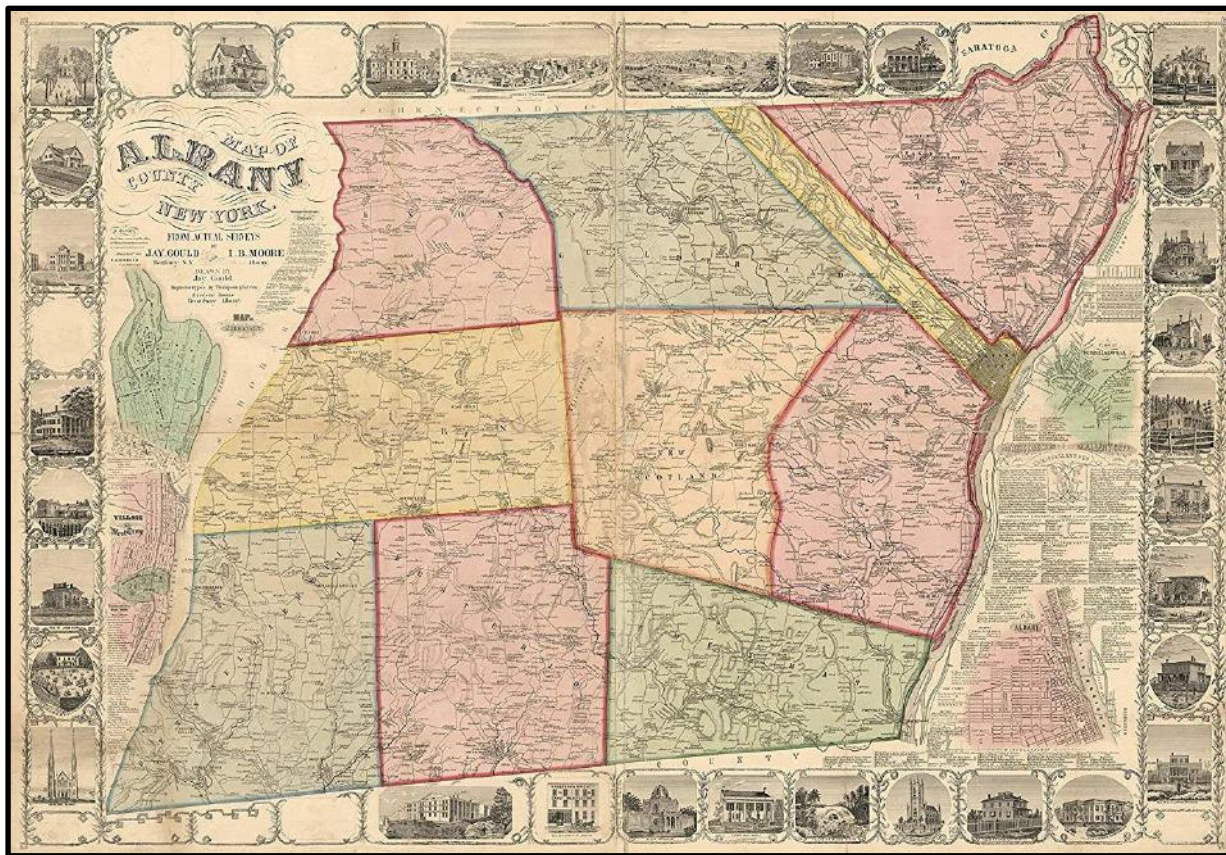




HISTORICAL SOCIETY *of the* NEW YORK COURTS

A HISTORY OF THE BENCH AND BAR OF ALBANY COUNTY



by
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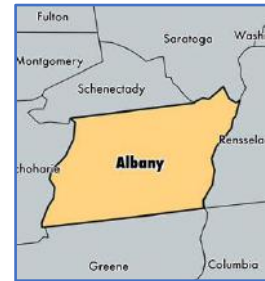
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I. A SHORT HISTORY OF ALBANY COUNTY

Albany County sits at the navigable headwaters of the Hudson River just south of where the Mohawk River enters from the west. It is this geographical feature, along with beavers and spices, which set the trajectory of this county's history. Spices were the defining motive for its discovery, as Henry Hudson was searching for a northwest passage to Asia. Beaver pelts made it rich. Scientists estimate that upwards of twenty million beavers populated the Hudson River Valley in 1600. For example, in November 1624, the *Nieu Nederlandt* sailed from Fort Orange with 1,500 beaver and five hundred otter skins.

Albany County was organized in 1683 but its current geographical shape was not finally determined until 1809 when a portion was carved out to create Schenectady County. It occupies 530 square miles (about the size of fifteen Manhattans) with a population now in excess of 300,000. Seventy-five percent of its population is located on 25% of the county in the northeast corner. Native Americans first populated it several thousand years ago, then the Dutch in the 1600's, the English in the 1700's with a smattering of Irish, French and German across this period. There would be huge migrations of Germans and Irish in the 1800's and Italians in the 1900's. The Capital District of New York State, in which Albany County is centered, has a current population of about 1,200,000.



Albany County has ten towns (Berne, Bethlehem, Coeymans, Colonie, Green Island, Guiderland, Knox, New Scotland, Rensselaerville, and Westerlo; six villages (Ravena, Altamont, Colonie, Menands, Green Island, Voorheesville); and three cities (Albany, Watervliet, Cohoes.) The towns of Albany county were created at various times. Green Island is unique in that its town boundaries are co-terminus with its village boundaries. Watervliet was organized in 1788. Rensselaerville (1790), Bethlehem (1793), Coeymans (1791) and Guiderland (1803) were all taken from Watervliet. Berne (1795) was taken from Rensselaerville. Westerlo was carved out of Coeymans in 1815. New Scotland was taken from Bethlehem in 1832. Knox was carved out of Berne in 1822. The Town of Colonie was created from Watervliet on June 7, 1895.

When the Dutch arrived in 1609, the environs of Albany County were occupied by the Mahicans whose capital was at Schodack, about thirty miles south of Albany. To the west were the Mohawks and further west, the five tribes of the Iroquois Nation. To the north were the Algonquins. Some sources hold that the Mahicans called the area *Scagh-negh-ta-da*, roughly translated as “the end of the pine woods” and now transliterated to Schenectady. The first record of Europeans in New York is from April 1524, when Giovanni Verrazano, sailing under French flag, entered New York harbor. French fur traders followed a few years later. In 1540, they erected a fortified trading post on Castle Island, at the approximate site of the present Port of Albany. That post was washed out in the next spring's floods (called “freshets” in the old books) and the site was abandoned.

Castle Island was renamed Van Rensselaer Island and then Westerlo Island. It has now been filled in and no island exists. It gained fame about four hundred years later as the location of the first municipal airport in America. On May 29, 1910, famed flyer Glenn H. Curtiss flew from Albany

to Governor's Island in New York in two hours and fifty-one minutes, making the first sustained flight between two major American Cities.

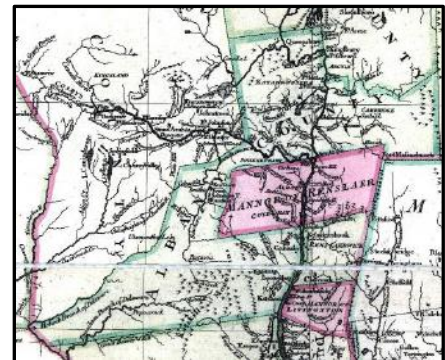


**Kiliaen Van Rensselaer
The First patroon**

On September 19, 1609, Henry Hudson, sailing the *Half Moon* under Dutch flag, arrived at the location of what would become the City of Albany. In 1615, Dutch Fur traders, operating under government license, rebuilt the French post on Castle island and called it Fort Nassau. That post lasted only three years. Not benefiting from the French trader's experience sixty-five years earlier, it too was washed out by spring floods in 1618. In 1616 the first murder was recorded at Fort Nassau. Hendrick Corstiaensen, captain of the Dutch ship *Fortune* was shot dead by a man named Orson who was a crew member on a ship captained by Adrian Block (Block Island). Orson was described by a contemporary historian of the Company as "an exceedingly malignant wretch." Orson, probably knowing that his sour disposition earned him little sympathy, attempted to escape. He was shot dead in the endeavor.

In 1624 French Protestants from Belgium (known as Walloons) received a license from the Dutch West India Company to settle along the Hudson. Arriving at the site of Albany, they constructed Fort Orange. This fort was located about a hundred yards south of the old D & H Railroad building on Broadway (then South Market Street) in an area later called Steamboat Square. The site is now covered by the overpasses of I 787. The D & H Building now houses the administrative offices of the State University system. By 1629 this settlement at Fort Orange was abandoned because of upkeep costs resulting from spring floods.

In June 1629, the Dutch West India Company issued a manorial grant of land to a wealthy Dutch gem merchant named Kiliaen Van Rensselaer. Under the terms of the grant, Van Rensselaer was required to purchase the land from the Mahicans at a fair price and provide for the emigration of settlers to populate the new colony. On July 27, 1630, Kiliaen Van Rensselaer's agent, Sebastian Crol, signed a deed purchasing the Manor from the Mahicans. It was approximately twenty-four miles along the river and 24 miles deep on each side, or about 2000 square miles, more than 1.5 times bigger than Rhode Island.



Manor of Rensselaerwyck

It should be noted that native Americans did not conceive of a legal ability to buy and sell land. For them, a land sale was merely an agreement to share and equitably use the available resources. It was closer to our concept of a license or easement. However, the Van Rensselaer Manor grant would occupy an area that encompasses what is now Albany, Rensselaer and part of Columbia counties. Kiliaen Van Rensselaer would never set foot on his manor. The manor system would exist for over two hundred years. Prompted by the Helderberg Rent Wars of 1838, the Constitution of 1846 would abolish the feudal tenancies that provided the manor's wealth.

New Netherlands under the Dutch was, at first, a corporate enterprise. The Patroon exercised near dictatorial powers within the manor. But other areas, such as Beverwyck (Albany) and New

Amsterdam (New York) were under a Director General answerable to the States-General in Holland. The first Director General of significance, Peter Minuit, took command of the Province in May of 1626. Both the manors and the settlements were nominally under the Dutch legal system which followed Roman law. In many respects, especially in the area of the standing of women and property rights, the Dutch system was far advanced over English law. Women could own and inherit property and run businesses. They also had a greater say in family matters. Women's rights would experience a dramatic retrenchment when the colony was taken over by the English. On the other hand, The Dutch legal system did not offer jury trials. The wealth of the patroon's feudal system came from three main sources. First, it comprised an enormous area of unoccupied land (if the native Americans are ignored) that could be fished and hunted. Second it was farmed by tenants who were close to feudal serfs from whom rents were extracted. Third, there were slaves who worked for free.



Pieter Stuyvesant
Director General
1647-1664

To be sold, at a Year's Credit,
A Negro Wench
 OF about thirty-four years of age, bred in
 the country---but accustomed to every
 kind of Kitchen-Work, with her CHILD, A
 NEGRO BOY, about eighteen months old.
 Enquire of the Printer of this paper.
 Albany, December 6, 1790. 116 of

Slaves for Sale in Albany, New York
Albany Register, December 6, 1790

The first slaves were mostly from the Caribbean because, as skilled field hands, they were more valuable than slaves from Africa. Slaves first arrived in 1619 in Virginia and within ten years they arrived in New Netherlands. By 1790, there were nearly 4,000 slaves in Albany County. In the early days of the colonies, New York City would be the primary port of entry for slaves. In 1799, New York, was one of the last northern states to abolish slavery. But it did so gradually. Total abolition did not take effect until 1827.

In 1638, the Dutch West India Company sent Willem Kieft to govern the colony. His plan to tax the Native Americans did not go over well with them and it resulted in a war against the colonists. In 1641 Adriaen Van der Donck, a lawyer educated at the University of Leyden in Holland, arrived to protect the Patroon's interest and to set up the Patroon's Courts in Rensselaerwyck. He can be considered the first lawyer to appear in the first court in New York. In 1647, Kieft was replaced by the most famous Dutch Governor, Pieter Stuyvesant. Stuyvesant reestablished order in the Colony and reined in the power of the patroons. He expanded the authority of the settlements to be self-governing. For Albany (then Beverwyck) he famously established the "cannon shot" boundary. Residences or other structures were not permitted within an arc of land defined by the radius of the distance a cannon ball could be shot from the fort (about one-half mile). The purpose was to clear a field of fire that would not contain any cover for attackers as the Mohawks to the west were particularly aggressive at this time. The second reason was to demarcate a boundary to separate the settlement from the manor lands.



L. F. Tantillo's Depiction of Fort Orange, 1635
Michael B. Picotte Collection

By 1642, Father Isaac Jogues, a French Jesuit missionary, would report that the settlement at Albany contained about one hundred persons. However, this did not include the indentured servants living on the lands of the Patroon or slaves. Jogues was captured by the Mohawks in 1646. Accused of being a sorcerer, he was tortured and executed on October 18th of that year.

Below the Director (Governor) of the Colony of New Netherland, the branches of government that we think of as the executive, legislative and judicial were held by the Burgomasters, the Schepens and the Schout. The Schout was the most important of these quasi-governmental officers. The Schout combined the duties of a district attorney, sheriff and attorney general. The Schepen were roughly the equivalent of the local court and city council while the Burgomasters were magistrates performing the functions of the mayor. The Patroon's Manor of Rensselaerwyck received its first governmental officers in 1632 with the appointment of Rutger Hendriksz as Schout along with five schepens. This system would last until 1652, when the Director Pieter Stuyvesant appointed a separate court for Beverwyck and left the Patroon's court with jurisdiction over just the manor of Rensselaerwyck. With later reforms, all three of the above-mentioned offices would be elected by the burghers of the community. The burghers were all adult white males with property.



James II, Duke of York and Albany

By mid-century, the Dutch Empire was weakening. It lost Brazil to the Portuguese in 1654. This weakened status was not lost on the English who also claimed New Netherlands under the right of discovery based on the explorations of John Cabot and his son Sebastian (Actually Caboto, both were Italian). To that end, Charles II sent four warships with 2,000 soldiers and sailors to New York (New Amsterdam), arriving off Sandy Hook on August 30, 1664. With only 150 men under arms, Stuyvesant surrendered New Netherlands on September 8, 1664, without a shot being fired. Charles II granted the lands to his brother James, Duke of York and Albany, who would become King James II in 1684. New Amsterdam was renamed New York and Beverwyck was renamed Albany.

The Mayor's Court is the first of New York's courts. In 1685, the first English Governor, Richard Nicolls, abolished the Dutch Mayor's Court which consisted of the burgomaster and the schepens. He replaced those judicial officers with their English equivalents: The Mayor, Aldermen and Sheriff. In 1686, the Dongan Charter, Albany's founding document, created the Mayor's Court.

And Further, for and on behalf of his said Majesty, I do grant...that the Mayor, Recorder and Aldermen of said city shall always be...Justices of the peace for said county, and as such shall and may sit in the courts of session, or county courts, and courts of oyer and terminer. Dongan Charter § 36

It should be noted that the “right of discovery” is a pure legal fiction used to justify the powerful taking land from the less powerful. It was dressed up in biblical incantations, the divine right of kings (which was a fiction itself) and supported by the 1493 Papal Bull of Alexander VI which divided the “undiscovered” world between Spain and Portugal. The right of discovery would be embedded in American constitutional law by Chief Justice John Marshall in *Johnson v. McIntosh* (1823). In that case, Marshall wrote that the Native Americans had a right of occupancy of their lands, but they did not own it in fee simple. Upon America’s victory in the Revolutionary War, title to all lands held by the Europeans devolved to the United States. On June 29, 1673, the Dutch reconquered New York, renaming the settlement New Orange. Fort Albany surrendered to the Dutch on August 5th and was renamed Fort Nassau. The settlement of Albany was renamed Willemstadt.

The Dutch control of the province lasted less than a year. The Treaty of Westminster, signed February 19, 1674, ended the third Dutch-Anglo war. Under its terms, New Netherland reverted to the English. The English names of the forts and settlements were also reinstated. In 1664, Governor Nicolls promulgated the “Duke’s Laws” to organize the new province. By 1676, Fort Orange, which sat near the river’s edge, was in deplorable condition. It was replaced by Fort Frederick which was located about halfway up the State Street hill (then Yonkers Street) where Lodge Street crosses.



Fort Frederick, 1765
State Street at Lodge

In 1678, the first English Governor, Edmund Andros, issued a patent to the Fifth Patroon, reconfirming his ownership of the areas outside Albany. His manor was commonly called Rensselaerwyck. In 1682, Colonel Thomas Dongan, a Catholic born in county Kildare, Ireland, became Governor of the Province. On October 17, 1683, the First General Assembly met in New York and passed a Charter of “Libertys and Privileges,” which would be vetoed by King James. The General Assembly also divided the Province into twelve counties: Albany, Cornwall, Dutchess, Duke’s, King’s, New York, Orange, Queens, Richmond, Suffolk, Westchester and Ulster. Albany County occupied much of upstate New York including what is now Vermont.

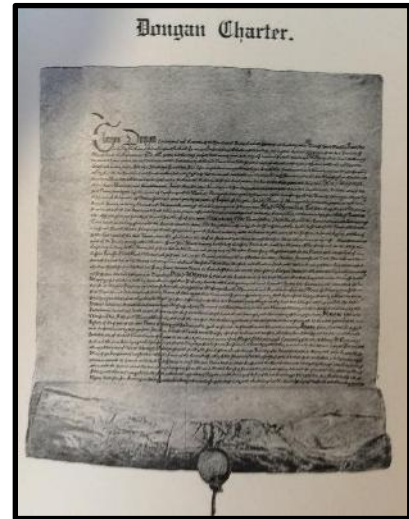


Gov. Thomas Dongan
Governor of New York
1682-1688

Duke’s County, then and now, comprised Cape Cod and the Islands. Cornwall County would become part of the State of Maine. From 1766-1772, parts of Albany County were carved out to make the Vermont counties of Cumberland, Gloucester and Charlotte. Tryon County (now Montgomery) was also birthed from Albany. At later points, parts of Albany County were removed to create Delaware, Greene, Columbia, Rensselaer, Saratoga, Schenectady and parts of Washington, Warren and Schoharie counties. Albany County’s current borders were finally fixed when Schenectady County was created in 1809.

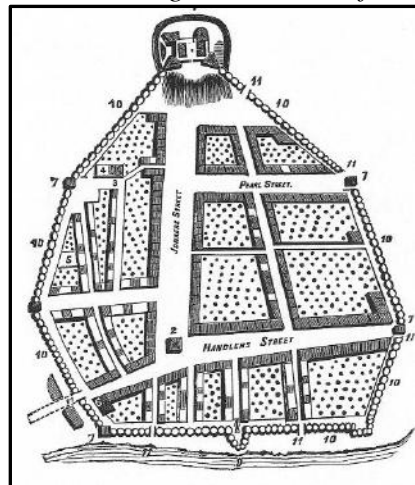
The Colony of New York claimed the eastern borders that had been claimed by the Dutch and this put the boarder at the Connecticut River. Meanwhile, the English residents of Massachusetts and Connecticut claimed that the boarder should be ten miles east of the Hudson River. A joint commission in 1684 produced a compromise that resulted in the boarders that exist today, running approximately twenty miles east of the Hudson River.

On April 27, 1686, Governor Dongan issued a charter to the City of New York followed by a charter to the City of Albany on July 22, 1686. This makes Albany the second oldest chartered city in the United States. Peter Schuyler, great grandfather of Revolutionary War general Philip Schuyler, was appointed the first mayor and Isaac Swinton was the first Recorder (judge). Just as it may sound, the Recorder had significant administrative executive duties in addition to holding court. Many of these would devolve upon the position that would become the City Clerk. As an aside, the only judicial experience had by John Marshall, the “Great Chief Justice” was that as Recorder of the City of Richmond. Albany had about five hundred residents at the time. It was also the skinniest city in America. The Charter boundaries were one mile along the river and then northwest for fourteen miles.



The Dongan Charter set up Albany’s first courts: *“The [City] shall hold, once every fortnight in every year forever, upon Tuesday, one court of common pleas for all actions of debt, trespass upon the case, detinue, ejectment, and other personal actions, and the same to be held before the Mayor, Recorder and alderman, or any three of them (whereof the Mayor or Recorder to be one) who shall have power to hear and determine the same pleas and actions, according to the rules of the common law, acts of the General assembly of said Province.....that the mayor of the said cityshall and may determine all manner of actions between party and party, so always as the same shall not exceed the value of forty shillings.”* *“....the mayor, recorder and aldermen of said city shall always be, so long as they shall continue in their said respective offices, Justices of the Peace for said county, and as such shall and may sit in the courts of sessions, or county courts, and courts of oyer and terminer, that shall from time to time be held and kept within said county.*

The local criminal court was comprised of the Mayor, the Recorder and one Alderman and they have power and authority to hear and determine all petty larcenies, riots, routs, oppressions, extortions, and all other trespasses and offences whatsoever within said city of Albany...according to the laws of England and the laws of said Province.



The Albany Stockade. Fort Frederick sits half way up what is now the State Street Hill.

