

Special Dinner Honors State Chairs and Major Donors

State Membership Chairs and major donors to the Society were honored on April 14, 1997. Volunteerism and voluntary financial support are important factors in the work of the Society. The dinner was held to honor some of those individuals and foundations which have given generously of time and funds on behalf of the Society. Justice and Mrs. Antonin Scalia hosted the reception and dinner, graciously giving of their time to support the Society for the evening.

In introducing Justice Scalia, Society President Leon Silverman outlined some of the accomplishments of the Justice's distinguished career, and honored him for his contributions to the work of the Society. Mr. Silverman praised the Justice's annual lecture in 1995, and his participation in the reenactment of the Gold Clause Cases in 1996. Justice Scalia addressed the audience briefly, ac-



Justice Scalia presents an award to Jerome B. Libin of the Park Foundation in thanks for the Foundation's support of both the Supreme Court Summer Institute and the Documentary History Project.

knowledging important contributions the Society has made to the Court. He offered special thanks to Leon Silverman, praising his dedication and hard work on behalf of the Society.

The late Fulton Haight, National Membership Chair for Fiscal Years 95, 96 and 97, and whose July 25, 1997 death came as a great loss to the Society, assisted the Justice in presenting awards to state membership chairs who had reached their membership recruitment goals. The state chairs honored were: James Archibald of Maryland; Dan Brennan of Connecticut; Ben Castle of Delaware; Jim Falk of the District of Columbia; Ed Harnden of Oregon; Harold Herd of Kansas; Sandra McQuay of Massachusetts; and Benjamin (Terry) White of Rhode Island. Three other state chairs had achieved their membership goals as of April 14,



Lively Wilson (left), the Society's National Membership Chair for FY 1998, with his predecessor, Fulton Haight at the April 14, 1997 State Chair's Dinner.

A Letter From the President



Leon Silverman

At the end of June the Society closed its Fiscal Year 1997 posting remarkable gains by nearly every measure.

Thanks to vigorous membership support and several very hard-working committees, the Society is now pursuing the broadest range of programs in its twenty-three-year history. And it is pursuing them from the strongest financial position the Soci-

ety has ever enjoyed.

The outpouring of membership support results in no small part from the labors of our immediate past Membership Chair, Bill Haight, whose term ended with membership at 5,234 (near the record 5,269 which Bill also set) and membership revenues surpassing \$400,000 for the first time since the Society's founding in 1974. The Society is in Bill's debt for building a membership base capable of sustaining our many current and upcoming programs.

It is my sad duty to report that we had little time to adequately thank Bill or to properly acknowledge his many accomplishments on behalf of the Society. Following a brief but devastating illness, Bill passed away on July 25.

Bill served as a Trustee since 1994. He was also a major contributor to the Society's endowment and a founder and principal architect of the Society's Amicus Curiae Fund—an Annual Fund campaign aimed at securing support from within the legal community.

Bill worked closely with Frank Jones, the Development Committee Chair to build the Annual Fund and to introduce the Amicus Curiae Fund in 1997. As a result of their efforts the Annual Fund exceeded its ambitious goal of \$110,000 for FY 1997 and we have raised the goal for FY 1998 to \$120,000.

In addition to realizing our goals in membership and Annual Fund, the Society's gift shop sales for the first time slightly exceeded \$1,000,000. Although the amount of net support this generates for programs is considerably less, once merchandise costs, equipment, personnel costs and other expenses are factored out, it is nevertheless a milestone.

Like every other investor, the Society has also seen its endowment portfolio grow during the past year, thereby adding to the Society's financial strength, at least on paper. In keeping with the Board's fiduciary responsibilities, the Society is conservatively invested in a mix of Treasuries and stocks, the former of which has not yielded the substantial returns attributable to the stock portfolio, but has limited the Society's risk. The Society's financial planning, after all,

must be aimed toward meeting its many program commitments in bad times as well as good.

Therefore, when anticipating program commitments for the coming year, prudence suggests that we not rely upon the stock market's current growth pattern, nor commit those reserves which may evaporate should the market experience a significant downward adjustment.

Nevertheless, the Fiscal Year ended June 30, 1997 was a strong one for the Society, and as a result the Executive Committee has approved a budget for FY 1998 which includes several new projects in addition to the programs already in place.

For example, the Publications Committee recommended funding for a new book with the working title **Women and the Supreme Court**. This book will include articles on women who have argued before the Court, were celebrated parties to cases, or in two obvious instances have served on the High Bench. It will also examine the evolution of the Court's treatment of women on a variety of issues including property rights, voting rights, and rights to work, to name but three proposed areas of focus. The volume will be aimed at high school and undergraduate audiences and is expected to require two or three years to develop. This year's funding will allow the Project Editor, Clare Cushman, to begin securing freelance writers and to initiate photo research.

The Society has also undertaken funding for two pilot programs to expand educational opportunities in constitutional history. Though scholars in the field have been aware of the problem for some time, a recent study by the National Association of Scholars has revealed a truly startling decline of schools requiring undergraduate courses in history. According to the study, only twelve percent of our nation's institutions of higher education mandate such courses.

The Society's interest in reversing this trend is obvious, particularly as it relates to the study of constitutional history. The Supreme Court stands atop the Third Branch of our

The Supreme Court Historical Society Quarterly

Published four times yearly in Spring, Summer, Fall and Winter by the Supreme Court Historical Society, 111 Second Street, N.E., Washington, D.C. 20002. Tel. (202) 543-0400. Distributed to members of the Society, law libraries, interested individuals and professional associations.

Managing Editor
Consulting Editor

Kathleen Shurtleff
Kenneth S. Geller

constitutional system, and its effective function depends upon our citizenry's understanding and appreciation of the Court's critical role in government. Accordingly, the Society is funding two pilot programs relating to the study of constitutional history—one aimed at the undergraduate level and one at the graduate level.

The undergraduate program, proposed by Professor Herbert Johnson of the University of South Carolina, will gather constitutional history scholars from across the country for a colloquium to analyze reasons for the decline in undergraduate course offerings in the field. Participants will also be asked to come prepared with proposals for expanding public interest in and study of constitutional history at the undergraduate level.

The graduate program is a pilot project which aims to establish a consortium of universities interested in pooling faculty resources for a graduate seminar in Washington on constitutional history. With fewer and fewer students being exposed to constitutional history as undergraduates, there is a concomitant decline in the number of scholars who are going on to specialize in that field in graduate school. This, of course, results in a vicious cycle as each year the pool of potential instructors for graduate and undergraduate courses alike shrinks.

