**Society Plans Lecture Series on the Court's Five Jewish Justices**

**Five-Part Series Co-sponsored by Jewish Historical Society of Greater Washington**

The Society is pleased to announce that plans are being finalized for a lecture series concerning the five Jewish Justices who have served on the Supreme Court. The Society will co-sponsor these five events with the Jewish Historical Society of Greater Washington. Sheldon S. Cohen, of the firm of Morgan, Lewis & Bockius is serving as ad hoc chairman of the organizing committee for the series and is assisting with planning and fundraising.

Examining the lives and careers of some of the most fascinating and memorable individuals to have served on the Supreme Court, the series will focus upon the careers of Louis Brandeis, Benjamin Cardozo, Felix Frankfurter, Arthur Goldberg and Abe Fortas. The subject matter of the series includes complex and rich personalities such as Louis D. Brandeis who "invented savings bank life insurance and the preferential union shop, became known as the 'People's Attorney,' and altered American jurisprudence as a lawyer and Supreme Court Justice."

Another lecture will deal with Felix Frankfurter, referred to as "brilliant, rude, warmhearted, self-important, charming, brusque, talkative, but never boring. Felix Frankfurter for over half a century remained both a protagonist of modern American liberalism and an embodiment of its ideal."

The program will consist of five separate lectures, each concerning an individual Justice. The lectures will be given by outstanding scholars who have devoted much of their careers to study of these individuals. Lectures will be given in the Supreme Court Chamber, the Restored Supreme Court Chamber in the Capitol Building and the Senate Caucus Room in the Russell Building. All three rooms have historical significance to the Court. The Court sat in what is now the Restored Supreme Court Chamber of the Capitol prior to the Civil War. The Senate Caucus Room has been the site for most of the recent confirmation hearings for Supreme Court nominees. The Supreme Court has been meeting in its current Chamber since 1935.

The tentative schedule for the lectures is as follows:

**March 4, 1993**

Lecture on **Louis Brandeis** by Prof. Melvin Urofsky. Professor Urofsky is a professor of History at Virginia Commonwealth University. His published works include Big Steel and the Wilson Administration (1969), the prize-winning American

---continued on page six---

---In Memoriam---

It is with great sadness that we report the death of longtime Quarterly Editor and Society First Vice President, Alice Louise O'Donnell.

Miss O'Donnell's association with the Supreme Court, the Society, and the federal judicial system as a whole was a long-standing one. She served on Associate Justice Tom C. Clark's staff from 1949-1967, and before that on his staff when he was Attorney General from 1945-1949.

During her tenure with Justice Clark she completed her law degree at George Washington University in Washington, D.C. and she was admitted to the Supreme Court Bar in

---continued on page four---
A Letter From the President

The Society's most critical funding need during the next few years, without doubt, is the Documentary History Project of the Supreme Court of the United States. This is the only way in which it is probable, in light of the Society's substantial membership growth in recent years, that many of our members may be unfamiliar with the Project. Since it is the Society's single largest research endeavor, it is appropriate to familiarize those members who are not already well informed of its history and objectives with some detail about this worthwhile program.

The Project has been under the direction of Dr. Maeve Marcus since its inception in 1977. It is a co-sponsored by the Supreme Court and the Society, and our costs are underwritten substantially by grants from the National Historic Publications and Records Commission (NHPRC) and the William Nelson Cromwell Foundation, as well as some other occasional contributions.

The Project has published four volumes to date of an anticipated eight-volume series. I will not attempt in this column to describe in great detail. Rather, I would refer you to a recently published review of Volume IV, the Fall, 1992 edition of Law and History Review, published by the American Society for Legal History. The review provides an excellent description of the contents of Volume IV as well as some commentary from an independent scholar, Professor R. Kent Newmyer of the University of Connecticut, attesting to the Project's value in advancing our understanding of the Court's first decade.

I expect a forthcoming issue of the Quarterly will include a more complete description of the published volumes and those planned for the future.

The contribution this Project has made, and will continue to make, to the legal historians who are examining, or will examine soon, the early years of the Court's activity is incalculable. The Society may well be proud of its role in publishing these works.

