

SOCIETY UPDATE



FROM THE MICHIGAN SUPREME COURT HISTORICAL SOCIETY — FALL 1999

Michigan Supreme Court breaks ground for Michigan Hall of Justice

On Tuesday, October 12, 1999, at 12:30 p.m., the Michigan Supreme Court will break ground for the Michigan Hall of Justice in Lansing. Governor John Engler, Supreme Court Chief Justice Elizabeth Weaver, Senate Majority Leader Dan DeGrow and House Speaker Charles Perricone are among the speakers scheduled to appear.

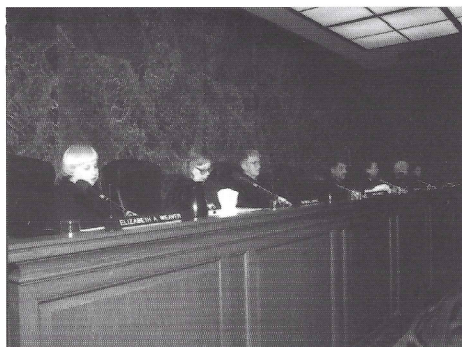
"It is important that our state's high courts have a proper setting for Michigan's one court of justice," said Wallace D. Riley, Michigan Supreme Court Historical Society President. "Uniting the courts under one roof is truly a historical event for the Michigan Judiciary."

Although designs have not been finalized, the Michigan Hall of Justice, which will be located at Ottawa and Butler Streets in downtown Lansing, will have six floors and contain approximately 270,000 square feet. The Michigan Supreme Court, Michigan Court of Appeals (Lansing office) and the State Court Administrative Office will be housed in the center, which is scheduled to be completed in 2003. The new building will streamline

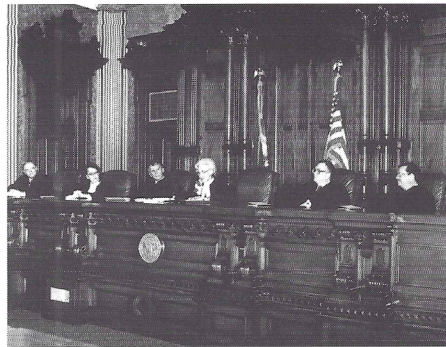
appellate and trial court management by housing key administrative functions in one location; they are now housed in offices scattered around Lansing. The building will also make the appellate courts more accessible to the public for the purpose of conducting court business and learning more about the judicial process in Michigan.

The Supreme Court has been located in the G. Mennen

Williams Law Building at 525 West Ottawa Street, Lansing, since 1970. From 1879 to 1970, it was located in the Capitol Building. Prior to that, the Court met in various locations throughout the state. Willis F. Dunbar's *Michigan Through the*



The Court in session in the G. Mennen Williams Law Building Courtroom, 1997.



The Court in a special session in the Capitol Building Courtroom, mid-1980s.

Centuries (New York, Lewis Historical Publishing Co., 1955), states that the "... early sessions of the ... court were held in Detroit homes. They also, apparently, were held on occasion in taverns and at other places ... " An 1838 act stipulated that the Court held "two annual terms in Detroit, two in Ann Arbor, one in Kalamazoo, and one in Pontiac" (Dunbar). An 1857 act called for the Court to meet two terms each in Lansing and Detroit. Since 1873, the Court has held all sessions in Lansing.

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President's Message

Over the years I've been privileged to witness — both directly and indirectly — many historical events affecting the face of Michigan law. The Constitutional Convention in 1961, and the new Constitution's subsequent approval by the voters in 1963, unified Michigan courts under one "Court of Justice" and decreased the number of Justices from eight to seven. The 1960s and 1970s also presented the Court with its first African American Justice (Otis Smith), its youngest-ever Chief Justice (Tom Brennan) and the first woman Justice and Chief Justice (Mary Coleman). Of course, my own peripheral involvement with the Court began when my wife, Dorothy Comstock Riley, joined the Court in the early 1980s and later became its second woman Chief Justice.

Now, in the remaining weeks of this century, I will be privileged to witness yet another historical event — the groundbreaking and beginning of construction of a Hall of Justice in Lansing.