The Society is seeking grant support for the graduate consortium, and letters of interest from scholars and institutions who might be willing to participate. If funds become available the Society will launch a demonstration model of the program sometime in 1999.

Still another new project that the Society is undertaking in FY 1998 is the creation of an internet site which will perform a variety of functions for the Society and increase public access to resource materials by providing an on-line Supreme Court library. The Society is already scanning or otherwise converting into a digitized format all of its past publications. Plans are also underway to digitize and place on-line out of copyright and out-of-print books about the Court by other publishers as well as historical photographs and other images. The Annie Laurie Aitken Charitable Distribution Committee just this month announced it is generously contributing \$25,000 to help defray some of the project's costs, and the Society will be seeking additional support as the digital collection grows. The Society is also receiving valuable assistance from the Sun Corporation and the University of North Carolina at Chapel Hill which are providing the equipment and staff support to maintain the website. In this connection, the Society extends its grateful thanks to the SunSITE Project of the University of North Carolina's MetaLab, a collaboration with the School of Journalism and Mass Communication, the School of Information and Library Science, Academic Technologies and Networking and Sun Microsystems. We are also grateful to Paul Jones, Donald Ball, Lane Foster and Gary Burchette for their invaluable assistance in setting up the actual website.

Although only some test materials have been posted to date, members who are internet-literate can access the site now at <http://sunsite.unc.edu/schs/>. Eventually, I am told, the site will also be able to be accessed by typing in its domain name, <http://www.SupremeCourtHistory.org>, which will take web browsers to the Society's site at the University of North Carolina. In the months ahead, members may want to check the Society's progress as we begin posting books and other materials. Ultimately, the site will also include membership information and web-access to our Gift Shop in the Court, thereby greatly increasing public access to the Society and its work.

Still ahead this year, the Society is planning to conclude purchase of a new headquarters building, following a lengthy series of public hearings on related zoning issues. The Society desperately needs the space to house the staff, supplies and equipment necessary to serve its growing membership. Thanks to a generous gift from our Chairman, Dwight Opperman, the Society is in a position to buy a larger building a half block from the Court on East Capitol Street, and if zoning is approved we plan to complete the purchase within the coming months and commence necessary renovation in 1998 for occupancy in 1999.

All of this activity is in addition to the many ongoing projects with which the Society is involved. For example, members can expect to receive a new edition of the **Journal of Supreme Court History** within the next six to eight weeks—this one focusing on the Supreme Court and the New Deal. Dr. Maeva Marcus and her staff are completing final edits on Volume 6 of the Documentary History which will be published at the end of the year. The Supreme Court Summer Institute for Teachers took place in June providing sixty high school teachers with a first-hand learning experience at the Court. The Society also purchased several acquisitions for the permanent historical collection at the Court, funded Court interns, and supported a variety of other projects which will be reported in the **Annual Report** published later this fall.

Fortunately, the Society's status at the close of FY 1997 was robust, and with members' generous support we will continue to fulfill these existing program commitments, and can look forward to broadening the Society's impact through an expanding list of publications and programs and electronic access to all that the Society does through the internet. When your next membership renewal arrives, I hope that each of you will look upon the many accomplishments your past donations have made possible and will continue your generous support.

Leon Silverman

“Equal Justice Under Law”: A Violation of an Important Canon of English?

By Howard Ball*

Dr. Howard Ball is a Professor of Political Science and University Scholar at the University of Vermont. He is the author of dozens of refereed articles in Law, Political Science, and Public Administration journals, and has written extensively about the U.S. Supreme Court, its Justices, and its decisions. His most recent book, **A Defiant Life: Thurgood Marshall and the Persistence of Racism in America, is scheduled for publication in 1998.*

Inscribed on the main frieze of the West Portico of the U.S. Supreme Court building in Washington, D.C. are the words: “Equal Justice Under Law”. The phrase was suggested to the Chief Justice of the United States, Charles Evans Hughes, and approved by him (with the help of Associate Justice Willis Van Devanter), in May 1932, by John R. Rockart, the architect for the Cass Gilbert architectural firm.

By 1934, criticism of the inscription had been received by David Lynn, the Architect of the Capitol. Basically, the

criticism suggested that “Equal Justice Under Law” was redundant for, properly administered, justice is exact compliance with the requirements of the law. Adding “equal” to the phrase adorning the entrance to the Court was unnecessary and a violation of canons of English usage.

The architect’s standard reply was that “it is often impossible under law, due to lack of flexibility in the law itself, to render absolute or ideal justice.” Courts of equity were created in England, and brought to America, in recognition of the law’s limitations. Quoting Webster’s dictionary, Lynn would remind the critics of the distinction between law and equity: “In ordinary usage, justice implies a strict and judicial rendering of what is due. Equity emphasizes rather the idea of fairness and evenhanded impartiality.” And equity courts, wrote Lynn, implied equal justice.

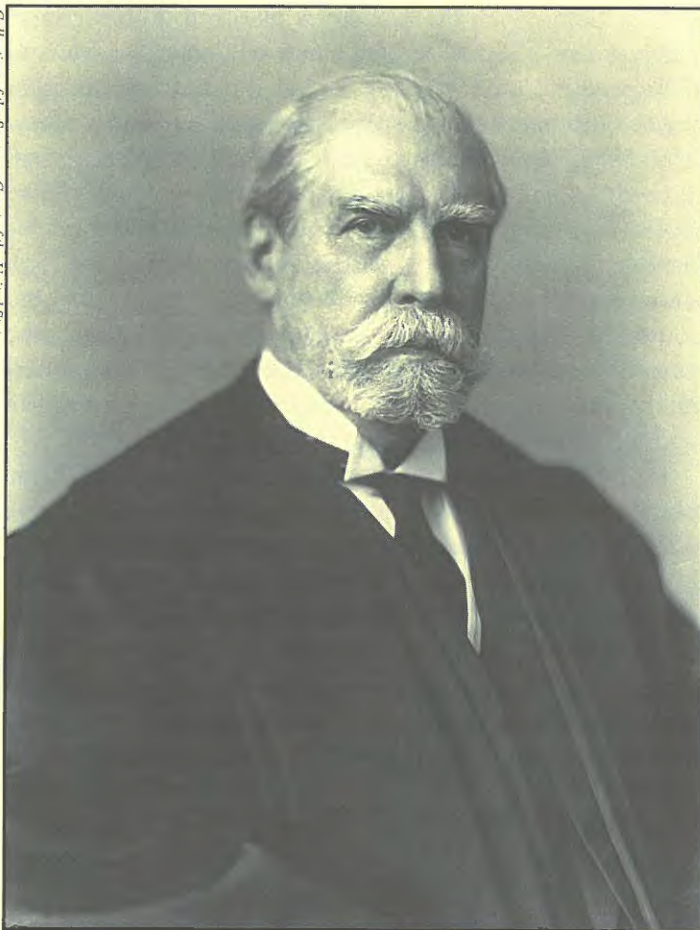
“Equal Justice Under Law” should be interpreted to mean, he would argue, “equity (equal justice) under and by authority of law.” Lynn ended his defense of the phrase by quoting from Thomas Jefferson’s first inaugural address:

