Society Celebrates Fourteenth Annual Meeting

By all accounts, the Fourteenth Annual Meeting of the Supreme Court Historical Society, held Monday, May 15, was an unprecedented success.

As in past years, the events of the day began with the Annual Lecture. This was the first year that the Annual Lecture had been delivered in the Court Chamber of the Supreme Court Building. In years past, the lecture had been given in either the restored Supreme Court Chamber of the U.S. Capitol or the caucus room of the Russell Senate Office building. However, the lecture has become so popular that it had to be moved to a larger room. The crowd that gathered this year was one of the largest ever to hear an Annual Lecture.

This year's speaker, Associate Justice Anthony M. Kennedy, delivered an extemporaneous speech on the subject of the Franklin D. Roosevelt Court-packing plan. Justice Kennedy began his talk by describing the Hughes Court of 1936. He delivered anecdotes about each member of the Hughes Court while referring to a photograph of each Justice that had been placed before the seat that the Justice had occupied on the Bench in 1936. This introduction served to bring the characters to life for the crowd as well as to set the stage for the plan that was proposed by the Roosevelt administration.

During 1936, the Supreme Court struck down many Roosevelt recovery and reform programs that had been launched to combat the Depression and its effects. In response, Roosevelt sent a message to Congress that proposed a judicial "reorganization." The proposed measure would have increased the number of Supreme Court Justices to as many as fifteen by creating a new seat for each Justice who reached the age of seventy and declined to retire. Roosevelt's aim was to compose a Court that was more responsive to his legislative programs.

As Justice Kennedy related, Senator Joseph Robinson of Arkansas was charged with shepherding the plan through Congress. As Senate Majority Leader, Robinson was perhaps the only figure in Congress with enough political power to get the Court-packing plan of 1937 passed. -continued on page three
A Letter from the President

The 1989 Annual Meeting, which took place in Washington, D.C. on May 15, 1989, was, I believe, a complete success. At the least it was a very pleasant occasion which everyone who was there seemed to enjoy.

The Annual Lecture was given by Justice Kennedy in the Supreme Court Chamber. We had outgrown the old chamber in the Capitol and the Senate Conference Room, which we used last year, was an inadequate substitute. The Court came to our rescue and the new facilities proved to suit our purposes excellently.

Justice Kennedy talked about the Roosevelt Court Packing Plan of 1936-37, a subject which will always be of interest to lawyers, especially those interested in the history of the Supreme Court. To make the presentation more graphic, he placed photographs of each member of the 1936 Hughes Court in front of the chair occupied by that Justice when the proposal was pending. Then Justice Kennedy surprised his audience by delivering the lecture without using a single note. He did so, however, without wasting words and by speaking in clear sentences and paragraphs. He was very good, and brought back memories of Jacques Barzun, who was able to do the same thing.

At the General Membership Meeting, the several Committees of the Society reported on their activities for the past year. Membership is now quite well organized and is picking up steam; our financial affairs are in good order; the drive produced over $500,000. We have solid program plans, and are producing over $500,000. We have solid program plans, and are seeking additional space in or near our headquarters building. The Publications Committee is trying to catch-up on the publication of our Yearbook (which it hopes to do with the 1989 book).

The events organized by the Annual Meeting Committee spoke for themselves.

The following six new Trustees were nominated and elected by the members: Robert S. Barks, Barbara A. Black, F. Elwood Davis, Geoffrey C. Hazard, Phil C. Neal, and Charles B. Renfrew. They are an unusually talented, interesting group and should bring much strength to the Society.

At the Trustees meeting, Erwin N. Griswold was elected as our new Chairman. Griswold's experience and demonstrated interest in the Society. One of the outstanding lawyers of his generation, he has argued more cases in front of the Supreme Court than any living lawyer and he brings great distinction to our Society.

We were extremely pleased to have seven Justices and their spouses present at the dinner: The Chief Justice and Mrs. Rehnquist; Retired Chief Justice and Mrs. Burger; Justice and Mrs. Brennan, Justice and Mrs. White; Justice and Mrs. Powell; Justice and Mrs. Scalia, and Justice and Mrs. Kennedy.

Once more the String Quartets and Strolling Strings of the U.S. Army Band provided beautiful music for the event. For the first time, the Alexandria Harmonizers joined us; the chorus received a standing ovation for their efforts. If you missed the function, you missed a great deal, but we would have been hard pressed to find a place for more members in the Great Hall.