The letters of the President,

Leo Silverman

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Leo Silverman
The Supreme Court Historical Society Quarterly

Miss O'Donnell had attained Life Membership status in the Society. She was first elected as a Trustee in 1975, and was currently completing her second three-year term as First Vice President. She was also Editor for the SCHS Quarterly. Recounting Miss O'Donnell's devotion to her work with the Society, President Leon Silverman stated:

Alice O'Donnell was a loyal friend to the Society. Her work on our publications was of invaluable value. Her comments in Executive Committee meetings were thoughtful and considered. All of us on the Society's Board of Trustees will miss her for the continuing contributions she made to foster this organization's growth.

Memorial services were held for Miss O'Donnell in Washington on January 12, 1993. Her family members returned her to her native State of Washington for final services.

Members of the Supreme Court Historical Society's Advisory Committee, which we appointed in 1970. This was one of the incorporators. She has been a faithful and long remembered.

Professor Bernard Wolfman, Cambridge

Professor Robert S. Marsel, Houston

Professor Stephen Werrail, Atlanta

Edward J. Coleman, III, Esq., Norristown

James L. Sifferie, Esq., Bloomington

Michael B. Victorson, Esq., Charleston

John T. Walsh, Jr., Esq., Providence

South Carolina

John H. Rich, III, Esq., Portland

Robert Burns Budelman, Jr., Esq., New York

John T. Walsh, Jr., Esq., Providence

Mr. & Mrs. Gedale Horowitz, New York

Mr. John C. Ahlgrimm, Racine

The Honorable Martin V. B. Bostetter, Jr., Alexandria

Virginia

Scott Heidepriem, Esq., Sioux Falls

David L. Inhofe, Esq., Oklahoma City

Mr. Marshall Howard, Houston

Mr. Robert P. Davison, Jr., Snow

Richard Rotham, Esq., New York

Robert F. Vacchelli, Esq., Glastonbury

Maryann B. Gall, Esq., Columbus

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Mr. & Mrs. Gedale Horowitz, New York

Mr. William H. Fyde, III, Raleigh

Mr. Scott E. Dupree, Arlington

Mr. William H. Fyde, III, Raleigh

Professor Taisuke Kamata, Kyoto

Mr. John H. Rich, III, Esq., Portland

Professor Robert S. Marsel, Houston

Mrs. Sally Ann Darnoi, Ocean Township

Mr. John H. Rich, III, Esq., Portland

Mrs. Sally Ann Darnoi, Ocean Township

Edward J. Coleman, III, Esq., Norristown

The Honorable Martin V. B. Bostetter, Jr., Alexandria
Lectures (continued from page one)

Zionism from Herzl to the Holocaust (1975), Louis D. Brandeis and the Progressive Tradition (1981), as well as his Zionism from Herd to the Holocaust Restraint and Individual Liberties (1991). Prof. Urofsky’s lecture will take place in the Supreme Court building and will be introduced by Justice Sandra Day O’Connor.

March 18, 1993

Lecture on Felix Frankfurter by Prof. Michael Parrish of the University of California, San Diego. Prof. Parrish received his Ph.D. from Yale University. He is the author of Senates Regulation and the New Deal and Felix Frankfurter and His Times: The Reform Century Georgia.” Lecture to be held in the restored Supreme Court Chamber of the U.S. Capital.

April 29, 1993

Lecture on Arthur Goldberg by Emily Van Tassel of the Federal Judicial Center. Ms. Van Tassel taught at George Washington University Law School and worked at the Department of Justice before joining the staff of the Documentary History of the Supreme Court 1789-1800. She recently presented a paper on “Homestead Exemptions and the Morality of Dependency in Nineteenth Century Georgia.” Lecture to be held in the restored Supreme Court Chamber of the U.S. Capitol.

Each lecture will have limited seating available. Seating capacity for the lectures will vary according to the size of the chamber in which the lecture is given.

Reservations for all five lectures in the series are expected to cost $60.00—which will include the cost of the receptions following each event. Reservation requests for the five-part series will be filled on a first-come, first-served basis, after which reservation requests will be confirmed for individual lectures to the extent to which seating is available. Admission to individual lectures and receptions will be $15.00 each.

The modest cost for the series is being made possible by several generous co-sponsors to the series. To date, the sponsors for the project include: Sandra Bender, Marvin Eishen, Robert, Morgan, Lewis & Bockius, and the Brandeis University Alumni.

