

## Third National Heritage Lecture Held in Caucus Room

The Caucus Room, which is usually the site of Senate Hearings for the Judiciary Committee, was the scene of the Third National Heritage Lecture on Thursday, March 3, 1994. The program is co-sponsored by the Supreme Court Historical Society, the U.S. Capitol Historical Society and the White House Historical Association, and is conducted on a rotating basis. This year's program was organized by the Capitol Historical Society and focused on the Legislative Branch. As an alternative to the traditional lecture format, the program was a panel presentation featuring former Congresswoman Lindy Boggs, and Washington commentators and journalists, Bob Schieffer and Morton Kondrake. Each of the speakers considered how Congress has changed over the past fifty years, as well as how the public's perception of and interaction with Congress has changed in that time period.

The first presentation was by Mrs. Boggs who has a long history with the institution of Congress. She came to Washington in 1941 as the spouse of Representative Hale Boggs, and for twenty years observed and experienced Congress from that perspective. Upon the death of her husband, Mrs. Boggs was appointed to fill his seat for the duration of his term. Subsequently, she was elected to that seat, serving nine terms. Mr. Kondrake is a Senior editor of *The New*

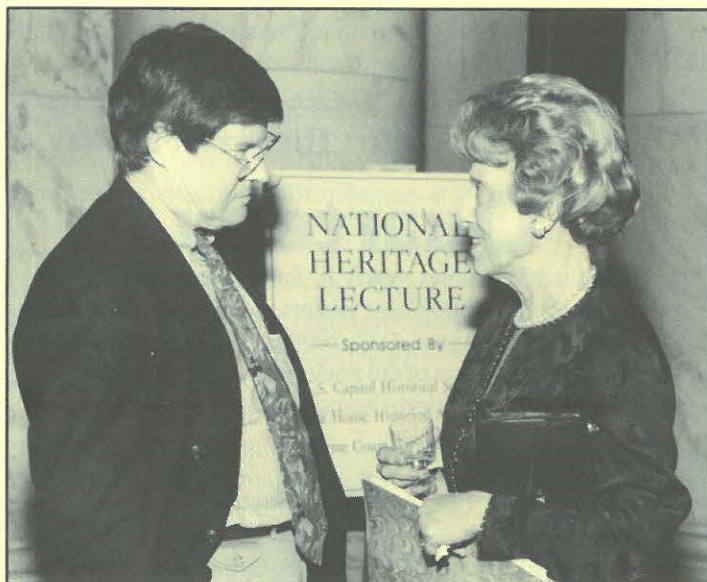


Twin Lens Photo

Clarence "Bud" Brown, President of the United States Capitol Historical Society, introduced the evening's panelists, including Bob Schieffer of CBS News.

*Republic* and Capitol Hill's daily paper *Roll Call*. In addition, Mr. Kondrake writes a twice-weekly nationally syndicated column on national politics, White House-Congressional relations and domestic and foreign policy issues. Mr. Schieffer is a Congressional reporter and commentator for the CBS network with more than two decades of experience in that field. All three acknowledged changes in the public's perception of Congress. In recent years, this image has been damaged by scandals, public perception of corruption and disproportionate perks, and general dissatisfaction with the economic condition of the country. Interestingly, Mr. Kondrake and Mr. Schieffer both noted that polls show that while many Americans consider Congress as a whole to be a flawed body, most Americans have a very positive image of their own representatives. This is reflected in the voting statistics which show that most incumbents were reelected in the last election, despite general widespread negative feelings about Congress. As a possible explanation of this seeming discrepancy, Messrs. Kondrake and Schieffer attributed the positive response to personal knowledge of and experience with Congressional representatives.

Illustrating this viewpoint, Mrs. Boggs told of an incident in her career. The wife of the Congressman from the district bordering



Twin Lens Photo

Morton Kondrake and Lindy Boggs continue their discussion of the changes Congress has undergone at the reception following the panel discussion.

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## A Letter From the President



Leon Silverman

The Supreme Court Chamber and the Members' Room at the Library of Congress were filled to capacity for the first two programs in our series on the Supreme Court in the Civil War.

The first program, a panel discussion on antebellum constitutional crises, was introduced by the Chief Justice in the Supreme Court Chamber on March

9. It was an historic occasion in more ways than one, marked not only by a distinguished assemblage of scholars, but also by the presence of television cameras inside the Court making the opening panel discussion available to a national audience on C-SPAN and COURT TV.

The Society is grateful to the Chief Justice and to Justice O'Connor for agreeing to allow televised coverage of the March 9 and March 30 events, which they, respectively, introduced. We are equally grateful to Justices Blackmun, Kennedy, Souter and Thomas for consenting to have the remaining four parts of the program televised. As this *Quarterly* went to press, COURT TV had not yet established a schedule for airing the lectures. C-SPAN, however, began televising the series on March 14 with broadcasts at 12:30 p.m. and 6:00 p.m. EST. C-SPAN has indicated it will televise each lecture at 12:30 p.m. on the Sunday following the event.

A few seats are still available, as of this writing, for the remaining lectures in the series and members who can make arrangements to attend will not be disappointed. For those who cannot attend, I urge you to watch the lectures on C-SPAN or COURT TV. You can call the Society's headquarters at (202) 543-0400 if you require additional broadcast schedule information. This series is an outstanding example of the Society's commitment to public education.

All educational programs of this caliber begin, of course, with a great deal of research. In the case of the Civil War lecture series, much of the material being presented is drawn from years, if not a lifetime, of work by the participating scholars. The Society's objective in steadfastly supporting this kind of program activity is a great challenge to such a small organization, but one which our members commendably bear. As most of you know from my previous columns, the Society's Documentary History Project, continues apace with Volume 5 of the eight-volume series to be published later this year. This remarkable collection is the result of years of research on the Court's first decade, and has proven so valuable to the study of this critical formative period that Columbia University Press is taking the rare step of reprinting Volume 1, which has been sold out for some time now.

If we are able to sustain funding for the remaining six years it is anticipated will be required to complete the Documentary History,

the Society will have provided a great service to the study of the Court's early history and the completion of its records. I am gratified to report that, since we began asking members to make a contribution toward the Project last Fall along with their regular dues, we have raised nearly \$10,000. I am hopeful that each of you whose membership is coming up for renewal will consider making an additional contribution for the Documentary History Project. Such generosity not only helps to ensure completion of a worthwhile activity, it also demonstrates to outside donors the Society's commitment to completing the Documentary History of the Supreme Court of the United States.

The Society is also seeking other funding sources to help sustain the Documentary History, and our many other ongoing and planned endeavors. Among the projects the Society is now committed to are: publication of the *Journal of Supreme Court History*, educational programs such as the Supreme Court in the Civil War, publication of the manuscript developed in last year's lecture series on the Court's Jewish Justices, and the oral history program which the Society funds in cooperation with the Federal Judicial Center.

The Development Committee, chaired by George Adams, hopes to organize an Annual Fund which will focus on donations from law firms, corporations, and others. The Committee also hopes to introduce a planned giving program later this year which will focus initially on seeking future bequests to support major programs and build the Society's endowment. More information will be made available once plans are complete. Members who are interested in participating in these programs should contact Charlotte Sadel at the Society's headquarters.

Finally, I will close by reporting to you that the Society is in a sound financial condition. I trust we will continue, and, indeed, expand the numbers of our programs and publications thus accomplishing one of our goals—improving public understanding of the history and heritage of the Supreme Court of the United States.

Leon Silverman

### The Supreme Court Historical Society

## Quarterly

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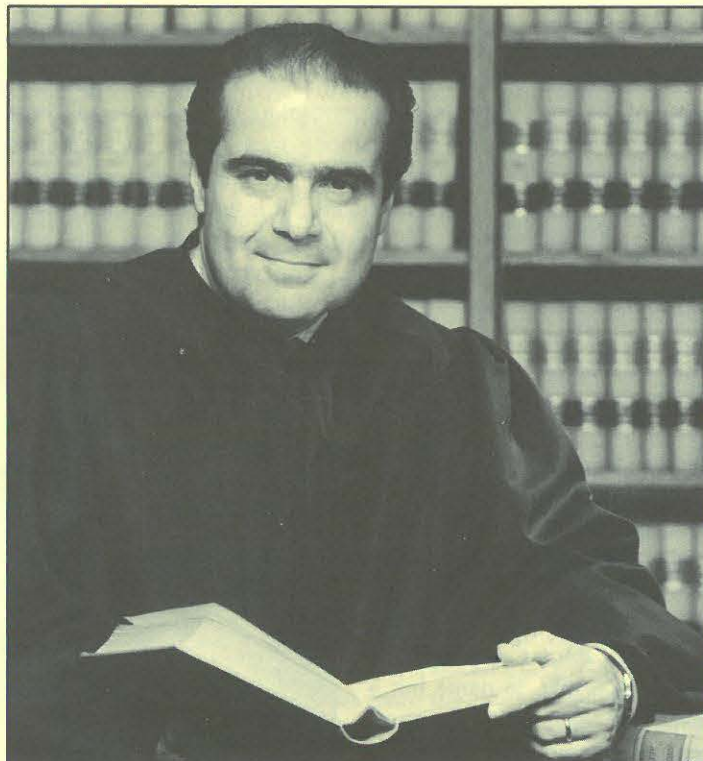
# Society Sets Date for Nineteenth Annual Meeting

The Officers and Trustees of the Supreme Court Historical Society are pleased to announce that the Society will hold its Nineteenth Annual Meeting on Monday, June 13, 1994, at the Supreme Court of the United States. Events will include the Annual Lecture, the annual meeting of the membership and the Board of Trustees, as well as a black tie reception and dinner in the evening.

