

1973

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Repository Citation

Swindler, William F., "See the Marshall Exhibit at the Supreme Court Building" (1973). *Popular Media*. 268.
https://scholarship.law.wm.edu/popular_media/268

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See the Marshall Exhibit at the Supreme Court Building

by William F. Swindler

When you're in Washington in August for the American Bar Association annual meeting you'll want to see the imposing Supreme Court Building. And no visit there will be complete without a look at the new historical exhibit being developed. The major item now is a watch owned by Chief Justice John Marshall, which is alive, wound, and running.

AMONG THE MILLIONS of visitors who come to Washington each year, approximately five hundred thousand visit the Supreme Court of the United States. In the thirty-eight years since the Court has been housed in its stately building, almost 20 million people have had some exposure to the fountainhead of the least-known branch of government—the judiciary. What do they gain from that visit? What impression do they derive of the Court and its role in American history and in their lives?

Undoubtedly they are impressed by the majesty and dignity of the elegant marble structure, as it is among the finest examples of late neoclassic architecture in North America. Some of the visitors are able to see the Court in session. But most see only the halls and the empty courtroom. What do they learn of the life and work of the Court? The stately halls, the rich furnishings of the courtroom, and the portraits of the former justices and chief justices tell little.

The Court and its friends are now making a concerted effort to develop a continuing exhibit. Chief Justice Warren E. Burger has described this as an effort "to communicate to all Americans a sense of the story of the Supreme Court as a living institution, and in that process to add warmth and humanity to the building itself." The project has been spearheaded by a nine-member Advisory Committee on the History of the Judiciary. The committee was created by Chief Justice Burger in 1971, and it has initiated a search for documents, artifacts, and other physical evidence of the history of the Court. Establishment of a Supreme Court Historical Society is being considered, and it is hoped that some curatorial help can be furnished to

the marshal, who is official custodian of the building and its contents.

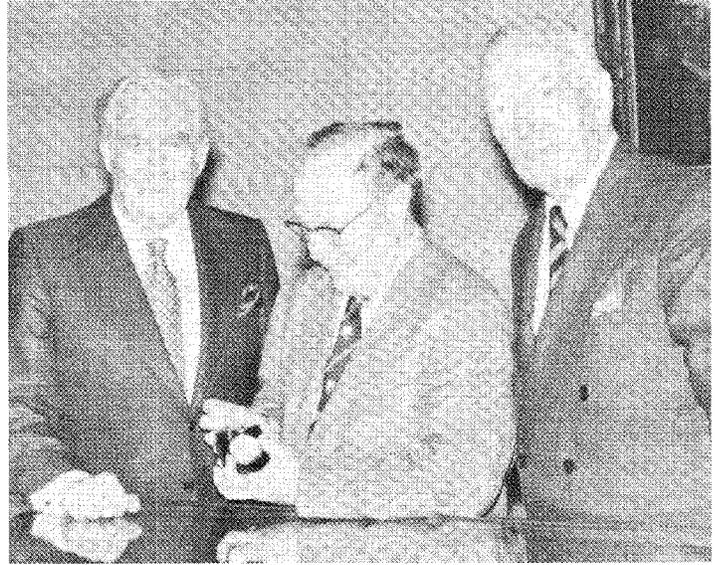
Already a sampling of memorabilia, assembled largely on the initiative of the chief justice, has been placed on exhibit on the ground floor of the building. There has been immediate evidence of a substantial increase in interest not only among the hundreds of thousands of tourists who visit the premises annually but also among lawyers whose professional assignments bring them to the Court. As a special attraction to the thousands of lawyers and judges who will visit the Court during the American Bar Association annual meeting in Washington in August, plans are under way to augment this display with an exhibit relating to the Court in the days of Chief Justice John Marshall.

Advisory Committee Issues Invitation

For almost two years the *ad hoc* historical advisory body has been making preliminary inventories of pertinent historical items already in possession of the Court or other public agencies and planning for the ultimate exhibit. It has been outlining a systematic procedure for screening, receiving, repairing or preserving, and cataloguing specific items that have been given or are expected to be given to the project. The Court and its advisory committee now issue an invitation to the American legal profession, through this *Journal*, to communicate to it any knowledge of pertinent items of historical importance which may be available for this undertaking.

