical photographs and illustrations to enhance usage for visitors while they are in the building, as well as those who have not had an opportunity to visit in person.

Christopher Landau chaired the Program Committee in FY 2019. The Leon Silverman Lecture Series for the year focused on the theme of the Supreme Court in World War One, correlating with the centennial of the end of that conflict. One volume of the **Journal of Supreme Court History** will document these lectures for future use and scholarship. The 2019 National Heritage Lecture will be hosted by the White House Historical Association and will consider the history of Women's Suffrage.

The Society has continued to provide important support



Justice Alito helped to recognize Society Trustee and Legal Counsel Robert Juceam, who received an award for his support of and work on behalf of the Society.

to the Supreme Court Fellows Program created by Chief Justice Warren Burger. Oversight and administration of the Fellows program is directed by **Jeffrey Minear**, Counselor

is provided by **George Adams**, Chair of the Investment Committee. His committee provides oversight of the Endowment Fund. Performance is reviewed on a quarterly basis. The endowment fund provides long-term stability for the Society, and a portion of earnings can be utilized each year to fund the Society's activities.

Vincent C. Burke III, Vice President and Chair of the Gift Shop Committee, is another Trustee whose committee activities are connected to the financial well-being of the Society. The Gift Shop, located on the ground floor of the Court, provides an additional source of revenue to the Society. Happily, at the end of the third quarter of this fiscal year, sales at the shop had surpassed the total for the previous fiscal year. With one quarter remaining, the shop is poised to equal or surpass the record set in 2005.

The appearance of the shop is a direct result of the expertise of noted architect **James McCrery**. Mr. McCrery became Chair of the Facilities Committee during the year and now oversees the physical appearance and maintenance of both the gift shop and the headquarters building on East Capitol Street. The principal architect of both locations, his expertise and familiarity with the facilities is extraordinarily helpful. He and other members of his staff tour the headquarters building quarterly and direct any necessary renovations and repairs.

The headquarters building houses the **Howard and Dorothy Tapper Goldman Library**, a unique and valuable collection of volumes focusing on the history of the Court. The core of the collection is comprised of 2,000 volumes collected over more than thirty years by Library Committee Chair **James B. O'Hara**. Upon completion of the headquarters building, Prof. O'Hara donated the collection to the Society to form the nucleus of the library. The collection has continued to grow under his direction and now boasts one



Professor Polly Price received the 2019 Hughes Gossett Prize. Justice Alito graciously assisted in recognizing her accomplishment.

to the Chief Justice, a valued Trustee of the Society. He is an active participant in and supporter of much of the Society's work. In addition, members of his staff provide significant assistance to the Society and their assistance is essential to the success of the work.

Other Officers of the Court have provided great service to the Society during the year. Marshal **Pamela Talkin** and the members of her staff assist with logistical and other help for all events held at the Court during the year. Their courteous and effective assistance has made possible events like those of the Annual Meeting. Court Curator **Catherine Fitts** is an important partner in the Society's Acquisitions Program among other things. Members of her staff lead tours of the building for members of the Society throughout the year, and those fortunate to participate in the tours give glowing reports of their experiences. Aided by several of her colleagues, Ms. Fitts works closely with Society Vice President **Dorothy Goldman**, Chair of the Acquisitions Committee, to identify and obtain items for the collection. Many of the items acquired are displayed in public spaces of the building and others are utilized in special exhibits that are produced periodically. Recent acquisitions include a portrait of Justice Brockholst Livingston.

Carter Phillips, the Society's Treasurer, has supervised financial activities for the Society to ensure that all revenue is managed and utilized appropriately. At May 31, 2019, the Society's assets totaled just over \$16 million, a new record for the Society. A second level of financial scrutiny



American College of Trial Lawyers President Jeff Leon was recognized for the continuing support of the College. Justice Alito presented the award.

of the largest collections of biographies of Supreme Court Justices in any library. The Board of Trustees authorized the digitization of the collection for preservation purposes and to expand research opportunities, and approximately one-third of the collection has now been digitized.