Associate Justice Antonin Scalia will deliver this year's Annual Lecture, and will discuss dissenting opinions in the Supreme Court. The lecture is open to all members of the Society without charge. It will be held in the Supreme Court Chamber at 2:00 p.m. and members should arrive early as there is no reserved seating.

Immediately following the lecture, tours of the building will be available to any interested Society member. The tours will originate from the Supreme Court Chamber and will be conducted by guides from the Office of the Curator of the Court. The tours will cover such topics as the construction of the building and its architectural details and ornamentation, as well as some history.

The annual reception and dinner will be held in the East and West Conference Rooms and in the Great Hall. This portion of the evening is a paid event and will require advance reservations. Because this is a popular event and seating is extremely limited, it is advisable to make your reservations promptly upon receipt of the invitations. The invitations will be mailed to all members thirty to forty-five days preceding the meeting and should be received by May 15, 1994.



Justice Antonin Scalia will deliver the Nineteenth Annual Lecture in the Supreme Court Chamber on June 13, 1994.

## Twenty Five Year Retrospective on the Warren Court

Chief Justice Earl Warren and his colleagues during his tenure on the Supreme Court will be the subjects of *The Warren Court: A Twenty-Five Year Retrospective* to be held on October 10-13, 1994 at the University of Tulsa College of Law. The symposia will bring together noted scholars on the Warren Court era including Professor Philip Kurland and former Solicitor General Kenneth Starr.

The University of Tulsa has arranged for members of the Supreme Court Historical Society to attend at a discounted rate of \$175 for the entire program, or \$50 per day. In addition, Continuing Legal Education credit will be available at 6.0 hours per day. For additional information contact Mary Birmingham at (918) 631-3126.

October 10, 1994

Session 1: 9:30 a.m.-noon

**The Warren Court—An Overview**—Kenneth W. Starr (Former Judge, U.S. Court of Appeals, District of Columbia, and U.S. Solicitor General)

### **I. The Constitutional Corpus:**

**Equal Protection**—Julius Chambers (Chancellor, North Carolina Central University; Former Director-Counsel, NAACP Legal Defense Fund)

**Freedom of Speech**—Nadine Strossen (Professor, New York Law School; President, American Civil Liberties Union)

Session 2: 2-4:30 p.m.

**Freedom of the Press**—Floyd Abrams (Partner, Cahill Gordon & Reindel, NYC)

**Church and State**—John Sexton (Dean, New York University Law School)

**Criminal Law**—Yale Kamisar (Clarence Darrow Distinguished University Professor, University of Michigan Law School)

October 11, 1994

Session 3: 9:30 a.m.-noon

**Sentencing**—Norval Morris (Kreeger Professor Emeritus, Law and Criminology, University of Chicago Law School)

**Economic Rights**—Richard Epstein (James Parker Hall Distinguished Service Professor, University of Chicago Law School)

**Federalism**—Richard Neely (Justice, West Virginia Supreme Court)

Session 4: 2-4:30 p.m.

### **II. The Justices**

**Hugo L. Black**—Gerald Dunne (Professor Emeritus, Saint Louis University Law School; Author, *Hugo Black and the Judicial Revolution*)

**William J. Brennan, Jr.**—Richard Arnold (Chief Judge, 8th Circuit Court of Appeals)

**William O. Douglas**—James F. Simon (Martin Professor, New York Law School; Author, *Independent Journey: The Life of William*

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# The Record Holding Mr. Jones

Kathleen Shurtleff

At a special session marking the Bicentennial of the Supreme Court's first session, former Solicitor General Rex E. Lee spoke of some of the great attorneys and counselors of the Supreme Court Bar. Particularly noteworthy among these great litigators was Walter Jones, who holds the record for the most oral arguments before the Court. As Mr. Lee noted: "It is a record which, given today's realities, is surely safe for all time. For Mr. Jones, there will be no Roger Maris or Hank Aaron." The record stands at 317 oral arguments, with 169 appearances falling in the years 1815-1835 alone. The record is even more impressive as it was set in a time when oral argument was not confined to a half-hour period, but could take place over a number of hours, even a number of days. Many of the cases in which Jones participated are well-known to students of Supreme Court history—

*McCulloch v. Maryland*, *Ogden v. Saunders*, *Binney v. Chesapeake & Ohio Canal Company*, and *Vidal v. Girard*, to name but a few. Notwithstanding the number and the importance of many of the cases in which he argued, even scholars of the Court generally know little about Jones beyond his record-holding status. But Jones was the peer and associate of such great figures of American history as Daniel Webster, William Wirt, and William Pinkney. Why then has his reputation not survived? Albert Beveridge, the noted biographer of John Marshall, writing in 1911, summarized Jones' peculiar lack of reputation as follows: "Walter Jones of Washington, . . . appears to have been a legal genius, his fame obliterated by devotion to his profession and unaided by any public service, which so greatly helps to give permanency to the lawyer's reputation." Who then, was Walter Jones?

Jones was descended from an English family that came to the colony of Virginia in the late seventeenth century. The first Jones ancestor to come was Capt. Roger Jones who came from England with Lord Culpeper in 1680. Walter was the son of Dr. Walter Jones and Alice Flood. Dr. Jones was born in Williamsburg, Virginia in 1745, and graduated from William and Mary College in 1760. He studied medicine in Edinburgh, Scotland, receiving a degree in 1770 and returned to Virginia to Northumberland County. He assumed the practice of medicine but later was elected to serve in the state house of delegates. A contemporary description of Dr. Jones summarized him as a: "Distinguished physician and politician of the 'Northern Neck' of Virginia, and the intimate friend of Presidents Jefferson and Madison, a decided Jeffersonian Democrat in politics, and from his great personal popularity, he was induced to become

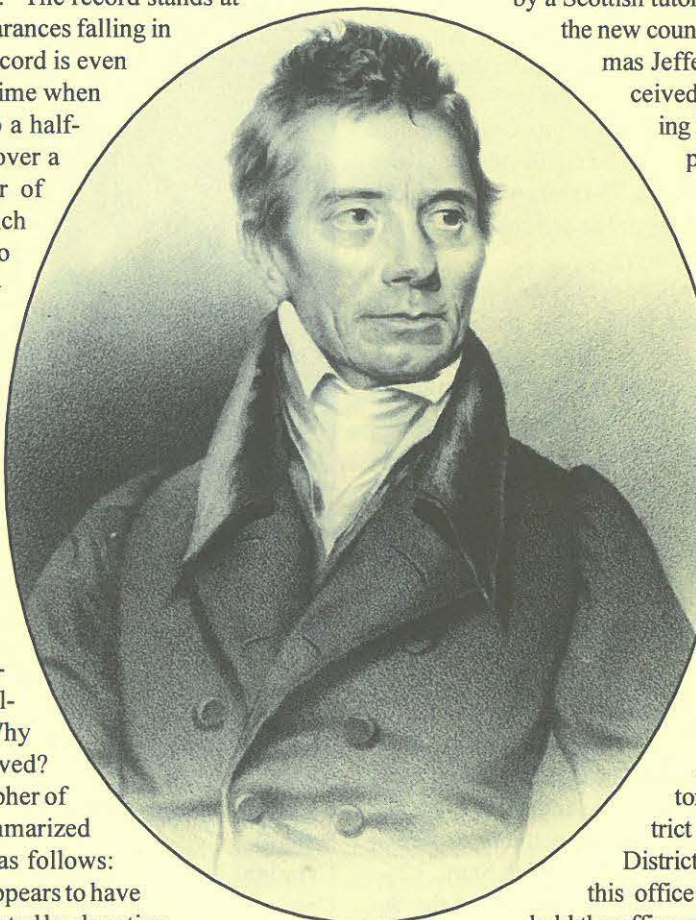
a candidate for Congress against the Federal candidate, Gen. Harry Lee, whom he defeated." Dr. Jones was initially elected as a Democrat to the 5th Congress 1797-1799. He subsequently served in the state house of delegates again, and was elected to the 8th and three succeeding Congresses (March 1803-March 1811).

