Society Dedicates Headquarters To Two Founding Trustees

At a specially called meeting held on September 29, 1983, the Society's Board of Trustees dedicated the organization's new headquarters building to the memory of Elizabeth Hughes Gossett. In the company of many old friends and other honored guests, the Board also named a room in the building to the memory of another founding trustee, Robert T. Stevens. Mrs. Gossett, the youngest child of Chief Justice Charles Evans Hughes, served from 1974-1980 as the first president of the Society. Under her distinguished leadership, the Society set its course and inaugurated its first activities. Though her subsequent tenure as Chairman of the Board was cut short by her untimely death in 1981, Elizabeth Hughes Gossett left a unique stamp on the Society which will continue to guide the Society's future for a long time.

The Board also paid special tribute to Robert T. Stevens, who succeeded Justice Tom C. Clark as Chairman of the Board in 1978. A committed supporter of the Society and its work, Mr. Stevens' deep sense of caring encouraged others to give their serious attention and best efforts to the concerns of the Society. His death in 1983 brought to a close a very important chapter in the organization's history.

Long an objective of both Mr. Stevens and Mrs. Gossett, the headquarters project was commenced in 1979 with a preliminary search for an appropriate location. A building near the Court was eventually found in 1982. The necessary remodelling and renovations were sufficiently completed by the Spring of this year to enable the Society to take occupancy prior to the Annual Meeting in May. Now completed, the new facility will serve as a lasting memorial to two of the Society's founders, and as a tribute to the many individual members, foundations, and special friends who helped make the project possible through their dedicated support and generous contributions.
Mr. Rothwacks is the Thomas C. Atkeson Lecturer in Law and debate. As noted in his comprehensive diaries, Garfield not the law is suggested by several of his diary entries and himself and demonstrated particular talents in oratory and Why Garfield may have chosen to return to politics and
served by the Disciples of Christ, a religious group to which commission in the Army to take a seat in Congress, he had
eighteenth year, which nevertheless included extensive slavery and secession forced him to interrupt his political
parte Milligan was his unlikely entry into the legal profession. As this was to be Garfield's first initiation as a
Although Garfield considered teaching as a career, he be-
turned to the Eclectic Institute as principal and teacher and is said to have turned down an opportunity to head Williams

Garfield's presentation to the Court proved to be an equally eloquent plea on behalf of his controversial
clients. His argument was instrumental, not in disproving Milligan's guilt, but in disavowing the government's right to

not for the religion of Christ I should long ago have placed my mark in that direction, and though I do not
regard the Legal Profession incompatible with christianity, still, I think it would be much more difficult to
cultivate and preserve that purity of heart, and devotion to the cause of Christ, when Gentlemen of the Bar"

In a letter to a friend, Garfield also wrote: "When I ask who are the intellectual leaders of our people, I find not the
today - Hopkins, Hildreth, Silliman, Agassiz, Beecher, Chapman, King, Greeley, Holmes, Emerson & c." As he
unblushing and not at all unblushing, it is out of this profession of law will suite my nature and taste. I may

It was this commitment to justice which led Garfield to
become involved in the case at the request of his law partner, Black, a prominent Democrat, warned Garfield
that his fellow Republicans would likely seek political recriminations against him for representing traitors, the
future President did not flinch. When Black's warning in-
duced him to withdraw, Garfield responded to his critics with a stern rebuke:
"If the case turns on the justice of those men being duly
punished I will not defend them in any way whatever. For I believe they deserve the strictest punishment; but if
it turns on the question as to who has the power to try these men, I will. I believe there is no authority under
the Constitution and the laws of the United States to take a man as a soldier and import a military tribunal to his home to try him and punish him. So important did I regard this principle to the future of our country, that I thought it was an exciting time, that, with
my eyes open to the fact that I took a very great political risk in defending, not Bowles and Milligan, but the
right of every citizen in a civil community where war is not for the religion of Christ I should long ago have placed my mark in that direction, and though I do not
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James A. Garfield

Prodigy Before the Court: James Garfield and Ex parte Milligan
by Meyer Rothwacks*
Philip Pendleton Barbour: The Pride of Virginia

Philip Pendleton Barbour, the "pride of the democracy of Virginia," was an advocate of state sovereignty, southern rights, and strict constitutional interpretation. Loyal to the social and political traditions of antebellum Virginia, he aligned himself with the Old Dominion's tidewater gentry. His father, Thomas Barbour, the grandson of a Scottish merchant who settled in Virginia in the late 1600s, was an Orange County planter who served in the Virginia House of Burgesses, and after the Revolution, the General Assembly. His mother, Mary Pendleton Thomas, was the daughter of another wealthy planter and related to many of the region's most distinguished jurists and political leaders. Perhaps because of Thomas Barbour's other interests, his financial situation was less secure than many of his social peers, and he was frequently in debt. As a result, Philip did not receive the formal education typical of the sons of Virginia's aristocracy. As a young boy, he came under the tutelage of a local teacher and a local clergyman. Reverend Charles O'Neil, whose strict discipline included severe whippings. Although instilling in his young charge an early respect for hard work and academic endeavor, O'Neil's method may also explain Barbour's notable indifference to matters of the Church.

In 1804, eager and exuberant to prove himself, the seventeen-year-old left eastern Virginia and travelled to Kentucky with the hope of establishing himself in his own law practice. Although Barbour had had a great aptitude as a student, mastering foreign languages and reading the classics, his limited education apparently left him unprepared for the challenges of the law. He returned to Virginia, borrowed some money, and enrolled at the College of William and Mary in Williamsburg. After completing one term, he left the school to practice law in his home state. Such limited training was not uncommon at the time, especially for sons of the gentry. Philip prospered sufficiently to marry Frances Todd Johnson in 1804 and start a family of three. As a young boy, he came under the tutelage of a local teacher and a local clergyman. Reverend Charles O'Neil, whose strict discipline included severe whippings. Although instilling in his young charge an early respect for hard work and academic endeavor, O'Neil's method may also explain Barbour's notable indifference to matters of the Church.