... It is proper you should understand what I deem the essential principles of our government. . . . I will compress them within the narrowest compass they will bear, stating the general principle: Equal and exact justice to all men, of whatever state or persuasion, religious, or political.

Even the Chief Justice became involved, albeit briefly, in the defense of the phrase. Herbert Bayard Swope, a well-known writer and literary critic, wrote Hughes in January, 1935, to complain about the inscription. He accused the Court “of having violated an important canon of English.”

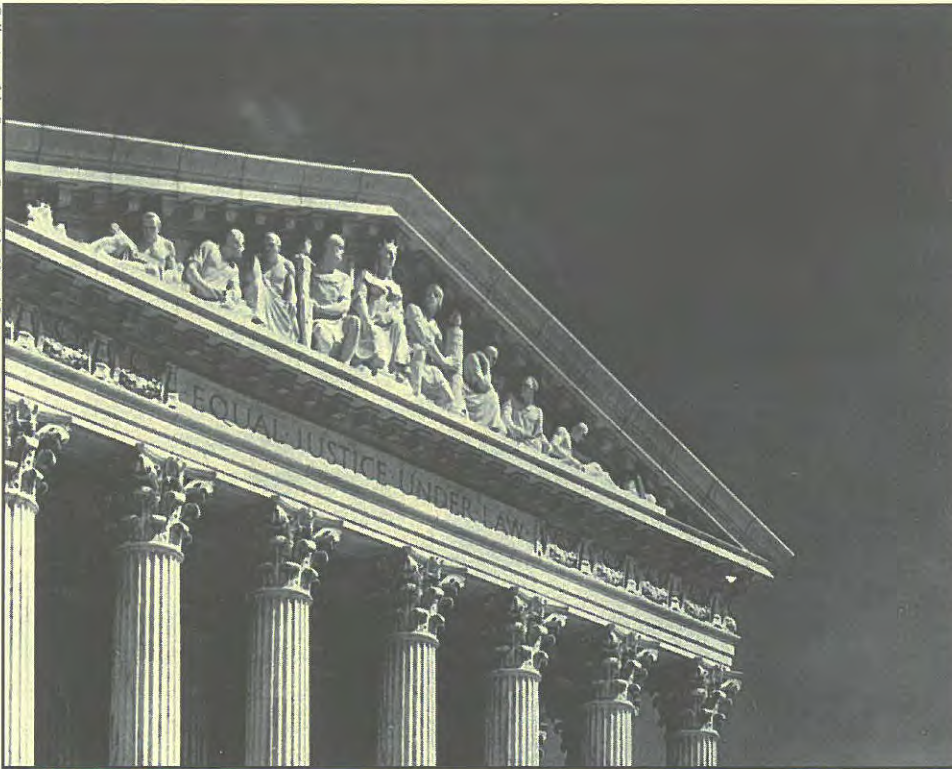
I accuse the said Court of having permitted tautology, verbosity and redundancy, each of which is an abomination in good usage. . . . I submit, Your Honor, that the adjective “equal” has no place in the sentence. It is a distorting qualification which robs the thought of its true meaning. At best, it is superogatory. . . . I ask for immediate judgment and the excision of the offending word, so that the house of the United States Supreme Court may continue to be the temple of Astrea, where there always shall be ‘a well of English undefiled.’

Within a matter of days, Chief Justice Hughes rifled back his reply to Swope’s criticism of the inscription. The Chief



Collection of the Supreme Court of the United States

Chief Justice Charles Evans Hughes approved the “Equal Justice” inscription. He defended the motto citing numerous historical precedents.



The inscription, "Equal Justice Under Law", appears on the Court's West Portico. It has been periodically attacked by linguistic scholars as redundant.

asked Swope to "free yourself from the tyranny of the blue pencil and consider the history of the law." 'Equal Justice' is a time-honored phrase placing a strong emphasis upon impartiality—an emphasis which it is well to retain."

In addition to quoting from Jefferson's inaugural address, Hughes offered the words of Justice Stanley Matthews, written in a nineteenth century civil rights case, *Yick Wo v. Hopkins*: "If [the law] is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of *equal justice* is still within the prohibition of the Constitution."

The Chief concluded his defense of the inscription by noting that the judicial oath taken by all federal judges since 1789, underscores the notion of equity in the law: "I _____, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich. . . ."

"There is a long history in the phrase 'Equal Justice.' Try to bear with it," Hughes suggested to the critic. While Swope was not entirely convinced, the matter was closed. From time to time, however, the lonely critic opts to publicly rebuke the inscription's alleged redundancy and poor English. In the 1950s, legislators such as U.S. Senator Daniel Brewster (Maine) took the Court to task for the sloppy use of language. And in the 1960s, opponents of equality for African-Americans, condemned the language for other reasons.

However, for every "blue-pencil" there are hundreds of others who see the inscription as the legal and normative lodestar for the national community. "Equal Justice Under Law" was the essence of the legal pleas made by Thurgood Marshall, chief counsel for the NAACP for over two decades. It was the legal and ethical plea made by other advocates for persons or groups who were treated unequally and unfairly by public authorities.

As the nation moves into the new century, *Equal Justice Under Law*, continues to remain the central principle that Thomas Jefferson lauded two centuries ago. So long as men and women are not angels, as James Madison suggested in the **Federalist Papers**, there is the need to constantly remind both public officials and private citizens that, under the American system of law and government,

and under the Constitution, all must be treated fairly under the law.

Playing Hard Ball at the Court

By Arthur C. Hodgson*

The Honorable J. Thomas Marten, of McPherson, Kansas, was recently appointed as Federal District Judge for the District of Kansas.