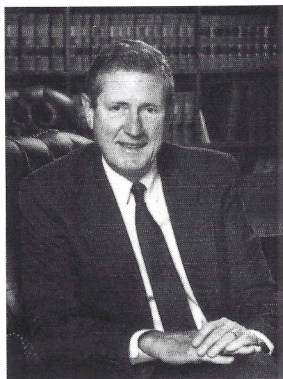
As many of you know, the campaign for a Hall of Justice began nearly three decades ago. Due to fluctuating economic and political climates, the project has been debated, delayed, decimated and resuscitated many times over the years.

Finally, the Michigan Supreme Court will have its own home, a move that is long overdue. For the Michigan Supreme Court Historical Society, that also means a new home. Although it is too early to anticipate whether the Society's administrative office will move to the new building, we do know that *history* will have a new home. Talks are currently underway with the building designers to incorporate a historical exhibit at the new Court. Visitors will be able to view the historical portrait collection, Court artifacts and documents, and other items.

We hope you'll share in our enthusiasm on October 12 when ground is broken for the Hall of Justice. What a great way for a new Court to begin a new century!

--Wallace D. Riley, President

Thomas E. Brennan



Thomas E. Brennan made history in Michigan in 1967 when, at age 39, he became the youngest Chief Justice to serve the Michigan Supreme Court. A few years later — leaving behind the security and prestige of the Court — he resigned to run the new Thomas M. Cooley Law School, which he founded. Twenty-five years later, Justice Brennan still serves as president of Cooley Law School, and in honor of the school's silver anniversary, the State Bar of Michigan honored Justice Brennan in September (see page 3).

Justice Brennan has served on the Society's Board of Directors since its inception in 1988. He is currently Treasurer for the organization.

The following article is an excerpt of a three-part series published in *Benchmark*, the Thomas M. Cooley Law School Alumni Magazine, in 1998. It is reprinted here with permission.

"To envision what is not, but can be"

President Thomas E. Brennan

The First Orientation of Thomas M. Cooley Law School

January 12, 1973

Twenty five years ago, before many of today's Thomas Cooley students were born, the school's first class of 76 students convened to study the law and begin a new tradition of legal education for Michigan and the nation.

Its humble beginnings are legendary to those who sat uncomfortably in used high school desks, gathered on the second floor of a downtown print shop, where noisy florescent lights cast a blue-green glare across every open book.

But Thomas Cooley Law School was an idea whose time had come, generated from the mind of a quintessential "idea man" — Thomas E. Brennan. Brennan usually is referred to as "founder and president" of the law school, but this title doesn't begin to describe his essential role in launching Thomas Cooley a quarter-century ago, nor does it define this risk-taking, innovative, tenacious, Renaissance man. What is true is that the founding of Thomas Cooley and the life and career of Thomas Brennan are but one remarkable story.

Thomas Cooley was incorporated in 1972 and its first class met in January 1973. These were the years just before U.S. troops pulled out of Vietnam and Watergate redefined American political reality. In fact, at that time, young men still sought "education deferrals" to stay in school and out of the service, which meant law schools and other graduate professional programs flourished. Michigan's four law schools burgeoned with eager students — U of M Law School boasted 15 applicants for every seat in its freshman class. Consequently, competition for seats was extraordinary. Only "the best and the brightest," — or perhaps the luckiest and most well connected —



Tom Brennan taking the oath of office, 1968.

continued on next page

Brennan ... continued

were accepted to study law in 1973.

Those who had dreamed of becoming lawyers but were turned away from this elite atmosphere looked for any way to open the door of opportunity. Many wrote to then-Chief Justice of the Michigan Supreme Court, Thomas Brennan, for help; a recommendation letter, a good word, an encouraging phone call — they asked for anything he could do to crack the wall of exclusion.

It was after one of these pleas for help that Brennan replied, half in jest, "I should start a law school right here in Lansing." A problem-solver by nature, Brennan reasoned the state capital ought to have a law school so students could participate in the legislative and judicial branches of government as clerks and staff members. And a school in mid-Michigan, rather than greater Detroit, would create an opportunity for outstate residents to commute to Lansing while earning their law degrees. Armed with such a pragmatic solution to the problem of demand for law school seats, Brennan proposed his idea to the State Board of Law Examiners, and the saga of Thomas Cooley's founding years began.