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through Barbour's social services as a member of his Cabinet. Although a political friend of Philip Barbour, President Andrew Jackson (left) chose Martin Van Buren (right) as his running mate in 1832 in reward for Van Buren's loyal service as a member of his Cabinet.

Barbour's political prominence was highlighted by his election to succeed James Monroe as President of the Virginia Constitutional Convention. A great assembly of distinguished statesmen, the convention struggled to resolve issues in 1829-1830 which three decades later would split Virginia and the nation in two. In the chief controversies which marked the convention, Barbour identified himself with the state's conservative eastern slaveholders. Members of the convention from Virginia's western counties, which included what is now the state of West Virginia, opposed legislative apportionment based on census figures which included slaves. Barbour endorsed a "compound ratio" based on white population and "property" combined, and regarded some landed interest, though not necessarily a freehold, as an essential qualification for the suffrage. With the English political philosopher Edmund Burke, Barbour's name was frequently mentioned as a possible appointee to high office, and Barbour's name circulated as a possible candidate for Secretary of War in the new Cabinet.

Fearing a split in the party, Barbour withdrew from the campaign, and in the name of party unity urged his supporters to back the national ticket. Although Van Buren was considered unreliable on the slavery issue, Barbour's decision not to oppose Jackson's candidate was undoubtedly a wise one. By stepping aside, he insured Jackson's reelection and strengthened his position within the party. His support for Jackson also increased the likelihood that he would be considered again for higher office. Barbour's name had been mentioned frequently as a possible Jackson appointee to the Supreme Court. The Richmond Inquirer found him "eminently fitted to adorn the Bench with his talents." Predictably, his political opponents dreaded the eventuality of a Barbour appointment. John Quincy Adams was particularly concerned that an aged Chief Justice Marshall might retire, and "some shallow-pasted wild cat like Philip P. Barbour, fit for nothing but to tear the Union to rags and tatter" might be nominated by Jackson to succeed him. On July 6, 1835, Adams' fears came true; Chief Justice Marshall died in Philadelphia. However, Associate Justice Gabriel Duvall's resignation earlier in the year had provided President Jackson with another opening on the Court. On March 15, 1835 Jackson sent Barbour's name to the Senate as Duvall's successor.

Barbour was confirmed as an Associate Justice of the Court on May 7, 1836 by a vote of 30-11. On the same day he nominated Barbour, President Jackson nominated Taney to succeed Marshall. The opinion of the nation concerning these appointments was widely divided. Though southern newspapers applauded Barbour's elevation to the high court, a Boston editorial reflected northern sentiment: "If Mr. Barbour's appointment is extremely objectionable, what can be said of Mr. Taney?" The Jackson appointees soon joined to blunt the thrust of the Marshall Court's most expansive opinions. One Whig paper, hailing the significant changes in the Court's rulings, blamed the shift on "such small lights as have recently been placed on the bench," specifically calling attention to "such shallow metaphysical hair-splitters as P.P. Barbour." Part of the majority in the Charles River Bridge case, Justice Barbour wrote the majority opinion for the Court in Miln v. N.Y. in 1837. The most important opinion penned for the Court by Barbour during his short five years on the high bench. Barbour vigorously upheld the authority of the State of New York to protect the health, safety and welfare of its citizens; as Barbour concluded, "the authority of the state is complete, unqualified and exclusive." On the evening of February 24, 1841, Justice Barbour participated in a conference of the justices in Washington which lasted late into the evening. He apparently suffered a heart attack later that evening and was found dead in his bed the following morning. When the Court assembled, Chief Justice Taney announced that "Brother Barbour" had died and adjourned the Court. Although Barbour had lived the dignified life of a country gentleman at "Frascati," his family estate in Orange County, he was buried near the Chapel in Washington's Congressional Cemetery. Justice Story, writing to his wife shortly after Barbour's death, provided a fitting eulogy for his departed colleague. Story remembered Barbour as "a man of great integrity, of a very considerable talent, whom we all respected for his talents and virtues, and his high sense of duty."
The Society's Two Volume Index of Opinions Published

The first public reference work organizing and indexing Supreme Court opinions by author is now available to the public. The two volume series, sponsored by the Supreme Court Historical Society, and published last month by Kraus International Publications, is entitled *Supreme Court of the United States, 1789-1980: An Index of Opinions Arranged by Justice*. Its publication marks the culmination of years of research and editing by two seasoned Court veterans, Linda Blandford and Patricia Evans.

Unlike previous reference works, which have generally been organized by subject matter or case title, the new *Index* is arranged by individual justice, eliminating the need for an exhausting search of *U.S. Reports* or other sources to determine which opinions a particular justice may have written during his tenure on the Court. The *Index* lists in chronological order the opinions of each justice from 1789-1980. Perhaps the most useful work is the classification of opinions into seven categories: Opinions of the Court; Opinions Announcing Judgment; Separate Opinions; Concurring Opinions; Dissenting Opinions; Statements; and, Opinions as Circuit Justice. Each listing includes the complete case title and proper citation. The *Index* also contains an informative appendix which provides significant biographical material as well as a chart showing the succession of justices who have served on the Court.

The *Index* is available as a two-volume set in hard cover only, and may be purchased by Society members at a 20 percent discount. To order, members should contact the Society's headquarters at 111 Second Street, N.E., Washington, D.C. 20002, or telephone (202) 543-0400.

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