Former D.C. Circuit Court of Appeals
Chief Judge Patricia M. Wald’s Oral History

Patricia M. Wald served 20 years on the D.C. Circuit Court (1979-1999), five of them as Chief Judge (1989-1994). She was the first woman to hold those positions. She wrote more than 800 judicial opinions. Following her retirement, she was for two years (1999-2001) a U.S. Judge on the International Criminal Tribunal for the Former Yugoslavia at The Hague.

Judge Wald’s 381-page oral history offers a firsthand view of lawyering and judging during the second half of the twentieth century, especially of note because of the unusual nature of her being a woman and having a background in public interest law. She describes her early years after Yale Law School, including her clerkship with Second Circuit Judge Jerome Frank, stint at Arnold, Fortas & Porter, and period away from practice raising five children. Returning, Judge Wald tells of seven years focused on juvenile justice reform, followed by two years as Assistant Attorney General for Legislative Affairs in the Administration of President Carter.

You can read about the tempestuous proceedings following her nomination to the Court of Appeals. Illustrative, religious leader Bob Jones called her an “instrument of the devil,” which she says turned into a family joke. When reporters asked her young son how that made him feel, he said, “Well, she burns the TV dinners, but otherwise she’s okay.”

WALD - continued on page 3

In This Issue

Page 1 -
Untold Watergate Stories
Chief Judge Patricia Wald’s Oral History
Trial Lawyers Reminisce

Page 2 -
17th Annual Mock Court Held March 4
The Library of Congress & The D.C. Circuit
How to Support Our Society

Page 3 -
Remembering Harriet Shapiro
Did You Know

Page 4 -
Notes From The Executive Director

Find us on social!

Untold Watergate Stories From The Society’s Files

Saturday, October 20, 1973:
The Attorney General resigned.
The Deputy Attorney General resigned.
The Special Prosecutor’s office was ordered closed by the President.
How do you fully convey the essence of what happened in a few sentences?

As described in his Historical Society oral history, former NBC News law correspondent Carl Stern had a unique perspective on the “Saturday Night Massacre.”

It was Stern’s turn to do a “stake out” at the White House. On television, NBC was showing “Saturday Night at the Movies”. The network’s White House correspondent, Tom Brokaw, had gone to New York to anchor the Saturday news.

WATERGATE - continued on page 4

Trial Lawyers Reminisce

by Carrie Johnson, DCCHS Board member and National Justice Correspondent for NPR

The pandemic has disrupted jury trials. But the oral history archives are filled with the warm reminiscences of advocates who recall their courtroom exploits in cases across the decades.

For Barbara Babcock, the first person to head the Public Defender Service, a large part of the challenge involved getting to the courthouse. Despite dozens of trials throughout her career, Babcock said the prelude felt awful, as she battled the feeling of being sick to her stomach.

TRIAL LAWYERS - continued on page 3
Seventeenth Annual Mock Court Program Held

On March 4, 2022, 166 local high school students from five different DC high schools participated in the Society’s Seventeenth Annual Mock Court Program. This popular program provides juniors and seniors in high school with the opportunity to learn about constitutional law issues in the school context, and then to prepare and present 5-minute arguments to judges of the federal courts based upon two different fact patterns involving school disciplinary decisions that presented First and Fourth Amendment issues. Along the way, the students were mentored by 38 volunteer attorney mentors, who met with the students 4-5 times in advance of argument day. They helped the students understand the issues, explained how to craft an oral argument, and then worked with them to practice their presentations for the big day. Schools participating this year included School Without Walls, KippDC: College Prep, Washington Latin, Maret and Georgetown Day School.