The path to success for Thomas Cooley would require an exceptional advocate, a role Brennan was perhaps born to play. Even as a schoolboy, Brennan's ready opinions and willingness to express them were obvious. "I actually credit my seventh grade teacher, Sister Stephanie Mueller, with defining my career for me," Brennan recalls. "She once said out of exasperation, 'Brennan, you should be a lawyer, you like to argue so much.'"

It was a comment that stuck with the young Irish lad from Detroit, and helped create a lifelong dream of becoming a member of the bar. A focused and serious student, Brennan graduated valedictorian from Detroit's Catholic Central High School and went on to earn a law degree from the University of Detroit. Coming from modest means, he worked throughout school to earn tuition and spending money, and when the time came to seek a law clerk position, Brennan didn't let his lack of connections in the profession stop him.

"I went downtown to the tallest building in Detroit, the Penobscot Building. I looked at the roster of tenants in the lobby. I looked under "O" hoping to find an Irish lawyer named O'Malley, O'Toole, or whatever. There were none," Brennan recalls. Finally

continued on page 4

RESOLUTION HONORING THOMAS E. BRENNAN AND THOMAS M. COOLEY LAW SCHOOL

The State Bar of Michigan recognizes that former Chief Justice of the Michigan Supreme Court, Thomas E. Brennan, made a monumental contribution to Michigan's legal profession when he founded the Thomas M. Cooley Law School in 1972.

In 1972, he became the Thomas M. Cooley Law School's first full-time dean. He currently serves as President and dean emeritus of the Thomas M. Cooley Law School.

Thomas Brennan had a vision of providing practical legal scholarship to those excluded from a legal education — the working men and women of America. In January 1973, 76 students were enrolled to begin the first-ever class at the brand new Thomas M. Cooley Law School. Since then, Thomas M. Cooley Law School has educated many leaders in law, politics and bar association work. In 1998, the Thomas M. Cooley Law School celebrated its 25-year anniversary, and is one of the five largest law schools in the nation. Further, under Brennan's leadership, it has the largest part-time enrollment in the country and has built the most diverse student body of Michigan's five law schools. On the February 1999 bar exam, Thomas M. Cooley Law School graduates finished second among Michigan's five law schools on both the first-time passing rate and the overall passing rate.

Thomas Brennan began his career as a title attorney with Burton Abstract and Title Co. in Detroit, and was an associate and partner at two Detroit law firms before serving as judge of the Detroit Common Pleas Court and Wayne County Circuit Court and Justice and Chief Justice of the Michigan Supreme Court.

He is a member of the Ingham County Bar Association, the State Bar of Michigan, the American Bar Association's Legal Education and Admission to the Bar and Judicial Administration Sections, the American Judicature Society and the Michigan Judges Association. He serves on the Board of Directors and Executive Committee of the Association of Independent Colleges and Universities, and is a fellow of the American and Michigan Bar Foundations.

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of the State Bar of Michigan expresses its profound respect for Thomas E. Brennan for the significant contribution he has made to the legal profession in Michigan and extends its congratulations to the Thomas M. Cooley Law School for providing 25 years of exemplary legal scholarship.

Unanimously adopted by the Board of Commissioners this 23rd Day of July, 1999.

J. Thomas Lenga
President

D. Larkin Chenault
Executive Director

Brennan ... continued from page 2



Members of a 1976 Cooley class are sworn in as members of the Michigan Bar. (Photo courtesy of Cooley Law School.)

he saw the name Roberts and decided to pay a call. "I went up to his office and asked to see Mr. Roberts. The secretary said he wasn't in. But I was quick and not to be denied. I had seen the second name on the door, Abbott. 'May I speak to Mr. Abbott, then?' I asked. I could and I did."

Abbott was a kind-hearted man who had taught for 25 years at the University of Detroit Law School. Though no clerkship was available in his office, Abbott helped get Brennan a job at the Detroit Bar Association's law library, where he worked through his first year of law school. The episode is vintage Brennan, taking a risk to solve a problem with creativity and confidence.