Members of the advisory committee, in addition to the chief justice *ex officio*, are Erwin C. Surrency, Temple University Law School and editor of the *American Journal of Legal History*; James B. Rhoads, archivist of the United States; Richard H. Howland, special assistant to the secretary of the Smithsonian Institution; Clement E. Conger, chairman of the Special Fine Arts Committee of the Department of State and curator of the White House; Charles E. Van Ravenswaay, director of the Winterthur Museum, Wilmington, Delaware; T. Perry Lippitt, former marshal of the Supreme Court; Merlo J. Pusey, Pulitzer prize-winning biographer of Chief Justice Charles Evans Hughes and formerly editorial page editor of the *Washington Post*; and the author, who serves as chairman. The late Arthur E. Sutherland of the Harvard Law School was also a member of the original committee until his death earlier this year.

THOSE WHO attend the American Bar Association's annual meeting in Washington this August will see a preview of the Supreme Court's new historical exhibit located in the Supreme Court Building. A major item in the exhibit is a watch once owned by Chief Justice John Marshall and worn two years ago by Lewis F. Powell, Jr., when he was sworn in as an associate justice of the Court. Chief Justice Burger (left) is shown with Prof. William F. Swindler (center) of the Marshall-Wythe School of Law of the College of William and Mary, who is chairman of the new Advisory Committee on the History of the Judiciary; and Richard H. Howland (right), special assistant to the secretary of the Smithsonian Institution. Below is a photograph of the Marshall watch.

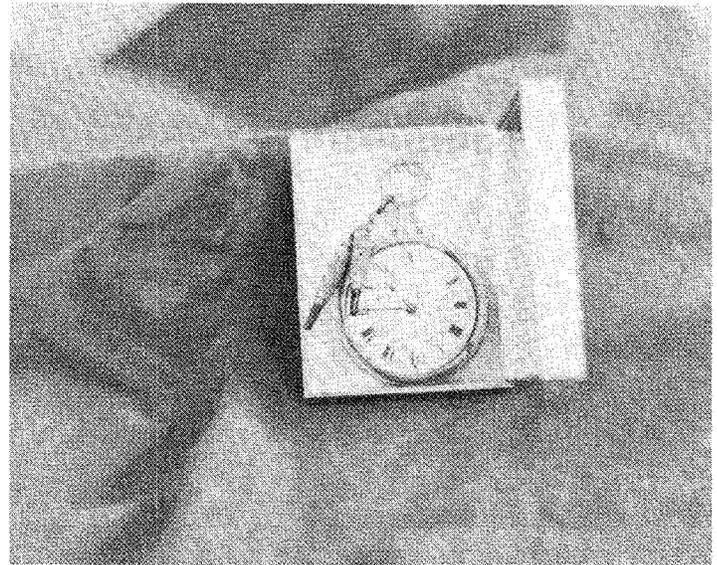


A recent acquisition for the projected historical exhibit and an example of the type of "association item" the committee hopes to locate for various members of the Court over the past 184 years is a watch once owned by Chief Justice Marshall. The watch attracted news interest two years ago when Lewis F. Powell, Jr., of Richmond, Virginia, wore it at the time of his swearing-in as an associate justice of the Court. The watch was owned by Jay W. Johns, president of the Virginia Trust for Historic Preservation, who subsequently presented it to the College of William and Mary, where Marshall took his only formal legal study. The college and the donor have agreed to place it on indefinite loan with the Court for the historical exhibit. A descendant of Chief Justice Marshall has advised that she will send Marshall's watch fob to the collection.

An offer of a fine eighteenth century set of dinnerware also has been received, and recently descendants of Chief Justice Morrison Waite sent to the Court a black onyx desk set used by him when he was in office, 1874 to 1888.

The Marshall watch is not only on display but wound and running. Wound with its own key, it gains about thirty seconds every twenty-four hours. Other items already on hand for the August Marshall exhibit include Marshall's bench chair upholstered in the original horse-hair fabric, several letters, an 1835 certificate for twenty shares of Richmond, Fredericksburg and Potomac Railroad Company stock, and Marshall's seven-volume set of *Bacon's Abridgement*, published in 1792.

A particularly important objective of the present historical search is to locate portraits of former justices. Of the one hundred men who have been appointed to the Court, only sixty-five are represented among the portraits now in the building. Excluding the sitting members, the committee seeks to secure portraits of Philip P. Barbour (1783-1841); John Catron (1786-



1865); Samuel Chase (1796-1811); Tom C. Clark (1899-); Benjamin R. Curtis (1809-1874); William Curtis (1809-1874); Gabriel Duval (1752-1844); Abe Fortas (1910-); Arthur J. Goldberg (1908-); Horace Gray (1818-1902); Robert C. Grier (1794-1870); James Iredell (1751-1799); Henry B. Livingston (1757-1823); Horace H. Lurton (1844-1914); Stanley Matthews (1824-1889); John McKinley (1780-1852); William H. Moody (1852-1917); Alfred Moore (1755-1810); Rufus W. Peckham (1838-1909); Noah H. Swayne (1804-1884); Thomas Todd (1765-1826); Robert Trimble (1777-1828); Bushrod Washington (1762-1829); and Charles E. Whittaker (1901-). In addition, the Court would welcome a better portrait of James Wilson, who served from 1789-1798. In accord with long-standing tradition, steps are under way to have Congress provide a portrait of Chief Justice Warren.