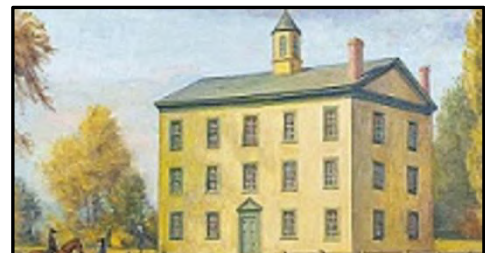
The Judiciary Act of 1691 established English Courts for the province with the Supreme Court of Judicature being the primary one. By 1695, the English had fortified Albany with Fort Frederick and a stockade extending outward from the fort to the river. At that time, the County of Albany had a population of about 1,500 while the Colony of New York contained about 18,000 people. Fort Frederick would never fire or receive a shot in anger. In 1785, the Common Council decided to dismantle the Fort. Its stones were used in the construction of churches and its remains were used to widen State Street.

Over the next sixty years, the Colony was under constant threat from the French and their allied Indian tribes. For most of this period, the English had forged an alliance with the Iroquois Nation. In 1754, a congress of several colonies met in Albany to form a compact for their mutual defense against the French. However, the first purpose of the event was to meet with the Iroquois Nation and repair the “Covenant Chain” which, for decades, had preserved the peace between the Iroquois and the English. The delegates from seven provinces, led by Benjamin Franklin, met for several days at the *Stadt Huys* (City Hall) which stood on Broadway where it meets Hudson Avenue. Despite the most important agenda item of the conference, the repair of the “covenant chain,” it was the second part of the conference that has captured the imagination of historians.

The Albany Plan of Union, which resembled important aspects of the federation of the Iroquois, was never implemented. However, it would become a model for the confederation of the States in 1776 which would operate under the Continental Congress. Historian Timothy J. Shannon, citing Lawrence Gibson’s *The History of the British Empire Before the American Revolution*, highlights the importance of the Albany Congress: “*The Albany Plan of Union was an inspired piece of statecraft that, if enacted, would have helped preserve the first British Empire. In a thesis that lent scholarly credentials to the ruminations of Franklin and Adams, Gibson traced the causes of the American revolution to the British victory in the Seven Year’s War, which created problems the Albany Plan would have solved if implemented back in 1754. Once again, the Albany Plan might have saved the Empire* (Shannon, at 10).”

Governmental authority during the Revolutionary War in New York had a distinct *ad hoc* flavor. The Provincial Council that met in Kingston reconstituted itself as a Constitutional Convention of 1777. However, no voters ever called for such a convention and the Constitution produced at those meetings was never submitted to the voters for ratification. Nevertheless, the Constitution of 1777 would be New York’s foundational governing document for the next forty years. As for New York’s first government, the Convention selected all the governing officers and, during the war, the State was run by a Committee of Safety. The British did not leave New York City until November 25, 1783. Evacuation Day would be a local holiday in New York City for the next one hundred years.

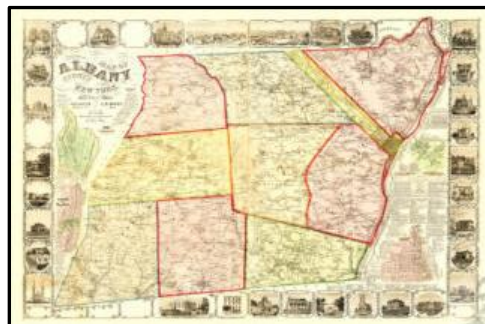
The government at Albany met at the same location for its first two hundred years: on the northeast corner of Hudson Avenue and Broadway. There are no depictions of the first *Stadt Huys* (State Hall) where court was held at least as early as 1673 on this site but it is shown on the map shown above from 1695. The second building at that location was built in 1740. It housed local and colonial offices, the



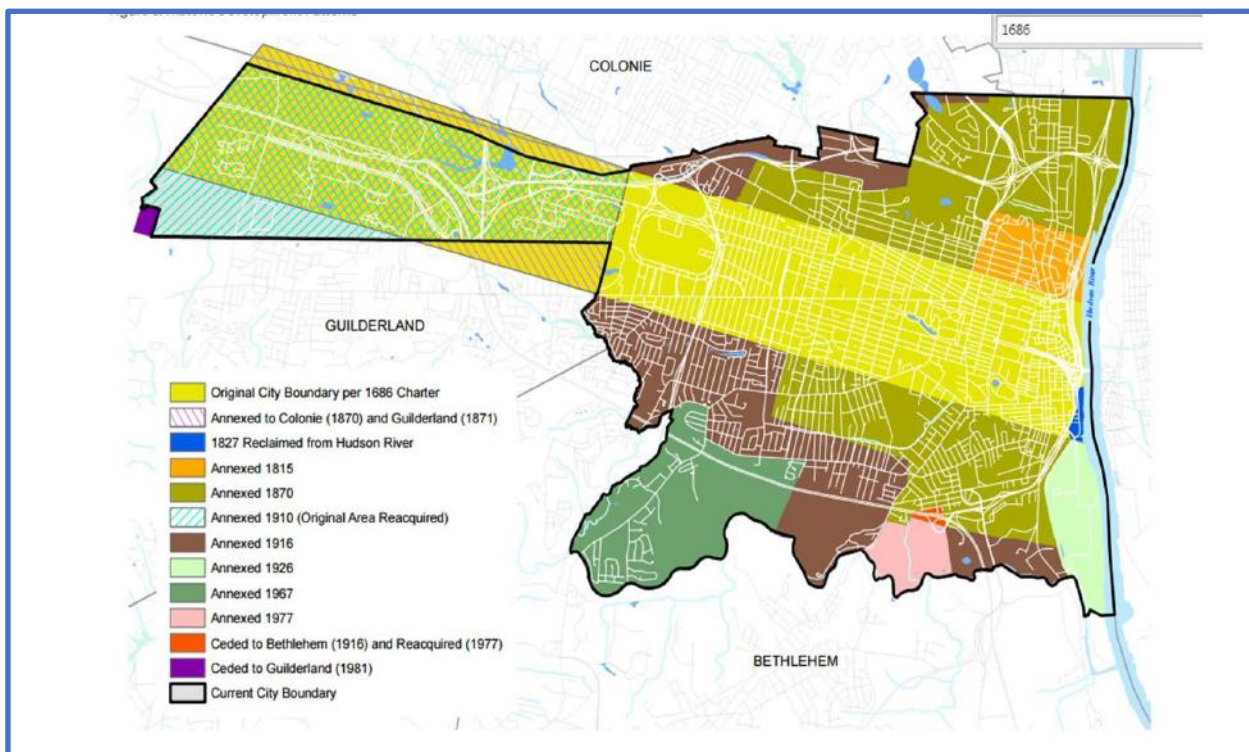
**Stadt Huys (State Hall) 1740-1836
Corner of Hudson and Broadway**

courts and a jail in the basement. That building was destroyed by fire in 1836. From 1797 several local and state governmental offices occupied a new State Hall located on the southwest corner of State and Lodge Streets. That “new” State Hall was replaced by a newer State Hall in 1842 which would eventually be the home of the Court of Appeals. The State Hall that was on the corner of State and Lodge Streets was raised and a new building was erected that became home to the State Geological Society, the predecessor to the State Museum. The new State Hall at Pine and Eagle Streets was built partly because of the concern that the building on State Street was not fireproof. Ironically, the Eagle street building would have a major fire while undergoing renovations to fit it to house the Court of Appeals. When the first Capitol opened in 1808 at the northwest corner of State and Eagle Streets, the local courts and the City Common Council would occupy its third floor.

It is a common belief that the great democratization of America arrived in 1828 with the election of Andrew Jackson. But in Albany, it arrived much sooner—with the Constitutional Convention of 1821. That convention met in Albany from August to November of 1821. It was a struggle between Governor Dewitt Clinton, the leader of the traditional party of Jefferson (Republican-Democrat) and the Bucktails, a faction that was associated with the Tammany Democrats in New York City. The Bucktails were led by Martin Van Buren of Kinderhook and William H. Marcy of Troy. Their name came from the insignia of the Tammany Society which displayed a



**The thinnest City in America,
Albany's Dongan Charter boundaries:
One mile wide and 14 miles long.**



Evolution of the City of Albany's Boundaries: 1686-2020

buck's tail in its ceremonial hat. Under Van Buren, the Bucktails would become the dominant faction of the Democratic Party known the *Albany Regency*.

The new Constitution, adopted by the voters by a near 2-1 margin, dramatically changed the face of New York democracy. The existing Council of Revision, comprising the Governor, the Chancellor and the Chief Judge of the Supreme Court, could veto bills. It was abolished. Also abolished was the Council of Appointment, made up of the Governor and one Senator from each of the four districts. The Council of Appointment appointed virtually every civil, judicial and military officer in the state. The new Constitution placed the appointment power for important positions with the Governor and most other high government offices became elected positions. Property requirements for white male suffrage were eliminated and free Black males could vote (but with a property requirement). Elections were moved from April to November with terms running with the calendar year. The Supreme Court was divided into eight circuits.

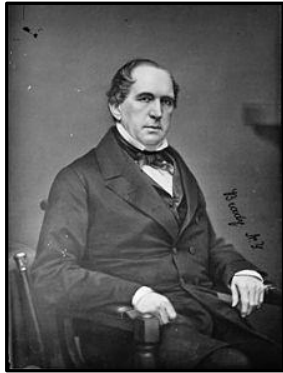
There were four commercial events in Albany County history that had monumental consequences for the development of the County, the State and the nation. On August 19, 1807, Robert Fulton's *Clermont* docked in Albany, inaugurating regular steam powered travel on the Hudson between New York and Albany. The one-way fare of \$7 was substantial for the times but travel was reduced from several days to a day and the trip did not require overnight lodging along the way. This enterprise proved extremely lucrative because Fulton's partner, Chancellor Livingston, held a steamboat monopoly on the Hudson. This monopoly would fall in the face of the Supreme Court's famous decision in *Gibbons v. Ogden* issued March 2, 1824, That decision held that those monopoly licenses violated the commerce clause of the Constitution. After that, competition would quickly bring down the fares as larger and faster boats were built. Some were longer than a football field, held 6,000 passengers and could make the Albany-New York City run in less than ten hours.

The second event took place in 1825 with the opening of the Erie Canal, which provided a continuous waterway from New York City to Chicago. Shipping costs were reduced by 90%. Albany's population doubled between 1820 and 1830. The City built extensive piers, wharves and two basins to hold the canal, river and ocean-going traffic. Lumber, wheat, cement, potash, glass, and iron moved through Albany's port in massive quantities. Albany was the largest manufacturer of stoves and pianos in the world and the United States' largest shipper of lumber. In 1831, 15,000 canal boats tied up at city wharves and five hundred ocean-going vessels cleared from Albany. In 1821 Albany was connected to Plattsburgh by the completion of the Champlain Canal. In 1843 that water route was extended to the to the St. Lawrence River by way of the Chambly Canal and the Richelieu River.



Depiction of 1850's Albany

The third event occurred on September 24, 1831, when the *DeWitt Clinton* made the first trip on the Mohawk and Hudson Railroad from Albany (near the intersection of Madison and Western Avenues) to Schenectady. This became the first steam locomotive passenger train service in America. Carrying eighty passengers, it covered the sixteen miles in forty-seven minutes. The



Erastus Corning
1794-1872

steamboats, the canal and the railroads would make Albany the Chicago of the East from 1825 to the Civil War (In 1850 the population of Chicago was 30,000; the population of Albany was 51,000).

The fourth event took place in 1851. In that year Albany was connected to New York City by Cornelius Vanderbilt's Hudson River Railroad and soon after that by the New York and Harlem Railroad. These lines came up the east side of the Hudson River and terminated in East Greenbush, now Rensselaer. Because the only bridge across



Thurlow Weed
1797-1882

the river at that time was in Waterford, completed in 1804, passengers and freight were ferried across the river to be loaded onto the New York Central Railroad to reach Buffalo and beyond. Erastus Corning assembled the New York Central from smaller lines but rail connections to Buffalo were available by 1842. With other railroads to the west, connections were made to Chicago by 1851. The trip to Buffalo was twenty-five hours, a drastic improvement over stagecoach or canal barge. This situation improved with the completion of the first railroad bridge across the Hudson at Albany in 1866. The piers upon which that bridge was built still carry Amtrak's trains.

Albany had several newspapers over the years. Its first was *The Gazette*, which began in 1771. The *Albany Argus*, the voice of the Albany Democratic Regency, led by the founder of the Democratic party Martin Van Buren, began publishing in 1813. The *Albany Daily Advertiser*, Albany's first daily newspaper, stated in 1815. The *Albany Evening Journal* began publishing in 1830. It was the voice of political boss Thurlow Weed who forged the Republican Party. It was later published by William "Billie" Barnes, Weed's grandson. Barnes would take control of the New York State Republican party around 1900 at age 25 and, understandably, became known as "the boy leader." In an unintended way, Barnes helped elect Woodrow Wilson, the Democratic nominee for president in 1912. At the Republican national convention, he supported William Taft and helped deny the nomination to Teddy Roosevelt. Roosevelt bolted the party and ran on the Bull Moose ticket as a third-party candidate. He drew votes mostly from Taft resulting in the election of Wilson. Into the Twentieth Century, the *Albany Times Union*, under the leadership of former Governor Martin Glynn, would become an ally of the Albany political machine. In the second half of the century it would become the Democratic Party's fierce foe. Based on the patrimony of Martin Van Buren and Thurlow Weed, Albany County is uniquely the home of the founders of today's two major national parties. Billy Barnes is buried in Albany rural Cemetery, Sec. 109, Plot 3. Weed is buried near him in Sec. 109, Plot 1. Van Buren is buried in the Kinderhook, NY Reformed Church Cemetery.



William "Billie" Barnes
"The Boy Leader"



Erastus Corning II
Mayor, 1941-1983

Albany remained a vibrant, energetic City, which punched way above its weight, from its beginnings until after WW II when it entered a slow decline. Its population peaked in the 1950's at 135,000. By 2000, it was under 100,000. Albany did not benefit from the booms that resulted from the end of the war and the return of the G.I.'s who would start families and fortunes. Hidden behind the stabilizing good luck of being the seat of State government and the building frenzy of Governor Nelson Rockefeller in the 1960's, was the stagnating influence of the Albany



Dan O'Connell
Party Boss, 1919-1977

County Democratic machine. Albany County Democratic Chairman Dan O'Connell, one of the co-founders of the machine, was elected City Assessor in 1919 as a reform candidate. He promised to open government, run it as a business and remove politics from the decision-making process. The Democratic party did that for a while and in the early days there was much good to say about it. But as with any bureaucracy, it withered on the vine of its own success. At some point, it lost its vision, and the perpetuation of party control became its only purpose. However, no story of Albany County's legal history can be told without mentioning Dan O'Connell, a saloon keeper's son and Erastus Corning, great grandson of Amasa Parker a founder of Albany Law School who would become a Judge of the Court of Appeals.

O'Connell and Corning made and unmade judges from Justice Court to the Court of Appeals. They had legions of powerful lawyers ready to do battle. The Board of Elections was within their domain. The City Common Council and County Legislature did not act unless with their approval. Their District Attorneys were hand-picked. Police Departments were the enforcement arm of their party. They controlled the jury pools. Fire Departments were a repository of their patronage. Democratic Presidential candidates paid homage to their voter turnout abilities. Their base was built on their ability to produce votes and supply jobs, the universal currency of politics at all levels. Indeed, from 1920 to 1983 their political and thus legal control of Albany County was total. For the greater part of the Twentieth Century, Dan O'Connell and Erastus Corning were the most influential figures in Legal Albany. Albany bottomed out in 1983 with the death of Erastus Corning II, its 41-year office holding Mayor. Its finances were underwater. The New York State Comptroller was recommending that a Financial Control Board be imposed on the City. The City's infrastructure was crumbling. Its tax base was shrinking. Under reform Mayor, Thomas M. Whalen, III, an Albany Law School graduate and Albany City Court Judge, Albany regained its footing, and it has been on an upward trajectory ever since. At the same time, under the leadership of Chief Judges, Lawrence Cooke, Sol Wachlter, and Judith Kaye, a sclerotic court system was slowly modernized and brought into the 21st Century and



Dan O'Connell,
Circa 1935.

became prepared to meet the needs of the people of New York. However, as with any institution at any time, much work is yet to be done.

As a rough gauge of Albany's historical significance, the County has 214 sites listed on the National Registry of Historic Places. This is more than Erie, Monroe and Onondaga Counties which have two to three times the population of Albany County. Albany will always be a puzzle—to insiders and outsiders alike. It is the Rodney Dangerfield of cities; it gets no respect. John Gunther, the American Tocqueville of the post WW II era, called it “a political *cloaca maxima* (greatest sewer) which makes Kansas City look pure.” In 1749, Swedish naturalist Peter Kalm visited Albany and made the following observation: “*The avarice and selfishness of the inhabitants of Albany are well known throughout all North America, by the English, by the French, and even the Dutch in the lower part of New York province. If a Jew, who understands the art of getting forward pretty well, should settle amongst them, they will not fail to ruin him. For this reason, nobody comes to this place without the most pressing necessity.*” In 1870, H.H. Richardson, the famed architect who designed our Capitol and City Hall, said this about Albany: “*Misery, wretchedness, ennui and the devil---I've got to spend another evening in Albany. Of all the miserable, wretched, second-class, one-horse towns, it is the most miserable.* However, in the end, Albany will always be as described by its resident Pulitzer Prize winning author, William Kennedy: That “*Improbable City of Political wizards, Fearless Ethnic, spectacular aristocrats, splendid Nobodies, and underrated Scoundrels.*”

II. TIMELINE

- 1524: Giovanni de Verrazano and his crew become first Europeans to view New York harbor and the Hudson river.
- 1540: French Establish a trading post on Castle island. Destroyed by floods one year later.
- 1609: Henry Hudson's *Half Moon* anchors off Albany.
- 1615: Hendrick Christiaensen builds outpost on Castle Island near the present-day Port of Albany. Calls it Fort Nassau. This is the first Dutch settlement on the North American continent. It lasted only three years, after being destroyed by spring floods.
- 1621: The Lord States-General of the Netherlands charters the Dutch West India Company.
- 1624: Thirty French speaking Belgian-Walloon families under the auspices of the Dutch West India Company settle in Albany, then called Fort Orange. The Hudson is then called the *Mauritius or North River*.
- 1626: Peter Minuit, Director General of New Netherlands, "purchases" Manhattan. It should be noted that native Americans did not have a concept of a fee simple absolute transfer of real property. Instead, they viewed it closer to what we might call a license or easement. It is also probable that the tribe with whom Minuit negotiated did not have any interest in the land they "sold."
- 1629: Patroonship of Rensselaerwyck granted to Kiliaen Van Rensselaer, a gem merchant from Amsterdam. The grant, with its additions, is larger than Rhode Island. The first Patroon would never come to America.
- 1630: The Dutch ship *Unity* arrives at Fort Orange and passengers start the Manor of Rensselaerwyck.
- 1642: Father Isaac Jogues, a French Jesuit missionary escapes from Mohawk captivity and seeks refuge in Albany. He is recaptured shortly thereafter and held in captivity until 1646 when he is executed.
- 1647: Peter Stuyvesant, the new Director General of New Netherlands, takes up his duties. On March 29th, a great white whale is spotted in the Hudson off Albany.
- 1648: Stuyvesant establishes the "cannon shot" boundaries of Albany, then called Beverwyck, by firing a cannon in an arc from Fort Orange. No settlements are allowed in the arc so a clear defense perimeter can be established.
- 1652: The autocratic Stuyvesant declares the area around Fort Orange to be independent of the Patroon's manor and names the village Beverwyck.

- 1660: In July, the first stockade around Beverwyck is completed.
- 1664: On September 8th, Peter Stuyvesant surrenders New Netherlands to the British. King Charles II grants the land to his brother James, Duke of York and Albany. New Amsterdam becomes New York and Beverwyck becomes Albany.
- 1673: The Dutch reconquer New Netherlands. Albany is renamed Willemstadt. The spoils of victory last less than a year as the Treaty of Westminster ends the Third Anglo-Dutch War and all lands are returned to England.
- 1676: Fort Frederick is built on the State Street Hill where Lodge Street now intersects. It was demolished in 1784.
- 1678: Governor Edmund Andros confirms the Patroon's patents, but it specifically excludes Beverwyck. This is the first formal recognition of Albany as a political entity. A pillory and whipping post are constructed outside Stadt Huys. A first offense is punishable by for branding on the forehead. A third violation carries the death sentence.
- 1679: Native American slavery abolished.
- 1680: Albanians are terrified by the passing of Newton's Comet on December 9th. They write the Governor: "Undoubtedly, God threatens us with dreadful punishments if we do not repent."
- 1682: Thomas Dongan becomes governor.
- 1683: At a General Assembly held in New York, a Charter of "Libertys and Privileges" is passed. The Colony is divided into twelve counties with Albany being much bigger than its present size.
- 1684: Charles II dies. James II becomes King. The lands of the Province of New York become part of the realm.
- 1686: Governor Thomas Dongan grants New York a charter on April 27th and Albany a Charter on July 22nd, making Albany the second oldest city in the United States. Pieter Schuyler, great grandfather of Philip Schuyler, becomes the first Mayor of Albany. Albany becomes the thinnest city in existence. Its first boundaries are one mile north and south along the river and twelve miles deep to the west.
- 1689: Population of Albany County is 2,016 comprised of 662 men. 340 women and 1014 children. Indians in the county total 2,800: 270 Mohawks, 180 Oneidas, five hundred Onondagas, 300 Cayugas, 1,300 Senecas, and 250 River Indians.
- 1690: Albany had garrisoned Schenectady in 1689 to guard its western flank. On February 8, 1690, 200 French and Indians attacked the garrison. They burned 78 of 80 houses. One that

survived was the home of Glen Sanders, which was across the river. He had showed kindness to the French. Sixty persons died and twenty-seven here taken captive. The rest fled into the night to Albany and many lost limbs from the snow and cold.