Jonathan Schiller served as Chair of the Membership Committee. The Society owes him a debt of gratitude for his personal gift which made possible the purchase of software that will be utilized to improve record keeping.



On June 3, David M. Rubenstein (right) presented to the Supreme Court Library a rare historical book. Chief Justice John G. Roberts Jr., accepted the book on behalf of the Court.

It will also make it possible to more easily and efficiently identify and contact prospective members. The new software will also connect membership information with the Gift Shop to provide increased and improved functions in those operations.

The Society experienced three significant changes in staff this year—an unusual development in an organization known for the long-term service and dedication of the staff. Tragically, our Director of Membership, Orazio Miceli, lost his prolonged battle with cancer in November. “Raz” was the voice of the Society for most callers to the office, and his warm and friendly service to members provided a personal and caring aspect to the membership program. He will be greatly missed, but his legacy of warmth will continue.

Happily, the second departure was under much better circumstances. Janet Tramonte served very ably as Director of Development for a decade or longer before deciding to enter her second retirement. The first retirement followed many years of service at the Supreme Court with Chief Justice William H. Rehnquist and briefly with Chief Justice John Roberts Jr..

Martha Meehan Cohen joined the staff last fall and has assumed the roles of Orazio and Janet in a newly combined position, Director of Advancement. She is a welcome and able addition. She is utilizing the software benefits now available, and well on her way to fulfilling this new position admirably.

Mrs. Varner then acknowledged that both Executive Director David Pride and Assistant Director Kathleen

Shurtleff, would reach a 40-year milestone of service to the Society in early September 2019. She thanked them for their outstanding service and dedication to the Society and said she would like the Minutes of the Meeting to reflect official recognition of this achievement.

After reporting on the year’s activities, Mrs. Varner turned to the election of officers and Trustees. **Philip Kessler**, Secretary of the Society, was out of the country and **Robert Juceam**, Legal Counsel for the Society, reported for the Nominating Committee. Before he presented the nominations, Mrs. Varner commented that the Society owes a great debt of gratitude to Mr. Juceam for the extraordinary service and advice he has provided for more than 25 years as Legal Counsel to the Society.

Mr. Juceam presented the first slate of nominations. The following candidates were presented for election to an initial three-year term as a Trustee of the Society. They were: **Scott Heller, Allyson Ho and Steve Zack.**

A second list of nominees was presented for election to an additional three-year term as members of the Board of Trustees. Those nominated were: **J. Bruce Alverson; David Beck; Leonora Burger; Bradley J. Butwin; Evan Chesler; Stephen Cozen; Richard Cullen; Laurie Webb Daniel; James Goldman; Paul Hilal; A. E. Dick Howard; Neal Katyal; Philip Allen Lacovara; Lewis Liman; Alan Levin; Robert Long; Deanne Maynard; Teri McClure; William McGuinness; Jami Wintz McKeon; Ted Mirvis;**



Justice Sonia Sotomayor greeted Barbara Joseph and her husband Greg Joseph, prior to the Annual Dinner. Mr. Joseph is Chair of the Board of Trustees. Trustee Mark Cohen is in the foreground

Steven Molo; Lucas Morel; Gary Naftalis; Ronald Olson; Barry Ostrager; Elizabeth Papez; Michael H. Park; Carter Phillips; Leon Polsky; Robert Price; Abe C. Reich; Jonathan M. Rozoff; David Rubenstein; Pratik Shah; Mathew Staver; Cathleen Douglas Stone; Stephen Susman; Anton R. Valukas; Alan Vickery; Seth P. Waxman; Tal Weberg; W. Foster Wollen, and Dean Ziehl.

Mr. Juceam noted that none of the Terms of Office for any officer was subject to renewal. He then presented a slate

of persons nominated to serve a one-year appointment as a member of the Executive Committee:

George R. Adams, Robert Anello, Teri McClure, James McCrery, John Nannes, James B. O'Hara, Theodore Olson, Michael Park, Leon Polsky and Seth P. Waxman.

Mr. Juceam completed his report after which Mrs. Varner called for a vote. All candidates were elected to the positions as indicated.