Walter was born at his father's home, *Hayfield* in Northumberland County, Virginia on October 7, 1775. He was tutored by a Scottish tutor, Thomas Ogilvie, who had come to the new country through an association with Thomas Jefferson. Under his tutelage, Jones received a classical education, including training in Greek and Latin and he acquired a particular interest in Latin literature which lasted throughout his life. He was especially fond of the writings of Horace, and his heavily underlined copy of Horace's writings was passed on to his descendants.

The younger Walter Jones studied law with Bushrod C. Washington in Richmond, Virginia, and in May 1796, was admitted to the bar before he was of legal age. Initially, he took up practice in Fairfax and Loudon counties, where he was referred to as "The little curly-headed lawyer who was going to make such a noise in the world." He soon took up residence in Washington and in 1802, President Jefferson commissioned him as Attorney of the United States for the District of the Potomac, and in 1804 for the District of Columbia. He was reappointed to this office by two succeeding Presidents and held the office until he resigned from it in 1821.

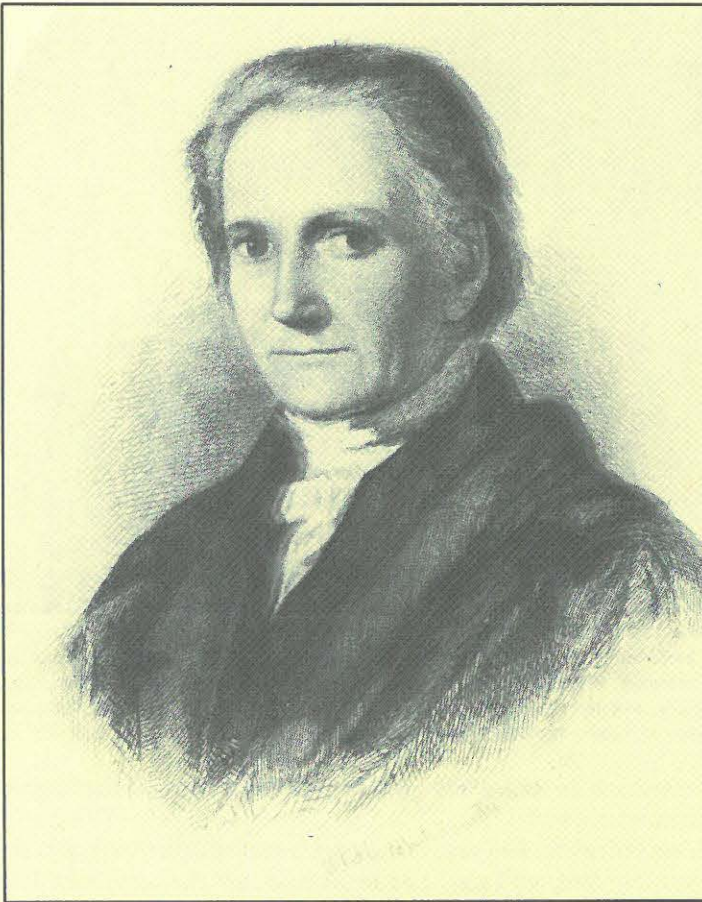
In the course of his profession, Jones was involved in a variety of cases and practiced often before the courts of Virginia and Maryland, participating in

"cases of difficulty in . . . [Fairfax] county, in Loudon and in Prince William. We hear of him in a hotly contested will case at Fredericksburg, and in the case of the will of John Randolph in lower Virginia. He also tried the famous Steenberg case, involving \$600,000, at Harrisonburg." . . . "His reputation at the bar was soon established, and from 1804 on, for near fifty years, the reports of the Supreme Court of the United States show in how many cases he was employed before that august tribunal. It is probably safe to say that the name of no other lawyer appears in so many." Made in 1901, this statement is almost an understatement of Jones' preeminent role as a member of the Supreme Court Bar. Many of the cases he participated in were by virtue of his office of Attorney for the District of Columbia, but he was sought out and retained by many private parties in a variety of cases of diverse natures.



Walter Jones 1775-1861  
Courtesy of the Virginia  
Historical Society





George Washington's nephew and heir to Mount Vernon, Bushrod Washington studied law at William and Mary under George Wythe. He, in turn, became Walter Jones' legal mentor. Bushrod was nominated to the Court in 1798 by President Adams. Based on seniority at the bar, Adams had first offered the seat to John Marshall. But Marshall declined the appointment as he planned to run for Congress.

Jones' first case involving constitutional interpretation, was the *habeas corpus* case of the Burr conspirators *Ex parte Bollman and Swartwout*. In this case Jones was called upon to justify Gen. Wilkinson's actions in detaining and then transporting Bollman and Swartwout from Louisiana to Washington in violation of two writs of *habeas corpus*, and with no formal charges levied against them. Wilkinson's actions were galvanized by President Jefferson's belief that Burr was attempting to "seize New Orleans, from there attack Mexico, place himself on the throne of the Montezumas, add Louisiana to his empire and the Western States from the Alleghany, if he can." Fearing treason and conspiracy around him, Jefferson was so anxious to see Bollman and Swartwout prosecuted, that he came to "the Capitol on the day of their arrival, and with his own hand delivered to the District Attorney, Mr. Jones, the affidavits of General Wilkinson, and instructed the Attorney to demand of the Court a warrant for the[ir] arrest. . . ."

Jefferson's attempt was foiled, however, as Swartwout and Bollman applied for a writ of *habeas corpus*. Charles Lee, of Virginia, argued briefly before the Court on their behalf on February 10, apparently assuming there would be no question about obtaining the writ. But there were complications, and on February 18, Bollman and Swartwout were brought in person before the bar of the Court, and oral arguments lasting three days commenced. Jones and

Attorney General Rodney defended the government's position, while Francis Scott Key, Robert Harper and Luther Martin argued on behalf of the prisoners. During the controversy, Jefferson attempted on several occasions to have Congress enact special legislation authorizing extraordinary use of executive powers, but he was never successful. The controversy was finally concluded when the Court ruled in favor of the prisoners and Jefferson decided to let the matter rest.

Apparently there were no hard feelings between the attorneys involved in the case, because the following spring, in May of 1808, Jones married Charles Lee's daughter, Ann Lucinda Lee. Jones was already acquainted with and had ties to the most prominent families in Virginia, and because of the significant number of Virginians who played key roles in the early years of the country's development, to many of the leading lights of the new republic. During his studies with Bushrod Washington, he no doubt had occasion to meet and converse with George Washington. Through his father's personal friendships with Thomas Jefferson and James Madison, the younger Walter Jones was familiar with both powerful men, and in fact, held his office as Attorney of the District of Columbia through their appointments. Jones was also acquainted with John Marshall and his family, even before his appointment to the Supreme Court. His marriage into the famous Lee family cemented his ties to the most influential families of Virginia and further assured his place in the social order.

The Jones' took up residence in Alexandria in 1808 in a house they rented on North Royal Street. Alexandria was a thriving community. By 1790 it had become the "principal port on the Potomac largely due to its excellent harbor," and by 1795 had become the seventh largest port in the new nation, and the third largest exporter of flour. "Surrounded by hundreds of mills in the adjacent counties, . . . Alexandria became the focal point for the shipment of enormous quantities of grain from its harbor. . . ." Portugal and Spain were Alexandria's largest export partners, with the West Indies the third. New England accounted for a large measure of Alexandria's domestic trade, with tobacco, preserved meats, grain and forest products being the major commodities exchanged. In the years 1801 to 1815 the yearly average trade amounted to \$1,114,000, including shipment of over a million barrels of flour, 500,000 barrels of corn, and 300,000 barrels of wheat. These numbers would have been greater if Jefferson's trade embargo between 1807-1809 and the War of 1812 had not intervened.

The 1800 census records for Alexandria show a total population of 5,000 people, of which 1,096 were white males over the age of sixteen, with approximately the same number of white women. The records also list 365 free mulattoes and negroes, and 905 slaves. Of the 1,096 white males, 406 were between the ages of sixteen and twenty-six. [Jones was twenty-five at the time.] From these numbers it can be inferred that there were few males of Jones' comparable age, with even fewer in a comparable social and economic bracket. The 1810 census showed an increase in population to 7,143 persons, but even so, Jones was one of a small, select group at the heart of the political and social life of the burgeoning capital. The federal district was established by act of Congress in 1791 and under the terms of "the Residency Act, Alexandria officially became a portion of the District of Columbia in 1801." It would remain so until 1847, at which time it was retroceded to Virginia.