All members of the Supreme Court Historical Society and the Jewish Historical Society of Greater Washington will receive an invitation to the series, outlining the schedule and costs involved, accompanied by a reservation form. Members are encouraged to make their reservations early, as space is limited.

Associate Justice Felix Frankfurter will be the Focus for a paper to be delivered by Professor Michael Parrish of the University of California at San Diego.

March 25, 1993

Lecture on Benjamin Cardozo by Prof. Andrew Kaufman of Harvard Law School. Prof. Kaufman is the Charles Stibbs Fairchild Professor at Harvard Law School and the author of Commercial Law and Problems and Professional Responsibility. Prof. Kaufman served as a law clerk to Associate Justice Felix Frankfurter from 1955 to 1957. He is currently nearing completion of an exhaustive biography of Benjamin Cardozo. Senator Mitchell will introduce this lecture in the Senate Caucus Room.

April 19, 1993

Lecture on Arthur Goldberg by Emily Van Tassel of the Federal Judicial Center. Ms. Van Tassel taught at George Washington University Law School and worked at the Department of Justice before joining the staff of the Documentary History of the Supreme Court 1789-1800. Volume I. Photographs in this article were made available by the North Carolina Division of Archives and History.

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Alfred Moore: The Court’s Last North Carolinian

by James M. Buchanan

Editor’s Note: In addition to Mr. Buchanan’s work, we have used an excellent and recently published study by Robert M. Kates, written by the Moore County Historical Association. Another source for this piece was “The Documentary History of the Supreme Court of the United States: 1789-1800. Volume I. Photographs in this article were made available by the North Carolina Division of Archives and History.”

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Moore (continued from previous page)

the confiscation statute was unconstitutional because every citizen
had a right to a trial by jury for which the statute did not provide.
The case proceeded and the plaintiffs lost before a jury who had
little sympathy for the cause of Loyalists. The action of the
superior court judges constituted the first act in a court
declared unconstitutional as an act of legislature. As such it provided
a precedent for the doctrine of judicial review adopted by the
Supreme Court in its landmark Marbury v. Madison (1803)
decision.
Moore’s political activities were not hindered by his attorney
generalship. Appointed by the legislature to represent the state at the
Annapolis Convention in 1786, he stood for election to the first
state ratifying convention but his federalist oration lost him the
post. Following the failure of the state to ratify the con-
stitution, Moore again fought for a delegate’s slot at the new
ratifying convention. This time success was his, and joined by
friends David and Iredell, he pushed ratification through.
Moore continued his service as attorney general until January
1791 when he resigned his post in protest of the legislature’s creation of a solicitor general’s office. Part of a plan conceived by
the legislature to ease the burden on the existing members of the
state’s judicial system, Moore apparently viewed the creation of the new position as an incursion on his own powers. The legislation
created an additional district and divided the circuit duty into
East and West Riding’s, adding an additional judge and the
solicitor general to help compensate for the extra work. In
addition, it called for the attorney general and the solicitor general
to consult together and divide the duties in the riding. It
provided for the solicitor general to have “the same power, and
be under the same restrictions and have the same allowances
and fees of the attorney general. . . .” It is unclear why Moore
objected to this plan, but he resigned as soon as John Haywood,
who had been the state treasurer, became solicitor general.

In 1792 Moore returned to the state legislature and three years
later made an unsuccessful bid for the U.S. Senate, losing by only
one legislative vote to Democratic-Republican Timothy
Bloodsworth. Moore’s Federalist loyalties drew the attention of
President John Adams who appointed him, in January 1798, one
of three commissioners to conclude a treaty with the Cherokee
Nation. He withdrew from negotiations, however, before the
treaty was signed, and soon began service on the North Carolina
Superior Court.

Upon the death of Associate Justice James Iredell, Adams considered appointing Dave to fill the Supreme Court seat, but the North Carolinian had just been made diplomatic envoy to
France. John Steele, a native of Salisbury, was serving as Comptroller of the Treasury, an appointment he had received from Washington
in 1796 and which he held until 1802. Steele resolved to make a

Along with Moore, William Richardson Davie was one of the great legal figures of North Carolina during the Colonial Era. Born in England, he immigrated to
North Carolina at the age of 8 and had just graduated from Princeton at the
time the Revolutionary War broke out. He and Alfred Moore worked together on
many occasions and collaborated in founding the University of North Carolina.