Mrs. Varner thanked all for their willingness to serve, and welcomed the three newly-elected Trustees to the Board. This concluded the official business of the meeting. Mrs. Varner then turned to the Awards Ceremony which provides an opportunity to express formal thanks to many of the Society's most significant supporters, and to recognize the Hughes Gossett Prize winners for outstanding articles published in the **Journal of Supreme Court History**. Justice Samuel A. Alito, Jr. graciously presented the awards.

The first award was presented to Professor Polly Price of Emory University School of Law for her article "A Chinese Wall At the Nation's Borders: Justice Stephen Field and the Chinese Exclusion Cases." Adam Hines received the Student Prize for his article "Ralph Waldo Emerson and Oliver Wendell Holmes, Jr.: The Subtle Rapture of Postponed Power."

Mrs. Varner then recognized many of the special donors and supporters of the Society. First, she noted the significant work of Bob Giuffra, Chair of the Development Committee and of Greg Joseph, Chair of the Board. Both of these gentlemen work hard throughout the year to further the Society's work and programs. She also expressed gratitude to all six of the Society's Vice Presidents who also render great service throughout the year: Vincent Burke III, Dorothy Goldman, Bob Giuffra, Jerry Libin, Cissy Marshall and Doc Schneider.

With the assistance of Justice Alito, the following persons were recognized for their contributions to the Society: **Robert Anello**, Morvillo Abramowitz Grand; **Laurie Webb Daniel**, Holland & Knight; **Sam Franklin**, Lightfoot Franklin & White; **Dorothy T. Goldman**; **William J. Haynes**; **Gregory Joseph**, Joseph Hage Aaronson; **Robert Juceam**, Fried Frank, Harris Shriver & Jacobson; **Jeffrey Lamken**, Molo Lamken; **Jeff Leon**, American College of Trial Lawyers; **Thomas Leighton**, Thomson Reuters; **Deanne Maynard**, Morrison Foerster; **Nestor Mendez**, Pietrantonio, Mendez & Alvarez; **Joseph Moderow**; **Gary Naftalis**, Kramer Levin, Naftalis & Frankel; **Elizabeth Papez**, Winston & Strawn; **David M. Rubenstein**, The Carlyle Group; **Jonathan Schiller**, Boies Schiller Flexner LLP; **Doc Schneider**, King & Spalding; **Kelly Shackelford**, First Liberty; **David Weinstein**, Write the World Foundation; and **Gayle Wright**.

The Reception was again held in the East and West Conference Rooms. Where Society members and their guests enjoyed an hour before moving to the Great Hall for the dinner. Five members of the Court attended the event on June 4. They were: Chief Justice John G. Roberts Jr. and Justices Samuel A. Alito, Jr., Stephen G. Breyer, Sonia Sotomayor, and Brett M. Kavanaugh. Prior to dinner service, President Varner welcomed guests and called upon the Chief Justice to propose the traditional toast to the President of the United States.

An after-dinner concert was performed by the Alexandria Harmonizers. This large chorus performs barbershop harmony and has performed and competed both nationally and internationally. Under the leadership of Joseph Cerutti, the chorus entertained guests with a variety of songs that showcased their sophisticated and complex harmonies, as well as their enthusiasm and joy for singing. At the conclusion of the concert, the meeting was adjourned until June 2020.

Photo credit Fred Schilling



The Alexandria Harmonizers presented a short concert after dinner. This award-winning Barbershop Harmony chorus competes both nationally, and internationally and has won many awards for its performances.

NEW SUPREME COURT HISTORICAL SOCIETY MEMBERSHIPS

May 1, 2019 through July 31, 2019

California

Linda Kleine Jimenez, Anaheim
Kenneth Mott, Long Beach
Chris Tarbell, Burbank
Isaac Webb, Berkeley

Connecticut

Naneka Bakare, Hamden

District of Columbia

Kwaku Akowuah
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Nicole Franklin
Joshua Geltzer
Seth Grossman
Max Hamilton
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Florida

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Brooke Bowman, Sarasota
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North Carolina

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North Dakota

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Supreme Court Historical Society
NEW YORK GALA