In 1796 Jones joined the Masonic Order. A fraternal order,

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## Jones (continued from previous page)

Masonry came to the United States by way of England and France. Using symbols and allegories associated with the craft guilds of the Middle Ages, the Order “preaches the universal virtues of friendship, morality, truth, charity, and prudence,” while disassociating itself from politics. Masonry was introduced in Virginia as early as 1729, and spread widely after the American Revolution, playing a prestigious and significant part in the social life. This was particularly true of the Washington Lodge (including the Alexandria units), of which George Washington was an active member. Washington was proud of his affiliation with the Masons and used a Masonic Bible during his first inauguration, and a Masonic trowel for the laying of the cornerstone of the Capitol building. [When the Bicentennial anniversary of the laying of the cornerstone of the Capitol building was celebrated in September 1993, the Washington Masonic Lodge was invited to participate in recreating the ceremony.] Fittingly, plans for President Washington’s funeral and interment were made and carried out by the Alexandria Lodges.

Shortly after Washington’s death, a Washington Society was formed to commemorate his memory and perpetuate his charitable works. Jones was one of the original members and was joined by John Marshall and his brother Thomas Marshall, Francis Scott Key, several representatives of the Lee family including General Henry (Light Foot Harry) Lee and George Washington Parke Custis. Members of the prosperous merchant families of Alexandria, such as the Lloyds, the Fendalls and the Stewarts also belonged to the Society. Participation in this group brought Jones in even closer contact with the leading political and legal figures..

In 1809, Walter and Ann Jones moved across the river to “Washington proper” where they made their home for the remainder of their lives. Their marriage was a happy and successful one and eventually produced many children. The records vary, some indicating that they were the parents of three sons and eleven daughters, while others record nine daughters and three sons. Probably two daughters died as infants and hence were not noted in all the accounts of Jones’ life.

Five of Jones’ daughters married and made their homes in Leesburg, VA., Alexandria and Washington, while several continued to reside in Washington but never married. Several of the Jones children travelled further afield, however; Catherine, died unmarried in China in 1864 [her brother-in-law, the Rev. Dr. Packard, was head of the Theological Seminary of Virginia, near Alexandria, and it is likely that Catherine was working in China as a missionary at the time of her death], and Thomas Walter drowned in the Rio Grande in 1852 or 1853. Another son, Charles Lee, raised a battalion from Washington to fight during the Mexican War (1846-47), but “was deprived of the command by the management of interested parties.” Unhappily, Jones’ namesake, Walter, contracted typhus while attending the University of Virginia and died in 1829. Despite the large number of children born to him, it is likely that Walter Jones had no grandchildren to carry on the Jones name, as two of his sons predeceased him, and his third son, Charles Lee, died unmarried in 1875.

The father of this large clan, had an unassuming appearance. Physically, Jones was a small man, “but of well built and active figure; his features were irregular, but his face was lit up by brilliant and expressive brown eyes. His voice was rich and clear, and so



Maryland Historical Society

“Mr. Pinkney was the greatest man I have ever seen in a court of justice” stated Chief Justice Marshall, further indicating that he had never known his equal as a reasoner. Pinkney’s weak points were also catalogued by his contemporaries, and he was described as “a fop, arrogant, vain and often boisterous.” He also labored “under the handicap of a harsh and feeble voice.”

distinct was his articulation that he was easily heard in the largest assembly room.”

An articulate, well-read man, Jones was an impressive orator. In 1901, his daughter Fanny Lee Jones described the “precision and elegance of his language, which was indeed ‘a well of English pure and undefiled’ . . .” She also referred to “the richness of illustration with which he illuminated every subject that he touched. Himself a purist in language, he was restive under any misapplication of it, especially any pedantic and irrelevant mixing of foreign words and phrases, which he was wont to designate as ‘piebald English.’ So keen was his perception of the fitness of words that he never failed to detect the least misapplication of them even in authors that most challenged his admiration.” A less biased witness, William Pinkney, alluded to Jones’ gift for oratory by describing one of Jones’ speeches in the landmark *McCulloch v. Maryland* case as “one which the most eloquent might envy, the most envious could not forbear to praise.”

Oratory was a skill “devoutly to be desired” in Jones’ day. The debating skills of Clay, Webster, Calhoun, Lincoln and Douglas are all examples of the skill as developed to an art form. But oratory was not confined to the political arena; the Supreme Court was also a forum where this skill was showcased on a regular basis. The membership of the Bar of the Supreme Court in the first half of the nineteenth century reads like a “Who’s Who” of American politics and legal history: William Wirt, William Pinkney, Daniel Webster, Henry Clay, Francis Scott Key, Luther Martin, Horace Binney, Henry Wheaton (perhaps better known to modern readers for his work as a Court Reporter), David B. Ogden, and John Sergeant. Walter Jones’ name appears alongside these names in case after case through nearly fifty years of Supreme Court history.

For all its oratorical and legal brilliance, the Supreme Court Bar was a small group. Examination of the *Federal Reports* reveals that

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## Membership Update

The following members joined the Society between December 16, 1993 and March 15, 1994.

### California

Kichimoto Asaka, Berkeley  
David Balabanian Esq., San Francisco  
Martin H. Blank Jr. Esq., Los Angeles  
Steven A. Brick Esq., San Francisco  
Robin B. Johansen Esq., San Francisco  
Thomas M. Jorde Esq., Emeryville  
Harold E. Kahn, San Francisco  
Thomas F. Koegel Esq., San Francisco  
Richard Leib Esq., Berkeley  
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C. Henry Veit, Oakland  
James R. Woods Esq., San Francisco  
Roy B. Woolsey Esq., Newport Beach

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Dale R. Harris Esq., Denver  
John E. Moye, Denver

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Joseph R. Odachowski Esq., Brunswick  
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Timothy M. Gebhart, Sioux Falls  
Thomas H. Harmon Esq., Pierre

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## Membership Update *(continued from previous page)*

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Richard Kolker Esq., Groton  
Ronald K. Miller, Kimball  
Lynn A. Moran, Custer  
Terry N. Prendergast Esq., Sioux Falls  
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Gary P. Thimsen Esq., Sioux Falls  
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Robert P. Scott Esq., Houston  
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H. Ronald Welsh Esq., Houston

### Vermont

Mrs. Albert W. Coffrin, Burlington  
Daniel Smith, Montpelier

### Virginia

David C. Frederick, Arlington  
Leonora Himes, Arlington  
Everton S. King, Arlington  
Lewis F. Powell III Esq., Rockville

### Washington

Eugene I. Annis Esq., Spokane  
Don Paul Badgley Esq., Seattle  
Robert D. Duggan Esq., Seattle  
Arthur W. Harrigan Jr. Esq., Seattle  
Frank H. Johnson Esq., Spokane  
Charles E. Peery, Seattle  
Paul L. Stritmatter Esq., Hoquiam

### West Virginia

Cecil B. Highland Jr., Clarksburg

### Wisconsin

Mark R. Fremgen Esq., Oshkosh

## Warren Court *(continued from page three)*

*O. Douglas)*

October 12, 1994

Session 5: 9:30 a.m.-noon

**Felix Frankfurter**—Philip Kurland (Kenan Professor Emeritus, University of Chicago Law School)

**John Marshall Harlan**—Norman Dorsen (Stokes Professor, New York University Law School; Former President, American Civil Liberties Union)

**Earl Warren**—Bernard Schwartz (Chapman Distinguished Professor, University of Tulsa College of Law)

Session 6: 2-4:30 p.m.

**Clerking for the Chief Justice**—Tyrone Brown (Federal Communications Commissioner, 1977-81)

### III. A Broader Perspective

**The Warren Court in Historical Perspective**—Kermit Hall (Dean, College of Arts & Sciences, University of Tulsa)

**The Warren Court and the Legal Profession**—George Bushnell, Jr. (President, American Bar Association)

October 13, 1994

Session 7: 9:30 a.m.-noon

**The Warren Court and State Constitutional Law**—James Exum (Chief Justice, North Carolina Supreme Court)

**The Warren Court and Jurisprudence**—Stephen M. Feldman (Professor, University of Tulsa College of Law)

**The International Impact of the Warren Court**—Mohammed Bello (G.C.O.N; Chief Justice of Nigeria) and Lord Woolf (House of Lords)

Session 8: 2-4:30 p.m.

**The Warren Court—A Critique**—Alex Kozinski (Judge, Ninth Circuit Court of Appeals)

**What the Warren Court Has Meant to America**—David J. Garrow (Author, *Bearing the Cross; Liberty and Sexuality*) and David Halberstam (Author, *The Fifties*)

**The Legacy of the Warren Court**—Anthony Lewis (*New York Times*)

## WANTED

In the interest of preserving the valuable history of our 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 or any other materials related to the history of the Court and its members. These items are often used in exhibits by the 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, 111 Second Street, N.E., Washington, D.C. 20002, or call (202) 543-0400.