After deliberation, Pres. Adams nominated Alfred Moore to the
Supreme Court on December 4, 1799. Senate confirmation
was obtained, but Moore did not take the oath of office until April 21, 1800, at the Circuit Court of the District of Georgia in Savannah.

Moore’s five years on the Court were by all accounts unremarkable. The one opinion he did deliver caused an outburst of
criticism and condemnation from Anti-federalists. The 1800
case, Bay v. Tingle, came at a time when partisans were
running at fever pitch. The Court held that a state’s “limited
powers” existed within the United States and France. The decision
battressed the Federalist anti-French policy, both foreign and domestic. Democratic-Republican newspapers branded it a
betrayal of the Alien and Sedition Acts, which were hostile to
foreigners and imposed stiff penalties for criticizing the government,
exploding in rage. Calls for impeachment of the entire Court appeared in Anti-federalist newspapers throughout the country.
The Bay case was to be Moore’s only contribution to Supreme
Court jurisprudence. The remainder of his career became a story
of missed opportunities. He missed the biggest case, Marbury v.
Madison, because of a delay in traveling from his circuit riding
assignment on the Southern circuit. He arrived in time only
to hear a final witness and did not participate in the decision.

Perhaps Moore’s relative obscurity on the Court was in part
to the arrival of John Marshall as Chief Justice in 1801. In a
biography of Moore written by Robert Mason, Moore quoted
Hampson C. Case’s theory that “owing to the practice which
prevailed after Marshall ascended to the bench of making the
Chief Justice the organ of the Court, the five associate justices
assumed near-anonymity.” Mr. Mason went on to observe that

Can I with justice to the United States, and to individuals
recommend Alfred Moore? Will he appear with reputation
cut out of No. Carolina? I am extremely anxious that all
appointments which I may have any agency in bringing
about should be [filled?] with men possessing dignity of
case Bayard v. Singleton . . .

case Bayard v. Singleton . . .

A newspaper article dated December 3, 1799, published in a
Philadelphia paper called Aurora, intimated that several
individuals were actively seeking the vacancy.

Although the grass has not yet had time for growing over
the grave of the late judge Iredell, it is said and believed that
Mr. Jerey Smith of New Hampshire, Mr. Ames of Mass-
sachusetts, Mr. Boulton of Rhode Island, Mr. Benson of New
York, and Mr. Harper of Baltimore, had generously offered
their services for the federal bench . . .
Moore was not only demoralized by the thought of riding circuit, but also by public opinion of the Supreme Court and its Justices. He told Steele that he found the role of being a Justice “to be one of the most uneasy in the Nation.” His manner of speech was animated, and he was fine-featured, good-humored, and dark-eyed. His short stature somewhat belied his strong will and quick mind.

Despite the promise of his career at the bar, Moore seemed only a child, for his height was about four feet five inches, and he was proportionately slender. One contemporary noted that “probably he was so short as to weigh about 80 or 90 pounds. His head was large for his body, after the manner of dwarfs, and his face... was fine-featured, good-humored, and dark-eyed.” His slight stature somewhat belied his strong will and quick mind.

Moore was appointed by President Adams. It was Steele who recommended Moore’s appointment to the Supreme Court in President Adams.

Below is “Moorefields,” a home Moore purchased in Hillsborough, North Carolina. It was an eight-room Georgian house which served as a second home for the Moore family. The family usually arrived there in May and stayed until the first frost, seeking to avoid the outbreaks of malaria that were common during the hot months in the plantation areas.

Taking Artistic License with the Hughes Court

National Theater Dance Group Portrayed the 1936 Court as “Nine Earnest Men”

Dance and the Supreme Court may seem an unlikely combination, but on at least one occasion, the Court was the subject of a dance concert. Society member, Arthur Hodgson, was a dancer in a modern ballet which depicted the nine Justices of the Supreme Court sitting in the spring of 1936.

