Annual Lecture Delivered by Retired Chief Justice Burger for Sixteenth Annual Meeting

On June 3rd the Society held its Sixteenth Annual Meeting in the Supreme Court of the United States. The day's events included the annual lecture, a tour of the building provided by the Office of the Curator of the Court, the annual meeting of the membership and the Board of Trustees, and concluded with the customary black tie reception and dinner. The dinner was chaired this year by Judge Howard T. Markey, who became Dean of the John Marshall Law School in Chicago on May 1st.

The Society was honored to have Chief Justice Warren E. Burger, Retired Chief Justice of the United States, deliver the annual lecture this year. It was an impressive address, delivered without notes, and reflected his deep interest in and study of Supreme Court history. Chief Justice Burger discussed Jefferson's attempts to curtail the power and authority of the federal judicial system in general and the Supreme Court in particular. He discussed the personalities of Jefferson, Marshall and Burr, pointing out the disparity of their economic backgrounds, and the differences in their personal traits. He focused on their interaction and mentioned the election of 1800 in which Jefferson barely defeated Aaron Burr for President of the United States on the 36th ballot in the House of Representatives. He touched upon the famous case of Marbury v. Madison in which the Court asserted its authority to declare acts of Congress unconstitutional. He also discussed the trial of Aaron Burr where he was tried for treason at a circuit court in Richmond with Chief Justice Marshall presiding over the circuit court.

Following the address, members were invited to tour the Supreme Court Building. These tours were led by guides from the Office of the Curator of the Court. The Society is grateful to the Curator, Ms. Gail Galloway, for making her staff available for these tours each year. During these tours the guides discussed the construction of the building, the architectural details and the ornamentation of the building. They also touched upon the acquisition of furnishings and paintings that enhance the building. The Society has assisted in obtaining these furnishings and portraits and members had the opportunity to see many of the tangible results of our acquisitions program.

A retrospective on Justice Thurgood Marshall, who has announced his intention to retire effective upon the appointment of his successor, will appear in the Fall issue of the Quarterly.

Retired Chief Justice Warren E. Burger, the Society's Honorary Chairman, greets Mr. and Mrs. Leon Silverman following the Annual Lecture. Mr. Silverman was elected as President of the Society at the Annual Meeting of the Board of Trustees later that day.

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A Letter from the President

At the June 3rd Annual Meeting I was honored to be elected the Society's fourth President. Each of my able predecessors, founding President Elizabeth Hughes Gresser, her successor, Governor A. Linwood Holton, and my immediate predecessor, Justin A. Stanley, contributed greatly to the Society's present-day success. I will do my best to facilitate the Society's continued progress.

Before we continue along this road, however, it is proper that I pay a well-deserved tribute to my immediate predecessor, Justin A. Stanley, who served as the Society's President from May 1987 until June 1991. His accomplishments on the Society's behalf have been numerous, and of great importance to the organization's future.

Although Justin was one of the Society's founding members, distinctions such as the American Bar Association Presidency precluded him until 1984 from focusing his considerable energies upon improving the Society. It was the then-Chief Justice Warren E. Burger asked Justin to assume the chairmanship of the Membership Committee.

During his tenure in that post, the Society's membership rose from 2,500 to approximately 3,300 members. Much of this increase was the direct result of a massive state-by-state membership campaign Justin both organized and supervised.

Typically, when he discovered at the outset that the Society's staff lacked the computer equipment necessary to support such a campaign he contributed personally toward its purchase and rounded up a handful of other like-minded supporters of the Society to do the same. That equipment purchase not only lead to the in-house computerization of the Society's membership records, but literally brought an ill-equipped historical society into the twentieth century, enhancing the Society's operations from record-keeping to publications.

When Justin assumed the Society's Presidency in 1987 he established for himself an ambitious agenda. He first determined to organize the Society's volunteer committee structure and to fill the new committees with active and involved members.