## Jones (continued from page six)

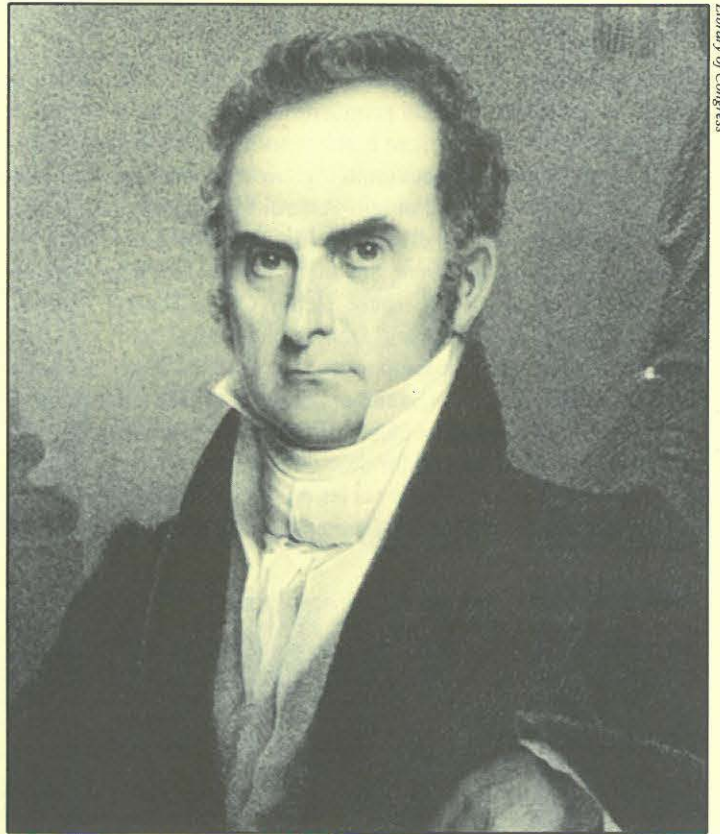
this fairly limited group of lawyers combined, and recombined with regularity to represent clients before the Supreme Court: opposing counsel from the previous trial might well be co-counsel in the current case. Geography played some part in this circumstance. Because travel was difficult and familiarity with the Supreme Court and membership in its Bar were uncommon, litigants hired Washington-area attorneys to represent them before the Court. Out-of-state litigants hired an attorney or attorneys, based on their proximity to Washington, as well as their reputation and experience in practice before the Supreme Court. Great orator that he was, Daniel Webster was undoubtedly engaged for many of his appearances before the Supreme Court because he was in Washington for much of the year fulfilling his duties in the Congress.

G. Edward White in his book *The Marshall Court & Cultural Change: 1815-1835*, asserts that during the Marshall Court years "important political issues invariably had constitutional ramifications . . . in significant part because the Marshall Court defined them as having such. The great Marshall Court advocates not only supplied arguments for the Court, they helped supply cases: they recognized the Court's intellectual tendencies and devoted their energies, in part, to the shaping and polishing of 'legal' disputes which were sometimes contrived and which were often perceived, from their origins, as having distinct political ramifications. . . . The federal bar in the last twenty years of the Marshall Court was highly educated, multitalented elite, still comprised largely of men from eastern seaboard cities who often combined advocacy with elective office, who for the most part earned ample salaries, who engaged in scholarship and other literary pursuits, and who were usually trained orators."

In this era lawyers were not limited to a brief half-hour period as they are today. Instead, oral argument went on for days and in some cases, weeks, and frequently several lawyers worked together to present one side of the case. During Marshall's tenure on the bench, the general rule of the Court provided for no more than two counsel per side, but it was not uncommon for that rule to be waived to allow for three or even four attorneys to work for a client, pitted against an equal number of opposing counsel. Perhaps this was in part due to the constitutional ramifications of the cases under consideration, as Professor White suggests. Whatever the reason, perusal of the *Federal Reports* reveals with surprising frequency, the names of six or seven attorneys appearing in a single case.

Jones, by virtue of his office as Attorney General, his reputation and experience, and his standing in the community, was an important member of this group, during, and after Marshall's thirty-five years of service on the Court. He was involved in many landmark cases in which the conflict between states' rights and federal jurisdiction was often the pivotal issue. An example was the case of *McCulloch v. Maryland*, argued in 1819, in which Jones worked with Luther Martin and Joseph Hopkinson to defend the position of the state of Maryland. Opposing counsel consisted of William Pinkney, Daniel Webster and William Wirt, who argued for the Bank of the United States.

Jones also appeared in *Ogden v. Saunders* in 1827, working this time with Edward Livingston, David B. Ogden, and William Sampson against Webster and Wheaton. In this instance, Jones' side prevailed and the judgment went against Webster. He also argued in *Mayor of*



Library of Congress

Commencing in 1823, Daniel Webster began to make regular appearances before the Supreme Court, arguing in eight different cases that year, while also serving as a member of the U.S. House of Representatives. Webster was hailed as one of the most outstanding orators of his day. Justice Story painted a vivid picture of Webster's oratory before the Court in the *Dartmouth College Case*: "The whole audience had been wrought up to the highest excitement; many were dissolved to tears. . . . When Mr. Webster ceased to speak, it was some minutes before anyone seemed inclined to break the silence."

*New York v. Miln* (1837) in which the Supreme Court upheld a New York law "that required reports to be filed on all passengers arriving on ships in the city's port." The law was seen as a challenge to the federal government's authority to regulate foreign commerce, but the Court held that the law was intended to "minimize the possibility of immigrant passengers becoming public charges, as a proper exercise of the state police power." On this basis, the law did not conflict with federal authority, and the Court upheld the state of New York.

In *Groves v. Slaughter* (1841) Jones joined with Daniel Webster and Henry Clay against Henry D. Gilpin and Robert J. Walker. The case concerned a state's power to ban the entry of out-of-state slaves. While the Court as a body sidestepped the inflammatory issue of the essential legality of slavery in rendering its opinion, several of the justices took the opportunity to express their personal views on the matter in statements and dissenting opinions which varied greatly from each other and foreshadowed the irreconcilable differences that would culminate in the Civil War.

The creation of the American Society for Colonizing the Free People of Colour, which soon became known as the American Colonization Society, was an attempt to address some of the issues arising from slavery in America. Organized in the Hall of the House

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## Jones *(continued from previous page)*

of Representatives in Washington, D.C. on December 28, 1816, the Society was dedicated to the proposition of founding a colony in Africa in which free American blacks could be resettled. Its incorporators intended it to be a national organization, and hoped to gain Congressional support and obtain Federal funding for the project. Bushrod Washington was elected its first President and among the thirteen vice presidents were Secretary of the Treasury William Crawford, Speaker of the House Henry Clay, General Andrew Jackson, Francis Scott Key and Daniel Webster.

Despite its prominent supporters, the Society never fully accomplished its goals. The Society purchased the land that became Liberia, and assisted nearly 15,000 freed slaves in settling there by 1860. However, Federal aid for the Society was never obtained but came instead from auxiliary societies, individual members and citizens. Creation of the organization itself, however, engendered

a lot of debate, both for and against the Society, in the first two decades after its establishment, but its resources and membership ebbed away gradually until it had all but disappeared by the time of the Civil War.

Jones' participation in the Colonization Society is indicative of his involvement in almost every cause and civic undertaking he deemed meritorious that occurred in the Washington area during his lifetime. Perusal of the records of the Columbia Historical Society reveals Jones' name among the principal planners and participants in projects ranging from the George Washington Monument Society to the organization of farewell balls in honor of outgoing President Madison and Dolley Madison. In fact, he escorted Dolley Madison to the cornerstone laying ceremony for the Washington monument, participated in the ceremony, and gave a short speech. The number of speeches given for Fourth of July activities and other patriotic occasions, before church and civic groups, must have been legion.

Another important aspect of Jones' life was his career in the



During the British invasion of the Washington area in 1814, the British commander, General Ross and his troops set fire to the Capitol Building and the White House. One contemporary witness alleged that "General Ross asserts that he would not have fired the White House had Mrs. Madison remained." He reportedly added: "I have heard so much in praise of Mrs. Madison, that I would rather protect than burn a house which sheltered so excellent a lady." Known as a gallant, General Ross added, "I make no war on letters and ladies."



Militia of the District of Columbia, which he joined in the early nineteenth century. The militia had heavy political associations at the time. The majority of the officers were Jeffersonians, and Presidential patronage was a prominent factor. Jones obtained a commission as an officer in the Militia, probably through Presidential patronage. One historian observed that the special relationship of the militia "with the President helped to reinforce the control of those officers over the militia. . . ." This historian further observed that many of the officers "assumed rank as one of the obligations of their leadership status in the community. Militia rank did not confer status in and of itself but was one of the signs of their accepted roles in the community. Not every community leader was a militia officer but enough were to indicate that along with participation in church or Masonic groups, militia participation was a standard channel of leadership participation in community affairs."