Those same traits marked the launch of his professional career. After an entry-level position at Burton Abstract and Title, Brennan joined with attorney Bob Waldron to form the firm of Waldron and Brennan, which later added two partners, Brennan's brother Terrence and attorney Richard Maher. Through the fifties, the firm struggled while its partners dreamed of success in politics. Several unsuccessful bids for office, from a run for the State House in 1952 to races for Congress and the judiciary, helped build Brennan's name recognition, until finally he won a seat on the Common Pleas bench of Detroit in 1961.

"The truth is we ran for office because those jobs paid better than private practice," Brennan confesses. "We all had these big

Catholic families to support." But politics was more than just a means to make a living.

Brennan was hooked, and his creativity and wit were evident in his campaigns as well as in those he managed for others. In 1963, Brennan was appointed by Governor George Romney to fill a seat on the Wayne County Circuit Court and in the fall of 1964, he ran for a full term and led the ticket.

Then in 1966, Romney, needing a nominee from the Republican party for Michigan's Supreme Court, asked the 38-year-old Brennan to run. It was a "dues paying" request — a

favor to the governor — and Brennan said "yes." That year Brennan was elected to the high court in a victory that surprised virtually everyone, Brennan included. The next year, Brennan became the youngest Chief Justice in the court's history, a record that still stands.

Former law partner and Speaker of the Michigan House of Representatives, Bob Waldron, recalls the day Brennan was installed as Chief Justice. "It was 13 years after we had practiced together. I was presiding over the House as Speaker, and Brennan was ushered in as a member of the Supreme Court. It was unbelievable." Waldron remembers only a few years later the political flurry surrounding the start of Thomas Cooley. "U of M and Governor Milliken tried to prevent Brennan from starting the school. Milliken tried to dissuade him by shaming him, saying it was a conflict of interest to start the school while a member of the Supreme Court," Waldron remembers.

But Brennan believed Thomas Cooley would succeed, and though it was clear the conflict of interest accusations were unfounded and politically motivated, his confidence in the school compelled

him to resign his seat on the high court and become the school's first full-time dean. Considering the first of his six children was just starting college, and the security and prestige of the Supreme Court were considerable, the risk Brennan took to leave the bench and devote himself to Thomas Cooley was extraordinary.

Not surprisingly was the fact that Brennan was determined to make Thomas Cooley different in many ways from traditional graduate professional schools, and many of the school's innovations came from his own experiences as a student. Having worked his way through college and law school, Brennan created a schedule that allowed students to hold jobs while earning their law degrees in the standard three years. He created academic programs that ensured every student would have exposure to real lawyers and judges during their student years. And he designed the curriculum to promote practical scholarship so graduates would be capable and confident to hang their own shingles, as he had done.

"Brennan is a very brilliant man," Bob Waldron says. "He's one of a kind, infinitely courageous and imaginative. Building the law school from a germ in his head to the second largest law school in the country is quite astounding."

(Article courtesy of Thomas M. Cooley Law School, copyright 1998.)

Members of Cooley's faculty and administration, circa 1979, left to right: Don LeDuc, Ronald Trosty, Robert Krinock, William Weiner, Roger Needham, Bob Fisher, and Tom Brennan. (Photo courtesy of Cooley Law School.)



Justice John D. Voelker portrait to be dedicated



Voelker, left, and actor Jimmy Stewart, right, pause for a cigar break on the movie set of *Anatomy of a Murder* in 1959.

The portrait of John D. Voelker, former Michigan Supreme Court Justice and nationally renowned author, will be dedicated at the old Michigan Supreme Court Chambers, third floor, Michigan State Capitol in Lansing at 9:30 a.m. on Tuesday, October 12, 1999. The Voelker Portrait was commissioned through the combined efforts of the

John D. Voelker Foundation, the Voelker Family and the Michigan Supreme Court Historical Society. Rod Crossman, of Marion, Indiana, is the portrait artist.

Born on June 19, 1903, in Ishpeming, Michigan, Justice Voelker served the Michigan Supreme Court from 1957 through 1959. He attended Northern Michigan Normal in Marquette, Michigan, and graduated from the University of Michigan Law School in 1928. After practicing law in Chicago, Voelker and his wife Grace — tired of city life — returned to the Upper Peninsula, where he established his own practice.