Among displays already in place are Abraham Lincoln's summary notes of his argument before the Court in *Lewis v. Lewis*, 17 How. 777, in which the Court, on March 13, 1849, held against Lincoln's client; Justice Oliver Wendell Holmes's "Doomsday Book" with his personal reading list, notes, and quotations; and a small desk used by the clerk of the Court from 1800 to 1826.

One reason for the scarcity of memorabilia in the possession of the Court itself is the destruction wrought by several fires. In the burning of Washington in 1814 during the War of 1812, the courtroom was gutted. The invaders used documents, books, and draperies to ignite the conflagration in the north wing of the Capitol. In 1851 a fire in the Library of Congress also caused damage to offices of the Supreme Court, and in June of 1852 the commissioner of public buildings stated in a report: "Bills for repairing the offices of the Clerk of the Supreme Court have not yet been presented. They will not exceed \$1,000, I presume, including repair of the paper cases and etc. . . ."

Gas Explosion Destroyed Valuable Records

A gas explosion below the Court chamber in 1898 did cataclysmic damage to the courtroom and the records stored in the basement. The annual report of the architect of the Capitol itemized the severity of the injury to the Court's files and records:

Westward from the center of the explosion the fire found ample opportunities in the great mass of papers stored there to eat its way into the rooms beneath the file room of the clerk's office of the Supreme Court, and finding an outlet through an aperture in the destroyed floor of this file room it attacked the cases containing the most valuable of the documents and records belonging to the court. The containing cases were constructed of wood. . . . Some records were preserved sufficiently to remain records of the court. Of the documents of the court stowed below, about all were destroyed. Tons of destroyed records were afterwards removed from the subbasement. These last-named records were principally duplicates and were not of inestimable value.

Vouchers and other documents that escaped earlier accidents were destroyed by Adjutant General's Office Disposal Job 2NNA 1186, as authorized by Congress in 1954. Some twenty-nine hundred and forty cubic feet of papers were thus destroyed. While from a utilitarian point of view these had no value, their loss did deprive historians of helpful data in reconstructing much of the physical history of the Court through receipts and lists of expenditures, sources, and nature of items acquired by the Court.

The committee expects that the revival of interest in the Court's history will uncover many human interest stories about portraits and other items associated with various justices. Typical of these stories is the record of the portrait of John Marshall painted by Rembrandt Peale, prominent American artist of the late eighteenth and early nineteenth centuries. The portrait, dating from about 1828, was the next to the last one for which the

chief justice sat, according to a letter written by Peale to the governor of Virginia in 1858. At this date Peale was trying to "settle [his] worldly concerns" and offered to sell the portrait, along with a companion copy of a portrait of George Washington, to Virginia for \$500. Several years earlier the state legislature had adopted a resolution to purchase the copied Washington portrait for \$1,000. When nothing came of this, Peale apparently cut the price and threw in the Marshall portrait to revive the state's interest. But nothing came of this, either.

Several years later friends of Chief Justice Salmon P. Chase bought the Marshall portrait as a gift for Chase, who retained possession of it until his death in 1873. Under the terms of his will, the Supreme Court received the painting. While the Court met in the Capitol, it hung on a wall of the old Senate chamber. The Peale portrait now hangs in the east conference room of the Court.

In its request for assistance from the legal profession and others in locating and acquiring materials for the historical exhibits, the advisory committee calls attention to certain guidelines. Ideally, an item would be something identified with a member of the Court during his tenure as justice; it should be authenticated to the extent that it is feasible to do so; and it should help the viewer to appreciate better the individual justice as a living person.

All of the relatively few items in the preliminary exhibits have come to the Court as gifts. Since no funds are available at present, it is hoped that additional items for the display will be donated. In all cases full acknowledgment of the donor will be assured. By drawing on the cataloguing and preserving techniques of various government agencies, such as the Smithsonian Institution, the National Archives, and the National Portrait Gallery, the highest standards of display and interpretation will be maintained.