In the interval between his Membership Committee chairmanship and his election as President, the Society's membership and associated dues revenues had stagnated. Justin placed a high priority on restoring membership growth. Against the future possibility of such fluctuations in the Society's fortunes, he pressed for the establishment of an endowment program with a goal of $2.5 million to enable the Society to better fulfill its missions in education, research and preservation of the Court's rich history. Again typically, he was among the first to make a personal pledge of $25,000 while prevailing upon his law firm, Mayer, Brown & Platt to do likewise.

The results achieved by Justin have been commendable.
Annual Meeting (continued)

Mr. Jones called attention to the outstanding efforts of Henry Miller and Andrew Hartzell as the New York State Chair and Vice Chair respectively pointing out that, as of June 3rd, they had recruited 9 new members.

During the Annual Meeting of the Members, Mr. Stanley, President of the Society since 1987, announced that he was retiring. He expressed his gratitude to the Officers and Trustees and members of the Society for their support and cooperation during his years as President. He said he had greatly enjoyed his service, but that he had many other projects that needed his attention. He said he thought he had accomplished many of the goals he had set for the Society during his tenure, and pledged his service in the future. In particular, he pledged to continue working on the Endowment Campaign through the end of 1991.

Dean Edwin N. Griswold, Chairman, presided over the meeting of the Board of Trustees. He thanked Mr. Stanley for his great service to the Society, praising him for his dedication and hard work. He cited the financial reports in particular that "reflected his leadership and dedication," such as the Endowment Fund Mr. Stanley created and worked so hard to realize that will give the Society financial security and allow expansion of programs and projects. Mrs. Virginia Daly, Chairperson of the Nominating Committee, presented a slate of suggested candidates for officers and At-Large members of the Executive Committee. The following individuals were elected to serve an initial three-year term as a Trustee of the Society:

Charlton Dietz
John C. Elam
James D. Ellis
Wayne Fisher
Fulton Haight
George S. LeSieur, Jr.
William Bradford Reynolds

In addition the following individuals were reelected to serve an additional three-year term as a Trustee of the Society:

Noel J. Augustyn
John C. Elleman
David Lloyd Kreeger
Mr. William T. Gossett
Mr. William J. Harte
Mr. David Lloyd Keegor
Mr. Jeremiah Marsh
Mr. Dwight Opperman
Mr. Bernard G. Segal
Mr. John C. Shepherd
Mr. Justin A. Stanley

Chief Justice Rehnquist presents Justin A. Stanley with a set of biographies of Chief Justice John Marshall in recognition of Mr. Stanley's four years as the Society's President.

Hugo L. Black, Jr.
Robert L. Brahde
William T. Coleman, Jr.
William T. Gossett
Joseph H. Hensage
James J. Kilpatrick
Rex E. Lee
Howard T. Markey
Norman E. Murphy
Dwight D. Opperman
Fred Schwengel
John C. Shepherd
M. Truman Woodward, Jr.

In addition to these elections, Mr. Leon Silverman of New York City, a former Vice President of the Society and active participant in the Endowment Campaign, was elected President of the Society.

The Annual Reception and Dinner were held in the East and West Conference Rooms and the Great Hall. Just before dinner was served, an award presentation was made to Mr. Samuel R. Olken of the John Marshall School of Law who won first prize in this year's Hughes-Gossett Award for Historical Excellence. Chief Justice Rehnquist presented the plaque to Mr. Olken. In recognition of Mr. Stanley's tenure as President of the Society, a special presentation was made to him by Chief Justice Rehnquist. The Chief Justice presented a beautiful edition of Beveridge's biography The Life of John Marshall to Mr. Stanley "for his dedicated work on behalf of the Society."