On March 4, 12 judges (ten from the Court of Appeals and District Court, one from the Federal Circuit, and one for the D.C. Superior Court) heard the arguments from the students in a virtual format. Chief Judge Srinivasan provided opening remarks to the students, noting that although their arguments were being presented virtually, the experience mirrors that of practicing lawyers appearing before the court over the past two years. The students then linked to individual virtual courtrooms to present their arguments. Seventeen students received “outstanding advocate awards” from the judges. Chief Judge Howell concluded the program, noting the overarching lessons that the students learned from the exercise, including the impact of the law on all aspects of their lives, the importance of civility in resolving disputes, and the transparent manner in which judges explain their reasons for deciding those disputes. Everyone is hopeful that in 2023, the program will be able to return to in-person arguments in the courthouse.

Do you have an idea for an article you’d like to share? Let us know: info@dcchs.org

Please Support The Society

Programs of the Society depend on the financial support of the Courts of the District of Columbia Circuit, individuals, and law firms.

Contributions can be made online at: www.dcchs.org/donate

or mailed to:
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The Historical Society of the District of Columbia Circuit is registered as a 501(c)(3) nonprofit organization independent of the Courts. Contributions to the Society are tax deductible.

The Library of Congress & the D.C. Circuit

by Daun van Ee, former Library of Congress Manuscript Librarian and Historical Society Board member

The Library of Congress, which celebrates the 222nd anniversary of its founding on April 24th, 2022, is one of the world’s greatest cultural institutions. Destroyed (along with the U.S. Capitol, in which it was housed) by British troops in 1814, it quickly reconstituted itself through the purchase of Thomas Jefferson’s magnificent personal collection of 6,487 books. Over the years since, it has grown as the nation has grown. It now contains more than 30 million volumes, centered in a stunning Beaux-Arts temple of learning across one street from the rebuilt Capitol, and across another from the Supreme Court building. Although its mission prioritizes, to a certain extent, the needs of Congress, it also serves the people of the United States as the nation’s library.

Within the Library of Congress, the Manuscript Division is a leading national center for the study of American history. It contains over 60 million manuscripts, including the collected papers of 23 presidents (from George Washington to Calvin Coolidge), and 10 chief justices of the Supreme Court. Lower federal court judges who were not subsequently elevated to the Supreme Court are also represented; the Division holds the papers of 25 district court and court of appeals judges who served in various districts during the 20th and 21st centuries.

The bulk of these collections consists of chambers papers, which are considered to be the personal property of the individual judges who generated them. They are particularly valuable sources for historians interested in the operations of the federal government, and for biographers focused on the lives of jurists. The Federal Judicial Center defines these records as “case-related documents, correspondence, and documentation of court administration distinct from the official record of the court” (A Guide to the Preservation of Federal Judges’ Papers, 2nd ed. [2009], p. 3). Unlike most government papers, these items are not acquired by the National Archives (with the exception of the presidential libraries run by the National Archives and Records Administration). Federal judges, or their heirs, are free to donate or otherwise dispose of their chambers papers in any way they wish.

LIBRARY - continued on page 4
“I would just think, ‘How am I going to live through this?’” Babcock said. “And then I go in, and once I started then I was fine; and it was like being in another world, trying a case.”

One particular case lingered in her memory: a representation of a woman accused of heroin possession. A conviction would mean a third strike and a 20-year prison sentence. Babcock breezed through jury selection but soon came to focus some disdain on juror number six, a woman with a “bowl-cut” hairdo who rolled her eyes and shook her head as Babcock presented evidence about the defendant’s traumatic life history.

The jury deliberated for three days. And after it rendered a verdict of not guilty, juror number six approached the defense table. “Well, it took me three days. We went out 11-1 for conviction, but I brought them around,” the juror told an astounded Babcock.

She had misinterpreted the reaction from the box—and unwittingly trained her ire on the juror who had rallied the others to an acquittal.

Most cases that move through the courts don’t involve parties with household names. But proximity to the seat of the federal government sometimes makes for trials that wrap up political figures as defendants, witnesses, and even victims of crime.

The prosecution of John Hinckley for shooting President Ronald Reagan unfolded from the start in unusual fashion, said Roger Adelman, an assistant U.S. attorney on the case.