- 1694: Supreme Court is established with the charge that it be “Duly and Constantly Kept.”
- 1698: Albany County’s population stands at 1,476, not counting slaves. The population of the province is 18,067.
- 1714: The population of Albany County stands at 3,029, including 458 slaves. The price of a slave is \$325.
- 1715: Governor Hunter gives Robert Livingston a patent confirming his ownership of Clermont Manor; 250 square miles.
- 1720: First Irish immigrants recorded in Albany.
- 1731: There are 1,222 slaves in Albany County.
- 1737: Albany County’s population is 10,681, Seventeen more than the County of New York.
- 1740: Stadt Huys (State Hall) is built at the northeast corner of Hudson Ave and Broadway. It will house all the government offices, including the jail and the courts. A pillory and whipping post are built outside.
- 1754: Under the leadership of Ben Franklin, a delegation from seven colonies meet in Albany. They successfully repair relations with the Iroquois Nation. Franklin proposes a Plan of Union. It is not adopted but it forms the basis for the later Continental Congress.
- 1758: “Yankee Doodle” is composed at Fort Crailo, across the river from Albany, by Dr. Richard Shackburg, surgeon for British General James Abercrombie.
- 1763: The City purchases the freedom of James Nox, a servant bonded to William Brefit, for nine pounds. Nox is to serve as the Public Whipper for the rest of his servitude.
- 1764: Volkert P. Douw, Mayor of Albany, purchases “a negro woman, Phoebe, and three children,” from Benjamin Ashley for \$500.
- 1766: City constructs boat docks on the river. Before that, cargo was unloaded onto canoe pontoons.



Fort Crailo (Dutch for Crow) built as a fortified manor house in 1707 for the Van Rensselaer Patroon. Note gun ports.

- 1772: Albany County's population stands at 42,706 including 4,000 slaves. Albany's first newspaper, the *Albany Gazette*, begins publication.
- 1774: Mother Ann Lee arrives in Albany. She settles near the location of the current Albany International Airport and forms the Shaker Community. She is buried on the site's Shaker Farm. Sir William Johnson, primary ambassador to the Indian tribes, dies on July 4th.
- 1775: After the battles of Lexington and Concord, Albany's Phillip Schuyler was promoted to Major General and given command of the Northern Department. He will organize the invasion of Canada and the plan for the defense of Saratoga.
- 1776: Albany native Philip Livingston signs the Declaration of Independence.
- 1777: The British, under the command of General "Gentleman Johnny" Burgoyne suffer a devastating defeat at the Battle of Saratoga. Saving the day and turning the tide for the Americans was General Abraham Ten Broeck of Albany. On October 10th, during his retreat, Burgoyne burned General Schuyler's farm at Stillwater. After his surrender, Burgoyne enjoyed his prisoner of war status at the Schuyler Mansion in Albany.
- 1779: Abraham Ten Broeck becomes Mayor and General Schuyler becomes a member of the Continental Congress.
- 1780: On December 14th, Alexander Hamilton marries Philip Schuyler's daughter Elizabeth at the Schuyler Mansion in Albany. Aaron Burr attends the wedding.
- 1781: On August 7th, a band of Tories, Canadians and Indians breaks into Schuyler Mansion to kidnap the General. The family takes refuge upstairs but not before a tomahawk is embedded in the balustrade. The scar still visible today. Schuyler's ruse that reinforcements had entered the property prompts the attackers to flee.
- 1782: Aaron Burr opens a law office at 2 Norton Street, just off the intersection of State and Pearl Streets. General Washington arrives in Albany on June 27th. General Philip Schuyler is his host and Washington is feted at Denniston's Tavern located on the northwest corner of Beaver and Green Streets.
- 1783: Mary DuBois, the first woman doctor in Albany, begins her practice.
- 1784: Mother Ann Lee dies. She is buried out near the Albany International Airport.
- 1785: Fort Frederick is dismantled. In 1785, the first stagecoach line between Albany and New York was chartered. As the century closed, twenty stagecoaches left Albany every day, heading west over what is now U.S. 20. The importation of slaves into the state is prohibited.



- 1786: Albany is the sixth largest city in the United States.
- 1788: New York ratifies the Constitution in Poughkeepsie on July 26th. The vote was 30-27. Albany County cast its four votes against ratification. The Convention recommends thirty-three amendments.
- 1790: On September 11th, the Common Council voted to change the names of streets that had English names.
- 1793: The Albany Institute of History and Art is founded. Former Mayor Douw's slave, Dinah, is hanged for setting the fire to Leonard Gansevoort's barn. This fire caused the November 17th conflagration that destroyed a four-block area and twenty-six houses. Three other slaves would be hanged a few weeks later.
- 1785: A trading vessel under the command of Captain Stewart Dean, sailing from Albany, was the second American ship to reach China.
- 1787: On the eve of the creation of the United States, New York's population is 220,000, not including 18,889 slaves. New York ratifies the Constitution 30-27 on July 26th.
- 1797: On March 10th, Albany is designated the State Capital.
- 1799: The first Capitol building is constructed at the southwest corner of State and Lodge Streets.
- 1804: At the urging of Albany resident, Chancellor James Kent, the Legislature authorizes the creation of an Official Court Reporter.
- 1807: The steamboat *Clermont* docks at Albany after making the trip from New York City in twenty-nine hours.
- 1808: The "Old" Capitol Building, constructed at the top of State Street Hill, is opened on November 1st. It will house not only the State government but also the City of Albany Common Council and the Courts.
- 1809: Albany County's boundaries are fixed with the carving out of Schenectady County.
- 1814: The Battle of Plattsburg in September is the most decisive naval battle of the War of 1812.
- 1817: Martin Van Buren and Benjamin F. Butler form a law partnership with offices at 111 State Street.
- 1822: The Champlain Canal is completed, connecting Albany to the St Lawrence River.
- 1823: Martin Van Buren's law partner, Benjamin F. Butler appointed district Attorney.

- 1824: The Albany Regency comes of age in Albany and forms the modern Democratic Party. Charter members are four New York Governors: Martin Van Buren, John A. Dix, William L. Marcy and Silas Wright.
- 1824: The Marquis de Lafayette is feted in Albany on September 17th.
- 1825: The Erie Canal opens with the arrival of the *Seneca Chief* on November 2nd, wedding the waters of the Atlantic and the Great Lakes. The boat enters the Albany Basin at 10:57 A.M. A series of cannon blasts echo down the River to New York City and the return report is heard at 11:55. Shipping costs drop 90%. Erastus Corning opens a hardware business on Broadway.
- 1827: The Full emancipation of slaves takes effect in New York. Jesse Strang, the murderer of John Whipple at Cherry Hill, would be the last person publicly executed in Albany. He was convicted partly on the evidence of a newly freed slave who, as a free person, became eligible to testify one week before the trial started.
- 1829: Albany native and one of the world's greatest scientist, Joseph Henry, unveils his "intensity" magnet. Henry is the primary developer of electro-magnetism which allows Samuel Morse to develop the telegraph and Alexander Bell the telephone. Henry was an instructor at Boy Academy. That building still exists in Academy park across from City Hall and houses the Albany Board of Education. Henry lived one-hundred yards away at 105 Columbia Street which also is still standing.
- 1830: The Temperance Society estimates that there are 415 taverns and groceries selling liquors in the city when the City adult male population is 11,500; meaning that there is one establishment selling liquor for every twenty-eight men.
- 1831: The first commercial passenger railroad in America begins running between Albany and Schenectady. Alexis de Tocqueville visits Albany; observes the 4th of July parade.

"Albany counts 25,000 inhabitants. It is a fairly pretty city, well situated. It much resembles Amiens. The Hudson, which at this point has lost all its grandeur and majesty, quite recalled to me the Somme...And there is a canal which joins the waters of the Hudson with those of Lake Erie and which by this means makes Albany the market of all the peoples of that part of the west. These communications are soon to be rendered even more easy by a road of iron which is being built at this moment."

Alexis de Tocqueville, *Democracy in America*.

- 1832: The Common Council meets in the "new" City Hall at Eagle and Pine Streets. This building will burn in 1880. The Common Council passes an ordinance prohibiting the free roaming of pigs in the City.
- 1833: Erastus Corning, First Ward alderman, elected Mayor by the Common Council by a vote of 12-8.

- 1836: Stadt Huys (State Hall) where Benjamin Franklin met and proposed his Plan of Union burns to the ground.
- 1839: Stephen Van Rensselaer III, known as “the good patroon,” dies at the Manor House in Albany. The Manor House was located in what is now Albany’s warehouse district. He is a graduate of Harvard and founder of RPI; also a former state assemblyman, state senator, lieutenant governor, member of congress, major general in New York Militia, Chancellor of State University, president of the Erie Canal commission, and son-in-law of General Philip Schuyler. Efforts to collect debts owed to his estate would result in the Helderberg Rent Wars.
- 1840: The City of Albany’s population is 34,000. Continuous train travel between Albany and Boston becomes available. The terminal is on the east side of the river in Greenbush. Jared Rathbone, heir to the fortune of the family’s stove business, becomes the first popularly elected mayor, defeating Erastus Corning. Rathbone dies May 13, 1845.
- 1842: State Hall, at the corner of Eagle and Pine streets, is completed. It will become Court of Appeals Hall on January 8, 1917.
- 1847: The Court of Appeals is established. The Rev. John McCloskey becomes Albany’s first Roman Catholic Bishop and then Cardinal.
- 1848: Abraham Lincoln, a young Whig congressman from Illinois, visits Albany to campaign for Zachary Taylor and Millard Fillmore of Buffalo, then the New York’s comptroller. Visits Thurlow Weed, publisher of the Albany Evening Journal and Republican political leader in New York.
- 1848: The Albany Fire Department is organized in response to an enormous fire that consumed over six hundred buildings occupying forty acres near the river. The common Council bans wood structures south of Lark Street.
- 1850: John J. Schoolcraft, incumbent Whig member of Congress, is reelected, defeating Erastus Corning. City dams Patroon Creek creating Rensselaer Lake reservoir, now known as the Six-Mile Waterworks near Fuller Road and Washington Avenue Extension.
- 1851: Albany is connected by rail to New York City by the completion of the Hudson River Railroad. Travel time to New York City was three and a half hours. Albany Law School is established.
- 1851: Albany abandons the constabulary policing system and establishes a police force. John Morgan is named first Chief. Albany City Hospital dedicated at Dove Street and Madison Avenue.
- 1852: The Cathedral of The Immaculate Conception is completed.

- 1854: Elizabeth Cady Stanton, Antoinette L. Brown and Ernestine L. Rose are leaders of an Equal Rights Convention held at the YMCA on State Street just west of Broadway.
- 1855: The Know-Nothing party (officially the Native American Party) sweeps the election for statewide offices capturing: Secretary of State, Comptroller, Attorney General, Treasurer, State Engineer, two Court of Appeals positions, Canal Commissioner and Inspector of State Prisons. The Know-Nothings are an anti-Catholic and anti-immigrant group.
- 1861: Lincoln visits Albany on his way to his inauguration in Washington. Two members of the greeting delegation are Clara Harris, daughter of Judge (later Senator) Ira Harris and Clara's fiancé, Major Henry Rathbone, son of Albany Mayor Jared Rathbone. John Wilkes Booth is then performing at Gayety Theatre on Green Street and staying at the Stanwix Hotel on Broadway, two blocks from the Delavan House where Lincoln will stay. Both Clara Harris and Major Rathbone would be guests of the Lincolns at Ford's Theatre on the evening Lincoln was shot. Rathbone was severely injured in his struggle with Booth.
- 1862: On March 6th, the North's ironclad warship, *Monitor*, leaves New York harbor for Hampton Rhodes to face the South's ironclad, the *Merrimac*. The iron plating for the *Monitor* is produced in Erastus Corning's Troy Ironworks under a secret contract because he is then a member of Congress.
- 1865: On April 26th, Lincoln's body lies in state at the New York State Capitol. On the same day, John Wilkes Booth is shot by Sgt. Boston Corbett in a tobacco barn on Richard Garrett's farm near Port Royal, VA. Corbett was raised in Troy and worked as a hatter in Albany.
- 1866: The first railroad bridge at Albany is completed. The river pilings of that bridge still carry Amtrak's trains across the river. Prior to 1866, the only bridge crossing the Hudson in this area was at Waterford.
- 1870: Albany's population stands at 70,000. The *Albany Law Journal* is established.
- 1871: Construction on the new Capitol begins.
- 1872: Erastus Corning dies on April 8th.
- 1873: Court of Appeals Judge Rufus W. Peckham of Albany and his wife drown at sea when their ship, *Ville du Havre*, sinks in twelve minutes after colliding with another ship.
- 1875: Albany Law School starts the first student edited law journal in the nation. Lydia Mott dies on August 20th. Mott was at the center of the anti-slavery movement, the temperance movement and the women's suffrage movement with Susan B. Anthony and Elizabeth Cady Stanton. Cousin of Lucretia Mott. She operated a clothing store on Broadway and then Maiden Lane. She lived at 103 Columbia Street. She is buried in Albany Rural Cemetery, Section 49, Lot 2.

- 1876: The New York State Bar Association is established in Albany.
- 1880: Legislature passes School Suffrage Law allowing women to vote in school board elections. The Philip Hooker designed City Hall burns.
- 1883: The new (and current City Hall) designed by H.H. Richardson is completed. The building would hold the city courts and the Appellate Division would hold court in the Common Council chamber.
- 1884: The Federal Courthouse opens on Broadway at the foot of State Street. The Court of Appeals moves into the new Capitol.
- 1886: Statue of Liberty dedicated on October 28th.
- 1891: Albany *Times-Union* first published.
- 1894: Judge D. Cady Herrick of Albany rules against Sunday baseball.
- 1896: The Appellate Division is created. First meets in the Common Council Chambers in Albany's City Hall.
- 1898: The U.S.S. Maine explodes in Havana harbor, precipitating the Spanish-American war. The Maine was under the command of Albanian, Rear Admiral Charles Dwight Sigsbee. 251 sailors and marines died in the sinking, but Sigsbee survived.
- 1900: The Albany County Bar Association is organized. At age twenty-five, Billy Barnes, grandson of Thurlow Weed, takes control of the Republican Party, assisted by his paper, the *Albany Evening Journal*.
- 1901: Albany law School graduate President William McKinley is assassinated. Theodore Roosevelt becomes President. Albany Law School has a 100% Bar Exam pass rate, 49 of 49 when statewide rate is 82%.
- 1910: On May 29th, Glenn Curtiss took off from Albany for New York City, the first extended flight between two American cities. This demonstrated the feasibility of commercial aviation. Albany annexes large portions of the Pine Bush from Guilderland as its population exceeds 100,000.
- 1911: Billy Barnes becomes chair of the State Republican party and a year later chair of the national Republican Party. Albany is once again the seat of national Republican politics as it was under Barnes's grandfather, Thurlow Weed and William Seward. Seward served as Senator, Governor of New York and Secretary of State under Lincoln.
- 1912: Governor William Sulzer crosses Tammany Hall and he is impeached and convicted. He is represented by Albanian D. Cady Herrick, later to become Judge Herrick. He is the great grandfather of retired Albany County Judge Stephen Herrick.

- 1913: The “Great Flood” inundates downtown Albany. It precipitates the building of the Great Sacandaga Lake to serve as flood control.
- 1916: Albany annexes portions of Bethlehem and Colonie.
- 1917: Voters approve amendment granting New York women the right to vote. Albany County votes against the amendment.
- 1918: Albany resident Henry Johnson is awarded the Croix de Guerre, France’s highest military honor. In 2015, he was awarded the Congressional Medal of honor posthumously by his own country. His memorial sits at the southeast entrance to Washington Park.
- 1918: Alfred E. Smith, the ‘happy warrior,” is elected governor.
- 1919: The Albany County Democrats start their climb to power with the election of a returning Navy veteran by the name of Daniel P. O’Connell as a member of the Board of Assessors.
- 1921: Children’s court is created. After an absence of twenty years, the Democrats take back City Hall with the election of William S. Hackett.
- 1929: The current Albany Law School at New Scotland and Holland Avenues is built. Under Dean Alexander, women disappear from classes. The “no gender discrimination” notice, present in the school bulletins since 1896, is deleted.
- 1931: In the early morning hours of December 18th, after celebrating his acquittal on kidnapping and assault charges in Troy, “Legs” Diamond is gunned down at his apartment at 67 Dove Street. Convincing evidence suggests that it was carried out by Albany Police Sgt. William Fitzpatrick and an associate on orders from Dan O’Connell, the head of the Albany Democratic machine. There was only room enough for one bootlegging operation in Albany. Fitzpatrick would later be promoted to Chief of Police.
- 1932: The Dunn Memorial Bridge opens, named after WW I Congressional Medal of Honor winner, Parker F. Dunn.
- 1935: Justine Wise Polier is appointed to the New York City Domestic Relations Court and becomes the first woman justice in New York State.
- 1940: Albany’s population stands at 130,000.
- 1941: Erastus Corning II is elected Mayor at age 32 by a 5-1 margin. In 1944, Corning would enter the army as a private.
- 1945: Albany Police Chief William Fitzpatrick is murdered in his office at Police Headquarters by Detective John McElveney concluding a personal feud.

- 1950: Albany's population stands at 135,000.
- 1961: One hundred and fifty-seven years after the creation of the position of Law Reporter, Marie Debs Cauley, a College of New Rochelle and Fordham Law School graduate, becomes the first woman editor at the Law Reporting Bureau.
- 1962: Plans emerge for the construction of the Empire State Plaza. The project will remove a ninety-eight-acre cohesive inner-city neighborhood containing thousands of families.
- 1980: Albany's population stands at 102,000, a 33,000 person decline since 1950.
- 1983: Mayor Corning dies on May 28th. Thomas M. Whalen III becomes Mayor. Mario Cuomo succeeds Hugh Carey as governor.
- 1988: Michael McNulty replaces Sam Stratton in Congress
- 1990: The population of Albany stands at 100,000, showing the continuing flight to the suburbs.
- 1992: Hon Karen Peters, Ulster County Family Court Judge, is first woman to be elected Justice of the Supreme Court in the Third Judicial District. Gerald D. Jennings defeats Harold Joyce to become Albany's Mayor.
- 1994: George H. Pataki defeats Governor Mario M. Cuomo.
- 2000: Hillary Clinton becomes the State's first woman Senator.

III. COURTHOUSES AND JAILS

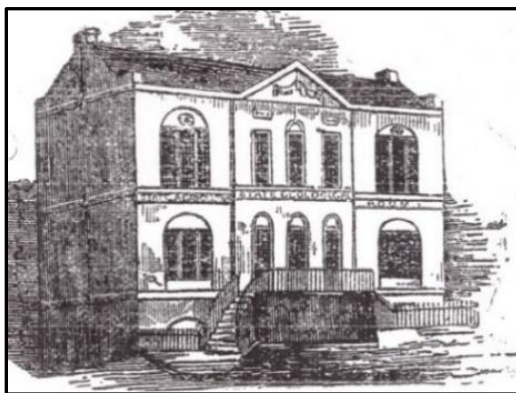
EARLY DUTCH, COLONIAL AND STATE LOCAL COURTS

On May 8, 1915, Judge Alden Chester laid the cornerstone for the County Courthouse located on Eagle and Columbia Streets. He noted that Courts have been operating in Albany since 1635 and there has never existed what could be truly be called a courthouse. “Albany has been home to the high court for more than three and a half centuries, beginning in the era of the Patroon, Kiliaen van Rensselaer, whose feudal manor of Rensselaerswyck encompassed a million acres of the land that surrounds us here. In 1635, the Patroon appointed Jacob Albertsz Planck as *schout*, who was sheriff and high judge all-in-one, and empowered him to choose three *schepens*, or alderman of a sort, to administer government and justice. None were trained in the law, so the Patroon sent them a book, *Freedoms of the Patroon and Colonies*, and cleverly noted to his judges that ‘those who cannot read shall immediately have the same read to them by others.’ The Patroon later sent two more volumes—*Damhouwer on Criminal Procedure*, and *Ars Notariatus*, thus establishing the first law library in this old place of law and justice. It is likely then, that Jacob Planck is the first person to exercise judicial power in New York, then New Netherlands.”