Following Judge Marten's graduation from Washburn University of Topeka Law School, he was appointed law clerk to the Honorable Tom C. Clark, Associate Justice of the Supreme Court of the United States.

During the time he served as a clerk, it was common for law clerks of the various Justices to play basketball together after the day's work was ended, and one evening Marten noticed a man somewhat older than the clerks was playing on one of the teams. During the course of play, this older man gave Tom Marten "the elbow," which Marten shrugged off. A second elbow contact seemed less of a coincidence. A little bit later in the game, in an effort to hold his ground, Marten gave a hip to the older man and floored him. The older man was a good sport—he got up from the floor, gave the law clerk a slap on the back, and Justice Byron White said to Tom Marten, "Now that's the way I like to play basketball."

*Arthur C. Hodgson is a member of the Kansas State Bar and a member of the Bar of the Supreme Court of the United States since November 13, 1950.

Recent Biographical Literature on the Supreme Court

By James B. O'Hara

Years ago, long before he himself joined the Supreme Court, Felix Frankfurter complained about the dearth of good biographical studies of the Justices, and indeed about the absence of serious study in general on the history, the jurisprudence, the trends, the purposes and the traditions of the Court.

Were the ebullient professor-turned-Justice still alive, he would be ecstatic about the publishing events of the last year, which has seen a dozen or more books of high merit, many of them biographical, and each offering serious reflection on the work of the Court.

John Marshall's magisterial impact on the Constitutional direction of the United States was recognized even before his death, but modern authors have seriously neglected him. Aside from Leonard Baker's **John Marshall: A Life In Law** (1974) and a few topical studies, little has been published about Marshall since Albert Beveridge's wonderful and gloriously one-sided **Life of John Marshall** which won the Pulitzer Prize in 1920. The last year has produced three splendid works on Marshall, each major in its own way, yet each quite different from the others.

John Marshall: Defender of a Nation

(Henry Holt, 1996) by Jean Edward Smith will become the standard biography of the great Chief Justice. It is clearly written, factually accurate, comprehensive in substance. Smith's work is a truly balanced appreciation of Marshall's contribution. The author avoids the anti-Jefferson tone of Beveridge without ignoring the personal animosity and deep philosophical gorge which separated Marshall from his distant cousin Jefferson. This is a "whole" life, spending time on Marshall's early days, his catch-as-catch-can education, his profound admiration of Washington (under whom he served at Valley Forge) and his significant role in the diplomacy of the early republic as special ambassador to France and as John Adams' Secretary of State. Marshall's judicial role is duly chronicled, but Smith is always aware that his book is a *biography*, he carefully avoids the split personality which results when an author cannot decide whether to write a life or a case-by-case analysis of judicial decisions.

The Chief Justiceship of John Marshall, 1801-1835 (University of South Carolina Press, 1997), by Herbert A.

Johnson, does analyze cases, and it does so brilliantly. As the title indicates, Johnson is looking at the *corpus* of the Court's work during the time that Marshall presided. The author's lifelong scholarship is worn lightly; the present work is neither ponderous nor pretentious. Johnson deftly summarized the political and philosophical forces at work during this formative era.

Marshall became Chief Justice as the Federalist party was dying. Indeed, he was appointed by John Adams, the last Federalist president, only weeks before Jefferson's presidency began a new era. Yet in a spirit never overly partisan, and in a writing style seldom polemical, Marshall constructed a constitutional direction markedly out of step with Jeffersonian principles. It is Marshall's way, not Jefferson's, which has prevailed.

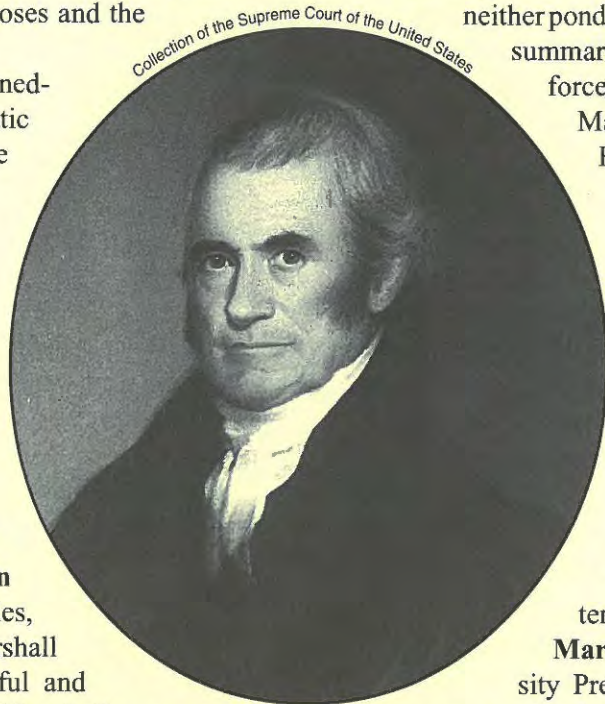
Finally, Charles F. Hobson has written **The Great Chief Justice: John Marshall and the Rule of Law** (University Press of Kansas, 1996), a systematic

evaluation of Marshall's jurisprudence and legal philosophy. Marshall was for the most part self-taught, and he probably would have smiled broadly at the characterization "philosopher" as applied to himself. Yet he was a reflective man, and for all his immersion into public

events as a successful lawyer, as a political activist and sometime office holder, and as a diplomat, his construct of a definitive public philosophy is his greatest contribution. If Marshall never was, or tried to be, a systematic thinker in any academic sense, he more than held his own in the world, say, of Thomas Jefferson or Joseph Story, both of whom did try to construct a coherent philosophy. It was Marshall's sense of what would work in the new republic, coupled with an extraordinary aptitude for clear writing and serene common sense which made his contribution so enduring. Hobson captures Marshall's genius with clear writing and serene judgment of his own to produce this truly remarkable book.

These three books belong on your bookshelf after, of course, the pleasure of reading them.

Bernard Schwartz has been called the "dean" of Supreme Court scholarship. It is possible to disagree with Schwartz's interpretation; it is impossible to ignore him. The sheer volume of his work is matched by a profound familiarity with the sources, uncanny insight, and an insider's access into the



Chief Justice John Marshall is the subject of three major new biographies.

modern workings of the Court. In less than a year, he has published four new works of great merit.