His public service career began when he won the seat of Marquette County Prosecutor. After an unsuccessful run for Congress, then-Governor G. Mennen Williams appointed Voelker to take the seat vacated by retired Michigan Supreme Court

Justice, Emerson R. Boyles, in 1957. Voelker was then elected to another term on the Court, but he retired in 1959 to pursue his passion for writing.

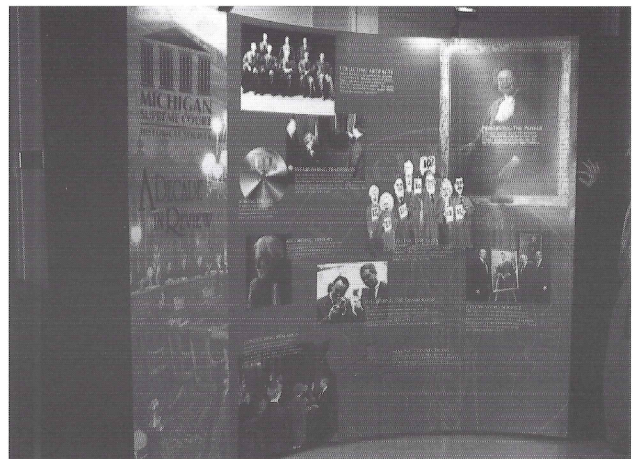
Before his appointment to the Supreme Court, Voelker tried the case on which he based his most famous novel, *Anatomy of a Murder*, which in 1959 was made into a motion picture that received seven Academy Award nominations. Under the pseudonym of Robert Traver, Voelker wrote many books dealing with two of his passions: law and fly-fishing. Some of his other works include *Trout Madness*, *Small Town D.A.*, and *Laughing Whitefish*.

Voelker died in 1991. The effort to raise funds for his portrait began with a notice in the Voelker Foundation's newsletter, the *Tin Cup Times*, which was included in a joint mailing to all Foundation members and all members of the Michigan Supreme Court Historical Society in 1998. The Portrait will become the 81st portrait in the Supreme Court's collection.

Society's traveling exhibit makes the rounds to Michigan law schools

The Society's traveling exhibit, "A Decade In Review," now one year old, is on display at the University of Michigan Law School, its fourth stop on a five law school tour. The exhibit, which recognizes the Michigan Supreme Court Historical Society's first ten years (1988-1998), hit the road in the fall of 1998 at Thomas M. Cooley Law School in Lansing.

Spending one or two semesters at each location, the exhibit visited the Detroit College of Law at MSU in East Lansing from January through May, then the Wayne State University Law School in Detroit from May through September. When its rotation at the U of M Law School ends in January 2000, it will complete its tour at the University of Detroit Mercy School of Law in Detroit from January through March 2000.



Historical Profiles*

Isaac P. Christiancy, 23rd Justice

SERVED FROM 1858 THROUGH 1875

Isaac P. Christiancy was born in March of 1812, in Johnstown, New York. At thirteen years of age, Christiancy taught school in order to support his family. He began his study of law in 1835.

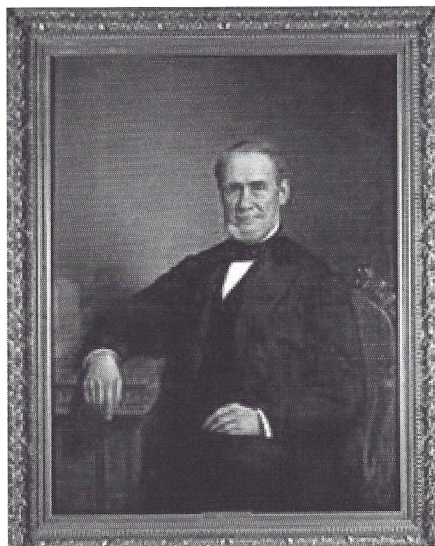
Christiancy moved to Monroe, Michigan in 1836, where he assisted in settling the area by establishing a law practice. He practiced law in the area from 1838 until 1857, all the while

maintaining a career as a public servant. He was Prosecuting Attorney for Monroe County from 1841 until 1846, and he served in the state Senate in 1849. At that time, slavery was a controversial issue throughout the nation. Due to Christiancy's vehement opposition to slavery, he was instrumental in the formation of the Republican Party in Michigan. Christiancy also purchased and served as editor of the *Monroe Commercial*.