Endowment Fund Donors of $25,000
As of July 31, 1991

Individuals:
Mr. S. Howard Goldman
Mr. William T. Gossett
Mr. William J. Harte
Mr. David Lloyd Keegor
Mr. Jeremiah Marsh
Mr. Dwight Opperman
Mr. Bernard G. Segal
Mr. John C. Shepherd
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Weil, Gotshal & Manges
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Charles E. Culpeper Foundation
DeLany Foundation
The Fletcher Jones Foundation
The Mary and Dan Loughran Foundation
Minnesota Mining and Manufacturing Foundation
Robert Wood Johnson Foundation
Southwestern Bell Foundation
The UPS Foundation

This year a string unit from the U.S. Air Force Band provided chamber music during the reception. During dinner, guests were entertained by the Strolling Strings of the U.S. Army Band. To conclude the evening, the Singing Sergeants of the U.S. Air Force Band, under the direction of Lieutenant Phillip White, performed a concert. The concert consisted of a variety of music ranging from Broadway show tunes to patriotic music. It was a wonderful climax to a successful Annual Meeting.
Justice Samuel Freeman Miller of Iowa:
The First Westerner Joins the Court
by Barnett Anderson

Samuel Freeman Miller, appointed by President Abraham Lincoln on July 16, 1862, was the first associate justice born west of the Appalachians and the first to be appointed from west of the bordering states of the Supreme Court in 616 cases, 95 of them on constitutional issues.

He also authored 78 dissents.

Miller was a native of Barbourville, Kentucky, a town of 2,718 persons in 1850. Miller had a confident personality and enjoyed riding, dancing, singing, working and laughing. He made a fortieth attack on intellectual problems. He professed no love of physical labor, and later in life used to say his rule was, “Never walk when you can ride, never sit when you can lie down.”

On November 8, 1842, Miller married Lucy L. Ballinger, daughter of locally prominent parents who had come from North Carolina. The marriage produced three children before Lucy Miller’s death of consumption at a young age.

It was in Barbourville that Miller acquired his first training in public affairs, when in April, 1844, he was sworn in as a justice of the peace and took his seat as a member of the County Court. He soon abandoned the medical profession and began reading law in his shared office. Two years later, on March 27, 1847, he was admitted to the bar of the circuit court of Knox County, on motion of his office mate and debating partner, Silas Woodson.

For three years Miller practiced his new profession in the same community, long enough to aspire to a seat in the Kentucky constitutional convention of 1849 in an advocate of the emancipation of slaves. He withdrew, however, in favor of his friend Woodson, on condition that the latter stand openly in favor of gradual emancipation of the slaves.

The attempt to do away with slavery in Kentucky failed completely. Miller, whose aversion to the institution went back to his youth, had a personal objection to the practice of capital punishment; an antipathy to taking human life reflected in his judicial career by a reluctance to impose or confirm a death sentence. Miller’s death of consumption at a young age.

For the next nine years Miller practiced the primitive medical arts in the hamlet of Barbourville, a settlement of only a few hundred inhabitants near the Tennessee and Virginia borders and the seat of Knox County. The life of a lone country doctor was a hard one, “riding horse over rough mountain roads from cabin to cabin, day and night, carrying his portable drug store in his saddle bag.” His office was a log cabin shared with his wife and two children.

Any topic debated over the next three years had a bearing on one or more of the issues of the day — education, immigration, political contributions, presidential patronage, capital punishment, regulation of interest rates. Germs of later decisions of the circuit and Supreme Court benches have been found in Miller’s arguments. Five times he argued that there was no moral justification for capital punishment; an antipathy to taking human life reflected in his judicial career by a reluctance to impose or confirm a death sentence.

Miller was impriavcationally physically, standing well over six feet in height and weighing more than 200 pounds. His head was large, with clearly defined features and a penetrating gaze. He had a confidant personality and enjoyed riding, dancing, singing, working and laughing. He made a fortieth attack on intellectual problems. He professed no love of physical labor, and later in life used to say his rule was, “Never walk when you can ride, never sit when you can lie down.”