The War of 1812 provided some of the most dramatic days for the Militia. Jones participated in the Battle of Bladensburg on August 24, 1814, in which the Militia of the District of Columbia joined other local regiments in attempting to repulse the advance of the British across the Eastern Branch of the Potomac. It was not a successful battle for the Americans who were undertrained, underarmed, underfed, and generally unprepared. The forces made an "orderly retreat" to the Capitol building itself where reinforcements were expected to join them. According to one participant, the retreat was far less than "orderly", and eventually "became a run of eight miles." When Admiral Cockburn, the leader of the British forces at the Battle of Bladensburg, was asked to explain why his men did not pursue the fleeing American militiamen, he replied "that the victors were too weary, and the vanquished too swift."

Despite their swiftness, there were no reinforcements waiting at the Capitol and the men were then ordered to retreat through Washington and Georgetown and into Montgomery County, Maryland. It was at this point that "numbers of the men, some of whom had only had two meals in the previous four days, gave up and went to take care of their families in the abandoned cities."

The destruction of the Capital city probably would have been more extensive had the weather and the general exhaustion of the British not intervened. Concerned about being cut off from their ships which were lying in the Baltimore harbor, the British were not anxious to linger in Washington. Divine providence seemed to intervene on the behalf of the Americans as well when a hurricane lashed the area on August 25. A British correspondent reported the incident: "Our column was completely dispersed, as if it had received a total defeat; some of the men flying for shelter behind walls and buildings, and others falling flat upon the ground to prevent themselves from being carried away by the tempest; nay, such was the violence of the wind, that two pieces of cannon which stood upon the eminence were fairly lifted from the ground and borne several yards to the rear." Another British soldier reported that the force of the hurricane winds "fairly lifted me out of the saddle, and the horse which I had been riding I never saw again."

Jones' later career in the Militia was more auspicious, and in 1821 he was commissioned by President Monroe a Brigadier General of the Militia, and soon rose to the rank of Major General. Fanny Jones recalled her father's military career: "In full uniform, with blue saddle cloth embroidered with gold, he rode at its head on all public occasions—inaugurations, funerals of Presidents, etc. When in 1835, a mob which had been incited by some incendiary agents were



Library of Congress

General the Marquis de La Fayette began his military career in the French army. He was so sympathetic to the American cause of independence, that in 1777 he came to Philadelphia where Congress made the young aristocrat a major general at the age of nineteen. In gratitude for his service, honorary citizenship in perpetuity was conferred upon him and his male heirs. His triumphal sixteen month tour of the United States in 1824-25 is without parallel in U.S. history.

entering houses, destroying furniture and committing other outrages upon the citizens, he, at the head of the militia, succeeded in quelling the disturbance." In the mind of Miss Jones, there was little doubt "that had not his [Jones'] logical mind pointed to the law as the fit arena for his talents he would have chosen that [the military] as his profession. Everything with regard to it had a great fascination for him, even to seeing a military parade."

As a General in the Militia, Jones was involved in the triumphal visit of the Marquis de La Fayette to Alexandria in 1824. La Fayette visited the United States at the invitation of Congress, and "declining the compliment of a national frigate, which had been tendered him by President James Monroe, . . . embarked from Havre, on the 12th of July, 1824, in the American ship *Cadmus*." Shortly after his arrival in New York, the citizens of Alexandria invited him to visit their city, reminding the Marquis of its close association with Washington. La Fayette succumbed to the invitation, and was received with full honors on the 16th of October:

Between 12 and 1 o'clock, General La Fayette entered the line from the Potomac bridge, under a salute of artillery from Capt. William's company. Here he was met by General Walter Jones and suite, who addressed the General in a neat and handsome manner. The General then entered a splendid barouche [with Jones], drawn by four fine grays, with postilions dressed in white with blue sashes, and was thus escorted by Capt. Andrew's com-

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## Jones *(continued from previous page)*

pany of cavalry, and the Alexandria civic escort. . . . Here the troops formed in line, consisting of the battalion of marines, the several volunteer companies from Washington and Georgetown, and the Alexandria battalion, amounting altogether to about 1500 men. . . .

Included in the entourage, was a "cart with the tent of WASHINGTON, decorated with branches of the oak and laurel, with the National Flag above." As the procession moved through Alexandria, "the windows of houses were filled with ladies, who, as they waved their handkerchiefs, told to the General that he was welcome." A grand arch extended "from one side of Washington street to the other, forming a front sixty-four feet, and in height forty feet. From the columns on which the Arch rested, rose two pyramids, surmounted with flag-staffs, upon one of which was hoisted the national flag of France, and on the other that of the United States." Mottos and portraits of La Fayette and Washington also decorated the arch and "on the top of the Arch was a liberty cap, and a real mountain eagle. . . . As the General passed the Arch, on the first gun being fired, the eagle spread his wings, and showed to much advantage. . . ."

Military career and attendant honors notwithstanding, Jones was first and foremost a lawyer, and he continued to appear in state Courts and the Supreme Court of the United States with frequency. One of his most notable Maryland cases, argued in 1832, concerned the dispute between the Chesapeake and Ohio Canal and the Baltimore and Ohio Railroad as to the right of way at the Point of Rocks. "The answer of the Canal Company prepared by him is preserved in the report and is of itself testimony as well of his mastery of the legal principles as of his copious and elegant diction." John H. B. Latrobe was associated with Daniel Webster, who represented the railroad in the case. The case involved Webster, Wirt, Reverdy Johnson and Walter Jones. Latrobe, after describing Mr. Wirt as "one of the handsomest men of his day," commented that "Walter Jones, with no personal advantages, [was] the quickest, brightest, and probably the acutest lawyer of the four."

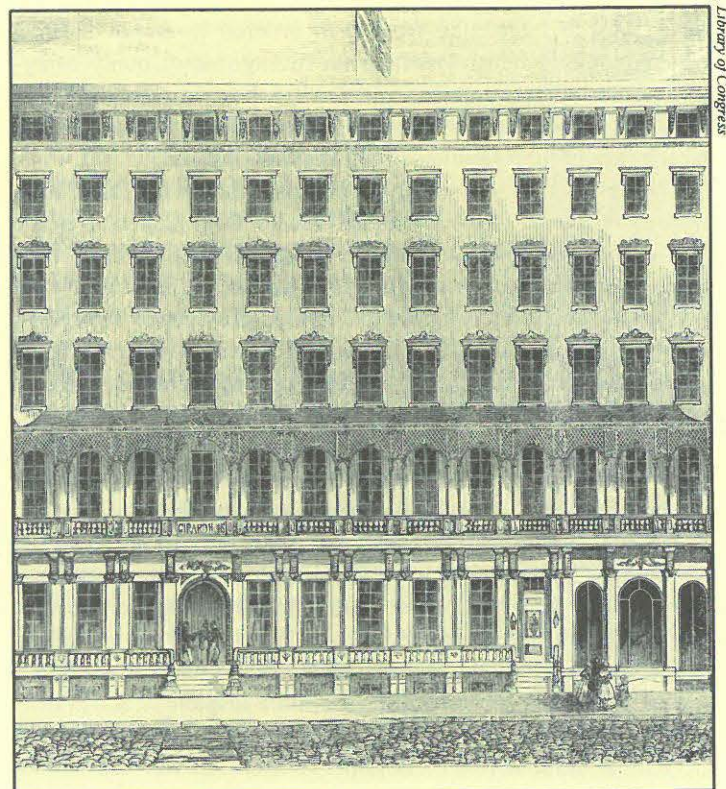
Probably the most sensational case of Jones' career was the "Girard Will" case, argued in early 1844 and recorded originally in the federal reports as *Vidal et al. v. Girard's Executors*, but referred to now as *Vidal et al. v. The City of Philadelphia*. Jones and Daniel Webster were hired by the collateral heirs to attempt to break the will. Stephen Girard, the decedent, born in France, had immigrated to Philadelphia shortly after the American Revolution. Girard died in 1831, a widower, without issue, but with immense wealth. At the time of his death, Girard was the possessor of real estate in the United States "which had cost him upwards of \$1,700,000, and of personal property worth not less than \$5,000,000." After making sundry legacies and devises, Girard left the bulk of his estate to "the Mayor, Aldermen, and Citizens of Philadelphia, their successors and assigns, in trust."

Girard's chief desire was to build and endow a college for "educating the poor", and he directed that most of his assets be used for that purpose. However, he was also interested in improving the city of Philadelphia itself saying he had "sincerely at heart the welfare of the city of Philadelphia, and, as a part of it, am desirous to improve the neighbourhood of the river Delaware. . . ." and he

provided for construction of canals and other improvements.