Wednesday, March 18, 2020

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The Freedom Train – Part II

By Dr. Craig Alan Smith*

A recent issue of the *Quarterly* presented “The Freedom Train” and its connection to Attorney General and future Supreme Court Justice Tom C. Clark. This uplifting story and accompanying pictures remind us of how popular and prevalent was the Freedom Train. Most contemporary accounts, such as two recent Clark biographies by Mimi Clark Gronlund and Alexander Wohl, have credited Clark

related to immigration, Jews, labor unions, and recent civil rights measures, such as the Fair Employment Practice Committee (Roosevelt’s Executive Order 8802) and the President’s Committee on Civil Rights (Truman’s Executive Order 9808).

Langston Hughes’ poem, “Freedom Train,” which favored desegregation, was not solely responsible for a policy of desegregated visitation. Read in its entirety, this poem was less an indictment of the Freedom Train and more a vision of what America could become. A more caustic commentary came from internationally acclaimed vocalist and actor Paul Robeson, who wrote, “I want freedom itself, not a Freedom Train. It will take much more than a Freedom Train to make [us] believe that freedom for [us] is more than a word.” Robeson’s main contention, what he called a “supreme irony,” was his belief that America had not lived up to the ideals expressed in its sacred documents while it remained a segregated nation. He assailed Clark in particular, who was “unworthy to sponsor such a project,” because Clark had “failed to end lynchings and terror.” However, Robeson’s most damaging accusation, prompted by Hughes’ poem, condemned Clark

and the AHF for permitting segregation on the train when it travelled South. Because “these charges have not been denied,” Robeson asserted, “We must assume that Jim Crow arrangements will prevail.”

Unbeknownst to Robeson, the AHF had early on made

Photos U.S. National Archives



Employees of the National Archives prepared the exhibits for the train under the direction of Elizabeth Hamer, Chief the Division of Exhibits and Publications at the Archives.

with originating the Freedom Train, but as already mentioned, a Justice Department employee named William Coblenz first proposed the idea. Coblenz, who was a Navy veteran of both World Wars, published his own account in 1957 of how he first conceived the idea and then passed it along to Attorney General Clark.

This essay is intended to supplement and expound upon the first, and to correct a few popular misconceptions about the Freedom Train. For example, there were over 100 extraordinary historical documents exhibited onboard, but Lincoln’s Gettysburg Address was not among them. Besides the original, signed Emancipation Proclamation, there were two other Lincoln documents on display. One was a proposal for compensated emancipation, approved by both Houses, for the “gradual abolishment of slavery” (1862), and the other was a Baltimore address contemplating the meaning of “liberty” (1864). In addition, the Truman Doctrine, as supposed by Gronlund and Wohl, was not among the modern artifacts.

There was a portion of the train devoted to women’s suffrage, which was not one of the “sensitive” subjects rejected by the American Heritage Foundation (AHF). A petition from Susan B. Anthony and Elizabeth Cady Stanton as well as text of the 19th Amendment granting women the right to vote were on display. The AHF rejected documents



A group of students views the displays on the Freedom Train. Crowds of every age, race and economic group came to visit the exhibits.

the decision to keep the train desegregated, and their steadfast adherence to that policy led to the Memphis and Birmingham cancellations. NAACP executive secretary Walter White had raised the segregation question at the

White House conference on the Freedom Train. Responding to White's concern, AHF board member Charles E. Wilson, who was then chairing the president's Committee on Civil Rights, recommended that the Foundation take a stand on segregation. Without making a public statement prior to the train's inauguration, the AHF board unanimously agreed "that no segregation of any individual or groups of any kind on the basis of race or religion be allowed at the exhibition of the Freedom Train held anywhere." At some southern locations, separate lines did occur outside the train, but onboard the train itself, desegregation was the rule.

Originally, Clark and Coblenz called their idea a "civil liberties program," and in his initial White House request to sanction the proposal, Clark stated that his purpose was to counter "propaganda" that the U.S. failed to protect "minority rights." Ten months later, when Clark contacted Secretary of the Navy James Forrestal to arrange for U.S. Marines to guard what was now called the "Freedom Train," he stated that the purpose was also "to combat alien ideologies." These dual purposes were at times inextricable.