The Supreme Court Historical Society

Quarterly

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Editor .......................... Alice L. O'Donnell
Managing Editor ...................... Kathleen Shurtleff

Annual Meeting (continued from page one)

the Court-packing plan was approved. When Senator Robinson died from a heart attack in July 1937, brought on in part by the Capital's unbearable summer heat and by overwork from fighting for the Court-packing bill, the plan died with him. Because President Roosevelt's plan unraveled as it did, Justice Kennedy concluded, no other attempt was made to change the Supreme Court.

Justice Kennedy received a hearty round of applause for his talk. He spoke with members of the audience after the lecture, including Senator Strom Thurmond, a member of the Society.

Immediately following the lecture, members of the Society and guests were invited to attend a special tour of the Supreme Court building. Princess Goodwin, Tour Director in the Office of the Curator, directed members through private areas not usually open to the public, including the Justices' Dining Room and Conference Room. During the tour, Ms. Goodwin pointed out unique furnishings and objects that were obtained by the Supreme Court Historical Society for the Court.

As an alternative to the tour, some members chose to attend an Open House that was held at the Society's headquarters directly behind the Supreme Court building. Members toured the facility and visited informally with staff of the Society.

At six-thirty that evening, Society President Justin A. Stanley presided over the General Membership and Board of Trustees Meetings that were held in the Supreme Court Chamber. Mr. Stanley presented a report on the progress that had been made during the past year establishing a committee structure and placing the Society in a firm financial position. The business of the General Membership and Trustees meetings may be found in the letter from the President on page two of this issue.

During the Trustees meeting, Erwin N. Griswold was elected to serve a three year term as the Chairman of the Board of Trustees. Mr. Stanley introduced Mr. Griswold to the Society. The Chief Justice added that he enjoys working with the Society, and hopes to continue the association.

A rousing performance by the Alexandria Harmonizers barbershop chorus capped the evening and marked the close of a very memorable day.
Learned Hand: A Judge's Judge

In reading accounts of Judge Learned Hand's career, the question most frequently asked by his biographers is why Learned Hand never received an appointment to the Supreme Court. Judge Hand served for 52 years in the federal judiciary that spanned his lifetime. During his career, he served as a judge on the United States District Court for the Southern District of New York, and then on the Court of Appeals for the Second Circuit. By the time he was selected as a judge for a number of years and then senior judge for a dozen years, indeed, many legal historians considered the Second Circuit Court "the national court of record of the United States," other than the Supreme Court. Hand enjoyed a reputation as a brilliant writer and skilled orator and he was given much credit for the reputation of the Court over which he presided. Most historians agree that his name was suggested to, and given serious consideration by, several Presidents as a nominee to the Supreme Court. His personal friends and acquaintances included many individuals from the legal community, but literary figures and academics. He corresponded regularly with Supreme Court Justices Benjamin Cardozo, Oliver Wendell Holmes, Jr., and Felix Frankfurter, all of whom made comments endorsing Hand as a suitable candidate for the highest bench. But, in spite of his many accomplishments and recommendations, Learned Hand did not draw "a successful ticket in that odd lottery by which men are picked for the Supreme Court of the United States," as Felix Frankfurter termed it.

Certainly Hand's genealogy seemed suitable for a member of the Supreme Court. Hand came from a family that had given distinguished service to the law. His grandfather, Augustus Cincinnatus Hand, attended Judge Roeve's Law School in Litchfield, Connecticut, the first law school in this country. He served as a U.S. Congressman, a State Senator, and as a judge of the New York Supreme Court and the New York Court of Appeals and made his home in Elizabethan, New York. Augustus amassed a tremendous personal library of English law books, and a collection of first edition contemporary American authors, such as James Fenimore Cooper, Washington Irving, and Nathaniel Hawthorne. Perhaps it is not surprising that all of Augustus C. Hand's three sons became lawyers. His son Samuel eventually pursued a legal career. Augustus also attended Harvard and the Masters Degree from Harvard in 1894. He then enrolled in the Harvard Law School, graduating with honors in 1896. After graduation, he took up practice in Albany, but he moved to New York City shortly thereafter where he was in private practice until 1909. He married Frances Amelia Fincke in 1902 and they had three daughters. They purchased a house in the East Sixties of New York City, and Augustus and his wife purchased a home nearby. Thus, the cousins were never separated by any great distance, either at home or at work.