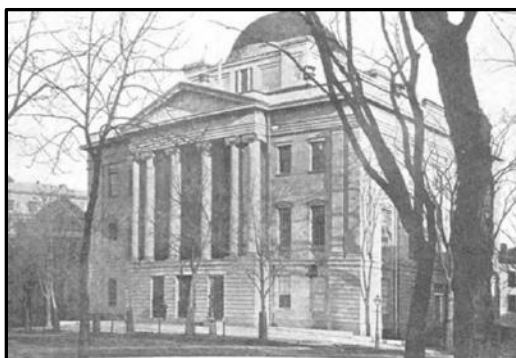
The seat of this new legal power was a shingled wooden building inside the walls of Fort Orange, at what is now the foot of Madison Avenue. The courtroom was seventeen feet long and ten feet wide, with judges’ chambers on the second floor, to which the Schout and Schepens adjourned by climbing up a ladder through a trapdoor. This is when people first began to refer to this as the high court. The Court of Rensselaerswyck was so powerful that for years it resisted the efforts of the Director General of the New Netherland Colony, Peter Stuyvesant, to impose his authority here. The Schout of Rensselaerswyck, an arrogant fellow named Brandt van Schlictenhorst, went so far as to tear up all the law ordinances Stuyvesant ordered him to publish.



Stadt Huys (State Hall) 1740-1836
Corner of Hudson and Broadway



State Hall, Lodge & State Streets,
1797-1855. Until 1808, New York’s Capitol



Old City Hall, Pine and Eagle Streets
1831-1880

In 1652, Stuyvesant arrested Van Schlictenhorst, evicted his court and created a new one. The Court of Fort Orange and Beverwyck, the oldest court in the state is a year older than the first New York city court. This court sat in a building at the foot of Hudson Avenue and Broadway. It was here in the 1680's that Albany County, known as the "Mother of Counties" because of its enormous size, was created and where, in 1686, the City of Albany received its charter from Governor Thomas Dongan.

"A new brick courthouse was built in Fort Orange in 1657-58. It had two adjoining six-foot deep cellars, each about twenty-one feet square, built of quarried stone and separated by a partition wall [to be used as jail cells]. On the first floor was a twenty-one-foot square room, a five-foot wide hallway, and a room sixteen by twenty-one foot in plan. Upstairs were two twenty-one-foot square rooms. There were built-in wainscoted bedsteads, a winding stairway, an oval window upstairs. And a fully open attic space. At each gable end was a double chimney built of imported yellow clinker bricks and braced by forty-two anchors. The roof was covered with pan tiles, and it was probably the finest building in Fort Orange or Beverwyck" (Wait, 28.).

The first court outgrew the old wooden Stadt Huys and a new one was built about 1740. "Only Faneuil Hall in Boston and Independence Hall in Boston could ever match it for Historical significance; for here in 1754 was held the first Colonial Congress, with Benjamin Franklin presiding, and from its steps on July 29, 1776, the Declaration of Independence was read to the Continental Army troops and the citizens of Albany." (William Kennedy, *Talking to The High Court*, remarks given at the New York Court of Appeals in Albany's Tricentennial Year, which was held on November 15, 1986.)

As William Kennedy noted above, the first courthouse in Albany would have been in a room in Fort Orange at the river's edge. Court Sessions were also held in Fort Frederick located in the middle of State Street about half-way up the hill near Lodge Street. The wooden structure that was the first Stadt Huys or State Hall was built in 1673 on the northeast corner of Hudson Avenue and Broadway, approximately where the entrance way to the State University Building is located. There are no known depictions of this original courthouse. However it looked, it was replaced in 1740 by the building depicted above. Stadt Huys held first the English Colonial offices and then the State government offices. It also housed local government offices, the courts and the jail, including a whipping post and pillory in front. Stadt Huys continued to house a jail and other local offices until it was destroyed by fire on April 30, 1836.



**Old Capitol Building.
Occupied 1809, razed 1883.
Southeast Corner of State and Eagle Streets
Home of the Court of Appeals 1847-1883.
Home of Mayor's Court and
Albany Common Council, 1809-1831.**



City Hall, 1883-Date

In 1797, a larger State Hall, designed by William Sanders, was built on the southwest corner of State and Lodge Streets with the corner stone being laid by Abraham Ten Broeck. It was completed in the Spring of 1799. The building also held the State cabinet offices and the Executive Chamber for a time. The building was used by government until 1840, when a new State Hall was finished at the northeast corner of Pine and Eagle Streets. It now houses the Court of Appeals. In 1808 the City Common Council and local courts, which also held sessions in the State Street building, moved to the third floor of what was then the new Capitol. The new Capitol, finished in 1809, held, amazingly for its size, an array of government offices. The building was small by any standards. It was two stories with a basement and attic. It measured 90' wide by 115' long. The following offices were shoehorned into the Capitol: 1. The Senate Hall, 2. The Assembly Hall, 3. The Executive Chamber, 4. State Offices, 5. The Court of Chancery, 6. The Court of Errors, 7. The Supreme Court, 8. The Circuit Court, 9. The Court of Common Pleas, 10. The Mayor's office, 11. Mayors Court, 12. The Albany Common Council and City and County Offices, 13. Session of the Federal Court. This condition would exist until 1831 when the lower courts and the City and County offices moved to the new City Hall---not the current one but the one that burned in 1880. In 1883 the new (and) current City Hall opened, again with a panoply of Courts meeting in the building. Essentially all City, County and State Courts except for the Court of Appeals convened in this building. This was recognized to be inadequate from the start. In 1885, the County purchased the granite bank building on the northwest corner of State and Chapel Streets. This building became the home for the next twenty years of the Appellate Division, Supreme Court, County Court, Surrogate Court and the District Attorney. These courts and offices would move to the current County Court House when it was completed in 1916. To keep these matters in perspective, in 1917 there were only two Supreme Court Justices who resided in Albany County.



**Albany Municipal Bldg.,
Pearl & Howard Streets,
Home of Police Court, Circa 1917**



**Albany Police Court
Beaver and Lodge Streets
Circa 1932**

Albany's fourth City Hall was completed in December 1832 at the site of the current City Hall on Eagle Street at the foot of Washington Avenue. It was distinguished by its white marble, quarried by state prisoners at Sing Sing, and its gilded dome. A statue of Alexander Hamilton graced the rotunda. It burned to the ground on February 10, 1880. Within three years, the current City Hall, designed by H.H. Richardson was completed on the same site. This new and current version of City Hall was a joint venture of the City and County.

In 1855, the old State Hall at State and Lodge Streets was razed, and a new building was built that became the State Geological Hall and housed the first New York State Museum. In 1868, the City built a municipal building on southwest corner of South Pearl Street and Howard Streets (now the site of a parking garage next to the Times-Union Center) which held municipal courts. At various

points in time, the municipal courts were also held in the “old” and “new” City Halls at Pine and Eagle Streets as well as in the “Old Capitol.” The current City Hall houses Traffic Court, City Civil Court and Small Claims Court. For a time, Police Court was held in the Police Headquarters Building that was located on the southeast corner of Beaver and Eagle Streets.

FEDERAL COURT

The United States Federal courts were created by the Judiciary Act of 1789. As originally designed, the State of New York constituted one district with the Honorable James Duane presiding. In 1814, the State was split into a Northern and Southern District. In 1900 the Western District was carved out of the Northern District. The Federal Courts that sat in Albany in the earliest days would have used the courtroom in the Stadt Huys that was used for all governmental functions in Albany from 1740 until the turn of the next century.



**Old Federal Court House, State Street
and Broadway, 1883.**

The “Old Federal Court House,” which still stands on Broadway at the foot of the State Street Hill, was built in 1883 and used to house the Post Office and the Federal Courts until the current courthouse opened in 1934. It is constructed in the Italian Renaissance Revival style. Architect James G. Hill designed it to compliment the similar style of the Capitol Building sitting at the top of the State Street Hill. In 1972, the Post Office and other federal offices moved out and the building was vacant for the next five years. It was then purchased and rehabilitated by the SUNY system. Before the construction of this building, Federal Court met in the Old Capitol.



Main Courtroom, Foley Courthouse



**Hon. James T. Foley Federal Courthouse,
Broadway and Maiden Lane, built 1933.**

The current Federal Court House, which stands on the southeast corner of Broadway and Maiden Lane in downtown Albany, was completed in 1934. The building, in the Art Deco style, was designed by the Albany architectural firm of Gander, Gander & Gander. When opened, the

building also held the main Post Office. The building's exterior is finished in white Vermont marble with eagles carved over the two main entrances. The Post office moved out in 1995 to make room for added court office space and another courtroom. In addition to the Federal District Court, the building also houses the Bankruptcy Court, the United States Marshall's Service, U.S. Customs and Border Protection and offices of the F.B.I. In 1980, the building was renamed after United States District Judge, James T. Foley.

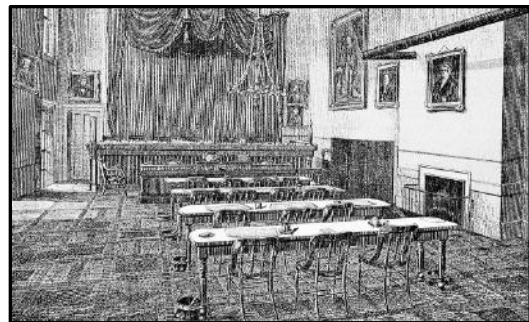
COURT OF APPEALS

The Court of Appeals was created by the Constitution of 1846. It replaced the much-criticized Court for the Trial of Impeachment and Correction of Errors. This court included The Chancellor, Judges from the Supreme Court and the entire Senate. In the official reports can be found decisions that affirm or reverse a lower court decision by a vote of, for example, 22-15. The official motivation for its abolition was aptly summarized by Governor Seward in his 1839 message: *"Every other vice of government is more endurable than delay in the administration of justice."* The new Court of Appeals was comprised of four Judges who were elected state-wide for terms of eight years with no retirement age limitation and four judges selected by the Governor for one-year terms from sitting Supreme Court Justices who had the least time to serve. These were called *ex Officio* Judges.



**State Hall built in 1842.
Became Court of Appeals in 1917.**

This process, which resulted in the Court losing half of its compliment every year, proved to be institutionally burdensome and it was changed by the Judiciary Article of 1870 in the Constitution. The Court of Appeals would now be comprised of a Chief Judge and six associate judges, all elected statewide. They would serve fourteen-year terms with a maximum age of 70. The election of judges ended in 1977 with an amendment to the Constitution calling for the appointment of judges by the governor from a list of names recommended by the Commission on Judicial Nomination with confirmation by the Senate. From 1888-1894, the Court operated with a "second Division" made up of judges temporarily assigned from the Supreme Court to the Court of Appeals to help reduce enormous backlogs. That court went out of existence with the creation of the Appellate Divisions in 1894.



**Court of Appeals Court Room,
Old Capitol Building,
1847-1879**

From 1847 to 1883, the Court of Appeals met in the old Capitol as had its predecessor. Its first Courtroom was originally constructed for the Supreme Court of Judicature in 1832 from space occupied by the Senate gallery. When the Senate and the Assembly moved to the new Capitol in 1879, the Court of Appeals moved into the old Senate Chamber. Ironically, this space was originally the home of the Supreme Court of Judicature. It occupied a grand space over the central hall and a skylight dome with 270 panes of glass illuminated the courtroom. The Court moved to the new Capitol in 1883, where it occupied the “Edlitz” Courtroom on the second floor (named after the architect, Leopold Edlitz). Although this courtroom (now the Blue Room) had magnificent appointments, it displeased the judges because of poor lighting and acoustics.



“Edlitz” Courtroom, 1883-1888

At this point, the Capitol was not finished, and the Court expressed a preference for space on the third floor just above the executive chambers. On January 14, 1884, the Court held its first session in the Courtroom on the third floor of the Capitol designed by H.H. Richardson. It is this courtroom that we recognize today because it was moved in 1916 to its new location (minus the ceiling) in State Hall on Eagle Street. This would become the final home of the Court of Appeals.



“Edlitz” Courtroom c. 1888-1894. Used by Court of Appeals, Second Division, then used by Court of Claims.

State Hall was designed by Henry Rector and was completed in 1842. It was intended to house State offices that had outgrown the space in the Old State Hall which was located on the southwest corner of State and Lodge Streets. There was also a concern that the old State Hall was not fireproof (Ironically, while the new State Hall, then the Court of Appeals, was being renovated in 1956, a serious fire destroyed the dome and damaged significant portions of the interior of the building).



The “Richardson” Courtroom. Moved from the Capitol to State Hall. 1916.

Designed in the Greek revival style, State Hall was constructed of marble quarried by prisoners at Sing Sing, most of which would eventually be replaced. In its configuration as a state office building, State Hall housed, among other offices, the Chancellor (whose position was abolished by the Constitution of 1846), the Register of Chancery and the State Supreme Court. In 1916, to accommodate the move of the Court of Appeals from the Capitol, the rear addition to the east was built to hold the Richardson

Courtroom. The Court was dedicated on January 8, 1917. It underwent major renovations in 1959-1959 and 2002-2004 which upgraded all its systems while preserving its original character.

APPELLATE DIVISION, THIRD DEPARTMENT

The Appellate Division-Third Department of State Supreme Court is one of four in the state. It is made up of twenty-eight counties divided into three judicial districts. It covers about half of upstate New York. The Appellate Divisions hear appeals directly from the county courts. The Appellate Division is comprised of Supreme Court Judges appointed by the Governor who also selects a Presiding Justice. The judges may serve until age 70 with three discretionary extensions granted until age 76.

Supreme Court has been “duly and constantly kept” since 1691, from shortly after New York became a colony of England. The Supreme Court of Judicature established in that year was continued in New York’s first Constitution in 1777. The Supreme Court of Judicature operated much like our Supreme Court. It had jurisdiction over all matters, including appeals, but many cases were heard in the lower courts. Certain matters could be appealed to the Royal governor and his council and, with various restrictions, then to the Privy council in London.

The Supreme Court would also hold local sessions as a circuit court and felonies were heard by the Court of Oyer (to hear) and Terminer (determine). In that court, the justice was often assisted by a county judge, the mayor or members of the common council. During the State’s first four decades, the Courts organization remained the same. There were five judges appointed by the governor and one senator from each of the four senatorial districts. Those judges would ride circuit.

The Constitution of 1822 reduced the number of justices to three and a circuit court judge was appointed for each of court’s eight judicial circuits. The Constitution of 1846, creating the Court of Appeals, abolished the Supreme Court of Judicature, the Court of Chancery and the Circuit Courts. All matters of law and equity were placed under the jurisdiction of Supreme Court. Appeals from all courts were heard by the general term of the Supreme Court. Civil cases were heard by the lower courts of common pleas and criminal cases were heard by the County Courts. In 1870, the State was divided into four judicial departments



**Appellate Division’s First Home, 1896,
Albany Common Council Chambers,**



**Appellate Division’s Second Home
The County Building, 1897-1916**



**Fourth Floor Courtroom
County Court House, 1916-1972
Appellate Division’s Third Home**

very similar to the arrangement that exists today. The present Appellate Division was created by constitutional amendment in 1894 with primary credit going to Elihu Root who would eventually receive the Nobel Peace Prize after serving as Secretary of War and Secretary of State. The Appellate Division's first session was held on January 14, 1896, in the Common Council chambers of our current City Hall where the General Sessions of Supreme Court had been held. From December of 1896 until 1916, the Appellate Division sat in the Albany County Building



Appellate Division Courtroom

located on the northwest corner of State and Chapel

Streets now the site of the Omni Hotel. From 1916 to 1972, the Court held sessions in the Fourth-floor courtroom of the County Court House located at Eagle and Columbia Streets. The final session of the Appellate Division was held in this court on January 14, 1972. In February 1972, the Appellate Division moved to the Justice Building located on the northeast corner of the Empire State Plaza. That building also houses the Court of Claims and the Attorney General.



**Robert Abrams Building for
Law and Justice
Appellate Division's Current Home**

OTHER COURTS IN THE NEW YORK STATE CAPITAL

Albany has been the State Capital since 1797. The current Capitol was built between 1867 and 1898 but was occupied in stages with the Legislature holding sessions there starting in 1879. The old Capitol, which stood to the southeast of the new Capitol and looked directly down State Street, was razed in 1883, along with the State Library which occupied an annex behind the Old Capitol. The old Capitol held the City Common Council and the Mayor's court on the third floor. Supreme court met on the second floor along with New York's highest Court, the Court for the Trial of Impeachment and correction of Errors. This may sound like a building use more crowded than imagined but since the high court was comprised of the Lt. Governor and thirty-two senators, the Senate chambers was available for a courtroom. The "Old Capitol" is pictured above.

ALBANY COUNTY COURT

This courthouse is located next to the Court of Appeals. It fronts on Eagle Street to the west, Lodge Street to the east, Columbia Street to the north and Steuben Street (now just a walkway) to the south. It was constructed in 1916 of granite and limestone in the neoclassic style and replaced Albany High School which was built in 1876. Before that, the site held a gravity reservoir which fed water to customers lying to the east. This is the first building in Albany County's long history built with the dedicated purpose to house courts. All other buildings where our courts sat were of a mixed executive, legislative and judicial purpose. Prior to this, the County Courts met in Stadt Huys (State Hall) at Broadway and Hudson Avenue, the Old Capitol, two City Halls and in the County Building located at the northwest corner of State Street and Maiden Lane, now the site of the Omni Hotel.

Over the years, the County Courthouse has housed the County Clerk, the Commissioner of Jurors, the Board of Elections, the Sheriff, the District Attorney, and the County Legislative Chambers, which was also used for Grand Jury proceedings. Until 1972, the Appellate Division-Third Department had chambers, its law library and courtroom on the fourth floor. In December 2011, the Courthouse was rededicated after a six-year, \$53 million renovation. The courthouse is now occupied by Supreme Court, Surrogate's Court, the Sheriff, County Clerk, County Legislature and the Commissioner of Jurors. Gone are County Court, the District Attorney, and the Board of Elections. The Board of Elections will soon occupy renovated space held by the Department of Motor Vehicles for many years at South Pearl and South Ferry Streets. The County Court and District Attorney are now located in the new "Justice Center," shown above, located at the Corner of Steuben and Lodge Streets just behind the "old" courthouse.



Photo by Paul Bukowski, Times Union, Dec. 2011



**Criminal Courts Justice Center
Columbia and Lodge Streets**

SURROGATE COURT

In 1653 the Dutch established a Court of Burgomasters that had jurisdiction to prove wills and administer estates. In 1665 a Court of Orphan Master was created to assume the jurisdiction that the Burgomasters Court exercised in this area. When the English took control of the Colony from the Dutch in 1664, estate matters came under the jurisdiction of the Mayor's Court. In 1702, probate matters were put in the hands of the Governor who would delegate the duties to an appointee. The first delegate was a Doctor Budes who adopted the name of Surrogate for his duties. Out of this



Surrogate's Courtroom, County Courthouse.

developed a "Prerogative Court" which assumed jurisdiction over probate matters. A full description of its jurisdiction cannot be described here but an act of 1743 placed probate matters in the hands of Supreme Court. As the population increased, the probate tasks were too numerous for one delegate to perform, and authority was given to appoint a delegate in each county. These delegates began to be called Surrogates in 1746. Under the first Constitution of 1777 a Probate Court was established. In 1799 the delegates were appointed to the Statewide Probate Court.

In 1778, legislation transferred probate matters from the Governor to the Probate Court. After authorization for the appointment of a Surrogate in each county, the Probate Court maintained authority over the estates of residents dying out of state and out of state residents. Probate Court also had appellate authority over Surrogate Court decisions. This court was abolished in 1823 and authority was transferred to the Chancellor.

In 1787 the Probate Court became an appellate court to hear cases that were decided by the Surrogates. In 1823, the Probate Court was abolished, and its jurisdiction was transferred to the Court of Chancery. It was not until 1880 that the ill-defined rules and procedures that governed the probate of estates were consolidated into one place. Under the Constitution of 1894, Surrogate Court became a constitutional court. Since 1917, Surrogate Court has been holding sessions in the County Courthouse, shown above.

FAMILY COURT

The first dedicated Family-Juvenile Court in the United States was established in Chicago in 1899. In 1909, the New York State Legislature decriminalized acts by children between the ages of seven and sixteen that would be a crime if done by adults, introducing the concept of a “juvenile delinquent.” For most of our legal history, there was no court dedicated to children or families. The procedures for managing the legal issues faced by children and parents evolved through specialized parts of the courts of general session. In 1902, the children’s part was created within the Court of Special Sessions, but children were still treated legally as adults until the change was made in 1909.

In 1921 a constitutional amendment provided for the creation of Children’s and Domestic Relations Courts. The legislature limited Domestic Relations Courts to New York City, but it exercised limited jurisdictions. In 1922, Children’s Courts were created across the state but the law and procedure governing these courts was a mishmash. Upstate, the Children’s Courts exercised wide ranging jurisdiction over matters affecting not only children but also parents. However, child custody matters were not within its purview. In 1961 a constitutional amendment provided for the creation of Family Court and the Legislature consolidated most matters affecting parents and children in that court under the Family Court Act. Notably, excluded from Family Court’s jurisdiction were divorce actions.