For example, when Clark convened the White House conference in May 1947 to plan for the train's year-long excursion, he reminded participants of "shocking evidence of disloyalty to our government." "Here we have the impact of alien ideologies," he said, "those who would pervert American institutions for their own ends. It is their avowed objective to undermine our system of government." However, he also called participants' attention to the "many violations of civil liberties" and the "activities of professional bigots and other disrupters of American Unity" who sought "to place one American against another, one creed against another, one race against another, one economic group against another."

The only way to combat these corresponding evils, disloyalty and bigotry, Clark believed, was through inspired patriotism. The Freedom Train was more than a civics lesson or a history class, it was a moral crusade. At the White House conference, he roused participants, saying, "I feel that we have an appeal that can tug at the heartstrings of America, that can be the springboard of a great crusade for reawakening faith in America in the hearts of our people."

By the time the Freedom Train launched in September 1947 to commemorate the 160th anniversary of the signing of the Constitution, there was a concerted, national advertising campaign that pervaded all American culture. Using the motto, "Freedom is Everybody's Job," an advertising onslaught blanketed the national landscape. Caught up in the publicity, Clark's staff arranged a photo opportunity to coincide with Thomas Jefferson's birthday where the great-great-grandson of President James Monroe loaned to Clark original Jefferson to Monroe letters for the exhibit. As if that were not enough, the staging included the presentation of Monroe's silver-mounted dueling pistols, "to add a little glamour to the picture," which Clark was supposed to decline in favor of Jefferson's letters.



President Truman is shown signing the Guest Book for the Train. The Train ended its tour of the country in Washington, DC shortly before Truman's inauguration.

The Freedom Train ended its 16-month journey in Washington, D.C., making its fourth visit to the nation's capital in time for President Truman's inauguration, January 20, 1949. Undoubtedly, the Freedom Train had fulfilled Clark's vision to make "real and vital" the principles "of the American tradition," but it had done more. In the end, it actually fulfilled Clark's original objective to

protect "minority rights."

As a mark of the success of the original Freedom Train, a second attempt was made to duplicate its public appeal nearly three decades later during the nation's Bicentennial. Then in retirement, Clark agreed to serve on the board of directors of an organization called "Federalism 76," the forerunner of the American Revolution Bicentennial Administration. When funding difficulties forced Federalism 76 to dissolve, Clark wrote, "the 200 Anniversary is going down the drain." Unlike its 1947 counterpart, the 1976 American Freedom Train contained material culture, such as Judy Garland's dress from *The Wizard of Oz*, Joe Frazier's boxing trunks, and Martin Luther King's pulpit and robes. The 1976 train had more cars (twelve total) and displayed more artifacts (over 500), but it did not come close to matching in recognition or inspiration the one that Clark pioneered.

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Photos U.S. National Archives

his coffin to pay their respects. Clerks stood vigil around the coffin in shifts throughout the day and into the evening in tribute to the Justice.

Stevens was the eighth Justice to lie in repose in the Great Hall. Owing to his long tenure on the Court, he had served with six of the other Justices so honored. The members of the Court who lay in repose previously were: Earl Warren, Thurgood Marshall, Warren E. Burger, William J. Brennan, Jr., Harry A. Blackmun, William H. Rehnquist, and Antonin Scalia. The only individual with whom Stevens had not served was Earl Warren.



Clerks lined the steps of the Supreme Court Building on July 22, 2019, while the body of Justice John Paul Stevens was carried into the Great Hall to lie in repose. Following a short private ceremony, members of the public filed past to pay their respects to the Justice whose service on the Court spanned thirty-five years. Photo credits Collection of the Supreme Court.

Following a private ceremony on July 23, Justice Stevens was buried at Arlington Cemetery adjacent to his deceased wife, Maryan. One side of Stevens' headstone carries the seal of the Supreme Court and his years of service, 1975-2010. On the other it lists his rank as Lieutenant Commander in the Navy. Justice Stevens was the last surviving Supreme Court Justice to have served in World War II and was awarded a bronze star for his work in breaking Japanese codes.