Learned and Frances purchased a summer home on the New Hampshire side of the Connecticut river, south of Dartmouth College. This area was an art community centered around the studios of Augustus Saint-Gaudens, the noted American sculptor. "Each summer for the next forty-two years Learned and his family spent the first part of their summers at Cornish. The so-called Cornish Colony included artists Stephen and Manfred Parrish; architect Charles Platt; American writers Winston Churchill, Maud Howe Elliott, and Pierre Salinger; political writer Herbert Croly; Learned's friend lawyers George Babcock, Norman Hapgood, and Philip Lilley; and Washington lawyer Edward B. Burling. They shared, above all, good talk; they hiked, put on charades and theatricals, and took pride in their Italianate gardens." The associations and friendships Hand shared at Cornish greatly enriched his life and work.

In 1909, President Taft appointed Hand, who was then thirty-seven, to the District Court for the Southern District of New York. Hand undertook his judicial duties with great vigor. "My law books are in my study and I am going through them," he wrote to a friend, gratulating him on his appointment to the bench. Hand responded: "Your congratulations are very important to me... I believe that this opportunity is a very fine one, if I am man enough to discharge the duties...." Judge Hand undertook his judicial tasks with characteristic vigor and hard work. Circuit Judge Carroll Hinckes described Judge Hand's work habits by saying:

"Six days a week he was studying and formulating his cogitations. How often have we seen him behind his writing board, scribbling away and carefully correcting his thoughts in almost inalterable drafts! It is said that upwards of 2,000 finished opinions emerged. Generally each was perfused by multiple drafts. Add to those the per curiam opinions which he wrote, his sparkling conference memoranda (which were roughly three times as numerous as his nonopinions), plus an unknown number of unpublished memos. Costello, a district judge, and the sum total of the morsel of his pen over that old writing board would doubtless rival that involved in contemporaneous writing of 15,000 words."

The catalog of Learned Hand papers in the Harvard Law Library bears out Judge Hinckes' account of Hand's productivity. The materials in the collection are divided into three main categories: correspondence (50,000 items), District Court opinions (ca. 1,000 opinions), and Court of Appeals materials (69 manuscript boxes), including the memoranda of which Judge Hinckes speaks. The detailed inventory of the collection runs 500 pages.

But Hand's reputation as a jurist was not limited to the quantity of his opinions. He was also widely noted as a superb writer and a brilliant legal mind. Benjamin Cardozo spoke of Hand's "qualities of mind, the keen analysis, the close reasoning, the capacity for deft and incisive phrase." Judge J. Edward Lombard who served as Chief Judge of the Court of Appeals for the Second Circuit said of Hand:

"His keen and original mind was forever probing into the dark corners and the twilight zones of the law; nothing delighted him more than to find and frame them and to present his findings and not perplexed by his colleagues and his bright young men. Students in all fields of law are indebted to him for his seminal and lucid opinions and for many years his opinions have been cited in both federal and state courts as often at any legal writer. Indeed, most of the bibliographers in this field cite Learned Hand, whether it be a majority or dissenting opinion and I might add, whether or not the quotation is in point."

Mervin Schick observed in his book Learned Hand's Court: "While he was chief judge, Hand virtually dominated the public image of the Second Circuit, and the Court's decisions emanating from his court. His reputation easily transcended the inferior court he sat on. Judge Clark once noted that Hand's relationship to the Second Circuit was analogous to that of the Courts for West Virginia and the Supreme Court. There was a tendency on the Supreme Court to cite Learned Hand opinions specifically, whereas most appellate court opinions without mentioning the name of the writer."

Much of Learned Hand's reputation during his lifetime was based upon his communication skills, both as a writer and an orator. He was a powerful and skillful writer and perhaps that is why he was so frequently quoted in legal documents. His writing was effective not only because of the style, but because he communicated his ideas in a clear and forceful manner. Under the effect of his writing was his ability to assess honestly the roots of human behavior. In discussing the excesses of the Nazis he observed: "The trouble is that it isn't just the Nazis. It isn't just Russian. It's human nature, through the centuries. We all have totally unreasonable and cruel ambitions, and then we... all festoon our lures with pretty phrases, to justify them." He also observed: "If the truth is we are all sinners, nobody's record is clean; and indeed it is only fair to say that much of the very texture of the law invites us to sin, for it is often holds us in, as much as it helps define the clear-cut cases that we ought to care, 'due notice,' reasonable restraint," which are no more than signals that the dispute is to be decided with moderation and without disregard of any of the interests at stake."

The Harvard Law Review, "One of the United States' Aluminum Company of America’s skill in its communications plain, his clear sense approach to judging, his familiarity with literature, and perhaps, his sense of humor as well. It would be absurd to assert that monopoles can have any tendency to limit the radii over which their owners can control their own economic activities. There are two possible ways of regulating them: to regulate them, or to forbid them. Since we have no way of regulating them, we forbid them. I don't think that much of that, but I didn't sit up and ... Some are born monopolists; some achieve monopoly, others have monopoly imposed on them. Monopoly is not in the nature of things."