Girard's intentions were clearly eleemosynary, and his plans worthy and commendable. The one oddity in the instructions given concerned the school: Girard stipulated "that no ecclesiastic, missionary, or minister of any sect whatsoever, shall ever hold or exercise any station or duty whatever in the said college; nor shall any such person ever be admitted for any purpose, or as a visitor, within the premises appropriated to the purposes of the said college." Girard explained that "as there is such a multitude of sects, and such a diversity of opinion amongst them. . . ." he thought it best that the "tender minds" of the young children "be free from the excitement which clashing doctrines and sectarian controversy are so apt to produce. . . ." Instead, he provided that the children be taught "the purest principles of morality," leaving the choice of religious affiliation to be determined by the individual students themselves after leaving the institution.

Following his death, Girard's will was proved and officials of the city of Philadelphia proceeded thereafter to fulfill the conditions of the will, passing appropriate legislation to provide for the construction work along the Delaware river and to commence operation the school. Considering the amount of money involved, it was perhaps inevitable that the will would be challenged. The collateral heirs, led by Francois Vidal, attempted to have the will broken focusing their objections on three questions: first, whether a corporation was capable of receiving and maintaining such a trust; second, whether the trust was too indefinite; and third, whether the provision against religious instruction and affiliation was contrary to the laws of the state of Pennsylvania.



The Girard mansion in Philadelphia. At the time of his death in 1831, Girard owned real estate in the United States totalling more than \$1.7 million. The Supreme Court case involving his estate became a social happening in Washington, with oral argument running over a period of ten days.



Interest in the case ran high. Progress was reported on a daily basis in contemporary newspapers and the array of counsel employed on both sides was impressive. Walter Jones and Daniel Webster had the daunting task of trying to break the will, while Horace Binney and John Sergeant defended it. The case was argued over ten days. Jones presented the opening arguments commencing on February 2, while Webster closed the arguments. Correspondents for the *New York Herald* provided vivid accounts to their readers of the proceedings.

Feb. 5: The highest judicial officers of the Nation, each robed in a black silk gown, and sitting in a large armchair, before his separate table, Justice Story presiding, as Chief Justice Taney is confined to his room by sickness. In front, and some distance off, are four mahogany tables; seated at one of these is a small old gentleman, that is the celebrated Gen. Walter Jones; next is Daniel Webster with beetled brow and dark eyes, poring over the papers. . . . At the table parallel to Mr. Webster you behold Horace Binney, white hair, a large head and frame. . . . Next to him is John Sergeant. . . . The argument is very close, searching and logical. . . . It is going to be a tall fight and no mistake. . . . Tomorrow the grand fight begins, and I have no doubt the cars will bring a fresh stock of lawyers.

Feb. 6: The Court-room was densely crowded this morning with ladies and gentlemen at a very early hour. Distinguished members of the legal profession were in diligent and earnest attendance from every part of the United States, intently eager to hear the arguments of these mighty and gigantic intellects. . . . Throughout the Court-room there is a silence, save now and then when a bevey of ladies comes in. In fact, it looks more like a ballroom sometimes; and if old Lord Eldon and the defunct Judges of Westminster would walk in from their graves, each particular whalebone in their wigs would stand on end at this mixture of men and women, law and politeness, ogling and flirtation, bowing and curtsying going on in the highest tribunal in America.

A contemporary report from *The National Intelligencer*, Feb. 13, 1844 reported:

The interest excited by the nature and magnitude of the great suit growing out of the will of the late Stephen Girard and the fame of the eminent counsel engaged in the case—Messrs. Jones, Sergeant, Binney and Webster—have for some days past made the hall of the Supreme Court, the centre of attraction. On Saturday, and yesterday especially, the multitudes of both sexes which crowded into the hall and filled every nook of it, even with the sanction of the Bench itself, exceeded anything which we have for a long time seen in the way of packing a room.

According to some accounts, Jones was not at his best presenting oral argument in the case, but several writers acknowledged that this was probably due to his age (he was sixty-nine at the time) and poor



Virginia Historical Society

This crayon sketch of Walter Jones was drawn and engraved by the noted artist Charles Balthazar Julien Fevret de St. Memim in Philadelphia, circa 1805, when Jones was approximately thirty. St. Memim emigrated to the United States shortly after the Revolutionary War and created more than eight hundred "profile portrait engravings comprising a remarkably complete and impressive record of American political and social leaders of the early republican period."

health. One writer analyzed each attorney's strengths and noted that "Mr. Binney was no better lawyer than Mr. Sergeant, but was a far better speaker, and his style was as rich and pure as that of any other orator or writer of English in his days. . . . Mr. Sergeant's forte was solid terseness, direct to the truth, but didactically dry. Neither was superior to Mr. Jones as a forensic debater." Rufus Choate had a high opinion of Jones' performance in the case and he praised Jones for his "silver voice and infinite analytical ingenuity and resources."

Despite Jones' abilities, however, observers noted that Binney's argument systematically "pulverized" Jones' opening argument which had played heavily on the supposed anti-Christian character of the will. Webster then had the unenviable job of trying to counteract Binney's presentation. Rising to the occasion, Webster's closing argument was an impassioned defense of Christianity, which brought the audience to applause and Webster himself to

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## Jones *(continued from previous page)*

tears, on at least one occasion. As John Wentworth of Illinois, a Member of Congress at the time, described it: "Preaching was played out. There was no use for ministers now. Daniel Webster is down in the Supreme Court-room, eclipsing them all by a defense of the Christian religion. Hereafter we are to have the Gospel according to Webster. . . ." One of the Democratic papers reported that members of the Bar were even speculating when Webster would be "taking [religious] orders." John Quincy Adams reported with a somewhat jaundiced eye that he went "to see what had become of Stephen Girard's will, and the scramble of lawyers and collaterals for the fragments of his colossal and misshapen endowment of an infidel charity school for orphan boys. Webster had just before closed his argument, for which, it is said, if he succeeds, he is to have fifty thousand dollars for his share of the plunder."

Whether his fee was the primary motivation or not, Webster's closing argument was emotional and very popular with the audience in the Court room. However, two weeks after the close of arguments, Justice Story presented the opinion of a unanimous Court on February 27, 1844, upholding the Girard will. Justice Story, who had written the opinion, reported to his wife that "Not a single sentence was altered by my brothers as I originally drew it. . . ."; a circumstance which seemed to surprise the Justice himself.

The Girard case was one of the last cases in which Jones appeared before the Supreme Court. Although he had practiced law for many years and in many important cases, Jones was not a rich man. His daughter Fanny explained it by saying that "his purse was ever open to applicants, and that he was careless in collecting fees. . . ." Fanny also thought that he forgave many their debts, especially when he deemed a debtor unable to pay. She noted that it was a source of great

amusement to his family when Jones came home from a professional engagement with a phrenologist's "chart of the interpretation of the bumps of his head." Jones asserted that one of the bumps should be labelled, "money goes, can't keep it."

During the last twelve years of his life, Jones made his home with his daughter and son-in-law, the Thomas Millers who resided in Washington. "His bodily vigor seemed little impaired at an advanced age, his mental, never", and his son-in-law said that the more unfavorable the weather, the more apt the General was to take a walk. Blessed with long life and a health body and mind to the end, Mr. Jones continued to live a rewarding life, riding until he was at least eighty years old. It was not until he was aged eighty-four that he succumbed to death on October 14, 1861, after a brief illness. By that time the Civil War had broken out and Virginia had seceded from the Union. "Jones considered this a double treason first to the United States, and second, to the Commonwealth of Virginia."

A summary of his personality was written by a correspondent at the time of Girard trial. "He speaks slowly and in a low tone, but with great purity of diction and clearness of thought . . . . A rival of Pinkney, Wirt and Webster, as a common law counsellor he excelled them all in depth and variety of learning. . . . He is universally respected, and by those who know him, warmly beloved." Another wrote of him: "He was possessed of such rare conversational powers and personal charm that he was socially in great demand, and he was generous and sympathetic to a fault." But as the words of his eulogist suggest, "The reports of the Supreme Court are the chief of the several imperfect records of his fame. In them may be seen distinct, however faint, traces of a master mind."

**Author's Note:** *Special thanks to T. Michael Miller, Research Historian at the Lloyd House Library of Virginia History and Genealogy, for his assistance in locating resource materials.*

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## Heritage *(continued from page one)*

Mrs. Bogg's own district received a telephone call from a constituent late one evening. The caller complained that the trash had not been removed from their neighborhood and they wanted the Congressman to solve the problem. The Congressman's wife explained that he was not at home, and further, that the responsibility for trash removal devolved upon the local authorities, not the Congressman. The irate constituent repeated the demand for action from the Congressman noting that the people across the street in Lindy Bogg's district had received trash pickup and if Mrs. Boggs could do that for her constituents, the Congressman for their district should be able to equal the service.

Mrs. Boggs said that constituent service is the highest priority in any Congressional office, with a large percentage of time and staff being allocated to answer these needs. The first responsibility of an elected official is to represent the voters who elected them, and constituents measure the degree of responsiveness through personal service. She said most constituents are more aware of personal service than of a representative's voting record, and measure the success of the representative in that way.