In Albany County, Children’s Court was held from 1923 until 1963. Family Court’s first home, in 1964, was in Centennial Hall located on the southwest corner of Lodge and Pine streets. It was built in 1898 as a school for St. Mary’s Parish. Its construction celebrated the centennial of the current church. Adjoining that building is a red brick building on Pine Street that was built in 1860 as a convent which was also became part of the courthouse. The parish church, which exists today, is the third St. Mary’s Church to occupy the location across the street from Centennial Hall. In 1986, the Fund for Modern Courts assessed Family Court and described the building as “a mess, crowded, stuffy and drab.” In 2009, the building again came under scrutiny. A \$23 million project was under way to convert the building to house the Law Reporting Bureau and to provide seven suites for Court of Appeals judges to stay while they were in session just



**Centennial Hall, First Albany County
Family Court, 1962-1991
Pine and Lodge Streets.**



**Family Court’s “Temporary” Site,
1 Van Tromp Street
1991-2005**



Family Court’s New Home, 2005

across the street. After spending twenty-five years in the crowded, stuffy and drab Centennial Hall Court House, Family Court moved in 1991 to what was supposed to be temporary quarters in the “Kennedy Building” at 1 Van Tromp Street. The temporary stay lasted fourteen years. Family Court has always been somewhat of a handmaiden in the court system and neither of these refurbished buildings, serving as its first two courthouses, met the needs of families, the bar or the judges. Both buildings lacked the dignity that a court deserves. In November 2005, Family Court moved to its present home at 30 Clinton Avenue to occupy a site that was in 1906, the site of the McCredie Malt Co. For the first time, the citizens of Albany County, a courthouse designed to serve families and the Bar in a manner to which they deserved.

CITY COURT, POLICE COURT, MAYOR’S COURT, RECORDER’S COURT AND TRAFFIC COURT

These courts are the ground zero of the judicial system. They are the courts that, along with Family Court, keep the wheels of commerce and everyday life moving forward by resolving society’s conflicts. Today, it is hard for us to envision a Mayor or a panel of Alderman presiding over a court, but a truly separate and independent judiciary on the local level is a Twentieth Century development. Following from that, it is also a Twentieth Century development for the local courts to have their own facilities.

As noted above, the local courts met in Fort Orange, Fort Beverwick, the Stadt Huys, three different municipal buildings, two City Halls and the Old Capitol. Currently, the City Court-Civil Part, Traffic Court and Small Claims Court meet in City Hall. The former Police Court, now City Court-Criminal Part is held at the Court House on Morton Avenue (shown opposite). For many years, the building also housed the offices of the Police Chief and Fire Chief. The Fire Department Headquarters are now located around the corner at Morton and South Pearl Streets. The Police Headquarters is now located in a new structure on Henry Johnson Blvd. The position of Recorder’s Court and Police Court were abolished in 1995 when the local courts became a unified City Court. The Mayor’s Court, which us of ancient origin dating back to the Dutch in the 1650’s, was abolished in 1867.



**City Court, Criminal Part
Morton and Broad Streets**

JAILS AND PENNITENTIARRYS

Long term incarceration of persons convicted of crimes is a nineteenth century development. In the 1600's and 1700's the punishment for criminal acts was most often a fine, a public whipping, time in the pillory or banishment from the community. Indeed, the City of Albany once had a paid position called "public whipper. But starting in the 1800's, Albany has had no shortage of jails. As noted above, there were jails in Fort Orange, near the Hudson River's edge and in Fort Frederick that stood on State Street near Lodge. The Stadt Huys, at the corner of Hudson Avenue and Broadway, had jail cells in the basement and a pillory and whipping post.

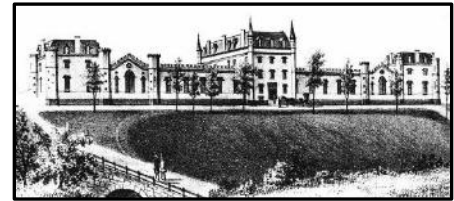
An act of 1792 directs the Sheriff to move the prisoners from the "old Gaol" in the basement to the "new Gaol." Just where that jail was located is not known except to surmise that it was close to Stadt Huys. In 1804 a jail was erected on Eagle Street between State Street and Maiden lane. This would have been next to City Hall. No pictures of this structure exist. From 1834-1854, the County Jail was located at the southeast corner of Eagle and Howard Streets. That site is now occupied by the Albany Convention Center.

In 1854, two important developments took place. Albany changed from a constable policing system to a regular police force and the new Penitentiary opened off Myrtle Avenue (Behind the future location of Hackett Middle School where the VA Hospital is now located). The Eagle street *Gaol* became the Albany City Hospital. When that building was razed, the Albany Municipal Building was erected on that site. It housed the offices of the Chief of Police, the Detective Bureau, Precinct 2 and Albany Police Court.

When the current City Hall was built in 1883, a jail located on Maiden Lane, in what is now the pocket park behind the current City Hall, was connected to City Hall by a causeway. That jail was built around 1852 and would have been connected to the old City Hall as well. It was closed in 1904 and the prisoners were transferred to the jail at Delaware and Myrtle Avenues. The Myrtle Street penitentiary was razed in 1931 when the new penitentiary was built in Colonie near the airport.



**Albany County Jail, 1834-1852
Eagle and Howard Streets**



**Albany County Penitentiary, near
Delaware and Myrtle Avenues.
1846-1931**



**Albany County Jail on
Maiden Lane behind City Hall
1852-1904**

IV. THE BENCH

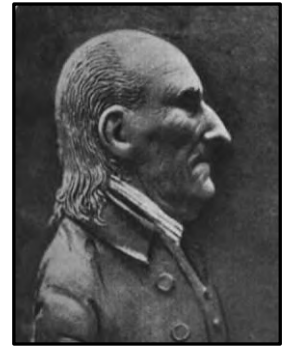
Albany County has a great judicial history. Perhaps greater than that of any other County in America, on a person for person basis. Albany County is the birthplace of two Supreme Court Justices (out of the 115 who have ever served in that position); Rufus W. Peckham and Joseph P. Bradley. Another graduate from its Law School, Robert H. Jackson reached the Supreme Court. It is also the birthplace of the most famous judge never to make it to the Supreme Court, Learned Hand. Known as “The Tenth Justice,” Hand served on the Federal Bench for fifty-two years. Here are some of the stories of some of Albany’s native and adopted sons and daughters who have distinguished themselves as members of the Bench of Albany County, New York.

VOLKERT PETRUS DOUW (1720-1801): Volkert Douw was born in Greenbush, now Rensselaer but then called Wolvenhoeck. He served as a



Crypt of Volkert Petrus Douw

member of the Colonial Assembly from 1759-1766 and was the vice-president of the first Provincial Congress in 1775. He was an alderman of the City of Albany and served as Mayor from 1761 to 1770. From 1757-1775 he was also the presiding judge of the Court of Common Pleas. From 1760 to 1760 he was the Recorder Judge of the City of Albany. He was the first judge of the



County Court in 1778 and served in the State Senate from 1785-93. For many years he was the Commissioner of Indian Affairs. He is buried in Albany Rural Cemetery, Sec. 52, Plot 19.

ABRAHAM YATES, JR. (1724-1796): Abraham Yates is one of Albany’s first patriots. He was an anti-Federalist who opposed the first Constitution because he felt it was a dilution of the rights of the States. He wrote several polemics under the name of “Cato,” “Sydney,” and “Rough Hewer,” that argued against the adoption of the Constitution. He was born in August 1724 in Albany, the son of a blacksmith. He apprenticed as a cobbler but read for the bar as a young man. He would eventually establish a prosperous legal practice in Albany. From 1753-1773 he was member of the Albany Common Council. In April 1775, he was a signer of the *Albany Resolution* that expressed Albany’s support of the Revolutionary War and it is considered a first draft of the Declaration of Independence. His judicial career was short but his impact on the legal community was long. He was the Albany City Recorder from 1778-1779. He was as a delegate to the Continental Congress, served in the New York State Senate and was Mayor of Albany from 1790 to 1796. He was President of the first Provincial Congress and led the Convention that drafted New York’s first Constitution He also served as Sheriff in 1755 and was Albany’s first Postmaster. He was a founding Trustee of Union College. Abraham is the uncle of John Yates, Chief Judge of the State Supreme Court. Yates is buried in Albany Rural Cemetery, Sec 34, Plot 6.



ABRAHAM TEN BROECK (1734-1810) Abraham Ten Broeck's father, Dirck Ten Broeck, was mayor of Albany from 1746 to 1748. He was also a successful Albany businessman who accumulated considerable family assets. In 1751, Abraham's father died, and the family decided to send Abraham, at age 17, to Europe to broaden his education, to learn about international business, and to absorb continental culture. Upon his return in 1752, he took over his father's business interests, and continued to live with his mother in the family mansion on Broadway near Columbia Street. By the mid-1760's, Abraham had been able to further develop the various businesses he had inherited, and he had become one of Albany's wealthiest businessmen.



In 1763, Abraham married Elizabeth Van Rensselaer, the only daughter of the then Rensselaerswyck patroon, General Stephen Van Rensselaer. The couple had five children, all born between 1765 and 1779. With this marriage, the Ten Broeck's became one of the wealthiest families, not only in Albany, but also in all New York. In 1769, Abraham's brother in law, Stephen Van Rensselaer II, died and left no heir old enough to manage the huge Van Rensselaerswyck estate. Abraham was named co-administrator of the estate for a period of five years, until his young nephew, the future patroon, came of age in 1784.

Abraham also followed in his father's footsteps in the political and governance area. In 1759, he was elected to the Albany City Council. The following year, in 1760, he was elected to represent Rensselaerswyck in the provincial assembly. He served in the provincial assembly until 1775, when it was dissolved at the beginning of the American Independence movement. During his tenure, he was a proponent of American rights over English prerogatives. Ten Broeck also followed in his father's footsteps in terms of the governance of his hometown. He was appointed mayor of Albany in 1779 serving until 1783. In 1796 he was again appointed mayor upon the death of Abraham Yates, Jr., and served until 1798. In his capacity as Mayor, he would have served as a judge on the Mayor's Court which had extensive criminal jurisdiction. On March 6, 1781, Ten Broeck was appointed by Governor Clinton as First Judge of the Court of Common Pleas of Albany County and served in that capacity until 1794.

Abraham Ten Broeck was also actively involved in the local militia. Since the 1750's, he held commissions in the provincial militia. In 1775, he was Colonel of the Albany County Militia, and rose through the ranks, until he reached the rank of Brigadier General of the Militia. In 1798, Abraham Ten Broeck and his wife Elizabeth Van Rensselaer built a beautiful mansion just north of the City center. The Ten Broeck's named their mansion, "Prospect." The mansion was located on a bluff and commanded a sweeping view of the Hudson River. In 1848, the mansion was purchased by Theodore Olcott, who renamed it, "Arbor Hill." Olcott, a banker, was one of Albany's richest residents, He also built a summer residence which is now the Governor's Mansion on Eagle Street. Exactly 100 years later, in 1948, the Olcott mansion was presented by the heirs of Robert Olcott to the Albany County Historical Association, and it was renamed the "Ten Broeck Mansion."

Abraham Ten Broeck died on January 19, 1810, at age 75. His wife Elizabeth died in 1813. When he died, the seventy-six year old Ten Broeck was laid to rest in a private vault on his own estate. His companion in death was General Philip Schuyler who died six years earlier. The explanation as to why General Schuyler, certainly more prominent than Ten Broeck, would be

buried in the Ten Broeck family vault is only partially explained by the fact that their wives were both Van Rensselaers and cousins and Ten Broeck's son was married to one of Schuyler's daughters. The site of the vault was just behind the mansion along what is now Livingston Avenue. Around 1836, the condition of the vault had deteriorated because of erosion caused by the city's decision to flatten out the Livingston Avenue street grade (then called Lumber Street). For this reason, the remains of General Ten Broek, his wife and General Schuyler were removed to the private vault of the Van Rensselaers. This vault was located on the Manor, near the corner of modern day North Pearl and Pleasant Streets. The vault was torn down after 1849 and no trace of it survives today. All the remains it contained were brought to the new Rural Cemetery where they were placed in a large underground vault. Above the vault, a white marble monument forms the centerpiece of the lot. Among the members of the extended Van Rensselaer family laid to rest here was Abraham Ten Broeck. Ten Broeck's name does not appear on the Van Rensselaer monument, but a small bronze marker and flag-holder at the base honor his memory. The memorial column that honors General Philip Schuyler does not mark his grave. (With thanks to the Friends of Albany Rural Cemetery and the New Netherland Institute.)



Van Rensselaer Plot, Albany Rural Cemetery



**Robert Yates monument,
Albany Rural Cemetery**

ROBERT YATES (1738-

1801): Robert Yates was born on January 27, 1738, into a prominent Schenectady family. His father, who was the first mayor of that City, would become a state senator and Governor. Yates stated his professional career as a surveyor and took up law by



studying with William Livingston in New York City. Livingston was born in Albany, the son of Philip Livingston. He was the first Governor of New Jersey and is a signer of the United States Constitution. Yates was admitted to the Bar on May 9, 1760, in Albany. In 1771 he

was elected Alderman, and in that position, he compiled the "Laws and Ordinances of the City of Albany." In 1775 Yates was elected to the provincial congress and served on the committee that drafted New York's first constitution. In 1777 Yates was appointed to the State Supreme Court. In 1787 he, along with Alexander Hamilton and John Lansing, Jr., was appointed to be a New York delegate to the Constitutional Convention in Philadelphia. Yates was aligned with Governor Clinton and the anti-Federalists and generally opposed the adoption of the Constitution as a derogation of State power. He and Lansing (also from Albany) left the Convention in protest after

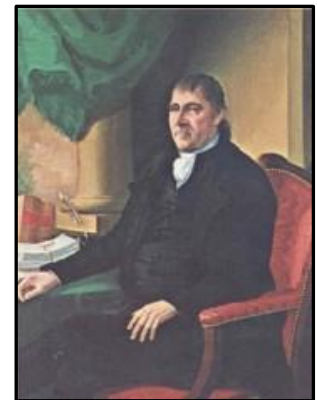
six weeks. This effectively deprived New York of its vote in the committees. At the State ratifying convention in Poughkeepsie, he was an outspoken critic of the proposed Constitution because it did not contain a bill of rights, although he was a slave holder. The anti-Federalist essays penned under the name of *Brutus* and *Sydney* are generally attributed to Yates. Yates ran for Governor in 1789 and 1795 and was defeated both times. In 1789, he ran as a Federalist and lost to George Clinton by less than 2%. In 1795, he ran as a Democrat-Republican against John Jay and lost by 6%. In 1790 he was chosen to be Chief Justice of the State Supreme Court where he served until the mandatory retirement age of 60 which he reached in 1798. He was also a founding trustee of Union College. Yates died on September 9, 1801, at age 63. He is buried in Albany Rural Cemetery, Sec. 8, Plot 1.

JOHN TAYLER (1742-1829): John Tayler served as the City of Albany Recorder in 1793 and the first judge of the Albany County Court in 1797. He also served in the State Assembly for a term and for nine years in the New York State Senate. In 1797 he was appointed Justice of the Court of

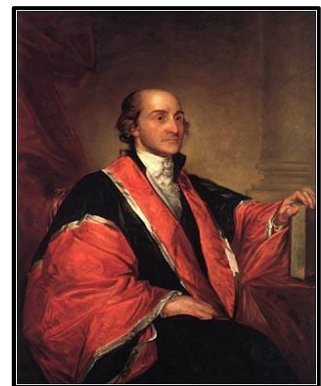


Cooper-Tayler Grave Site
Albany Rural Cemetery

Common Pleas. In 1813, he was elected Lt. Governor and was acting governor for a short time when Governor Daniel D. Tompkins resigned to become Vice President of the United States. However, Tayler is probably most remembered for hosting a dinner in March 1804, at his residence at 50 State Street in Albany attended by Alexander Hamilton. It was at this dinner that Hamilton made several libelous statements to Tayler and Judge James Kent. The comments found their way into the *New York Evening Post* and in the *Albany Register* on April 24, 1804. For these comments, Hamilton challenged Burr to the famous duel which resulted in Hamilton's death on the shores of the Hudson River in Weehawken, NJ on July 12, 1804. Tayler died on March 19, 1829, at age 86. He is buried in Albany Rural Cemetery, Sec. 19, Plot 15.



JOHN JAY (1745-1839): John Jay was born in New York City and raised in Rye, Westchester County, NY. He graduated from Kings College (Columbia) and served in the state militia. In 1767 he formed a law partnership with his closest college friend Robert Livingston who would become New York's first Chancellor. In 1774, he married the daughter of New Jersey Governor William Livingston thus becoming a cousin by marriage to his closest college friend. Jay was the President of the second Continental Congress and a drafter of New York's first Constitution in 1777. He was also one of the first Regents of the State University and authored five Federalist Papers. On May 8, 1777, Jay became the Chief Justice of New York's Supreme Court. Jay declined Washington's offer to be Secretary of State but did accept Washington's nomination as first Chief Justice of the United States in 1789 at age forty-four. In the five years that he served as Chief





Governor's residence of John Jay, 60 State Street, "The Gables," 1797-1801. Home of James Caldwell.

Justice, he also served for six months as acting Secretary of State during which time he negotiated the Jay Treaty with Great Britain. As a sitting Chief Justice, he ran twice for governor of New York. Successful the second time.

The career paths of Jay and his best friend Robert Livingston would cross in unusual ways. Jay would become an ardent Federalist and Livingston an anti-Federalist Republican. Their college friendship could not endure this division. In 1794, Washington first offered the position of Minister to France to Livingston, who declined. He feared that if he accepted the position, he would not be appointed Chancellor of New York. The Minister's position was then offered to and accepted by Jay. In 1792 Jay ran for Governor against George Clinton and lost by 108 votes. However, the election was infected by severe fraud as Clinton, the incumbent Governor, prevented the returns of three counties from being canvassed. The results from those counties would most probably have given the election to Jay. If Jay had become governor, the vacant Chief

Justice position probably would have gone to some person other than John Marshall. Fate would have denied America its greatest Chief Justice. As it was Marshall's appointment involves a series of coincidences that brought him the Chief Justiceship as a last minute appointment by Adams. Jay would go on to be elected Governor in 1795 and 1798. The 1798 election pitted him against his former best friend Robert Livingston. Worth noting is that the first two times Jay ran, he was the sitting Chief Justice of the United States.

As a diplomat, Jay negotiated the Treaty of Paris, signed September 3, 1783, which formally ended the Revolutionary War. Also, while Chief Justice, Jefferson sent him to Britain to negotiate the terms of the final British occupation of North America. This resulted in the much-criticized Jay Treaty signed November 19, 1794. The treaty was so unpopular that Jay remarked to Washington that he could travel the highways of America from end to end at night guided by the burning effigies of himself hung along the way. In 1800 Jay was nominated again to be Chief Justice and was confirmed by the Senate. He turned down the position saying that the Court lacked energy, weight and dignity. In truth, Jay was ready to retire. President Adams appointed John Marshall in his place.

As Chief Justice, Jay's most significant opinion was *Chisholm v. Georgia* which held that a State's sovereign immunity did not prevent a citizen of one state from suing another State in Federal Court. This decision was promptly overruled by the adoption of the Eleventh Amendment. Jay was a fervent abolitionist. As Governor, his most significant legislation gradually emancipated New York's slaves—but over a period of twenty-eight years. However, his abolitionist ardency did not extend too far, as he was also a slave owner. As an organizer and first president of the New York Manumission Society he once remarked: "I purchase slaves and manumit them at proper



Jay Family Gravesite
Rye, New York

ages, and when their faithful services shall have afforded a reasonable restitution [for their original cost and upkeep].”

Jay lived in Albany as Governor from 1797 to 1801. He resided during that time at 60 State Street, now the site of the Greek revival building that once held the National Commercial Bank and Trust Co. Jay died on May 17, 1829, at age 83. His homestead was in Katonah, NY, but he is buried at his son’s residence in Rye.

ROBERT R. LIVINGSTON, “The Chancellor,” (1746-1813):

Livingston was born in New York City and died in Clermont, Columbia County. The Livingston’s were truly the pinnacle of the American aristocracy. This was due primarily to the size of their landholdings and the extent of their family. For the 100 years after the founding patriarch married in 1679, the Livingstons produced nearly fifty direct descendants. Those descendants intermarried with Livingston cousins and other members of America’s leading families including the following: Van Rensselaer, Beekman, Winthrop, Schuyler, Ten Broeck, Duane, Jay, Montgomery, and Fulton. Franklin D. Roosevelt is distant Livingston relative. John Jay, America’s first Chief Justice and New York’s first Governor, was Livingston’s law partner and a cousin related by marriage. Although they were best friends in college, they would later have a political falling out. One obvious reason for this is that Livingston, an early Federalist and supporter of Washington, was passed over for the position of Secretary of the Treasury which went to Hamilton and the position of Chief justice, which went to Jay.