“In the ordinary criminal trial, the issues are who committed the crime and what crime or crimes were committed,” Adelman said. “In most insanity cases, those questions are usually already decided. Rather than those questions, the insanity defense involves the more difficult question of why the defendant committed the crime. So the trial has a much broader scope.”

That 1982 trial featured the testimony of psychiatrists, to be sure. But it also included the playing for the jury of the movie Taxi Driver, which attorneys for Hinckley argued had influenced him. After several days of deliberation, the jury found Hinckley not guilty by reason of insanity—a development that prompted new limits on insanity defenses across the nation.

Adelman said he soldiered on after that verdict. “You put your head down and just keep going forward,” he said. “Just go back and start trying cases, which I did.”

The oral histories of Barbara Babcock and Robert Adelman are available on the web site of the Historical Society of the D.C. Circuit.

Remembering Harriet Shapiro

Harriet S. Shapiro, the first female lawyer in the United States Solicitor General’s Office, passed away on February 1, 2022. She was 93.

Shapiro began her career in the Solicitor General’s Office in 1972. She later recounted that “I was in the right place at the right time.” She was initially worried about taking on a full-time job with boys aged 12 and 14 at home, but her husband Howard “Howie” Shapiro encouraged her to apply. She recalls him saying “Apply... We can do it...So I applied.” Shapiro spent 29 years in the SG’s Office before retiring in 2001.

Shapiro argued 17 cases before the Supreme Court, putting her in the Top 5 of all Supreme Court women advocates, according to The Supreme Court Historical Society’s May 21, 2021 article “Women Advocates Before the Supreme Court.” The New York Times obituary on Shapiro’s life quoted her oral history, taken by Judith S. Feigin, stating that Shapiro did not enjoy oral arguments. She found them “overly stressful” and she never thought she was “good at it.” Shapiro did however enjoy writing briefs, believing firmly that the brief is the most important part of the government’s case, and if you have a good brief, you’re pretty much home free...It’s mostly the brief that wins or loses the case.

Shapiro came from a long line of strong women, including her grandmother who “valued education and opportunities for all of her children, regardless of gender”. That philosophy led to Shapiro’s mother attending Mount Holyoke College and later becoming a self-taught carpenter.

Perhaps it can be said of Shapiro that “breaking with traditional gender norms” was part of the “family business.” To read more about Harriet Shapiro’s life and the extraordinary lives of others like her please visit our website.

DID YOU KNOW

In 1814, U.S. Marshal Tench Ringgold helped the Madisons escape the capital during the War of 1812. He served for decades, and his grandson became a Chief Justice of the U.S. Supreme Court. More on this, and other fascinating historical facts, can be found on the Historical Society’s website Timeline. Check it out!

WALD - from page 1

Judge Wald speaks in depth about her years as a judge and chief judge, giving the reader a look into both public and in-chambers experiences. She describes the processes she followed in decision-making and writing of opinions. She discusses in depth nine of the then 700 opinions she had written for the Court or in dissent. She describes the basis on which she arrived at the final nine: “The ones I picked were illustrative of two things: both the complexity of some cases, and the technical depth to which judicial review sometimes has to reach in order to deal with the issue.” She added, “A few are in there because they went on to the Supreme Court and involved issues of larger social-political scope.”

Judge Wald had a lifetime marriage with Robert L. (Bob) Wald and, as noted, they had five children, Sarah, Douglas, Frederica, Johanna, and Thomas.

Historical Society Board Member Stephen J. Pollak served as interviewer for Judge Wald’s oral history.
Notes From The Executive Director

Let me first say how excited I am to be a part of this wonderful organization.

I want to thank everyone including the Board Members, Volunteers, Court Staff, and the Public who have been very gracious in welcoming me to the Historical Society.

The Historical Society has been busy! As the Washington D.C. Area starts to open more, we are in the process of reviewing our programming and are hoping to be able to present some in person events in the Fall.

We are also preparing for our first in person Annual Board Meeting in two years.