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The attempt to do away with slavery in Kentucky failed completely. Miller, whose aversion to the institution went back to his childhood and the sight of seeing his black nursemaid flogged, became satisfied that slavery would never be voluntarily abolished in a slave state such as Kentucky. After a tour of the Northwest in the fall of 1849, he settled on Keokuk, Iowa, a free state, for his new residence, and arrived there by riverboat on May 7, 1850 with his wife and children. He also brought his slaves, and freed them.

Now almost 35 years old, but still a flailing lawyer, Miller was able to enter into a partnership with an already prominent attorney, Lewis Reeves, who had a large practice in land-title, steamboat and commerical law. Almost at once, Miller developed a remunerative practice, and within a year had become known throughout the state.

In 1854 death claimed both Miller’s wife and his law partner. He formed a new partnership with another leading Keokuk lawyer, John Rankin, which endured until Miller’s appointment to the Supreme Court. Two and a half years after his wife’s death he formed a new domestic partnership, marrying Eliza Winter Reeves, the widow of his first law partner. Described as high spirited and warm-hearted, she bore him two children and survived him by ten years. It was said at the time that “the old firm of Reeves and Miller was renewed under a different contract.”

There is impressive evidence of Miller’s success as a lawyer. In a communication of 1856, he speaks of some 300 cases in which he was engaged that were awaiting trial in the next term of court.

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Justice Miller (continued)

He appeared frequently before the Iowa Supreme Court, his name figuring in 70 of the reported cases from 1851 to 1862. He was also emerging as a political force in the nascent Republican Party, and was chairman of the first Republican organization in Keokuk. Later that year he was nominated for the state senate, but, as expected, he was not elected. In 1861 he lost the Republican nomination to Governor Samuel Crawford, the incumbent.

Miller continued to denounce slavery as “evil to both the white man and the black.” He called it “the most stupendous wrong and the most prolific source of human suffering the master and the slave, that the sun shines upon in its daily circuit around the globe.” He condemned the extremists on both sides, abolitionists and pro-slavery Democrats alike, opposed the extension of slavery into free territory, argued against secession, recognized states’ rights, and strongly favored both a system of gradual emancipation and preservation of the Union at all costs. His position was similar to that of Abraham Lincoln, whom he backed strongly for the Republican presidential nomination. Once the Civil War came, Miller put his money where his words were: he gave his own notes to raise and arm troops.

Miller’s appointment as Associate Justice was something of a cliff-hanger. He had an unprecedented level of support in his own and neighboring states, but the selection was to depend on whether Congress created a new judicial circuit embracing only Missouri, Illinois, Indiana, Michigan, and Wisconsin, or one that included Iowa as well. Even Miller himself was not sure that the Senate would approve him, and President Lincoln had to decide whether to make an appointment, at which point Miller later remarked, “Well,” Lincoln said, putting down his paper, “that is a very moving words, as recalled by a close friend: “My brother Miller... At the beginning of the term I feared that the unhappy condition of the country would cause collisions among us. On the other hand, this has proved one of the pleasantest terms I have ever attended. I owe it greatly to your country. Your learning, real, and powers of mind assure me that you will maintain and advance the high traditions of the Court. I predict for you a career of great usefulness and honor.”

The prediction was more than borne out in the succeeding 28 years. Soon Miller was being assigned twice the normal share of cases in which the Constitution was to be interpreted. Scholars will differ for generations yet to come over his individual opinions, but no one can question his patriotism. Six months of intense debate and maneuver on Capitol Hill produced the desired result, at which point Miller himself and his friends prevailed successfully upon President Lincoln to name Miller to the Court.

Governor Samuel J. Kirkwood, who had earlier defeated Miller for the gubernatorial nomination only a year earlier, was Washington and called upon Lincoln to urge Miller’s appointment. According to an account written in 1891, they found Lincoln at his writing desk.