In 1857, Christiancy was elected to the newly reorganized Michigan Supreme Court. He was unanimously re-elected in 1865 by all parties. Christiancy resigned from the Court in 1875 to begin his duties in the U.S. Senate.

While a member of the Senate, Christiancy took part in many national debates surrounding issues of Reconstruction. However, some personal troubles marred his reputation. While in Washington, D.C., Christiancy was the victim of a plot of a young lady. Having been a widower for some time, the young lady mistook a comment of his for a marriage proposal. Despite his protests, the young lady threatened to bring a suit for breach of promise against him. Rather than suffer that ordeal, Christiancy conceded and married her. The next few years proved to be miserable for him. Christiancy resigned from the Senate and President Rutherford B. Hayes appointed him Minister to Peru in 1879.

Christiancy returned from Peru and in 1881 filed for divorce. He spent the rest of his life in Lansing, practicing law. He died September 8, 1890.



Benjamin F. Graves, 21st Justice

SERVED IN 1857; AND FROM 1868 THROUGH 1883

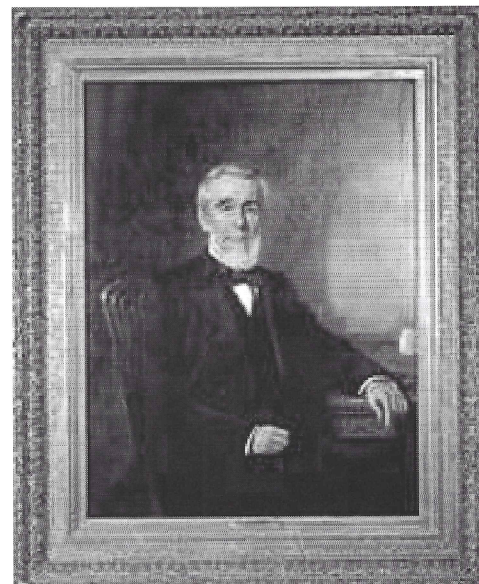
Benjamin F. Graves was born on October 18, 1817, in Rochester, New York. However, his lack of physical strength prohibited him from taking up work on the family farm. His early schooling was nothing out of the ordinary, yet he mastered the subjects he studied.

Graves worked as a clerk to study law. Once admitted to the Bar, he worked as a journal clerk for the New York State Senate.

From New York, Graves moved to Battle Creek, Michigan where he commenced a law practice. He immediately began a career in public service, as the Master in Chancery as well as a civil magistrate. In 1857, he was elected Judge of the Fifth Circuit. In addition to beginning his judicial duties, he was appointed to the Michigan Supreme Court in 1857 to fill the vacancy left by Abner Pratt.

As a Circuit Judge, Graves made a name for himself as a tireless worker. Due to his ill health, Graves resigned in 1866 from Circuit Court, yet in 1867 he was elected to serve on the Michigan Supreme Court. The time period he served with Justices Cooley, Campbell, and Christiancy is noted as the most significant in Michigan's Supreme Court History. He declined renomination to the Court in 1883, and retired to his farm in Battle Creek.

He spent his last years reading and enjoying his family, while still serving as a wonderful model and teacher for young lawyers. "He taught the use of books, the value of authorities and methods of logic in a way to impress the memory." Benjamin F. Graves died on March 3, 1906, while living with his son in Detroit.



* As published in the *Michigan Supreme Court Historical Reference Guide* (1998). See page 8 (back cover) for ordering details.

Portrait fund established for Justice Patricia J. Boyle

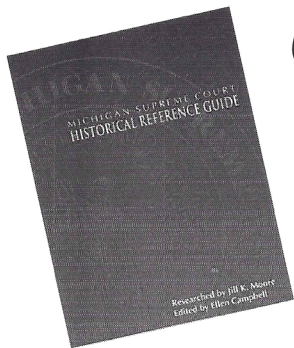
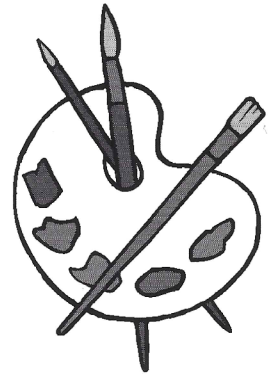
The Society is pleased to announce the establishment of the Justice Patricia J. Boyle Portrait Committee. The committee co-chairs are Mary Massaron Ross, of Plunkett and Cooney, Detroit; Reginald M. Turner, Jr., of Sachs, Waldman, O'Hare, Helveston, Bogas and McIntosh, Detroit; and Thomas G. Kienbaum, of Kienbaum, Opperwall, Hardy and Pelton, Detroit.