The most excitement has been the nomination for the Supreme Court of former Board member Judge Ketanji Brown Jackson and the many requests around our joint program with the Federal Judicial Center, “A Conversation on Judging – Then and Now” found on the DCCHS website.

Thank you again for your very warm welcome.

Leith Alvaro
Executive Director

WATERGATE - from page 1

It promised to be a quiet evening, although tense.

Just hours before, Watergate Special Prosecutor Archibald Cox announced he had rejected President Nixon’s proposal to provide only summaries of the Oval Office tape recordings that Cox had subpoenaed. A week earlier the Court of Appeals for the D.C. Circuit had upheld Cox’s authority to subpoena the President.

Dramatically, at 8:25, White House press secretary Ronald Ziegler startled reporters by distributing a written statement in the press room. It said that Cox had been “discharged” for refusing to obey an order to “cease all efforts” to use the courts to obtain the tapes and documents. Elliot Richardson and William Ruckelshaus, who had refused to issue the order, were also “discharged,” and the Special Prosecution Task Force abolished, its office sealed.

Films of that moment shows Stern and others bolting, statement in hand. Within minutes, the press corps flashed bulletins – in NBC’s case from New York. Stern’s challenge was to record a tightly-written “stand-upper” to be fed from the White House lawn to NBC-affiliated stations across the country, capturing the momentous news.

The details were easy, but how to begin? What had the President done? What did it mean? How do you lead a story like that?

Stern began, “President Nixon tonight jumped from the frying pan into the fire.”

That proved to be an accurate assessment. Within days, angered Americans sent 50,000 telegrams to Mr. Nixon. Had all the President’s men, cloistered in the White House, failed to foresee the public reaction?

In his oral history, Stern relates that as he headed for home at midnight, he passed a side door of the West Wing. In the eerie, half-darkness, out came Richard Moore and Harold “Bud” Leinbaugh, who had been detailed from the Justice Department to the White House to help with messaging.

According to Stern, Moore grabbed his arm and said, “Masterful, wasn’t it?” When Stern hesitated to respond, Moore continued, “The President has finally cut off the hemorrhage of Watergate.”

Stern recalls that he said, “You guys are crazy,” and went on his way.

Prepared with the assistance of former Board member Carl Stern

LIBRARY - from page 2

As might be expected, the Library of Congress Manuscript Division has received a number of donations of personal and chambers papers from judges of the District of Columbia Circuit. As of 2017, the Circuit’s judges have given or deposited 45 collections in 22 repositories across the country. The Library of Congress has 17 of these; no other institution has more than two. (Three judges left papers to more than one archive.) The most likely repositories for DCC papers, however, are academic institutions. Sixteen different colleges and universities—including, it is supposed, many alma maters—hold 21 sets of papers from the Circuit.

Many of the D.C. Circuit’s most notable jurists have donated their papers to the Library of Congress. Among them are two Court of Appeals judges subsequently appointed to the United States Supreme Court: Wiley Rutledge and Ruth Bader Ginsburg. Also included among the Library’s holdings are collections given by Charles Fahy, Harold Leventhal, Carl McGowan, E. Barrett Prettyman, Harold M. Stephens, David S. Tatel, and J. Skelly Wright. The U.S. District Court for the District of Columbia is represented by the papers of judges Gerhard Gesell, Harold H. Greene, John Garrett Penn, and John Sirica.

These collections vary in size and scope, with newer acquisitions tending to be larger. The largest, the Harry T. Edwards Papers, has 737 containers and occupies 295 linear feet of shelf space; it also comes with 13.7 gigabytes of digital files. The Robert Bork collection is a close second: 690 containers and 279 linear feet. The smallest sets were generated by Henry W. Edgerton and George Thomas Washington, two earlier judges. Each of these is housed in a mere eight containers (three linear feet). The Washington papers are also unique in that they contain materials related to his diplomatic duties during World War II and his tenure with the Justice Department, rather than judicial materials.

This article continues on our website under History of the Courts/Timeline. Click here to visit the article now.