At age 25, Livingston was appointed Recorder of the City of New York. At the age of 29, he was one of the five-member committee that drafted the Declaration of Independence. At age 30, he was appointed Chancellor of New York and would serve in that capacity until 1801. During this time he lived in Albany and at Clermont, near Hudson and held court in both places. As Chancellor, he administered the oath of office to George Washington at the first inauguration. While serving as Chancellor, Livingston also served in other capacities. From 1781 to 1783 he was the United States Secretary of Foreign Affairs under the Articles of Confederation. From 1801 to 1804 Livingston was our Minister to France where he negotiated the Louisiana Purchase.

Livingston should probably be most remembered and most honored for his position on slavery. The New York Constitution of 1777 created a body called the Council of Revision. It comprised the Governor, the Chancellor and a Judge of the Supreme Court and it had the authority to veto bills. In 1785, the Legislature passed a Gradual Abolition Bill which the Council vetoed. In the veto message, Livingston outlined five objections, all focused on how the bill created tiers of second and third-class citizens. He stated: “The Constitution does not support that the legislature may arbitrarily dispose of the dearest rights of their constituents.”

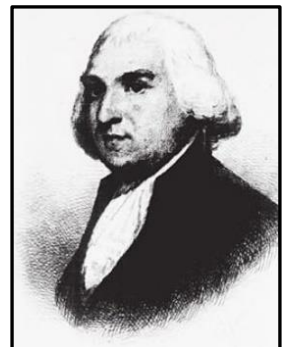
Unfortunately, the Chancellor saved his worst decision for last. For three years, Livingston attempted to weave his way through the maze of French politics, trying to convince French Minister Talleyrand and Napoleon Bonaparte to grant the United States an interest in New Orleans or the whole of the Louisiana Territory. At the time, it was not clear who “owned” the Territory, Spain or France. In the Spring of 1803, Jefferson dispatched James Monroe to France with new instructions and a charge to unclog the negotiations. Two days after he arrived, but without having

any contact with the French, Napoleon decided to sell the entire territory. France was deeply in debt and Napoleon's troops had just been decimated in the rebellion in Haiti. Livingston, knowing that Monroe would get all the credit for the treaty, back dated correspondence to make it appear that Napoleon had made the decision to sell before Monroe arrived. This deception was quickly uncovered and had serious repercussions in America. Starting with a great depreciation in his reputation, the Democrats in New York rescinded their agreement to nominate Livingston to be Governor. It was little consolation that they did nominate Morgan Lewis, Livingston's brother-in-law. Lewis would be elected Governor in 1804, after serving in the Assembly, State Senate and as State Attorney General and Chief Justice of the New York Supreme Court. Livingston would remain in Europe for the next year and a half. The sad thing is that Livingston's machinations were not needed as Napoleon had made his decision without any coaxing by Madison.

Judges today are generally prohibited from outside endeavors. Such was not the case in 1798. The Legislature had previously granted John Fitch of Warminster, PA a monopoly license to operate a steamboat on the Hudson River. Fitch is the true inventor of the steam driven boats and held the first U.S. patent for his invention. In 1798 the New York State Legislature revoked the exclusive privilege to Fitch and granted it to Chancellor Livingston. After several unsuccessful attempts on his own, Livingston partnered up with Robert Fulton to start the first successful commercial steamboat line between Albany and New York City in 1807. They would monopolize Hudson River steamboat traffic for the next fifteen years. In 1824, his successors in the steamboat business found themselves facing a successful legal challenge to their monopoly as a result of the Supreme Court's decision in the great commerce clause case, *Gibbons v. Ogden*. Fulton died in now forgotten ignominy in 1815 at age 49 after he forged documents, trying to predate his invention to defeat a challenge to his Hudson River steamboat monopoly patent.

Livingston is less well known for his involvement in the treachery of Benedict Arnold. Arnold married Peggy Shippen of Philadelphia, a woman of great charm who used that skill to get Livingston to use his influence with Washington to recommend Arnold's appointment to command West Point. Phillip Schuyler of Albany also recommended Arnold. Washington agreed. This put Arnold in position to turn the fort over to Major Andre of the British Army, another man who fell under Peggy Shippen's charms. Livingston died on February 26, 1813, at age 67. He was buried in the family vault at Clermont, Columbia County. After the Civil War he was moved to a new family vault in the St. Paul's Episcopal Church in Tivoli, Dutchess County, NY.

LEONARD GANSEVOORT (1751-1810): Leonard Gansevoort, can trace his Albany ancestry to at least 1660 on both his father's and mother's sides. His mother was a Van Rensselaer. His future wife, Hester Cuyler, could also trace an ancestry back to the early 1600's through the Beekman family. Gansevoort was born in Albany County on July 1, 1751. After studying law, he was admitted to the Bar in 1771. At the start of the Revolutionary War, at age 24, he became a member of the Committee of Correspondence. He then was a member of the 2nd, 3rd and 4th New York Provincial Congresses. From 1777 to 1778 he was the Albany County Clerk. In 1778, he was elected to the New York State Assembly and served in the New York State Senate for six years between 1791 and 1802. During this time, he was also a colonel in the New York State Militia. Gansevoort was the Albany County Judge from 1794 to 1797. In 1799 he was appointed to the Statewide Probate Court. In 1778, legislation transferred probate matters from the Governor to the Probate Court. After authorization for the appointment



of a Surrogate in each county, the Probate Court maintained jurisdiction over the estates of residents dying out of state and out-of- state residents. Probate Court also had appellate jurisdiction over Surrogate Court decisions. This court was abolished in 1823 and jurisdiction was transferred to the Chancellor. Gansevoort served as Probate Judge until 1810. One of the more interesting aspects of Leonard Gansevoort's life is his residence. He owned a home on Market Street, the predecessor to Broadway. This home was



Ten Eyck-Gansevoort
Grave Site

destroyed by fire in 1793. In 1789, Gansevoort purchased a residence and large tract of land located at what is now the intersection of Whitehall



"Whitehall"
Delaware Ave. & Whitehall Rd.
Circa 1790

Road and Delaware Avenue. Until the 1900's, this area was outside the City limits. The property, which became known as *Whitehall*, was owned by John Bradstreet Schuyler who was the son of General Philip Schuyler. The middle name Bradstreet came from British General John Bradstreet who owned the property from at least the early 1760's. The residence was built around 1750 and quartered British soldiers during the French and Indian War. Bradstreet was a close friend of General Schuyler and managed the construction of the Schuyler Mansion while Schuyler was in Europe. He might have managed more than just the property. Bradstreet willed the Whitehall property to Schuyler's son who sold it to Gansevoort. It was noted at the time that John Bradstreet Schuyler bore a striking resemblance to General Bradstreet. In any case, Gansevoort significantly enlarged the

property to where the main residence was nearly 10,000 sq. ft. It was thought to be the largest residence in the Hudson Valley. Such a sizeable residence no doubt required the fifteen slaves in residence for its operation. However, it burned to the ground in 1883. Gansevoort died at *Whitehall* on August 26, 1810, and is buried in Albany Rural Cemetery, Sec.43, Plot 7.

JOHN LANSING, Jr. (1754-1829): John Ten Eyck Lansing was born in Albany, NY on January 30, 1754. He studied law in Albany and was admitted to the Bar in 1775. Lansing was a man of significant accomplishments. During the Revolutionary War he served as military secretary to General Philip Schuyler. He was Speaker of the Assembly, a delegate to the Continental Congress in Philadelphia and Mayor of the City of Albany. As a delegate to the Constitutional Convention, Lansing, along with Delegate Robert Yates, left the convention in protest after six weeks over what he viewed as the Federalist's infringements of State's rights. That left Alexander Hamilton as New York's only delegate who, lacking a quorum, was unable to cast New York's vote. Lansing was also a delegate to the Constitutional Convention and New York's ratifying convention. At the State ratifying convention, Lansing led the efforts to defeat the proposed Constitution, but it passed by the narrow margin of 30-27. Lansing next served on the State Supreme Court from 1790-1801, the last four years as Chief Justice. From 1801-1814 he was the Chancellor of New York. While Chancellor of the New York State courts, Lansing was nominated to be Governor by the Clinton led Republicans. However, Lansing had the good



sense to turn them down when George and Dewitt Clinton made it clear that he must answer to them in the affairs of state. In turn, the Republicans nominated a more pliable candidate, State Supreme Court Justice Morgan Lewis. During the time he was Chief Justice, Lansing presided over one of the most famous criminal trials in American History, *People v. Levi Weeks*. Weeks

ONE HUNDRED DOLLARS REWARD.—On Saturday morning, the 12th day of December, instant, JOHN LANSING, junior, of Albany, formerly Chancellor of this State, arrived in this city, and put up at the City Hotel. He breakfasted and dined there. Between four and five o'clock, he returned to his room and wrote for a short time, and between that time and six o'clock in the afternoon of the same day, he was observed to leave his room, with his surcoat on, and with his umbrella. He has not been seen or heard of since he left his room. He had an engagement at the house of Mr. Robert Ray, No. 29 Marketfield street, (fronting the Battery,) at six o'clock that evening. It stormed very violently, and it is feared that, owing to the violence of this storm, he mistook his way and fell into the river at the foot of Marketfield street. This, however, is merely an inference from the preceding facts.

The Chancellor was a man of muscular frame, about five feet nine inches in height, and about 75 years of age. He was dressed in black, and wore powder in his hair. His surcoat was made of a dark mixed broadcloth. He wore an old fashioned English gold watch, the outer case of which, however, had been lost; a large white cornelian seal was attached to the chain or ribbon of the watch. He carried in his pocket a large magnifying glass, which he used in reading instead of spectacles. His name was written in his hat and on his umbrella. His tight bodied black coat was cut in the old fashioned style, resembling the coats worn by the Quakers, except that the collar was made in the style of coats that are now generally worn.

He was in good health, and has never been known to have been affected by any mental aberration. His trunk and all his baggage were left in his room.

The efforts of his friends to recover his body, or procure any precise information in relation to him, having been unsuccessful, the above reward of ONE HUNDRED DOLLARS will be paid to any one who will find the person of Chancellor Lansing; and a liberal compensation will be given for any information which may throw light upon this melancholy and mysterious transaction.

JACOB SUTHERLAND,
EDWARD LIVINGSTON.
New York, Dec. 28th, 1829.

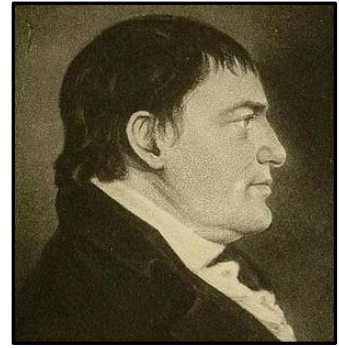
Notice of \$100 reward for the discovery of the body of Chancellor Livingston; placed 16 days after he went missing.

Journal and later founder of the Republican Party, offered a different view. In his memoirs published in 1882 by his grandson, Billie Barnes, Weed claimed to have been shown papers that proved Lansing had been murdered by prominent political figures because he was blocking projects they wished to advance. Weed decided not to reveal his sources, he said, to protect the reputations of the family members of the accused, who were all dead by 1870. The next Court of Appeals drowning would take place on November 22, 1873. Justice Rufus W. Peckham, born in Altamont, NY, drowned when the ship he was on collided at sea with another ship and sank. Peckham was the father of United States Supreme Court Justice, Rufus W. Peckham, Jr. The next mysterious judicial disappearance was that of State Supreme Court Justice Joseph Force Crater on August 6, 1930. Crater was last seen entering a taxi outside Billy Haas's Chophouse at 332 West 45th Street. Lansing's wife, Cornelia Ray Lansing is buried in Albany Rural Cemetery, Sec. 77, Plot 5. In Albany, they resided on the corner of Steuben Street and Broadway. Lansing was 75 at the time of his death.

was the brother of a wealthy Manhattan builder. While living at a boarding house, a young woman, with whom Weeks was having a romantic relationship, went missing. She was found a few weeks later in the bottom of a well. Weeks was indicted tried and acquitted. The trial is famous for two reasons. First, it is the first American trial for which a full transcript is available. Second, it involved some of the most famous lawyers in America. Prosecuting was District Attorney and future mayor of New York, Cadwallader D. Colden. Representing the defendant was Aaron Burr, Alexander Hamilton and future Supreme Court Justice and brother-in-law of John Jay, Brockholst Livingston. All the participants, excepting Colden, would have lives of conflict or suffer untimely ends. Of course, the victim Gulielma Sands was murdered. Hamilton was killed in the famous duel with Burr. Burr would be indicted for murder, tried for treason, suffer a stroke and spend the last several months of his life paralyzed in bed in a boardinghouse on Staten Island. Lansing suffered a death by disappearance. Livingston survived an assassination attempt in 1785 and killed an angry Federalist in 1798 in a duel after the man punched him in the nose.

Lansing mysteriously disappeared in New York City on December 12, 1829. He was last seen leaving the City Hotel, supposedly to mail a letter to Albany at the boat docks located about a half mile way at the foot of Cortlandt Street. Observers speculated that he drowned. Thurlow Weed, publisher of the *Albany Evening*

ABRAHAM G. LANSING (1756-1834): Abraham G. Lansing was born on December 12, 1756, in Albany. He is the brother of Chancellor John Lansing Jr. The family can trace its ancestry in Albany to 1640. In 1787 he was appointed Surrogate Judge and served in that capacity until 1808. He also served on the Board of Regents and was the private secretary to Governor Morgan Lewis. His personal life was fruitful. In 1779 her married Susanna Yates, the daughter of Abraham Yates who had served as Albany Recorder, Mayor and Sheriff. The Lansings resided at 358 Broadway and together had fourteen children. Lansing died on May 15, 1834. He is buried in Albany Rural Cemetery, Sec. 34, Plot 6. There are at least 487 Lansings buried in Albany County. Most are in Albany Rural Cemetery, and most are related.

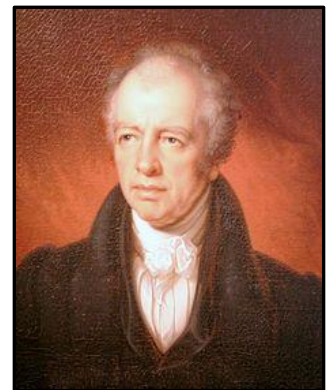


ABRAHAM VAN VECHTEN (1762-1837): Abraham Van Vechten was born on December 5, 1762, in Catskill, NY. He graduated from Kings College (now Columbia) and then studied law with John Lansing Jr., who would become Chancellor of New York. He was one of the first lawyers admitted to the Bar after the adoption of the New York State Constitution of 1777. Van Vechten, along with Aaron Burr, was one of the most prominent members of the New York State Bar in the decades after the Revolutionary War to practice in Albany County. It is estimated that of the lawyers of his time, he argued more cases before the Supreme Court and the Court for the Correction of Errors than any other lawyer. In 1796, he served a term as the Assistant Attorney general for the 5th District which included Albany County. From 1797 to 1808 he was the Recorder of the City of Albany. During that time, he also served in the State Senate for seven years where he sat as a member of the Court for the Correction of Errors. In 1808, he began a five-year service in the State Assembly. From 1810-1811 and 1813 to 1815 he also was the State Attorney General. After serving as Attorney General he returned to the State Senate, serving from 1816 to 1819. He was also a regent of the State University from 1797 to 1823. In 1784, Van Vechten married Catharina Schuyler the eldest daughter of General Philip Schuyler (becoming the brother-in-law of Alexander Hamilton). This marriage would produce thirteen children. Van Vechten died on January 6, 1837. He is buried in Albany Rural Cemetery, Sec. 36, Plot 46.



JAMES KENT (1763-1847): James Kent, New York's greatest judge, was born July 31, 1763, in Doanesburg, Putnam County, NY. Kent's father, Moses Kent, was a lawyer and the first Surrogate of Rensselaer County. At age sixteen, Kent was enrolled at Yale but soon thereafter the college was closed when the British Army took control of New Haven. He fled for a short time to a nearby village to live. During this time, Blackstone's commentaries became available to him and after reading all four volumes, his life trajectory toward the law was fixed.

After graduation from Yale, Kent's father secured him a place in the law offices of Egbert Benson in Poughkeepsie. Benson was also the State Attorney General at the time. While apprenticed to this law firm, Kent applied himself with a single-minded diligence to the law. Diligence was to be Kent's



hallmark for his entire life. *“My attainments are too ordinary a character and far too limited to provoke your curiosity. I have had nothing more to aid me in all my life than plain method, prudence, temperance, and steady, persevering diligence. My diligence was more remarkable for being steady and uniform than for the degree of it, which was never excessive so as to impair my health, my eyes or prevent all kinds of innocent or lively recreation”* (Kent to a Tennessee lawyer). While boarding with a local farmer he met and married the farmer’s daughter, Elizabeth Bailey. He was 21 and she 16. They had four children and remained married for 63 years until Kent’s death. His son William became the Livingston County Judge, and his brother Moss Kent was a congressman from northern New York.

Kent was admitted to the Bar in January 1785 at age twenty-one and for the next seven years practiced law in Poughkeepsie. During this time, he amassed a personal library of over 3,000 volumes and taught himself Latin, Greek and French which allowed him to read the classics in their original language. In 1793 Kent relocated to New York City to, in his words, “get rid of the encumbrance of a dull law partner.” He was appointed Law Professor at Columba College and developed a law practice. Each endeavor left him unsatisfied. Describing himself as a “zealous federalist” he threw himself into politics and became a close friend of Alexander Hamilton.

In 1790, unsolicited, Governor Jay (whom Kent knew through Federalist political circles) appointed him as a Master in Chancery. This position required him to take depositions in Chancery Court, to make reports and issues summons for which he received a fee for every activity. He also served two terms in the New York State Assembly from 1790 to 1794. In March 1797, he was appointed Recorder of the City of New York. Recorder’s Court, established in 1686 in New York City’s and Albany’s original charters, heard important civil and criminal matters and the Recorder had administrative duties as well. Over the years, its jurisdiction was constricted under statutory reforms and, as last constituted in Albany in up to 1995, it had become the Traffic Court. In 1995, Traffic Court and Police Court became part of a unified City Court.

In February 1798 at age 35, Jay appointed Kent to the Supreme Court. At that point, there were only five Supreme Court Judges to cover the entire state. The justices all rode circuit and in general session constituted an appellate court. Because of the need to ride circuit and attend the general terms, Kent moved to Albany in 1799 where he resided at 21 Columbia Street for the next twenty-four years. That site is now covered by the New York State Environmental Conservation building. In July 1804 he was named Chief Justice.



Kent’s dilapidated gravesite

Kent transformed the Supreme Court both intellectually and administratively. At this point, written opinions were not issued or, if they were, they were not collected. Kent instituted the official reporter system we know today. This allowed the courts to develop the law because reference to precedent was readily available and attorneys could argue their cases with more authority. Because Kent was such a prodigious researcher and writer, he overwhelmed his colleagues with his work-product and, for this reason, authored most of the Court’s opinions. As Kent described it in a private moment, *“I could generally*

put my brethren to rout, and carry my point, by my mysterious wand of French and civil law.” Not to arouse jealousy, most of Kent’s opinions were issued *“Per Curiam.”* Because of his diligence

and the practice of issuing written opinions, the trajectory of the law in New York and around the nation was set by him.

On February 25, 1814, Kent was appointed Chancellor by Governor Daniel Tompkins. At the time, Chancery Court was held in very low regard for its cumbersome procedures and backlog of cases. Kent was more direct in his criticism. *“The office I took with considerable reluctance. It had no charms. The person who left it was stupid; and it is a curious fact that, for nine years I was in that office, there was not a single decision, opinion, or dictum of either of my predecessors, Livingston and Lansing, from 1777 to 1814, cited to me, or even suggested to me.”*



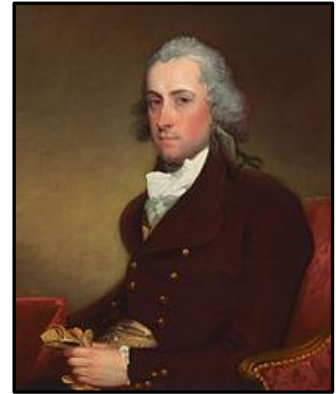
**Restoration Sequence of
James Kent’s Grave Site**

To improve the work of the court, Kent needed capable lawyers. To this end, he admitted eighty-five his first year when only thirteen had been admitted over the last thirteen years. Until he turned sixty in 1823, when he was forced by law to retire, Kent had organized and transformed the equity law of a young America. Not ignoring his civic duties, Kent was the first president of the Albany Female Academy which was incorporated in 1821 and occupied a beautiful Greek revival building on South Pearl Street. The Academy was the first high school for women in America. However, Kent’s esteem for women could be reasonably questioned, at least when they acted as

witnesses in a legal state. In 1814 a man named Mix, then serving in the U.S. Navy, married a woman who he then abandoned to pursue a course of profligacy. In desperate straits, the wife found her way to Arron Burr who promptly filed a bill for divorce in the Court of Chancery. It was referred to a Master for findings of fact who heard the testimony of two women produced by Burr. When it reached Chancellor Kent for confirmation, he declined to do so the grounds that the evidence was insufficient and sent the case back to the master. Burr wrote to Kent to ask how many women he required for he had supposed that two were sufficient to satisfy any reasonable man.