The visitors told the President they were most eager that he should make an appointment, at which point Lincoln straight faced, and asked if he had ever considered appointing and to what position. Mr. Miller of Iowa to the Supreme Court, was the response. “Well,” Lincoln said, putting down his paper, “that is a very important position, and I will have to give it some consideration, I had supposed you wanted me to make some kind of a Guerrilla for you.” Another supporter who called on Lincoln found, to his chagrin, that Samuel Miller Evans, who had not even reached Lincoln’s home in Springfield, Illinois.

Within a day after the new circuit was established by law, Miller’s supporters were able to present the President with petitions for his appointment signed by 28 of the 32 Senators then in Congress and by 129 members of the House, some three-fourths of the membership. Lincoln sent Miller’s nomination to the Senate late in the evening of July 16, 1862, and it was confirmed within a half hour, with a preference of legislature and state responsibility. The former, Miller was the best of Lincoln’s appointments—a great Justice, indeed one of the finest to grace the bench in the nation’s service.
Membership

(continued)

[The list of members is continued here, including names of members from various locations such as Chicago, Kansas, Louisiana, Michigan, Missouri, New Hampshire, New Jersey, Nevada, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, and Texas.]

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Mr. Benson Everett Eng., Baltimore
Mimi Mary Greenman Math, Baltimore
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Roger V. Titus, Eng., Rockville
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Mr. L.E. Donahoe Jr., Lafayette
H.H. Hillyer Jr. Esq., New Orleans
Ms Elizabeth Jordan, Eng., New Orleans
Frank E. Lamothe III, Eng., New Orleans
Mr. Martin L. Lahm, Eng., New Orleans
Mr. John A. DLxon Jr., Shreveport
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Louisiana
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Jack C. Bass, Eng., New Orleans
Carists B. Baskin Esq., New Orleans
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Mr. Benson Everett Legg, Baltimore
The Honorable Richard Enslen, Kalamazoo
The Honorable R. Stuart Hoffius, Grand Rapids

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Scott T. Miller, Eng., Porterfield
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Mr. F. Trowbridge von der Haar, Kenosha
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Ali E. Popkin, Eng., Clayton
Thomas R. Rensmeyer, St. Louis
Robert P. Schelley Jr., Eng., St. Louis
Edward E. Schmitz, Eng., Kansas City
Richard H. Stidley, Clayton
Edward R. Spady, Eng., Kansas City
Thomas C. Wach Jr., Eng., St. Louis
Mr. James R. Williams, St. Louis

Missouri
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Holly H. Hancour Eng., Kansas City
The Honorable Elmo B. Hunter, Kansas City
Wayne L. Milliken Eng., St. Louis
Ali E. Popkin, Eng., Clayton
Thomas R. Rensmeyer, St. Louis
Robert P. Schelley Jr., Eng., St. Louis
Edward E. Schmitz, Eng., Kansas City
Richard H. Stidley, Clayton
Edward R. Spady, Eng., Kansas City
Thomas C. Wach Jr., Eng., St. Louis
Mr. James R. Williams, St. Louis

Montana
Marshall Simons Esq., Bozeman

North Carolina
J. Donald Cowen Jr. Eng., Greensboro

Porto Rico
Fletcher & Ruggles
Robert A. Hillman Eng., Bayamon
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The Honorable Peter K. Leukun, New York
Sandra L. Van Dusen, Eng., New York
Robert M. Nowak, Eng., New York
The Honorable John A. Snow, Eng., New York
The Honorable Mark S. Weinberger, Eng., New York
The Honorable James M. Hood, Eng., New York
The Honorable Roy L. Lyman, Eng., New York
The Honorable Jon M.ina, Eng., New York
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The Honorable David M. Tilden, Elizabethtown
Mr. Nicholas Freitas, New York
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South Carolina
The Honorable F. Hawkins, Hattiesburg

South Dakota
Mr. & Mrs. Jack E. Johnson, Chevy Chase
Mr. Benson Everett Legg, Baltimore
The Honorable Richard Enslen, Kalamazoo
The Honorable R. Stuart Hoffius, Grand Rapids

Texas
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Mr. Benson Everett Legg, Baltimore
The Honorable Richard Enslen, Kalamazoo
The Honorable R. Stuart Hoffius, Grand Rapids

Virginia
The Honorable F. Hawkins, Hattiesburg

Washington, D.C.