The first two are collections of essays: **The Warren Court: A Retrospective** (Oxford, 1996) brings together a fine set of papers by authors of considerable stature (e.g. Yale Kamisar, Richard A. Epstein, the late Philip Kurland, David Garrow, Alex Kozinski, Anthony Lewis and Schwartz himself). The unifying theme is, of course, the Warren “revolution,” which saw the collapse of so many constitutional canons, with Warren setting the direction and with Justices Black and Brennan providing the philosophical underpinnings. The book is hardly an adoring sop to the Warren era, although many of the contributors are warm admirers of both Warren and his jurisprudence. But there is also critical analysis, sometimes heated, in this valuable addition to the literature.

Reason and Passion: Justice Brennan’s Enduring Influence (Norton, 1997), coedited by Schwartz and E. Joshua Rosenkranz, is a kind of *festschrift* for Brennan, and again with distinguished contributors, including Chief Justice Rehnquist and Justices Blackmun, Souter, Ginsburg and Breyer. The writing is trenchant; the sentiments affectionate; the analysis keen. Justice Brennan’s tenure of almost thirty-four years produced, as he himself reminds us in his own opening essay, 461 majority opinions, 425 dissents, and 474 other opinions. As a leading “liberal” and “activist” judge (I hate the sobriquets “liberal,” “activist,” “conservative” and “strict constructionist” when applied to jurists, but with great

reluctance concede a certain usefulness!), Justice Brennan had both friends and foes. This book is chiefly a warm, well-deserved tribute from his friends.

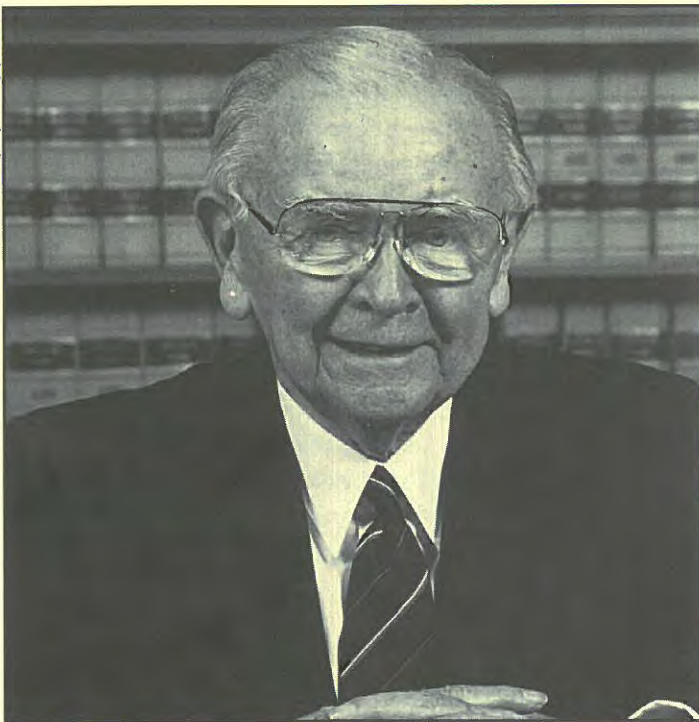
Schwartz’s **Book of Legal Lists** (Oxford, 1997) is what reviewers call “a good read.” Here you will find the author’s list of the ten best Justices (no surprises here) and the ten worst Justices (a few surprises here), the ten best and ten worst Supreme Court decisions, and even the ten best movies with themes based on American law. This delightful volume will spur all Court watchers to draw up lists of their own.

Probably the most controversial of the Schwartz books is **Decision: How the Supreme Court Decides Cases** (Oxford, 1996). Unlike many earlier books on the same topic, **Decision** is not theoretical. Schwartz becomes a reporter; he ferrets out what actually occurred by using interviews with the Justices and internally circulated memoranda as his principal sources, following actual cases like *Webster* (abortion), *Reynolds* (reapportionment) and *Miranda* (criminal law). As a result, the reader can follow the critical process of consensus-building, noting the impact of individual Justices, the special role of the Chief Justice, and the sometime practice of vote switching. Some critics may challenge Schwartz’s approach, for he trespasses on the confidentiality which the Court has tried to maintain in its recent past, but few will deny that **Decision** is a very interesting and informative book, light years distant from the gossipy, rumor-filled **The Brethren** of a generation ago.

In recent years, it is rare for a sitting Justice to produce a book on judicial philosophy or process. In the nineteenth century, Justice Story regularly wrote legal treatises, including one on constitutional law. In this century, Justice Douglas regularly wrote on legal issues, and the lectures of Justices Black and Frankfurter have appeared in book form.

Justice Scalia now enters the list with **A Matter of Interpretation: Federal Courts and the Law** (Princeton University Press, 1997). Initially, the thoughts expressed were delivered by Justice Scalia in the Tanner Lecture at Princeton, with appended critical comments by Professors Gordon Wood of Brown, Ronald Dworkin of New York and Oxford Universities, Laurence Tribe and Mary Ann Glendon of Harvard, and Amy Gutmann of Princeton. Justice Scalia takes up the thorny question of judicial interpretation of statutes—which on its face sounds dull, dry and academic—and breathes humor, good sense, and great clarity of expression into his exposition. Arguing for a textual approach, he takes issue with the so-called “Living Constitution” concept, which holds that the text of written law can be judicially adapted to the changing circumstances of the times, and pleads persuasively for judicial interpretations which are faithful to the meaning of statutory words as they were written. He reminds his readers that legislative history is not enacted, and can hardly be expected to summarize the rationale for the individual votes of the members of Congress who enact a law, or of the

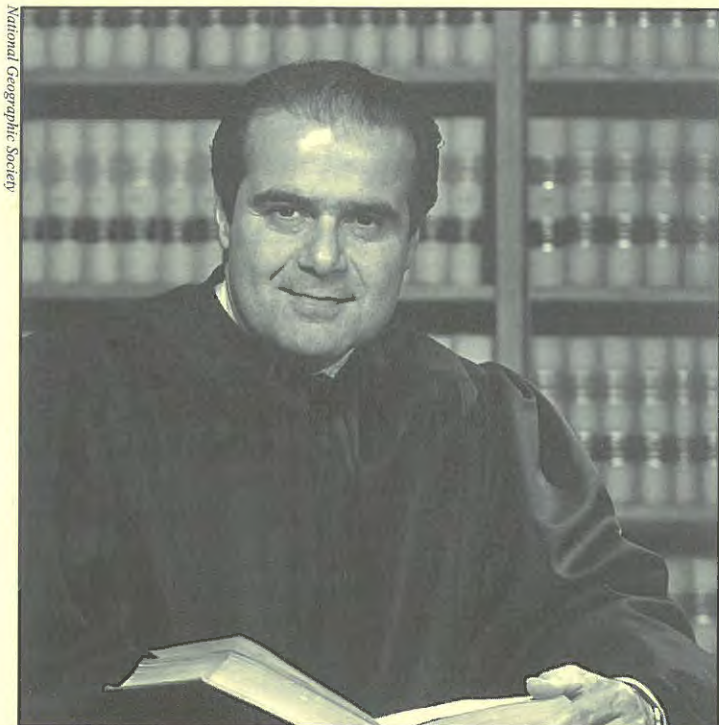
National Geographic Society



Among the most prodigious authors dealing with the Supreme Court is Professor Bernard Schwartz of the University of Tulsa. One of his recent titles is a timely study on Justice William J. Brennan, Jr., (above) which Schwartz coedited with E. Joshua Rosenkranz.