In addition to his reputation for his brilliant legal mind, Judge Hand was known for a reputation for being formidable in the courtroom. No doubt this image was enhanced by his physical appearance, which was distinguished by "foreboding brows" as Felix Frankfurter termed him. He was six feet two inches tall, blonde, and blue-eyed. Mrs. Chadbourn, Curator Emeritus of Manuscripts at the Harvard Law School, recounted a story told to her by Philip Putnam, an Assistant Librarian of the Harvard Law School for many years. According to Mrs. Chadbourn, one day a stray dog wandered into the Reading Room of the Law Library. The dog was discovered frozen in its tracks, hair standing on end, growing at a bust on a pedestal "with wild, bushy eyebrows, a furrowed forehead, square, determined jaw, and deep-set brooding eyes."

"Learned Hand was a summa cum laude graduate of Harvard College and of the Harvard Law School, Oliver Wendell Holmes Lecturer at the Harvard Law School, and a federal judge for fifty-one of his eighty-one years. Learned was the third generation of Hands to serve as a judge."

...continued on page six
Learned Hand (continued from page five)

Apparentiy Judge Hand was a force to be reckoned with, even outside the court room. Added to his already intimidating appearance were his quick, piercing eyes and a stony, unyielding and sometimes scathing questions, which together could produce trauma in counsel when appearing before the court. John Frank once to have been a counsel before the court. Hand terrified the boldest counsel and his lightning questions and comments could short-circuit any argument. Lamberg hastened to add that despite his intimidating over Hand's presence in court,்...yet, when the decision came down, Hand voted to uphold the position taken by Har-

Lamberg.

Life Magazine carried an article written by Philip, Hamburger about Judge Hand in the November 4, 1946 issue. Mr. Hamburger also reported on Hand's "irritable" behavior:

"Brenda's generalization leaves him a cold intellectual. Farley, a lawyer who attempted to impress him by reminding the court of "those eternal principles of justice as set down in your 40 volumes." Hand glared. His famous" look of suspicion, as one has it, a gray rain cloud hovers in an otherwise blue sky. This is a man who can appear at a single glance, as a judge of the American Law Institute (ALI), of which he was a co-founder and for the first time, he was known beyond the relatively narrow membership of the ALI. A letter dated January 9, 1940 to the ALI, the Life Magazine article published in 1946 was not only a result of his growing reputation, but also fostered his national reputation.

Despite his sometimes intimidating behavior, Hand was frequently called upon to speak to civic groups. Hand's fame was frequently called upon to speak to civic groups. He was often considered to be the greatest admiralty judge of his time. As further evidence of Hand's irascibility, Schick reported that in July of 1951, "only six weeks after retiring...Hand granted bail to a group of second-string Communist leaders under indictment. After a sharp exchange with the prosecutor, he remarked, "I thought I was going to get some rest when I retired," and a fellow lawyer has left me and I'm here alone." In Hand's eighty-eighth year, the Second Circuit's chief judge, Charles E. Clark, said that Hand "stills carry an unusual work load as a judge. During the current year he has already participated in three appeals in three different judicial weeks. He will be sitting again in about ten days and probably yet more once during the summer." Shortly after Hand's death in 1961, Chief Judge Lumbard remarked that "during the last ten to fifteen years, Hand's participation has been as much as any judge's in the case involved. He's always been an interested and active judge who always had an interest in the case and a respect for the lawyers who appeared before him. He always was a dissenter. I think it would be risking too much to appoint him to be a wild Roosevelt man and a Progressive, and though on the bench, he went into the campaign." He continued, "If promoted to a seat on the Supreme Court, I think he would be a dissenter. I think it would be risking too much to appoint him." The Hand papers contain letters written to and from Theodore Roosevelt. In a letter to Roosevelt's sister, Mrs. Douglas Robinson, written in 1912, Hand said: "I hope, and I believe, that when history comes to write, the greatest error of the administration, if there be one, was in the...He was only 40 years old when he became the inspiration and the leader, as he had been the real creator, of the Progressive Party." Hand was questioned about his support of Theodore Roosevelt in 1917. He responded to the question: "I was an ardent follower of Roosevelt..." The Palace of Justice also noted: "Hand's political affiliations kept him from serving on the Supreme Court Bench, there is no doubt that Hand was an able and respected judge who left his mark on the American judicial system. W. Henry North Seymour said "Certainly his [Hand's] judicial qualities would always have been ornaments of the Court. Frankfurter tells us that "Holmes coupled Learned Hand with Cardozo as the two judges whom we wished to see on the Supreme Bench." Hand's reputation among legal scholars is considerable. Karl Llewellyn ranked him as one of the nine greatest English-speaking commercial judges. D.W.M. Waters, a British legal scholar, expressed his view about Hand's opinion on marriage that marriage is 'the establishment which will not even know that Something is happening in its inwards which has never happened before on earth unheeded; the spirit of liberty is the spirit of Him who, near the cross, all..."