West Virginia
The Honorable F. Hawkins, Hattiesburg

Wisconsin
The Honorable F. Hawkins, Hattiesburg

Wyoming
The Honorable F. Hawkins, Hattiesburg

Nebraska
The Honorable F. Hawkins, Hattiesburg

New York
The Honorable F. Hawkins, Hattiesburg

New Jersey
The Honorable F. Hawkins, Hattiesburg

New Hampshire
The Honorable F. Hawkins, Hattiesburg

Notre Dame
The Honorable F. Hawkins, Hattiesburg

National
The Honorable F. Hawkins, Hattiesburg

National Hispanic
The Honorable F. Hawkins, Hattiesburg

North Carolina
The Honorable F. Hawkins, Hattiesburg

Ohio
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Ohio State University
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Oklahoma
The Honorable F. Hawkins, Hattiesburg

Oregon
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South Carolina
The Honorable F. Hawkins, Hattiesburg

South Dakota
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The Honorable F. Hawkins, Hattiesburg

Texas
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Utah
The Honorable F. Hawkins, Hattiesburg

Virginia
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Washington, D.C.
The Honorable F. Hawkins, Hattiesburg

West Virginia
The Honorable F. Hawkins, Hattiesburg

Wisconsin
The Honorable F. Hawkins, Hattiesburg

Wyoming
The Honorable F. Hawkins, Hattiesburg

The Honorable David M. Tilden, Elizabethtown
Mr. Nicholas Freitas, New York
Mr. John H. Hall, New York

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**Justice Kennedy to Speak at First National Heritage Lecture Series**

The National Heritage Lecture Series will be launched in the Nation's Capital on November 7, 1991. The new lecture program has been established by the three historical societies dedicated to preserving the history and heritage of the three branches of the Federal Government--namely, the Supreme Court Historical Society, the White House Historical Society and the U.S. Capitol Historical Society. Each annual lecture will focus on one of the three branches of government. The first of the annual lectures will be given by Justice Anthony M. Kennedy and will be held in the Supreme Court Chamber at 6:00 p.m. Attendance will be by invitation from the three historical societies.

The inaugural lecture in the fall of 1991 will relate to the Judicial Branch of our Government. Justice Kennedy will deliver an address on President Franklin Roosevelt's plan of 1937 to enlarge the Supreme Court. Justice Kennedy took his seat on the Court on February 18, 1988. Prior to that time he was in private practice in San Francisco and Sacramento, California. In 1975 he was appointed to the United States Court of Appeals for the Ninth Circuit where he served until his appointment to the Supreme Court of the United States. His skills as a speaker are known nationally and include lectures at the McGeorge School of Law at the University of the Pacific where he served as a Professor of Constitutional Law from 1965 until 1988.

The purpose of the National Heritage Lecture series is to promote a greater appreciation of and insight into the momentous events of the past associated with the history of the three branches of the Federal Government. Each year the individual selected to deliver the lecture will be an authority of national stature with knowledge and experience in the intricate processes of one particular branch of the Government--Judicial, Executive or Legislative.

The Society's President, Leon Silverman, U.S. Capitol Historical Society President Fred Schwengel, and White House Historical Association Chairman Robert L. Breeden, along with all three sponsors' Boards have given enthusiastic approval to the jointly-sponsored lecture series. It is their hope that this series will contribute to a greater appreciation of our system of Government and the democratic principles underlying the Nation's heritage.

Attendance at the lecture will be limited, due to seating capacity. While all three Societies are actively involved in the planning for the lecture series, the Supreme Court Historical Society is serving in a coordinating role for the first lecture. Persons who wish to learn more about the lecture series may contact the Supreme Court Historical Society at (202) 543-0400.