Biographical Literature (continued)

President who signs it. Justice Scalia's position is controversial, of course, and the responding professors all take some issue with it. But the continuing debate on the role of the



Associate Justice Antonin Scalia contributes his insights to the debate over original intent with his recent work *A Matter of Interpretation: Federal Courts and the Law*.

Judiciary in a Republic is not new (Jefferson sharply disagreed with John Marshall's perception of the judicial role), and its conclusion is not in sight. Justice Scalia's book is a welcome contribution to the discussion.

Oliver Wendell Holmes, Jr., was one of the country's greatest letter writers. His correspondence with Sir Frederick Pollack, Harold Laski, Lewis Einstein, Canon Patrick Sheehan, and John C. H. Wu has already been published. Now Robert M. Mennel and Christine L. Compston have edited ***Holmes and Frankfurter: Their Correspondence, 1912-1934*** (University Press of New England, 1996). The editors admit the difficulty of the task: there are obviously letters missing, mostly Frankfurter's to Holmes. The editors speculate that perhaps Frankfurter himself destroyed them since he had access to Holmes' papers as the senior Justice's literary executor. There may be another explanation. Holmes on more than one occasion expressed his horror at his private correspondence being read, and he may himself simply not have bothered to retain much of the gossipy Frankfurter's mail. In any event, the correspondence is often chatty, with references to cases, to literature, to mutual friends, to places visited, to events. While there is little systematic

discussion to be found, there is much pleasure in reading this exchange between the elderly jurist and his adoring protege.

History has not been kind to the Supreme Court contributions of Chief Justice Salmon P. Chase. Until recently, there has not ever been a modern biography of the man who was Governor and Senator from his adopted Ohio, and Secretary of the Treasury before coming to the Supreme Court. Chase is of enormous importance in American history: his early abolitionist stand was taken long before it was popular, and his brilliant work in funding the Union during the Civil War forestalled financial crisis during and after that War. He was in some ways the creator of our current system of banking, and he was the only Chief Justice who ever presided at an impeachment trial for a President.

Yet historians have always looked critically at his Supreme Court tenure. He voted against the legal tender law he himself had created, and he consistently tried to manipulate himself toward the Presidency while occupying the Court's center chair. The distinguished historian Harold M. Hyman looks more deeply at Chase in ***The Reconstruction Justice of Salmon P. Chase: In Re Turner and Texas v. White*** (University Press of Kansas, 1997).

The Turner case occurred early in Chase's days as Chief Justice, and since it was heard on circuit and was not appealed, has largely been forgotten by historians. But the case raised important questions concerning the status of former slaves, now freed. At issue was a claim of involuntary servitude brought by a black woman whose employment conditions under a breached contract seemed to her not unlike slavery.

Texas v. White arose out of the seizure of U.S. bonds by the confederate government of Texas. After the Civil War, the new Texas government claimed ownership. Chase's analysis in the two cases reveal much about the quality and depth of his character and judgment, and Professor Hyman's graceful style and profound knowledge of the Reconstruction era makes this an important contribution to Supreme Court literature. The outcome of the cases is deliberately withheld here, since the book is so worth reading.

Finally, we turn to an unusual and rather unique work: Thomas E. Baker's ***"The Most Wonderful Work. . ." Our Constitution Interpreted*** (West, 1996). In a way, this volume is deceptive; it looks like a textbook, but is not. Rather, it is an exposition of the Constitution, in the words of Supreme Court Justices whose decisions have interpreted it. Professor Baker's editing is excellent, and the reader comes away with the sense that the Constitution has been brought alive in the authentic words of the Court. The stresses, the nuances, the currents of the Court's understanding over a period of two centuries are to be found here. Baker's book is not textbookish at all. It is always informative and sometimes profound, in a format easy to understand and use.

The *Quarterly* will continue from time to time to comment on new books on the Court, with special attention to new biography. Happily, the era of Frankfurter's complaint now seems over.

State Chairs' Dinner *(continued from page one)*

but were not present to receive awards. They were: Richard Clay of Kentucky; Ed Mullins of South Carolina; and Jim Sturdivant of Oklahoma.

Mr. Silverman then introduced special donors whose contributions to the Society were recognized that evening. Justice Scalia presented awards in recognition of generous financial contributions received from donors in support of the program activities of the Society. Present to accept their awards were: Mrs. Marjory Hughes Johnson for the Charles Evans Hughes Memorial Foundation; Jonathan C. Rose for the law firm of Jones Day Reavis & Pogue; Jerome B. Libin for the Park Foundation; Edward Brodsky for the law firm of Proskauer Rose; Saul M. Pilchen for the law firm of Skadden Arps Slate Meagher & Flom; Peg Echols for the State Farm Companies Foundation; Richard K. Willard for the law firm of Steptoe & Johnson; Jill C. Virnstein for The United Parcel Service Foundation; John D. Taurman for the law firm of Vinson & Elkins; and Michael J. Whetstone for West Group.

Without the support and assistance of such dedicated individuals and public minded foundations and law firms, it would not be possible to carry out the many programs and activities of the Society. April 14 provided an occasion to express thanks to some of the many loyal supporters of the Society.

(For an appreciation on Bill Haight's contributions to the Society, please see the Letter From the President.)



Justice Scalia presented Peg Echols of the State Farm Companies Foundation with an award thanking her and the Foundation for their continuing support of the Society's 1997 Supreme Court Summer Institute for Teachers.



Sandra McQuay of Massachusetts (left) and Dan Brennan of Connecticut (right) were two of the state membership chairs honored for their efforts at the 1997 State Membership Chairs' and Donors' Dinner. The devotion and dedication of the Society's network of volunteer state chairs is an invaluable resource in promoting the Society's mission.