The range of subject-matter of his opinions was as broad as the categories of the ALI. Hand was a legal scholar, expressed his view about Hand's opinion on marriage that marriage is 'the establishment which will not even know that Something is happening in its inwards which has never happened before on earth unheeded; the spirit of liberty is the spirit of Him who, near the cross, all..."

While Taft was President he made an effort to improve the quality of federal judges, and upon the advice of his Attorney General, George W. Wickham, he appointed Hand to the Southern District Court of New York. Taft was pleased with Hand's performance on the bench, but he was not pleased by his political activities. He reported that Taft had been disappointed with the lack of political activity of Judge Hand and the candidacy of Theodore Roosevelt. As far as Taft was concerned, this was a betrayal. In Taft's eyes, Hand compounded his transgression when he sought elective office one year later as chief justice of the Supreme Court. Hand was determined to run because he felt it was his duty but because he was a sitting judge, he felt it was inappropriate to campaign. He did not actively campaign and was hardly defeated by his opponent.

Hand's help with his play "J.B." For this play, he asked Hand to record some dialogue in which he would be the voice of God speaking to Job. He wrote a letter to Hand about the arrange-
ments which read in part: "Dear God (not an exclusive - an expression of his belief in the "incarnation of faith from York to Jerusalem." There are earlier interventions of Your distant voice but we will use a live actor for those because they are brief and are under-
stood by Mr. Zuss and Nickles to be spoken by a prompter - who will say, " speaks aloud at this point." This interlude was to show that even after fifty years Hand stilled enjoyed the work.

Hand retired from the Federal Circuit in 1951, but even after any political activities, he continued to participate in the life of the Second Circuit and the judge contributing greatly to the work of the court. Schick reported that in July of 1951, "only six weeks after retiring...Hand granted bail to a group of second-string Communist leaders under indictment. After a sharp exchange with the prosecutor, he remarked, "I thought I was going to get some rest when I retired," and a fellow lawyer has left me and I'm here alone." In Hand's eighty-eighth year, the Second Circuit's chief judge, Charles E. Clark, said that Hand "stills carry an unusual work load as a judge. During the current year he has already participated in three appeals in three different judicial weeks. He will be sitting again in about ten days and probably yet more once during the summer." Shortly after Hand's death in 1961, Chief Judge Lumbard remarked that "during the last ten to fifteen years, Hand's participation has been as much as any judge's in the case involved. He's always been an interested and active judge who always had an interest in the case and a respect for the lawyers who appeared before him. He always was a dissenter. I think it would be risking too much to appoint him to be a wild Roosevelt man and a Progressive, and though on the bench, he went into the campaign." He continued, "If promoted to a seat on the Supreme Court, I think he would be a dissenter. I think it would be risking too much to appoint him." The Hand papers contain letters written to and from Theodore Roosevelt. In a letter to Roosevelt's sister, Mrs. Douglas Robinson, written in 1912, Hand said: "I hope, and I believe, that when history comes to write, the greatest error of the administration, if there be one, was in the...He was only 40 years old when he became the inspiration and the leader, as he had been the real creator, of the Progressive Party." Hand was questioned about his support of Theodore Roosevelt in 1917. He responded to the question: "I was an ardent follower of Roosevelt..." The Palace of Justice also noted: "Hand's political affiliations kept him from serving on the Supreme Court Bench, there is no doubt that Hand was an able and respected judge who left his mark on the American judicial system. W. Henry North Seymour said "Certainly his [Hand's] judicial qualities would always have been ornaments of the Court. Frankfurter tells us that "Holmes coupled Learned Hand with Cardozo as the two judges whom we wished to see on the Supreme Bench." Hand's reputation among legal scholars is considerable.
Friends, relatives and former colleagues of Earl Warren gathered in San Francisco on April 8th to commemorate the 20th anniversary of the late Chief Justice's retirement from the Supreme Court. The weekend-long celebration, entitled "Earl Warren—A Remembrance", also included a symposium on the legacy of the Warren Court. The Grand Ballroom of the Fairmont Hotel hosted a dinner for the 500 people—including 25 former Warren clerks, 31 members of the Warren family, and Master of Ceremonies, kept the evening rolling along with good humor.

