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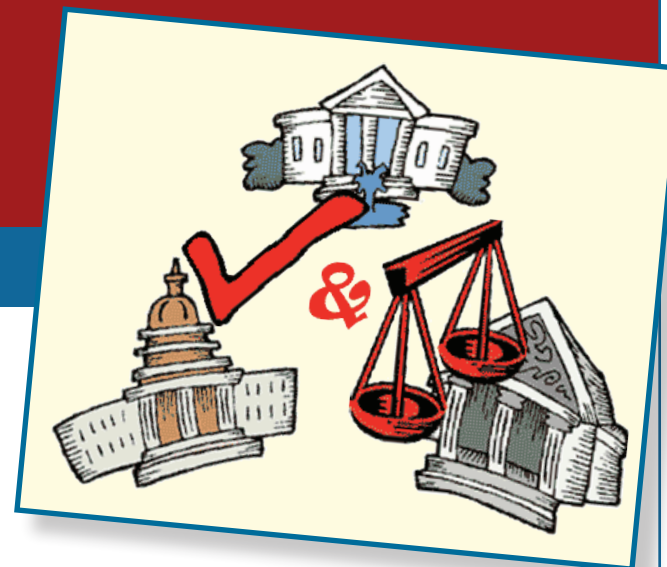
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Court of Appeals for the District of Columbia Circuit, and our individual members for their  
continuing support of the Society.

The Historical Society of the D.C. Circuit is a 501(c)(3)  
non-profit organization independent of the Courts.

The Historical Society of the District of  
Columbia Circuit presents:

# Separation of Powers and the Independent Counsel: *Morrison v. Olson* Revisited



October 28, 2015  
4:30 p.m.

*Ceremonial Courtroom, 6th Floor  
E. Barrett Prettyman U.S. Courthouse  
3rd & Constitution Avenue, N.W.  
Washington, D.C.*

## Historical Society Mission

To record, preserve and publicize the life and history of the Courts of the District of Columbia Circuit

## What Lies Ahead

Presenting reenactments and panel discussions of cases and legal issues of historic interest litigated in the Courts of the D.C. Circuit

Encouraging and publishing research and writings about the colorful history of the Courts and judges of the D.C. Circuit Courts

Initiating and publishing oral histories of judges, lawyers, and others who have played key roles in the D.C. Circuit Courts and highlighting fascinating excerpts from completed histories

Conducting the annual Mock Court program where D.C. high school students argue cases before judges of the Courts of the Circuit

Assisting judges of the D.C. Circuit Courts in preserving their non-official papers

Involving law clerks – both current and past – in Society activities

## Recent Activities

Building an online library of articles about the D.C. Circuit Courts and judges, including “Dark Days of the Black Codes,” and “The D.C. Judge Who Bedeviled President Lincoln”

Programs on historic cases and issues and the role of judges: “A Conversation on Judging – Then and Now” between Senior Judge Paul L. Friedman and Judge Ketanji Brown Jackson, “Women in the Life and Law of the District of Columbia Courts,” and “Sixty Years After *Bolling v. Sharp*: Public Education and the D.C. Federal Courts”

Presenting online exhibitions of the portraits of judges who served on the Courts of the D.C. Circuit and the official photographs of the Courts of Appeals and District Courts over the decades

Streaming videos of Society programs on the Society’s website

Maintaining the Society’s website, [www.dcchs.org](http://www.dcchs.org); Facebook page, [www.facebook.com/CircuitHistory](https://www.facebook.com/CircuitHistory); and Twitter account, [twitter.com/CircuitHistory](https://twitter.com/CircuitHistory)

Circulation of *Calmly to Poise the Scales of Justice: A History of the Courts of the District of Columbia Circuit*

# Separation of Powers and the Independent Counsel: *Morrison v. Olson* Revisited

Acting under the Ethics in Government Act, the Special Division of the D.C. Circuit Court appointed Alexia Morrison as an Independent Counsel to investigate the role that Theodore B. Olson, then Assistant Attorney General, Office of Legal Counsel, allegedly played in obstructing a congressional investigation. Subpoenaed to appear before a grand jury, Olson moved to quash, arguing that the provisions of the Independent Counsel statute constituted an undue encroachment on the President’s executive authority and responsibilities, violating the constitutional doctrine of separation of powers. The Court of Appeals agreed with Olson that the statute violated the separation of powers doctrine (opinion by Judge Silberman, joined by Judge Williams; dissenting opinion by then-Judge Ruth Bader Ginsburg). On further review, the Supreme Court rejected the separation of powers challenge and upheld the statute.

Our program will begin with a presentation of the historical context of the case, followed by a reenactment of the separation of powers arguments presented to the Court of Appeals. (You may find the enclosed constitutional and statutory provisions useful in following the argument.) Finally, our participants will gather as a panel to discuss the separation of powers doctrine, the influence of the *Morrison v. Olson* decisions, and the case’s legacy today.

## Setting the Stage:

**Amanda Frost**, Professor of Law, American University, Washington College of Law

## Reenactment:

**Laurence H. Silberman**, Senior Judge, U.S. Court of Appeals for the D.C. Circuit, presiding

**Theodore B. Olson**, Gibson Dunn & Crutcher LLP, for the Appellant (himself)

**Catherine E. Stetson**, HoganLovells LLP, for the Appellee (Independent Counsel)

## Moderator of Panel Discussion:

**Patricia M. Wald**, former Judge, U.S. Court of Appeals for the D.C. Circuit (1979-99)

## HISTORY IS IMPORTANT

Programs like this depend on the generosity of Society members, law firms, and others. Non-members are invited to become dues-paying members by submitting the enclosed membership application or calling 202-216-7346.