Mr. Hodgson was dancing with the Marion Chace-MichaelLogan Dance Group. Mr. Logan choreographed the “modern ballet” whose premiere performance was part of a program held to benefit several “farmers and their families at Harpers Ferry.” Conservation Act, as well as other New Deal legislation and the Recovery Act, Railroad Retirement Act, Bituminous Coal Conservation Act, as well as other New Deal legislation and administrative actions... Talk was in the air about constitutional amendments, including expanding the Commerce Clause of the Constitution; prohibiting less than two-thirds of the Court from...
invalidating federal or state legislation 'permitting a majority of the houses of Congress to reenact a law invalidated by the Court without further Court action by passing laws which are making laws passed by two-thirds of each House unreviewable.

A newspaper article that appeared in the Washington Sunday Star on April 19, 1936 explained that 'while the chamber has been packed during the past few days and the eyes of the world have been centered on the court as never before in its history' nine justices 'have been concentrating not upon the momentous decisions being read, but upon the justices themselves. Their characteristic postures, movements of their hands, their every attitude while hearing the NRA, the AAA and the TVA and other important cases during the last few months have come under the close scrutiny of the nine youthful minds. And the result is a rare personal study of these men whose judicial supremacy cannot be challenged anywhere in the world.'

The aim of the ballet in part, was to portray the justices as others saw them, but editorial comment and interpretation were clearly essential. An important part of this was the ballet suitable for the justices, so there will be no mistake about each character portrayed, they will make their entrance in long purple robes and white periwigs and present the results of their study in dance and pantomime. Perhaps ironically, the masks were made by two Public Works Administration artists, the PWA being one of Roosevelt's creations which the Court let stand.

"Wearing masks of the justices, so there will be no mistake about each character portrayed, they will make their entrance in long purple robes and white periwigs and present the results of their study in dance and pantomime. Perhaps ironically, the masks were made by two Public Works Administration artists, the PWA being one of Roosevelt's creations which the Court let stand.

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the dancers were impressed by the "bored air" of the Court members while they were on the bench. This aspect was portrayed in the ballet by a "wawning scene when the Chief Justice reads the decision." Jack Wilson, who portrayed Van Devanter, observed that the attention to this boredom and perceived Van Devanter as "the most positive and most attactive of the justices. He has been on the bench for 25 years, having a longer record of judicial experience than any other justice."

Justice George Sutherland was portrayed as having "more poise during a court session than any of his associates." His trademark habit was to "stroke his vandyke beard and run his fingers through his white hair." The dancer representing Sutherland observed that she expected Justice Sutherland "to break into fluent French at almost any time, so much is he my idea of what a French school teacher looks like."

Owen Roberts appeared to the dancers "more interested in his audience than his associates and [they] accused him of even playing to his audience. His voice is the most commanding trait. It is cold and clear. It is said he frequently comes to work from his home in Georgetown on a street car."

Burke was depicted as "holding up" his law book and time and again to stare at the ceiling during argument, and so this trait was portrayed in the ballet. "Of all the Justices, Butler enjoys Washington social life the most, and he likes to talk and tell stories."

The dancer portraying McReynolds liked the "sarcastic quality of the tall, giant McReynolds. . . During the ballet she will lean first to one side, and then the other. That will be making caustic remarks on the side," she explained.

Michael Logun, the choreographer, portrayed Chief Justice Charles Evans Hughes. Logun described the big moment in the ballet as the time "when the minority gather on one side of the stage and the majority on the other with the Chief Justice, trying to make up his mind, standing between the groups. He finally sides with the majority." Logun observed that "despite his austere exterior, I believe the Chief Justice is the most human member of the Supreme Court—and his kindlest. The Chief Justice loves the great dignity of the court and all the formalities that go with it. He is a walker, but likes nothing better than an automobile ride. He carries a cane and wears a derby."
Justice White Hosts Annual State Membership Chairs' Dinner
Nine State Chairs Receive Awards for Outstanding Efforts

Justice and Mrs. Byron R. White hosted the 1992 dinner honoring the State Chairs of the Society's membership program held on Friday, November 20, 1992. The evening commenced with a reception in the West Conference Room during which guests had the opportunity to converse with the Whites and meet other state chairs and their guests. Dinner followed in the East Conference Room. Earlier in the day, many of the guests had taken tours of the Supreme Court building conducted by the staff of the Curator of the Court, allowing them an opportunity to see many of the fruits of the Society's labors in the form of portraits and furnishings.