Earl Warren, who died in 1974 at the age of 83, began his career as an Alameda County district attorney from 1925 to 1938 before becoming state attorney general and California's only three-term governor. A life-long Republican, Warren ran as Justice of the United States in 1953. He retired in 1969. His career as an Alameda County district attorney from 1925 to 1938 before becoming state attorney general and California's only three-term governor. A life-long Republican, Warren ran

The evening included many personal reminiscences. Prominent civil rights lawyer Eva Jefferson Patterson, whose career was an Alameda County district attorney from 1925 to 1938 before becoming state attorney general and California's only three-term governor. A life-long Republican, Warren ran unsuccessfully for Vice-President on Thomas Dewey's ticket in 1948. President Dwight D. Eisenhower appointed him Chief Justice of the United States in 1953. He retired in 1969.

Former Governor Edmund G. (Pat) Brown, who served as district attorney of San Francisco and as state attorney general, joked about the similarities between his and Warren's early careers. Prominent civil rights lawyer Eva Jefferson Patterson, who is black, thanked Warren for the affirmative-action admissions program which enabled her to attend the University of California at Berkeley's law school (which Warren also attended). Warren's grandson, a realtor from St. Helena named Jeffrey Warren, described how "Papa Warren" used to like to eat chocolate cake in bed on Friday nights while watching the fights with his family.

Two Associate Justices who served on the Warren Court attended the commemoration. Associate Justice Thurgood Marshall received a standing ovation, but did not make a speech. Associate Justice William J. Brennan, Jr. took the podium to praise Warren and his contributions: "People were his concern, especially ordinary people, the disadvantaged, the downtrodden, the poor, the friendless." Brennan described the 13 years he sat on the Court with Warren as the era with "the greatest diversity of controversial questions in the Court's history."

Justice Brennan went on to introduce excerpts from a 90-minute documentary biography called "Super Chief—The Life and Legacy of Earl Warren." The film, made by Bill Jersey and Judith Leonard, is scheduled to air on PBS in October of this year. It includes rare archival footage of the Chief Justice, interviews with men and women who worked with and against him, reminiscences by family members and friends, as well as commentary from scholars.

U.S. Representative Robert Matsui, a Democrat from Sacramento, read a proposed congressional resolution honoring the former Chief Justice and declaring April 8th "Chief Justice Earl Warren Day."

"The Joint Resolution lauds Warren for extending "the principles of the Bill of Rights to every American" and striving "for equality for the poor and the underprivileged.""

The following morning, National Public Radio's legal affairs correspondent, Nina Totenberg, moderated a symposium on the impact of the Warren Court's 16 years of controversial rulings that eased the way for civil rights and expanded individual rights. The four panelists in the discussion were: Judge Robert Bork, John M. Olin Scholar in Legal Studies at the American Enterprise Institute and former professor at Yale Law School, acting Attorney General of the United States, Solicitor General and Circuit Judge, United States Court of Appeals for the District of Columbia Circuit; Jesse Choper, Dean of the Boalt Hall School of Law, University of California at Berkeley since 1982, served as law clerk to Chief Justice Earl Warren in 1960-61; Lino Graglia, Professor of Law at the University of Texas, Austin since 1962; and Anthony Lewis, Pulitzer Prize-winning columnist and former Supreme Court reporter for the New York Times.

Both Judge Bork and Professor Graglia argued that the Warren Court inappropriately granted individual rights that were outside Constitutional limits. Lewis and Choper defended the Warren Court, reasoning that its decisions helped to make the United States the most free country in the world. The symposium which covered such issues as banning school segregation, ensuring protection from unreasonable search and seizure, and eliminating compulsory religious activities in schools, will be broadcast on Public Broadcasting Service stations across the nation.

The commemorative program for "Earl Warren—A Remembrance" was underwritten by the Supreme Court Historical Society.
Membership Update
The following members have joined the Society between April 1 and June 15, 1989.