Membership Update

The following members joined the Society between April 1 and June 30, 1997.

Alabama

John B. Scott Jr., Montgomery

Arizona

Tim Delaney, Phoenix
Michael L. Piccarreta, Tucson
Frank Simiele, Tempe

Arkansas

Michael W. Mitchell, Little Rock

California

Peter Abrahams, Encino
Elizabeth S. Anthony, Encino
Chris Calderone, Stockton
California Supreme Court Library,
San Francisco
Roger C. Cornell, La Jolla
Eugene Crew, San Francisco
Christine L. DeSimone, Chatsworth
Amy Fan, Culver City
Mary Ellen Harvey, Davis
L. Rachel Lerman Helgar, Encino
Mary Kirk Hillyard, San Francisco
D. Jacobson, Los Angeles
Lisa R. Jaskol, Encino
Ari Kleiman, Encino
Cynthia C. Lebow, Santa Monica
Peter D. Lepiscopo, San Diego
Patricia Lofton, Encino
William R. Lowe, Rancho Cucamonga
Michael Luken, Los Angeles
Teri Nelson, San Francisco
Charles E. Osthimer III, San Francisco
Holly R. Paul, Encino
Diana W. Prince, Newport Beach
Jack L. Slobodin, Menlo Park
Sandra J. Smith, Encino
Dean Steven Smith, San Diego
A. Lavar Taylor, Santa Ana
John A. Taylor Jr., Encino
S. Thomas Todd, Encino
Gretchen C. von Helms, San Diego
Tom Watson, Encino
Mrs. Pearl S. West, Stockton

Colorado

John C. Moye, Denver

Connecticut

David W. Cooney, Hartford
David Paul Friedman, Bridgeport
David Reif, New Haven
Margaret J. Slez, Westport

Delaware

Gary C. Linarducci, New Castle
Irving Morris, Wilmington
Tim O'Dea, Seaford
N. Richard Powers, Wilmington
Catherine Stewart, Ocean View
John Stewart, Ocean View

District of Columbia

Nels Ackerson
Maria Elena Alvarez
Adam Braverman
William and Janet Bullinger
Barbara Burgess
Devin H. Chapman
Aaron Gray Cohen
Belle Cummins
Jeffrey A. Dunn
Stephen M. Hanas
Jeffrey J. Kimbell
Robert M. Krasne
Christopher J. Kunz
Peter Kyros
Ricki Leonard
Jason A. Long
Jill M. Lyon
Lisa Matukaitis
Kathy O'Connor
Harvey Rishikof
Professor Steve Saltzburg
Nathan Charles Sheers
Robert K. Tompkins
Thomas C. Wells

Florida

The Hon. Robert M. Moore, Port St. Joe
Peter N. Stoumbelis, Tallahassee

Georgia

David D. Aughtry, Atlanta
Woodrow W. Vaughan Jr., Atlanta
Mr. & Mrs. Charles W. Wickliffe III, Atlanta

Hawaii

Ronald Albu, Kailua
George W. Ashford Jr., Honolulu
Daniel H. Case, Honolulu

Walter G. Chuck, Honolulu
Jay Lawrence Friedheim, Honolulu
Collin M. (Marty) Fritz, Honolulu
Thomas R. Grande, Honolulu
Sherman S. Hee AAL, Honolulu
Jared H. Jossem, Honolulu
Robert S. Katz, Honolulu
Ning Lilly & Jones, Honolulu
Wayne D. Parsons, Honolulu
James K. Tam, Honolulu
Richard Turbin, Honolulu
Andrew S. Winer, Kailua

Idaho

Richard H. Greener, Boise
Blake G. Hall, Idaho Falls

Illinois

Thomas Campbell, Chicago
Justice N. Chuku, Champaign
Peter Flynn, Chicago
Jerome B. Meites, Chicago
Scott M. Murray, Chicago
Alicia M. Nemec, Great Lakes
Steven F. Pflaum, Chicago
Sheldon Rosing, Chicago
Paula M. Stannard, Chicago
Scott Turow, Chicago

Indiana

Rebecca S. Bruce, Indianapolis
Pamela F. Carter, Indianapolis
Ezra H. Friedlander, Indianapolis
Joseph D. Geeslin Jr., Indianapolis
Thomas R. Lemon, Warsaw
Michael Lohorn, Crawfordsville
Lawrence W. Schmits, Indianapolis
Robert Owen Vegeler, Fort Wayne
Michael A. Wilkins, Indianapolis

Iowa

Mary L. Dudziak, Iowa City

Kansas

Dean James M. Concannon, Topeka
Shannon A. Kelly, Topeka
Lori Mays, Topeka
David Tallman, Topeka

Kentucky

R.W. Dyche III, London
Marco M. Rajkovich Jr., Lexington
Ben J. Talbott Jr., Louisville

Louisiana

Robert E. Ahrens, Metairie
 Nicholas F. LaRocca Jr., Morgan City
 Marian Mysing Livaudais, Mandeville
 William S. Mayfield, Baton Rouge
 John D. Wogan, New Orleans

Maine

Thomas Lynch Bohan, Portland

Maryland

James K. Archibald, Baltimore
 Lolita S. Armstrong, Waldorf
 Jeffrey P. Ayres, Baltimore
 Lawrence B. Bernard, Chevy Chase
 Richard O. Berndt, Baltimore
 Katherine L. Boland, Bethesda
 Richard R. Brown, Silver Spring
 Tom Brown, Salisbury
 Francis B. Burch Jr., Baltimore
 Gregory A. Cross, Baltimore
 Diane V. D'Aiutolo, Baltimore
 Marina Dame, Baltimore
 Anne J.A. Gbenjo, Largo
 Andrew Gendron, Baltimore
 Paul T. Glasgow, Rockville
 Andrew Jay Graham, Baltimore
 Tom Gray, Potomac
 Lawrence S. Greenwald, Baltimore
 Mr. and Mrs. Charles A. Hobbs,
 Chevy Chase
 Daniel S. Katz, Baltimore
 Charles M. Kerr, Baltimore
 Sidney Gordon Leech, Baltimore
 Ford Loker, Baltimore
 Thomas E. Lynch III, Frederick
 Roy L. Mason, Baltimore
 Louis Mayberg, Chevy Chase
 Lee H. Ogburn, Baltimore
 George F. Pappas, Baltimore
 Carole Calli Perez, Rockville
 John E. Sandbower III, Lutherville
 Alfred L. Scanlan Jr., Baltimore
 Paul F. Strain, Baltimore
 James P. Ulwick, Baltimore
 Anne White, Bethesda
 Lumumba T. Yancey, Hyattsville