Following dinner, Mr. Silverman made brief remarks thanking those in attendance for their commitment to the membership program of the Society, and stressing the importance of the membership to the success of the Society. He acknowledged the absence of Mr. Charles Renfrew, National Membership Chair, who was unable to attend that evening and offered Mr. Renfrew's apologies and greetings. Mr. Silverman further noted that Mr. Earl Sutherland, state chair for Alaska, had journeyed to Washington especially to be present for this dinner. He expressed his personal appreciation for Mr. Sutherland's efforts. Mr. Sutherland then received a round of applause from the other guests.

Following his prefatory remarks, Mr. Silverman introduced Justice White, and thanked him for his courtesy in hosting the Society. He expressed his appreciation of the Society and its contributions and accomplishments, and stressed the importance of the Society on its contributions and accomplishments, and expressed his wishes for the Society's continued success. Mr. Silverman thanked Justice White for being present and for his comments and gave his assurance that the Society is committed to continue in this tradition.

Awards were then presented to those individuals present who had accomplished their membership goals for the 1991-92 campaign, noting that the awards are tangible reminders of the Society's gratitude. The marble awards are made from polished marble that was previously part of the Supreme Court building, and affixed with the seal of the Supreme Court. Those recognized for this accomplishment were: Victor F. Battaglia of Biggs & Battaglia, State Chair for Delaware; Paul Hawkins of Freeman & Hawkins, State Chair for Georgia; George Saunders, accepting for Joan Hall, State Co-Chair for Illinois; Leon E. Elbacher of Hunt, Stoodoff, Borror & Elbacher, State Chair for Indiana; Harvey C. Koch of Koch & Rouse, State Chair for Louisiana; James L. Volling of Faegre & Benson, State Chair for Minnesota; Rafael Escalera Rodriguez of Luna, Escalera & Reichard, State Chair for Puerto Rico; John T. Jesse of Woods, Rogers & Hazelgrove, the Fourth Circuit Representative; and Society Trustee Vera Brown of Houston, Texas., who serves as an At-Large member of the National Membership Committee.

At the conclusion of dinner, Mr. Silverman thanked all involved for their dedication and commitment to the Society in this important endeavor. In an unexpected departure from the plans for the evening, Justice White invited those present to tour his chambers so that they might see firsthand what working chambers are like. The Whites then graciously guided dinner guests through the chambers, answering questions from guests and sharing anecdotes about life at the Court. It was a memorable climax to the dinner and all those present left with a renewed sense of dedication and commitment to the Society and the Supreme Court of the United States.
Truman Biographer David McCullough to Deliver National Heritage Lecture on February 10th

The second National Heritage Lecture, co-sponsored by the Supreme Court Historical Society, the United States Capitol Historical Society and the White House Historical Association, has been scheduled for Wednesday, February 10, 1993, at 7:30 PM, with a reception to follow at 8:30 PM. Under the auspices of the White House Historical Association, the lecture will be presented by David McCullough, noted author.

During his career, McCullough has worked as an editor for Time, Inc. and the American Heritage Publishing Company. He has written several books, including The Path Between the Seas, The Johnstown Flood and Mornings on Horseback. He recently published a critically acclaimed biography of Harry Truman and many think McCullough may be a contender for a Pulitzer Prize for this outstanding biography. The title of the lecture is “To the Best of My Ability—Character and the Presidency.”

The lecture has been scheduled for the Grosvenor Auditorium of the National Geographic Society located at the intersection of 17th and M Streets, N.W. Entrance to the parking garage is on M Street. The auditorium is centrally located and has a large seating capacity, as well as underground parking available. We are grateful to the National Geographic Society for making this lovely facility available for this event.

The cost for reservations to the lecture will be $15 per person and will include a reception following the lecture. No separate parking fee will be assessed to guests attending the program. The auditorium will accommodate 400 individuals.

Invitations will be mailed to all Society members in January, 1993. As interest in the lecture will be great, we encourage you to return your reservation card as soon as possible to insure your reservation. As the sponsoring organization, the White House Historical Association will make reservations, but Society members should feel free to call our offices if they have any questions.