Alabama
Joel F. Dubina, Montgomery
Sonny Hornsby, Montgomery
J. Gorman Houston Jr., Montgomery
Henry B. Steagall II, Montgomery

Arkansas
Karen Wallace Duncan, Benton

California
David Todd Alexander, San Francisco
William H. Burford, Long Beach
John Ching, Los Angeles
Mark C. Donker, San Francisco
Bette Garren, Los Angeles
Fulton Haight, Santa Monica
Halvor L. Harley, Newport Beach
Marc S. Harvey, Encino
James B. Hicks, Los Angeles
Boyd F. Jensen II, Tustin
Henry John Kuperman, Los Angeles
Bonnie A. Beavers
J. Edward Day
Douglas W. Charnas
M. Kay Gartrell
Richard B. Herzog
Robert L. Liebross
Glen D. Nager
Bonnie M. Ryan

The following members have joined the Society between April 1 and June 15, 1989.

Florida
Barbara A. Curtis, Ft. Lauderdale
Patrick E. Geraghty, Fort Myers
Hal K. Litchfield, Orlando

Hawaii
John P. Moran, Honolulu

Illinois
Gary Bain, Evanston
Paul S. Braun, Flossmoor
Stephen C. Brunner, Chicago
Mark M. Christensen, Chicago
Robert L. Heidrick, Chicago
Michael Patrick Kane, Chicago
Stephen R. Kaufman, Springfield
Donald N. Nathan, Chicago
Philip J. Nathanson, Chicago
Anne Scott, Chicago
Elizabeth N. Thieleman, Chicago

Kansan
Shari Feit Albrecht, Wichita

Kentucky
W.R. Patterson Jr., Louisville
R. Scott Plain, Owensboro
Herbert D. Sodd, Lexington

Maine
Kevin M. Cuddy, Bangor
Joseph L. DeFalco III, Portland
Barry K. Mills, Ellsworth
Robert A. Morden, Waterville

Massachusetts
Samuel Adams, Boston
Diana Butt Campbell, Hamilton
Donald J. Correia, Plymouth
John M. Harrington Jr., Boston
David M. Prentiss, Westfield
Joseph E. Sollito Jr., Edgartown

Michigan
Robert N. Brown, Detroit
Harvey Cozensky, Southfield
Thomas R. Eineman, Wyandotte
Fernando J. Prado Forcirea, Ann Arbor

Minnesota
Ira G. Kaufman, Bloomfield Hills
John K. Maloney, Rochester
Leonard M. Nicklow, Detroit

Mississippi
Robert C. Galloway, Gulfport
William F. Goodman Jr., Jackson
Ernest W. Graves, Laurel
Philip Manseur Sr., Greenville
Charles J. Piscano, Carriere
William J. Threaguld, Columbus
Everette G. Tratch, Natchez
Kenneth T. Watts, Meridian

Missouri
Liam S. Cooman, St. Louis
Maurice B. Graham, Fredericktown
Robert A. Henderson, Kansas City
Larry L. McMullen, Kansas City
Henry D. Menghini, St. Louis
Robert F. Ritter, St. Louis
R. Lawrence Ward, Kansas City
Dale A. Whitman, Columbia

Nebraska
Robert C. Bell, Reno
Jeffery A. Dickeron, Reno
Thomas Drendel, Reno
Troy Everett Peyton, Las Vegas
Wayne A. Schaffer, Reno
Eugene J. Wajt Jr., Reno

New Hampshire
Thomas Butler Merritt, Hollis
Jack B. Middleton, Manchester

New Jersey
John T. Dolan, Newark
Michelle M. Fox, Cherry Hill

New York
Robert Kantor, Clifton

North Carolina
David M. Clark, Greensboro
Mark Finklestein, Raleigh
John L. Garrett, Winston-Salem
Robert M. Stockton Jr., Winston-Salem

Ohio
Robert A. Santana, Croton-on-Hudson
Regina Seltzer, Bellport
Bernard Yaker, White Plains
University of Rochester Library

South Carolina
Charles M. Condon, Charleston
William E. Robinson, Columbia
Charles T. Speh II, Greenville

South Dakota
Donald R. Shultz, Rapid City

Texas
T. Mayfield Bahn, Washington, D.C.
H. Travis Parker Jr., Knoxville

Utah
J. Thomas Greene, Salt Lake City

Vermont
John M. Dinse, Burlington
Lawrence Miller, Rutland

Virginia
Gary R. Bowes, Richmond
Elizabeth Anne Dickered, Springfield
Harry Ganderson, Richmond
Scott B. Moeis, Alexandria
Mark B. Ritter, Richmond
Robert Tatey Ross, Richmond
C. Thomas Turville, Williamsburg
Deans S. Worcester, Leesburg

Washington
F. Lee Campbell, Seattle
Clifford Frederick Cordes III, Olympia

West Virginia
Kimberly Regina Fragale, Charleston
Shirley A. Succiour, Charleston
Robert Winter, Fairmont

Judicial Fellows Program
The Judicial Fellows Commission invites applications for the 1990-1991 Judicial Fellows Program. The Program, established in 1972, is patterned after the White House and Congressional Fellowships. The Program is designed to attract to the Judicial branch outstanding individuals from a variety of disciplinary backgrounds who have an interest in the administration of justice and who show promise of making a contribution to the judiciary.