After leaving the bench Kent returned to the teaching of law and his lectures became the seed for his four volume *Commentaries on American Law*. These treatises place him next to Blackstone in the Pantheon of legal educators. For the last four years of his life Kent lived in quiet retirement in a small cottage in Summit, NJ. Kent died on December 12, 1847, at age 84. Records show he and his wife were buried in, and then removed, from Vault #25 in the New York Marble Cemetery, still located at 2nd Avenue and 2nd Street in lower Manhattan. In 2013 the *Beacon News* ran a look-back article about an article in its September 26, 1939, paper. It displayed photographs of the long forgotten and deteriorated gravesite of James Kent at St. Luke’s Episcopal Church graveyard. In 2016, the gravesite was barely visible. It was located and restored with the assistance of family members and the Historical Society of the State of New York.

STEPHEN VAN RENSSELAER (1764-1839). Stephen Van Rensselaer was born in New York City on November 1, 1764. He was the ninth Patroon of Rensselaerwyck, Part of which would become the County of Albany. He graduated from Harvard in 1782. Stephen Van Rensselaer was not judge in the formal sense, although he held judicial power over the subjects who were tenants on his manor. However, he was a significant law maker who must be included in any legal history of Albany County and because he made one monumental decision that elected a president. Stephen, known as the “Good Patroon, inherited the manor of Rensselaerwyck as the fourth-degree grandson of the original Patroon, Kiliaen Van Rensselaer. He married General Philip Schuyler’s daughter which made him Alexander Hamilton’s brother-in-law. His uncle was a Ten Broeck. On his mother’s side he was related to the Livingstons. The Van Rensselaer-Livingston-Schuyler-Ten Broeck interrelations put Stephen Van Rensselaer at the pinnacle of American aristocracy. There are 130 Van Rensselaers buried at Albany Rural Cemetery.



The Manor House, circa 1880

Van Rensselaer was known as the “good Patroon” because of his leniency toward his tenants regarding rents owed to him. He presided over a manor which was just a bit smaller than the State of Rhode Island and held 80,000 persons as tenants. He was perhaps the richest person in America at the time. However, when he died the efforts of his heirs to collect on those rents precipitated the Helderberg rent wars. This ultimately precipitated the Constitutional Convention of

1846 which would abolish the life-tenancies upon which the Manor system was based. Van Rensselaer resided in the Manor House located on what is now Tivoli Street in Albany’s warehouse district. The Mansion was built in 1765 but it was eventually surrounded by railroad tracks and the Erie Canal. In 1893 it was demolished. Through the efforts of Albany architect Marcus T. Reynolds, parts of it were used to construct a fraternity house on the Williams College campus and other portions were used to replicate the Van Rensselaer room now located in the American Wing at the Metropolitan Museum of Art.

Van Rensselaer, in addition to his status as the Lord of the Manor, served in the Assembly and Senate and as Lt. Governor. During the war of 1812, he held the rank of major-general in the State Militia. After his political career, he was a Regent and then Chancellor of the State University and co-founded Rensselaer Polytechnic Institute. However, it is as a member of Congress that he earned everlasting fame. In 1824, America was electing its sixth president. The manner of electing presidents and the participation of parties in those elections was quite different in 1824 than it is today. The Federalist party of Washington, Hamilton and Adams had long been put out to pasture by the Republican-Democratic party of Jefferson, Madison and Monroe. In 1824, twenty-four states would vote for president but eleven of those states would not hold a popular vote. In those states, the electors were chosen by the State legislature. With no opposition party, all six major

candidates for the 1824 election were aligned with the party of Jefferson. The candidates included: DeWitt Clinton of New York, John Quincy Adams of Massachusetts, John C. Calhoun of South Carolina, William H. Crawford of Georgia, Henry Clay of Kentucky, and Andrew Jackson of Tennessee. By election day, the slate was reduced to four as DeWitt Clinton had withdrawn and Calhoun had become the consensus Vice Presidential candidate.

The voting took place over four weeks. A candidate needed 131 electoral votes to win. When tallied, Jackson had won 99 and John Quincy Adams followed with 84. Because no candidate had a majority, the election would be decided in the House among the top three candidates where each State would get one vote. On February 25, 1825, the House met to vote. Clay had withdrawn and threw his support to Adams in exchange for a



**Van Rensselaer Monument
Albany Rural Cemetery**

promise to be named Secretary of State. This would be called the “corrupt bargain” by the Jacksonians. All the political maneuvering came down to this: Adams needed the votes of thirteen state delegations, and he had twelve. The deciding delegation would be New York which had voted for the third-place finisher, William Clay, in the election. Van Rensselaer, who had been a staunch Crawford supporter, held the deciding vote in the New York delegation. However, several months before, Crawford had suffered a stroke and was in poor health. As the ballot box was passed, Van Rensselaer lowered his head to the desk and asked god for guidance. At that moment he saw a ballot card on the floor with Adams’s name on it. He took that as a sign from his Creator. He picked up the ballot and exclaiming, “forgive me,” he placed it in the ballot box. And by that vote, Stephen Van Rensselaer, Congressman from Albany, New York, made John Quincy Adams the sixth President of the United States. The source of this version of the presidential vote in the House is Martin Van Buren as told in his autobiography. As the ultimate political wheeler-dealer, it would not be unkind to deem Van Buren’s story apocryphal or, at least, unproven. However, the story aligns with the adage that when the legend becomes fact, print

the legend. Van Rensselaer died in New York City on January 26, 1839. He is buried in Albany Rural Cemetery, Section 14, Plot 1.

AMBROSE SPENCER (1765-1848): Ambrose Spencer was born on December 13, 1765, in Salisbury CN. Spencer attended Yale and graduated from Harvard. He studied law with several lawyers and was admitted to the bar in 1786 and began a private practice in Hudson. From 1793 to 1804 he served in the State Assembly and Senate. During this time, he was also an Assistant Attorney General. From 1802-1804 he

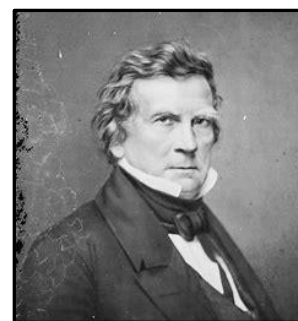


was the State Attorney General. From 1804 to 1822 Spencer served on the State Supreme Court, the last three years as Chief Judge. In 1824 he was elected Mayor of Albany and served until 1826. He was elected to Congress in 1829 and served until 1831. For most of his professional life he resided at 119 Washington Avenue. In 1839 her moved to Lyons, NY to become a gentleman farmer. He married Dewitt Clinton's sister and when she died, he married Clinton's other sister. In 1844 he presided over the Whig convention in Baltimore which nominated Senator Henry Clay of Kentucky as their presidential candidate. Spencer died on March 13, 1848, at age 82. He is buried in Albany Rural Cemetery, Sec. 45, Plot 1.



ROGER SKINNER (1773-1825): Skinner was born in Litchfield Connecticut on June 1, 1773. He started practicing law in Connecticut and was the clerk of the Litchfield County Probate Court from 1786-1806. After 1806, he practiced law in Albany and served in the State Assembly from 1800-1810. He served as the District Attorney for the Fourth District of New York in 1811. From 1815 to 1819 he was the United States Attorney for the Northern District of New York. From 1818 to 1821, he served in the State Senate. In 1819, he was appointed District Judge for the Northern District of New York by President Monroe. When he assumed the bench, he sold his law practice to Benjamin F. Butler who was a close ally and law partner of Martin Van Buren. Butler would also serve as Albany County District Attorney and member of the Assembly. Skinner served as Federal District Judge until his death in Albany on August 19, 1825. Skinner, a life-long bachelor, shared a residence with Martin Van Buren who was a widower. As a result, they became political allies and close friends until Skinner's death. Skinner's brother Richard was Speaker of the Vermont House, Bennington County State's Attorney, U.S. Congressman, Probate Judge, Chief Justice of the Vermont Supreme Court. Skinner is buried in the John Van Buren family plot in Albany Rural Cemetery, Sec. 62, Plot 34.

WILLIAM LEARNED MARCY (1786-1857): William Learned Marcy was born on December 12, 1786, in Southbridge, MA. He graduated from Brown University in 1808 and then taught school for a short time. He studied law with William Bliss in Troy, NY and was admitted to the Bar in 1811. He served in the military during the War of 1812 and saw combat in Canada. He mustered out with the rank of Lieutenant Colonel. He would later attain the rank of Brigadier General in the New York Militia. He was the Troy Recorder from 1816 to 1818 but was removed from office when he found himself on the wrong side



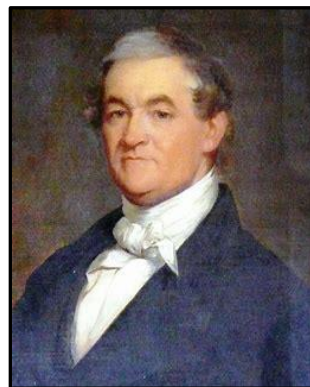
of the political winds. In 1823 he moved to Albany and married Cornelia Knower of Guilderland in 1824.



Marcy was one of the founding members of the Albany Regency of the Democratic Party with Martin Van Buren. He served as New York State Comptroller from 1823-1829. In 1829, he was appointed to the New York State Supreme Court, but his interest turned to politics three years later when he was selected by the New York State legislature to be U.S. Senator. He resigned from that position in 1833 when he became Governor, serving until 1838 when he was defeated by William Seward. Mount Marcy is named after him and he is credited with the phrase “to the victor belong the spoils” in reference to his ally, Martin Van Buren, being named ambassador to the United Kingdom by President Jackson. Marcy would have an important career in the Federal Government. He served as President Polk’s Secretary of War during the Mexican American War. Under

President Pierce he served as Secretary of State and negotiated the Gadsden Purchase. From 1878 to 1891 his picture appeared on the \$1,000 bill. Marcy died on July 4, 1857, and is buried in Albany Rural Cemetery, Sec. 62, Plot 94.

ALFRED CONKLING (1789-1874): Alfred Conkling was born on October 12, 1789, in Amagansett, NY. He graduated from Union College in 1810 and studied law in the office of Daniel Cady in Johnstown, Fulton County. Cady would serve on the State Supreme Court and the Court of Appeals. Conkling was admitted to the bar in 1812. After admission, he practiced law in Canajoharie for three years and then moved to Montgomery County and served there as District Attorney. He then went to Congress for a term and when that concluded he moved to Albany to practice law. In 1825, President John Quincy Adams appointed him to the Federal District Court where he served for twenty-seven years. In 1839, Conkling moved to Auburn and finished



Alfred Conkling



Roscoe Conkling

his judicial service there when he resigned on August 25, 1852. After his resignation, he served as the U. S. Minister to Mexico and practiced law in Omaha, Nebraska for eight years. Conkling showed an ability to see both sides of some issues and completely miss both sides of others. In his opinion in *United States v. Cobb*, which involved a defendant accused of unlawfully aiding the escape of a slave, he railed against the immorality of the fugitive slave laws even though he was a slave owner. In another case, a lawyer, who would go on to achieve greater fame than Alfred Conkling, was trying his first case in front of the Judge. Apparently, no appearance of impropriety arose in the judge’s mind even though the lawyer’s name was Roscoe Conkling, the judge’s son. Conkling’s grandson and great grandson would both serve on the Federal Court in the Northern and Southern districts, respectively.



**351 Madison Avenue
Residence of Alfred Conkling
Birthplace of Roscoe Conkling
Then and Now**

A sidebar is called for at this point to mention a few things about **Roscoe Conkling**. Roscoe was born at 351 Madison Avenue in Albany on October 30, 1829. After high school, Conkling read for the law with the firm of Spencer and Kernan in Utica, NY. In 1850 at age 21 he was admitted to the Bar and appointed District Attorney for Oneida County by Governor Hamilton Fish. In 1858 Conkling married Julia Seymour, the daughter of Governor Horatio Seymour and was elected Mayor of Utica the next year he was elected to Congress defeating his former law partner, Francis Kernan, who would then defeat him four year later.. During his time in Congress he served with his older brother Frederick Conkling, also a member of Congress representing New York City. Frederick was educated at Albany Academy. In 1867, Conkling was elected Senator from New York and became Grant's point man on civil rights legislation. In the Presidential election of 1880, Conkling backed the wrong horse. He got in such a row with President Garfield over patronage in New York that he and his co-Senator Thomas C. Platt both resigned in protest, confident that the New York State legislature would quickly reappoint them. Both men lost their bets as the "Half-Breeds" faction of the Republican Party, who were against patronage and favored the Civil Service, successfully advanced their candidates. After his defeat, Conkling returned to New York City

to practice law. In 1882 he was nominated by President Chester A. Arthur and confirmed by the Senate as an associate justice of the Supreme Court but turned it down. Several years earlier he had also declined President Grant's offer to serve as Chief Justice. Five other appointees to the Supreme Court declined to serve after being confirmed but Conkling is the only person to turn down two appointments. Roscoe Conkling died on April 18, 1888, at age 58. Conkling was known for his stature and physical fitness. On March 12, 1888 during the Great Blizzard he attempted to walk the three miles from his law office on Wall Street to his home on 25th Street near Madison Square. He got as far as Union Square when he collapsed. The pneumonia he contracted resulted in his death five weeks later. He is buried in Forest Hill Cemetery next to this father. Alfred Conkling died on February 5, 1874, at age 85. He is buried in Forest Hill Cemetery. Plot 7 in Utica, NY.



**Father and Son in their
Utica Graveyard**

IRA HARRIS: (1802-1875): Ira Harris was born on May 31, 1802, in Charleston, Montgomery County, NY. He graduated from Union College and then studied law under Judge Ambrose Spencer and was admitted to the Bar in Albany in 1827 where he formed a partnership with Julius Rhoades. In 1838 he became a member of the first Board of Albany Medical School founded by Alden March and James H. Armsby. He was elected to the State Senate in 1844 as a Whig and in 1846 he was elected Justice of the Supreme Court, serving until 1859. As a delegate to the 1846 Constitutional convention he was instrumental in creating the Court of Appeals. In 1851 he founded Albany Law School with Amos Dean and Amasa Parker.



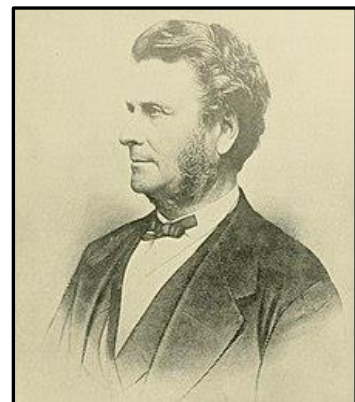
In 1854, he formed the Republican Party in New York with Thurlow Weed the powerful state Republican boss and publisher of the Albany Evening Journal. In 1859, he was the last New York State Judge to sentence a woman to death. He was the older brother of one of Albany's most accomplished trial lawyers, Hamilton Harris. In 1861, Harris was elected to the U.S. Senate by the New York State Legislature in a three-way race with Horace Greeley and William M. Evarts. He replaced William Seward, who became President Lincoln's Secretary of State. In Washington, D.C., Harris and his wife became close friends of the Lincolns. It was Harris's daughter, Clara, with

her fiancé, Major Henry Rathbone, son of the first popularly elected mayor of Albany, Jared Rathbone, who joined the Lincoln's at Ford's Theatre on the night Lincoln was assassinated. Ira Harris's wife, Pauline, was the widow of Jared Rathbone and heir to the wealthy Rathbone iron and stove business. This made Harris' daughter's fiancé his step-son. After his term ended, Harris resumed teaching at Albany Law School for more than twenty years. He also served as president of Union College and Vassar College and was a founder and first chancellor of the University of Rochester. Harris resided at 28 Eagle Street. He is buried in Albany Rural Cemetery, Sec. 18, Pot 3.



Harris residence, southwest corner of State and Eagle Streets

AMASA J. PARKER (1807-1890): Parker was born on June 3, 1807, in Sharon CN. His professional career started at age sixteen at the Hudson Academy. In 1825 at age 18, he received a degree from Union College. After studying in Delhi with his uncle, of the same name, he was admitted to the bar in 1828. In 1833 he was elected District Attorney of Delaware County. He was also elected to the Assembly and served as a New York State Regent. In 1837 he was elected to Congress. In 1844 he was appointed to the State Circuit Court. In 1847 Parker was elected to the New York Supreme Court and in 1854 he served on the Court of Appeals. After leaving the bench, Parker formed a partnership with his son Amasa J. Parker Jr.



While living in Albany, Parker resided at 143 Washington Avenue. Parker ran twice, unsuccessfully, for governor and declined President Buchanan's appointment as U.S. Attorney for the Southern District. In one of the most famous criminal trials in the annals of Albany county, Parker represented Civil War hero, Brigadier General George W. Cole. Cole shot the Speaker of the New York Assembly, L. Harris Hiscock, in the head while Hiscock stood in the reception room of Stanwix Hall, one of Albany's leading hotels located on Broadway at Maiden Lane. Parker won an acquittal based on a defense of insanity. Cole claimed that Hiscock had violated his wife while Cole was off fighting in the Civil War.

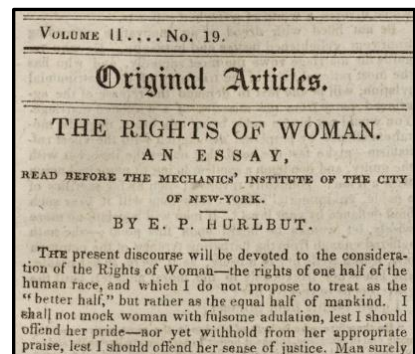
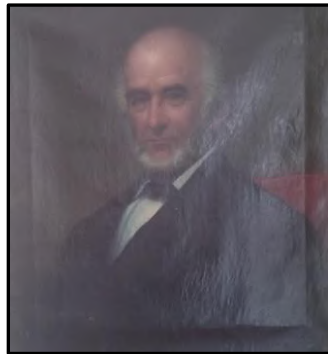


Parker died on May 13, 1890, at age 83, just a week after he had argued a case in the Court of Appeals. Parker's daughter Mary married Erastus Corning Jr., making her the grandmother of Erastus Corning II, Albany's long-time mayor. Parker is buried in Albany Rural Cemetery, Sec. 54, Plot 8.



**Parker Residence,
143 Washington Avenue,
Now site of CSEA Headquarters**

ELISHA P. HURLBUT (1807-1889): Elisha Powell Hurlbut was born 1807 in Salisbury, Herkimer County, N.Y. He was elected to the Supreme Court from Albany County in 1847 and served on the Court of Appeals in 1850. He is the author of, "Essays on Human Rights and Their Political Guarantees" (New York, 1845) and "A Secular View of Religion in the State and the Bible in the Public Schools" (Albany, 1870). His essay on the rights of women gave voice to Elizabeth Cady Stanton and the Seneca Falls Declaration of Sentiments in 1848. Hurlbut was a large landowner in the City of Albany's Delaware Avenue neighborhood and Hurlbut Street is named after him. He died Sep. 5, 1889, and is buried in Albany Rural Cemetery, Sec 27, Plot 44.



JOHN V.L. PRUYN (1811-1877): John Van Schaick Lansing Pruyn began life on June 22, 1811, with one of the most powerful and prominent old Dutch family names and enhanced his prestige by marrying the niece of iron magnate and railroad baron Erastus Corning. To call him well-connected would be a gross understatement. Pruyn [pronounced Prine] took a traditional route to success. He graduated from Albany Academy in 1826, studied law with attorney James King and was admitted to the New York Bar in 1832 as a solicitor and was admitted as a counselor in 1835. During this time, he received a master's degree from Rutgers College in 1835, a master's degree from Union College in 1845 and a Doctor of Laws degree from the University of Rochester in 1852. His law practice in Albany was marked by the representation of railroads, banks and major industries. In 1844, at age 33 he became a Regent of the State University system and in 1862 he was chosen chancellor for a total service of 48 years to the University. He married Erastus Corning's niece, Harriet Corning Turner, in 1840. They had six children and the two who lived to adulthood were John V.L. Pruyn Jr. and Erastus Corning Pruyn. He worked closely with his wife's uncle since his legal skills paired well with Corning's business acumen, and the fortunes of both rose swiftly as Pruyn negotiated the contracts while Corning acquired and merged dozens of small rail lines into the New York Central Railroad.