The audience was furnished with a chart outlining changes in demographics in the makeup of Congress over the past fifty years, comparing the 79th Congress (Jan. 3, 1945- Jan. 3, 1947) with the 103rd Congress (Jan. 5, 1993- Jan 4, 1995). In reviewing this material, the panel referred to the category showing the makeup of

Congress by party. 79th Congress: House of Representatives- 247 Democrats, 191 Republicans, 1 American Labor, 1 Progressive; Senate- 57 Democrats, 38 Republicans, 1 Progressive. 103rd Congress- House of Representatives: 258 Democrats, 176 Republicans, 1 Independent; Senate- 56 Democrats, 44 Republicans. While the distribution by party affiliation is very close, there has been a marked change in the number of states with solid delegations of one party in both the House and Senate. In 1945, 15 states had solid delegations from the Democratic party, while 8 states had solid Republican delegations. However, in the current Congress, only 3 states have solid Democratic delegations, and two states solid Republican delegations. These statistics would seem to bear out the theory that individuals are being elected on their own merits.

Statistics were also provided concerning minority members of Congress. In 1943, there was one African-American member of Congress, as opposed to the forty individuals serving in the 103rd Congress. Statistics for Hispanic, Asian and Pacific Islanders and Native American members of Congress were not available for past years, but in the 103rd Congress there are 17 individuals identifying themselves as Hispanic; 9 Asian and Pacific Islanders, and one Native American.

The program was covered by C-SPAN and was broadcast in the month of March. Individuals interested in information about additional showings of the program or interested in obtaining a copy of the tape, should contact C-SPAN at their offices.



# Justice Thomas Hosts Annual Membership Dinner

Justice Clarence Thomas hosted the 1993 dinner honoring the backbone of the Society's membership program, the State Membership Chairs, on Thursday, November 18, 1993. The evening commenced with a reception in the West Conference Room during which guests had the opportunity to speak with Justice Thomas and meet other State Chairpersons and their guests. Dinner followed in the East Conference Room, allowing the State Chairs to view some of the portraits in the Society's collection.

Following dinner, Society President Leon Silverman made brief remarks thanking those in attendance for their commitment to the membership program of the Society, and stressing the importance of the membership to the success of the Society. Mr. Silverman noted the success of the previous year's campaign which ended in June 1993 with 4,810 members. He then introduced Charles Renfrew, Chair of the Membership Committee.

Mr. Renfrew thanked Mr. Silverman for his kind introduction and spoke briefly about methods the State Chairs might employ to promote the Society in their states. He then introduced Justice Thomas to present awards to Kasey Kincaid of Iowa and Gene Lebrun of South Dakota.

Justice Thomas thanked Mr. Silverman and Mr. Renfrew for inviting him to participate in the Society's program by hosting the State Chairs dinner. Justice Thomas noted his appreciation to the Society for its work in making the history of the Court accessible to the one million visitors to the Supreme Court Building each year

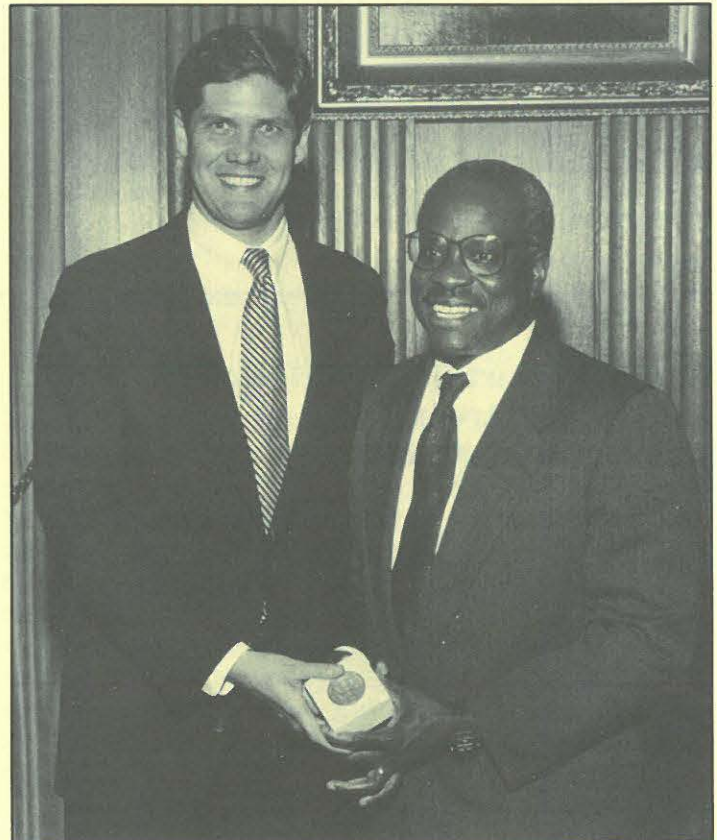


Justice Clarence Thomas, Mrs. Rita Silverman and Society President Leon Silverman discuss the Society's activities with a State Membership Chair.

through portraits, busts and other items from the Society's collection that are incorporated into exhibits throughout the Building.

Justice Thomas also thanked the Society for its efforts to

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(Left) Gene Lebrun, State Membership Chair for South Dakota, and (Right) Kasey Kincaid, State Membership Chair for Iowa, receive awards for meeting their membership goals in the 1992-1993 Membership Campaign from Justice Clarence Thomas



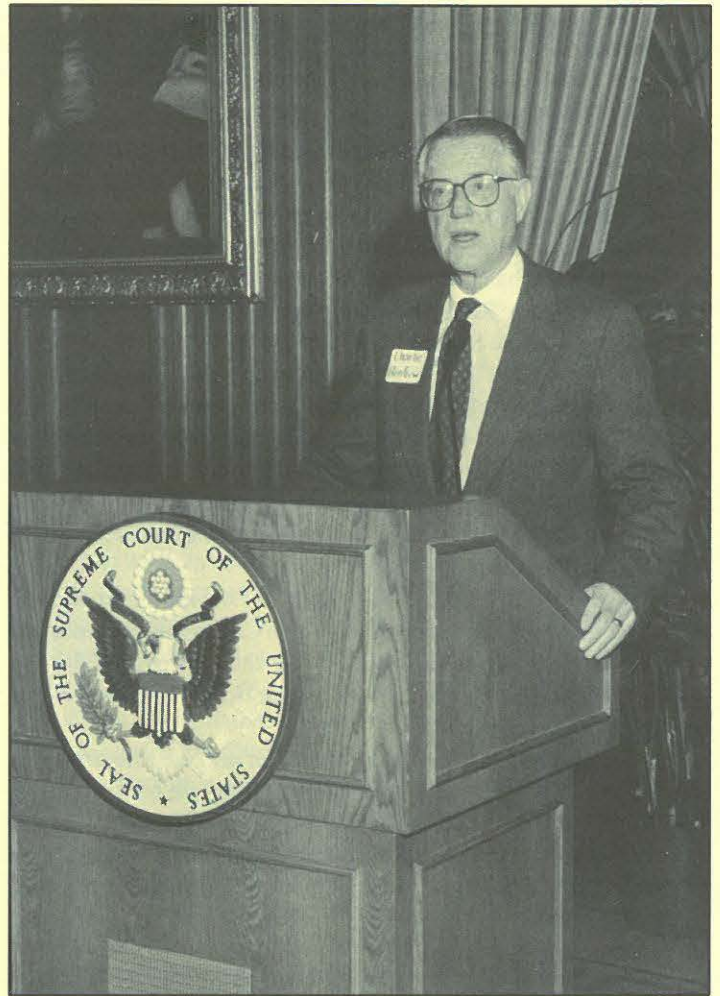
## Chairs *(continued from previous page)*

preserve the early history of the Court through the Documentary History Project. He noted that the early records of the Court suffer from error and omission and many others were lost to fire and carelessness. The eight annotated volumes of the Documentary History Project will represent a closure in the gap of early Court history.

Awards were presented to those individuals present who had achieved their membership goals for the 1992-93 campaign. Mr. Silverman noted that the awards are tangible reminders of the Society's gratitude. The marble awards are made from polished marble that was previously part of the Supreme Court Building, and affixed with the Seal of the Supreme Court.



Justice Clarence Thomas with Peter Knowles, Society Treasurer, and Christina Knowles after the 1993 State Membership Chairs Dinner.



National Membership Chair Charles Renfrew spoke to the State Chairs on various methods to attract enthusiastic new members to the Historical Society. His favorite was Society Trustee, M. Truman Woodward's method: he took prospective members to lunch, and discussed the many good works and membership benefits of the Society. At the conclusion of lunch, Mr. Woodward would mention that he just happened to have a membership application in his jacket pocket. Rarely would a person leave the table without joining.

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