Two or three Fellows will be chosen to spend a year, beginning in September 1990, in Washington, D.C. at the Supreme Court of the United States, Room 5, Washington, D.C. 20543. (202) 479-3374. All application materials should be submitted by November 15, 1989.

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Page 5, Learned Hand, reproduced by permission of the Harvard Law Art Collection.
Page 8, Warren family on the lawn, from the collection of the Bancroft Library.
Page 9, both photos, by Richard Gordon, courtesy of the Catticus Corporation.
Page 12, Bust of Learned Hand, reproduced by permission of the Bancroft Library.

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Learned Hand (continued from page seven)

the law covering every controversy with which he dealt, he explored to its foundations. He was a master in every subdivision of the field.”

Paul Freund wrote in 1961 that “Learned Hand was born to be a judge... [he was] a judge's judge, a lawyer's judge, a student's judge.” Schick summed up Hand's abilities by saying: “He [Hand] was a master craftsman and a brilliant writer whose opinions surely rank with those of Holmes and Cardozo as the best American legal prose of the century. His ability to write beautifully did not lead him to the quick production of glossy opinions that did not explore the full complexities of a case. To the contrary, he usually worked hard and long until he was satisfied with what he had written. It was not enough to base a decision on outdated formulas and on legal cliches; throughout his career he sought to adapt the law to the rapid changes in society and industry.”

Felix Frankfurter commented that he felt Hand was lucky in not having been chosen to serve on the Supreme Court: lucky because the unique situation of the Supreme Court would have resulted in Hand experiencing more conflict and strife, and lucky because he was less subject to criticism. He explained that comment by saying: “In the first place, down there [the Supreme Court] his views would have been diluted eight-ninths and here only two-thirds. In the second place, I think almost inevitably, though certainly as authenticated by history, the controversies down there are more strident than they are in the quietude of Foley Square... He has demonstrated and given heartening proof of the fact that moral influence, achievement of excellence, the fertilization of thought are not dependent upon place... And so, although Mr. Justice Holmes felt that the right place for Judge Hand... was Washington, and, if you will forgive me for saying so, although I spent not a little part of my life to promote that end as opportunity availed, I insist with deep conviction that he was lucky in not having won out in that strange lottery. But luckier have we been that he was endowed with these gifts and has put them to the uses to which he has put them. After every one of us in this room will no longer be here, long after that, Learned Hand will still be serving society so long as law will continue to exercise its indispensable role in helping to unravel the tangled skein of the human situation.”

The Editors wish to acknowledge the gracious cooperation of Mrs. Erika Chadbourn, Curator of Manuscripts, Emerita, at the Harvard Law School Library, for her assistance in providing an original paper she had prepared as well as an exhibit catalog and photographs for this article.

**Call for Papers**

The Society has issued a call for papers for the 1989 edition of the Supreme Court Historical Society Yearbook. All interested individuals with appropriate works are invited to submit them for review by the Board of Editors.

Beginning with the 1989 edition, prizes will be awarded. The Board of Editors will make two awards, a first prize of $1,500 and a second prize of $500. Although non-exclusive papers will be considered for publication, only unpublished works will be eligible for the awards.

Submission deadline is October 1, 1989. Please send papers, either typed or on five and one-quarter inch computer disk, to: Clare Cushman, Supreme Court Historical Society, 111 Second Street N.E., Washington, D.C. 20002. (202) 543-0400.

**Society Sponsors Pictorial Cancellation**

The Supreme Court Historical Society plans to commemorate the two-hundredth anniversary of the Federal Judiciary Act with a special pictorial cancellation. Through the assistance of the U.S. Postal Service, a temporary postal station offering the pictorial cancellation will be set up in the Supreme Court building on Friday, September 22, 1989. The cancellation honors the two-hundredth anniversary of the Federal Judiciary Act of 1789, which created the entire judicial branch of the federal government.

A brief ceremony will be held at 11:00 AM in the lower Great Hall of the Supreme Court building and the postal unit will perform cancellations from 9:30 AM to 4:00 PM. All members of the Society are invited to participate in these activities. Cancellation materials will be available through the Society.