Massachusetts

Katherine E. Cox, E. Bridgewater
 Andrew L. Eisenberg, Boston
 Irene L. Guild, Natick
 Michael Robert Hetherman, Boston
 Judith Keenan, Boston
 Rep. Harold Naughton, Worcester
 Jerome Weinstein, Boston

Michigan

Terri L. Land, Byron Center
 The Honorable Virginia Morgan, Detroit
 Scott K. Osborn, Warren

Mississippi

Professor Robert Davis, University
 John Murray McCarty, Jackson

Missouri

Robert H. Dierker Jr., St. Louis
 James P. Holloran, St. Louis
 Cynthia L. Reams, Kansas City
 Walter R. Simpson, Kansas City

Montana

Randy Bishop, Billings

Nebraska

Michael C. Cox, Omaha
 Leo A. Knowles, Omaha
 Robert W. Mullin, Scottsbluff
 Charles V. Sederstrom, Omaha
 John O. Sennett, Broken Bow
 Edward H. Tricker, Lincoln
 Edward G. Warin, Omaha

Nevada

Cam Ferenbach, Las Vegas

New Hampshire

Irvin D. Gordon, Concord
 Eliot H. Lumbard, Hollis
 James R. Starr, Concord

New Jersey

The Hon. Elaine L. Davis, Jersey City
 Paul Gumagay, Harrison
 The Hon. Catherine Langlois, Madison

New York

Marilyn Balcacer, New York
 J. Scott Colesanti, Long Beach
 Anthony J. Colleluori, Syosset
 Martin Flaherty, New York
 Thomas F. Gleason, Albany
 Raymond T. Lamanna, Scarsdale
 Professor Peter Lushing, New York
 Mortimer Milner, Brooklyn
 Gordon W. Paulsen, New York
 Michele T. Pilo, Kings Park
 Shirley F. Sarna, New York

Harlan J. Silverstein, New York
 Paul J. Torpey, Jamesport
 Mark Vasco, New York

North Carolina

George M. Cleland III, Winston-Salem
 John Edward Mozart, Durham
 Francis M. Pinckney, Charlotte

Ohio

Thomas L. Eagen, Cincinnati
 Jeffery M. Holtschulte, Richwood
 Thomas S. Kilbane, Cleveland
 Gerald J. Lemieux, Toledo
 Ralph F. Mitchell, Cincinnati
 M. Louis Sirkin, Cincinnati
 Donald D. St. Clair, Toledo

Oklahoma

Gloria C. Bates, Oklahoma City
 Jimmy Goodman, Oklahoma City

Pennsylvania

Peggy Balsawer, Philadelphia
 Dr. William Cowden, Newville
 Christopher I. McCabe, Philadelphia
 Masue Nagaoka, Pittsburgh
 John S. Saunders, Wallingford
 Jane M. Williams, Doylestown

Puerto Rico

The Hon. Salvador E. Casellas, San Juan

Rhode Island

Thomas C. Burke, Watch Hill

South Carolina

Daniel F. Blanchard III, Charleston
 Kevin Drum, Charleston
 Robert M. Erwin Jr., Greenville
 James C. Gray Jr., Columbia
 Louis P. Howell, Spartanburg
 Wade H. Logan III, Charleston
 Heyward E. McDonald, Columbia
 Stephen G. Morrison, Columbia
 Kenneth M. Suggs, Columbia

Tennessee

Donald J. Aho, Chattanooga
 William P. Aitken Jr., Chattanooga
 Mark E. Alpuente, Memphis

—continued on next page

Attention Federal Employees!

Once again, the Supreme Court Historical Society is a participant in the Combined Federal Campaign (CFC) of the National Capital Area. The Society's 1997 designation number is **7656**. Gifts made through the CFC support the Society's work in preserving and disseminating the history of the Supreme Court through public programs, workshops for teachers, publications, and soon, a website. Please consider the Society when you review the list of Local Voluntary Agencies in the campaign catalog.

Membership Update *(continued)*

James W. Ely Jr., Nashville
Ronald L. Grimm, Knoxville
Dr. Gerald L. Huddleston, Jamestown
Randall D. Noel, Memphis
Dana B. Perry, Chattanooga
T. Harold Pinkley, Chattanooga
D. Bruce Shine, Kingsport

Texas

D. Miles Brissette, Fort Worth
Jennifer Cook, Austin
Harlan Crow, Dallas
Richard J. Dougherty, Irving
Michael W. Goldman, Fort Worth
Jarod M. Lambert, Spring
Lezley Norris, Dallas
Richard H. Page, Houston
Michael Threet, Dallas

Utah

Stephen G. Crockett, Salt Lake City

Virginia

Jeffrey D. Atkins, Burke
Irving M. Blank, Richmond
Steven J. Eagle, Vienna
Amanda Rose Falk, Great Falls
Kathryn C. Falk, Arlington
Diana Farrell, Woodbridge
Tom Fleener, Reston
Richard C. Fuisz MD, Chantilly
Christine M. Gill, Alexandria
Richard J. Gillies, Ferrum
Helen H. Greene, Springfield
Samuel W. Hixon III, Richmond
Richard Humway, Great Falls
George E. Hutchinson, Arlington
Joseph W. Jenkins, Alexandria
Gabrielle Kovensky, Arlington
Catherine A. Kunz, Reston
Jonathan Mills, Falls Church
Allan B. Moore, Arlington
Michael R. Pauze, Arlington
Bruce D. Rasmussen, Charlottesville
Richard D. Schmidt, Chantilly
Clarence S. Summers, Centreville
James L. Wilcox, Chantilly

Washington

John G. Cooper, Seattle
J. Richard Crockett, Seattle
Michael A. Frost, Seattle
H. Roland Hofstedt, Seattle
Ron Perey, Seattle
Howard P. Pruzan, Seattle

Wisconsin

Matthew Taylor, Platteville

US Virgin Islands

Richard Hunter, Christiansted, St Croix
Eric R. Moore, Christiansted, St. Croix

Philippines

Lucas P. Bersamin, Quezon City

Other Overseas

Peter G. Becker, US Army

Supreme Court Historical Society
111 Second Street, N.E.
Washington, D.C. 20002

NON PROFIT ORG.
U.S. POSTAGE
PAID
WASHINGTON, D.C.
Permit No. 8232