Justice Boyle, who earned both her undergraduate and law degrees from Wayne State University, began her career as an assistant United States attorney from 1964 until 1968. She then served as director of research training and appeals of the Wayne County Prosecutor's Office from 1971 until 1976. She was a Records' Court judge for the City of Detroit from 1976 until 1978, and was appointed to the United States District Court for Eastern District of Michigan where she served from 1978 until 1983. She was appointed to the Michigan Supreme Court in April of 1983, was elected to the Court in 1986, and re-

elected in 1990 to serve an eight-year term. She retired from the Court in 1998.

Other Portrait Funds

A portrait fund has also been established for Justice **James H. Brickley**, who retired from the Court in September 1999. Donations for Justice Brickley -- or any current or former Justice who does not yet have a portrait -- can be made at any time. All funds received will be earmarked for the portrait fund of the specified Justice. Donations are fully tax deductible. Please make checks payable to the Michigan Supreme Court Historical Society, and mail to 306 Townsend Street, Lansing, MI 48933. Call 517-346-6419 for more information.



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The Michigan Supreme Court Historical Reference

Guide tells the stories of each of Michigan's first 100 Supreme Court Justices, from 1805 to 1998.

Illustrated with photos of each Justice, this fascinating, 273-page volume also contains an index of special sessions of the Michigan Supreme Court, sorted both by honorees and speakers, as well as a factual chart of the Court by years, which lists the Court's composition for each year since 1805.

Priced at only \$10 (\$15 to non-members), you can't afford NOT to have one . . . or two, or more! See back page for ordering details!

1999 Coleman Intern wraps up project

Scott A. Noto, the Society's 1999 Coleman Intern, has completed his research and writing project. The manuscript, entitled, "A Survey of Michigan Supreme Court History," is being developed for publication this fall.

"We are very pleased with Scott's professionalism and conscientiousness throughout his internship," said Wallace D. Riley, Society president. "Although some scholars have written about various aspects of the Court over the years, nobody has ever put forth a comprehensive written history of the Michigan Supreme Court. We are pleased to be the first to offer this body of knowledge to the Michigan public."

The Society will likely publish two versions of the research: one

comprehensive volume, and one simplified version for younger school children. Both versions will be made available to persons visiting the Michigan Supreme Court, as well as all Society members and other interested persons. The project publication date is December 1999.

Here is a preview outline of what readers can look forward to:

"A Survey of Michigan Supreme Court History"

- I. Organization of the Court
- II. Disorganization of the Court
- III. Reorganization of the Court
- IV. The Big Four
 - a. People v. Dean
 - b. People v. Salem
- V. 1908 Constitution (transition)
- VI. Calls for New Constitution
- VII. 1963 Constitution
- VIII. Profiles
 - a. Hon. Otis Smith
 - b. Hon. Mary Coleman
- IX. Epilogue/Conclusion

Order the Reference Guide

Call (517) 346-6419 to make payment by phone, or complete and mail/fax this form to: MSCHS, 306 Townsend Street, Lansing, MI, 48933. Fax: (517) 482-6248. **ALSO ON SALE AT THOMAS M. COOLEY LAW SCHOOL BOOK-STORE!**

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Mission Statement

The Michigan Supreme Court Historical Society is a nonprofit, 501(c)(3) corporation dedicated to preserving documents, records and memorabilia relating to the Michigan Supreme Court. The Society produces publications, special events and other projects to achieve its goals in education and restoration. Current officers and directors are:

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Society Update is published quarterly by the Michigan Supreme Court Historical Society. Writing submissions, article ideas, news and announcements are encouraged. Contact the Society at: 306 Townsend Street, Lansing, MI 48933; Ph. (517) 346-6419; Fax (517) 482-6248; Email MSCHS@MICOURTHISTORY.ORG; Web site: WWW.MICOURTHISTORY.ORG



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