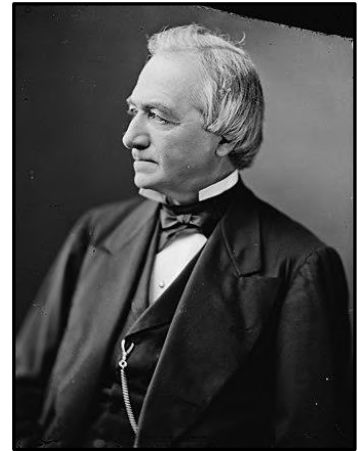
His first wife died in 1859. He remarried, this time to Anna Fenn Parker, the daughter of Amasa J. Parker, a prominent lawyer and judge on the State Supreme Court. The couple had two daughters, Harriet Langdon Pruyn and Hubertie Lansing Pruyn. Hubertie became well known for her still read chatty memoir, "An Albany Girlhood." Lansing pursued politics but lost his campaign for Congress in 1854. He settled for a seat in the state Senate in 1861. He donated his legislative salary to Albany's poor. Pruyn finally got to Washington in 1863 by appointment to fill the unexpired congressional term of Corning, who resigned due to poor health and pressing business matters, not to mention occasional clashes with President Abraham Lincoln. Candidate Lincoln turned Corning down after he offered to make Lincoln a \$10,000-a-year general counsel of the railroad.

Pruyn served in the U.S. House of Representatives during the Civil War and was re-elected to a second term, which ended in 1869. He resumed his law practice in Albany and became involved with civic affairs and philanthropy. He was commissioner for the construction of the state Capitol and helped lay the cornerstone. He was also president of the Albany Board of Charities and handled the trust work for his friend, Harmanus Bleecker, whose bequest included \$80,000 for city projects. Pruyn's son-in-law, William Gorham Rice, served as secretary to two governors, Grover Cleveland and David B. Hill, and was a noted authority on carillons. Rice wrote several books on the topic and was the chief adviser on the design

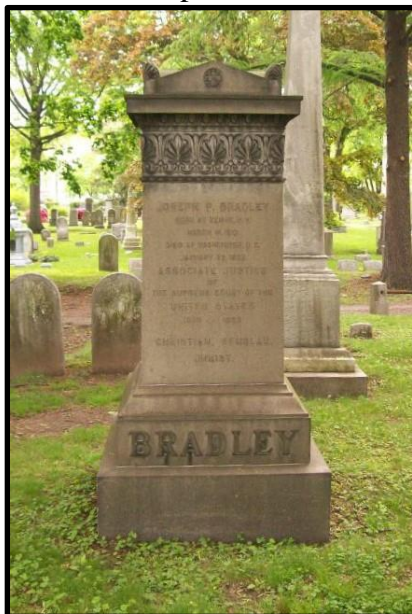


and construction of the carillon in the bell tower of Albany's City Hall. Pruyn died in Clifton Springs, Ontario County, on Nov. 21, 1877, at age 66. He and his wives and family members are buried in the Pruyn plot in Section 53, Lot 1, halfway up Middle Ridge Road above a ravine overlooking the Kromme Kill (See Paul Grondahl's *"These Exalted Acres,"* a history of Albany Rural Cemetery, with photos by Wil Waldron).

JOSEPH P. BRADLEY (1813-1892): Joseph Bradley was born on March 14, 1813, in Berne, Albany County, NY. He was the oldest of eleven children, the son of a dirt farmer, which is about the only thing one could be in Berne in 1813. Despite humble beginnings, Bradley proved to be an accomplished student. He won a scholarship to Rutgers and walked the 220 miles from his home in rural Albany County to the New Jersey campus for the start of school. Meanwhile, just 35 miles away in New Lebanon, Columbia County, New York, Samuel Tilden embarked on a similar career in the law. His path would make him the reform Governor of New York and the Democratic presidential candidate in 1876. It would be in that race that Tilden and Bradley's careers would intersect with fateful consequences for Tilden.



Bradley married the daughter of the Governor of New Jersey. After being admitted to the Bar in 1839 in New Jersey, he would have a successful career as a corporate lawyer, mostly representing railroads. He was appointed to the Supreme Court by President Grant in 1870. After the election of 1876, Rutherford B. Hayes, the Governor of Ohio, and Tilden were locked in a *Bush v. Gore* struggle. Twenty-two electoral votes, all in the South, were disputed. Tilden needed just one to win. Hayes needed all twenty-two. Congress created a commission, equally divided, except for one vote, between five members of the Senate, five from the House and five from the Supreme Court. All disputed electoral votes came down to a 7-7 tie and Bradley, a Republican, voted for



Hayes on all twenty-two votes giving the White House to Hayes. Hayes would move the Federal troops out of the southern States, end reconstruction and allow the Democratic Party to steam full speed ahead into the Jim Crow era. This would become known as the "dirty deal," though there is no evidence that Bradley did anything other than vote his Republican leanings.

Bradley would gain another sort of infamy by writing an opinion in the *Bradwell v. Illinois* (1873) case holding that it was God's design that women were too weak to be lawyers. "*The paramount destiny and mission of women are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.*" He also wrote the opinion in the *Civil Rights Cases* which overturned key provisions of the Civil Rights Act of 1875. Bradley served on the Supreme Court until he died On January 22, 1892. He is buried Mount Pleasant Cemetery, Newark, NJ, Section N., Plot 77.

RUFUS WHELLER PECKHAM, SR. (1809-1873):

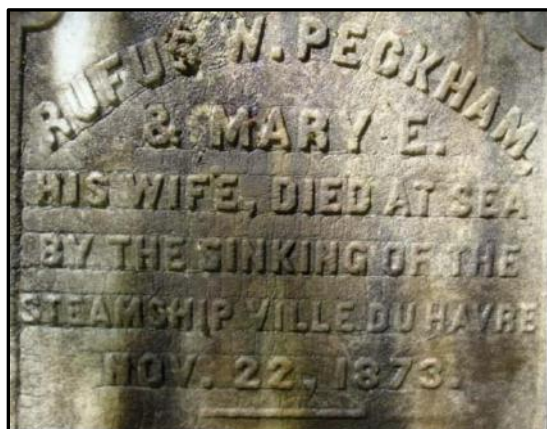
Rufus Wheeler Peckham was born in Peckham Hollow, Rensselaerville, Albany County, NY on December 30, 1809. A precocious child, he taught school there when he was ten. At age twelve, his family moved to Cooperstown. In 1827, at age 18 he graduated from Union College. In that year, he moved to Utica to study law with Greene C. Bronson and Samuel Beardsley who both would go on to serve as Chief Justices of the State Supreme Court. In 1830 he was admitted to the Bar and moved to Albany to start practicing law with his older brother George and his brother-in-law, Joseph S. Colt in the Blunt Building on the southwest corner of State and Pearl Streets. It was at this time



that Peckham aligned with the Albany Regency of the Democratic Party lead by Martin Van Buren and William Learned Marcy. In 1839 Governor Marcy appointed Peckham Albany County District Attorney. In the 1840's the Democratic Party split into the "Barnburners" and the "Hunkers." The Barnburners, under Van Buren strongly opposed the extension of slavery while the Hunkers took a more conservative tack. Peckham aligned with the Hunkers.

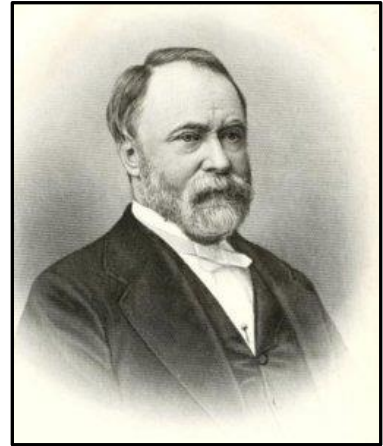
In 1845, Peckham lost his bid for State Attorney General by one vote to Martin Van Buren's son (At that time, the position was selected by the legislature, not the voters.). In 1852, Peckham was elected to Congress. He would gain great acclaim for his opposition to the Kansas-Nebraska Act which permitted the settlers of those territories to decide whether to be free or slave. This position was contrary to almost all members of his own party. He left Congress after one term and returned to Albany to join a practice of law with Lyman Tremain, one of the leading members of the Albany Bar. Tremain would go on to become Attorney General, Speaker of the Assembly and member of Congress.

Peckham ran for New York Supreme Court in 1857 but was defeated. He ran again in 1859 and defeated the sitting Judge Ira Harris who would become U.S. Senator during the Lincoln administration. In 1870, Peckham was elected to the Court of Appeals. In 1873, he sailed to France with his wife to seek out medical treatment for a skin cancer. Their ship, the *Ville du Havre*, was rammed mid-ship by the *Loch Earn*, a Scottish merchant ship. Peckham's ship sunk in twelve



minutes with no lifeboats being launched. The ships tender was launched but it contained only crew. When Peckham's brother George learned of his brother's death he was in Milwaukee. He committed suicide by jumping into the Milwaukee River from a bridge spanning the river. Peckham is the father of Rufus W. Peckham, Jr. who would serve on the U.S. Supreme Court and Wheeler Hazzard Peckham, a renowned lawyer in his own right who successfully prosecuted Tammany Hall and Boss Tweed. A cenotaph memorial commemorates Peckham in Albany Rural Cemetery, Sec. 11, Plot 19.

WILLIAM LAW LEARNED (1821-1904): William Law Learned was born in New Loudon, CN on July 24, 1821. His father was a lawyer, and his two grandfathers were both members of Congress. He is the great uncle of Learned Hand through Hand's mother, Lydia Coit (Learned) Hand. In 1841, he graduated from Yale as salutatorian. After leaving college he studied law in New London with William F. Brainard. In 1842 he continued the studies of law with the firm of Gould and Olin in Troy. In 1844 he was admitted to the Bar. In 1850 he began the practice of law in Albany. In 1871 he was appointed to the Supreme Court by Governor Hoffman to succeed Justice Rufus Peckham, Sr., who was elected to the Court of Appeals. In 1875 he was appointed to be Presiding Judge of the Third Department by Governor Tilden while also serving on the Albany Law School faculty. During his professional life, he was president of Albany Rural Cemetery, Albany Boys' Academy, Albany Female Academy, Albany Institute of History and Art, the Board of Education, Albany Law School and the Fort Orange Club. Learned served on the Supreme Court until 1891 when he reached the mandatory retirement age. He resided for most of his life at 298 State Street. He was found dead at his desk in his office at 80 State Street on September 20, 1904. Learned is buried in Albany Rural Cemetery, Sec. 42, Plot 13.



THOMAS JEFFERSON VAN ALSTYNE (1827-1903): Thomas J. Van Alstyne was born on July 25, 1827, in Richmondville, NY. He graduated from Hamilton College in 1848 where he took courses on law. He studied law in Albany and was admitted to the Bar in 1848 upon passing an examination. He joined the law office of Harris and Van Vorst. During the Civil war he served in the Judge Advocate Corps with the rank of Major. After the war, he served as the Albany County Judge from 1871 to 1882. In 1883 he was elected to Congress where he served one term. In 1898 he was elected Mayor of Albany, also serving one term. Van Alstyne died on October 26, 1903, and is buried in Albany Rural Cemetery, Sec. 28, Plot 11.



SAMUEL HAND (1834-1886): Samuel Hand was born in Elizabethtown, Essex County, New York on May 1, 1834. His father, Augustus Hand, was the Essex County Surrogate, a member of the New York State Senate, a member of Congress, a Justice of the State Supreme Court and judge of the Court of Appeals. Samuel Hand is the father of Learned Hand, the "Tenth Justice." Hand graduated from Union College in 1851 at age 17. He studied law with his father and was admitted to the Bar in 1854. He then practiced law with his father in Elizabethtown and was his law clerk when his father was a Supreme Court Justice. Hand moved to Albany in 1859 and began a law partnership with former Chancellor John V.L. Pruyn. When Pruyn retired a year later the partnership became Cagger, Porter and Hand. In 1865, Porter was elected to the Court of Appeals and the partnership continued as Cagger and Hand. Cagger died in an accident shortly thereafter.



and Matthew Hale joined the firm later to be joined by Nathan Schwartz and Charles Fairchild. In 1875, Fairchild was elected Attorney General. In 1875, Hand declined the offer of Governor Tilden to be appointed to the State Supreme Court. As a private attorney, Hand argued nearly 800 cases in the Court of Appeals between 1859 and 1887. In 1863 Hand was appointed Corporation Counsel



Pedestal Grave of Samuel Hand. The Headstone of his son, Learned Hand, is to the left.

of the City of Albany and in 1869 he was named as the Official State Reporter, serving until 1872. During this time, Hand was also counsel to the Canal Commission and helped uncover massive public corruption on a par with the Boss Tweed machine. The downside of this engagement was that it prevented him from being nominated to run for governor. His replacement won the election. Hand served on the Court of Appeals for less than a year, during which time he authored twenty unanimous opinions. In 1879 he returned to private practice with offices at 25 North Pearl Street. Hand also served two terms as president of the New York State Bar Association. He was an intimate advisor to Governors Tilden and Cleveland.

Hand died on May 21, 1886, of cancer of the tongue at age 52. At the time of his death, the Hands lived at 224 State Street in Albany. He is buried in Albany Rural Cemetery, Sec. 11, Plot 14.

RUFUS W. PECKHAM, Jr. (1838-1909): Rufus Peckham came from good judicial blood lines. His father, Rufus, Sr., was one of the first judges elected to the Court of appeals in 1847. He died at sea in 1873 when the ship he was traveling on collided with another ship and sank. Rufus Jr. was born in 1838 at 191 State Street. This house was located on the North side of State Street, just about where the southwest corner of the Capitol is now located. (Learned Hand would be born a generation later just across the street about where the main steps to the Legislative Office Building are located.)



Peckham was admitted to the Bar in 1859. He then joined his father's law firm of Peckham and Tremain just in time to replace his father who had been elected to the State Supreme Court. He would be a member of that firm for twenty years. In 1869 he was elected District Attorney as a Democrat. In 1881 he became Albany Corporation Counsel and was elected to State Supreme Court in 1883. During these years Peckham resided at 127 State Street. During his professional career, Peckham was a Tilden Democrat, strongly opposing Tammany Hall. He was elected to the Court of Appeals in 1886. President Cleveland nominated Peckham's brother to the United States Supreme Court in 1895 but that nomination was blocked by Senator David Hill, the head of the New York State Democratic machine.

Peckham had the funeral of the century in Albany when he died. It was, attended by the entire Supreme Court. Justice Harlan said this in tribute to Peckham: "He was one of the ablest jurists who ever sat on the American bench. He was absolutely pure in mind and thought and free from everything that would prevent him from rendering an honest judgment in any case brought

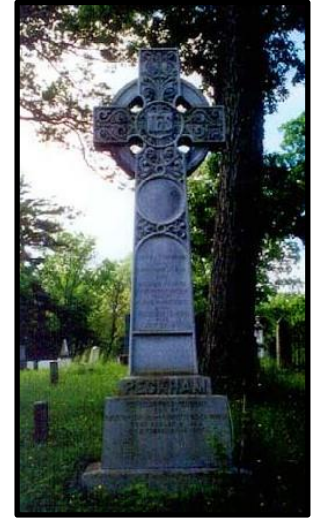
before him.” Oliver Wendell Holmes was less kind with his sentiments. In a letter to Justice Felix Frankfurter dated March 28, 1922, he stated, *You asked me about Peckham. I used to say his major premise was God damn it, meaning thereby that emotional predilections somewhat governed him on social themes. A good man, faithful, of real feeling and a master of Anglo-Saxon interjections.*

Peckham was educated at Albany Boys Academy. He read law and practiced with his father. He served as District Attorney, Albany Corporation Counsel, State Supreme Court Justice and then was elected to the Court of Appeals in 1886. Grover Cleveland nominated him to the United States Supreme Court in 1895, a spot which Judge Learned Hand felt would have gone to Hand's father except for his untimely death. Peckham, however, was Cleveland's second choice. Two years earlier, the President nominated Peckham's brother, Wheeler, whose nomination was blocked by New York's United States Senator David Hill, the leader of the New York Democratic machine.

Peckham is noted for authoring the majority opinions in *Allgeyer v. Louisiana* (165 US 578 [1887]) and *Lochner v. New York* (198 US 45 [1905]) which established the "liberty of contract" theory as a limit on state regulatory authority. These two opinions provided the bedrock legal support for laissez-faire capitalism and its hold on the law of the land. In *Allgeyer v. Louisiana*, the Court held unconstitutional a law prohibiting an individual from purchasing an insurance policy on property within the state from an insurance company outside the state. *Allgeyer* would probably have been of little note had it been based on the supreme authority of Congress to regulate interstate commerce. However, it was decided on a liberty of contract theory. In *Lochner*, the Court struck down New York's law regulating the number of hours a baker could work. Though, like *Allgeyer*, the decision was couched in the language of "freedom of contract," what the Court really did in *Lochner* went much further. It upheld one economic theory over the one chosen by the Legislature. In his dissent, Holmes observed, "The Fourteenth amendment does not enact Mr. Herbert Spencer's Social Statics." The 5-4 *Lochner* decision would stand as the rule of law until 1935 when it was overruled by *West Coast Hotel v. Parish* which upheld a state regulation limiting the workday length of hotel maids.

There is an interesting sidenote to *Lochner*. We often think of Supreme Court decisions as being the discovery of some immutable legal principle that is then ordained as the law of the land. However, these decisions often fragile structures held together by a clause here and a phrase there. The first vote in *Lochner* was 5-4 to uphold New York's law. This would have made Justice John Marshall Harlan's dissent the majority opinion and would have green-lighted New Deal type legislation by some thirty years. Instead, one unknown Justice switched his vote and, voila, Herbert Spencer's Social Statics ruled for the next thirty years. It is suspected by court watchers that Justice Melville W. Fuller switched his vote after being persuaded by Justice Joseph McKenna to do so. McKenna's father owned a bakery, and the theory is that he convinced Fuller that bakery work was neither strenuous nor unhealthy so there was no need to protect them by mandating a minimum 10 hour work day.

So, if Peckham didn't think bakers needed any protection from the long arm of the state, how about fourteen-year old factory girls? No, they were also on their own. Kathleen Hickey was 14 and employed in a commercial laundry in Brooklyn to "bunch collars and cuffs." One day a co-worker called in sick and Kathleen was asked to operate a steam roller press. The machine, was made in Troy and carried the label "The Troy Collar and Cuff Ironer." As she fed collars and cuffs into the machine, her finger got stuck in a buttonhole and pulled her hand into the machine. Peckham, in writing for the majority in *Hickey v. Taaffe* (105 NY 26 [1887]), held that there was no legal theory which allowed Kathleen Hickey to recover. It made no matter that there were no guards on the machine and no emergency stop levers or switches or that she had never received training on the machine. The *Hickey* decision was issued in 1887. There was no thought given at that time to safety devices to protect 14-year-old factory girls. Child labor in factories was the norm in the United States in the late 19th century. It would take Benjamin Cardozo from 1914 to 1932 to rewrite the common law of negligence in New York to the version we recognize today.



When Rufus Peckham died, the praise for him as a person and as a judge was effusive. The *Times Union*, on October 25, 1909, reported it in this way:

In the death of Rufus W. Peckham, Justice of the United States Supreme Court, the State and nation lose a great man and Albany, one of her most distinguished sons. Justice Peckham was esteemed highly by the bench and bar of Albany and by Albanians generally. His bearing was distinguished and his manner affable. His features were clear cut. He was stern in appearance, an impressive striking figure, but he was an agreeable, entertaining conversationalist. It was often said of him that he was "born for the position he held" and in Washington his associates are saying that he was one of the best and one of the brainiest jurists that ever sat upon the United States Supreme Court bench.

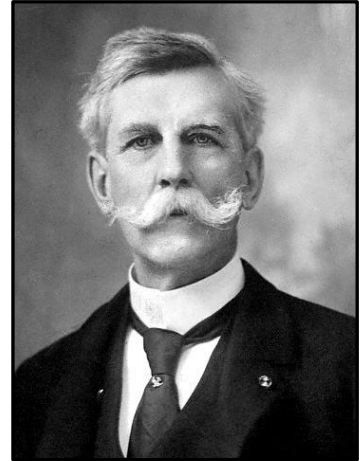
Rufus Peckham had the funeral of the century in Albany. The entire United States Supreme Court attended as honorary pall bearers. St. Peter's Episcopal Church was filled to capacity. Albany County Bar Association president Albert Hessberg led the contingent of Albany lawyers.



Peckham's Altamont Summer Home

Governor Hughes, New York City Mayor McClennan, Albany Mayor Snyder, Chief Judge of the Court of Appeals Edgar M. Cullen and former Chief Judges Alton B. Parker and Charles Andrews were all in attendance. It was a fitting tribute for a great judge. Rufus W. Peckham served the public for thirty-six years of his professional life, twenty-nine years as judge. By any measure, his was a record of distinguished accomplishment. Peckham died in Altamont on October 24, 1909, at his summer home and is buried in Albany Rural Cemetery, Sec. 54, Lot 8.

OLIVER WENDELL HOLMES, JR. (1841-1935): Holmes has a distant but direct connection with Albany County. His paternal grandmother was Sarah Wendell (1768-1862). She traces her ancestry to Evart Jansen Wendell (1649-1691) who left Holland in 1640 to become one of the first settlers of Albany. He died in Albany in 1709. Holmes's great-great-great grandfather, Jacob Wendell, was born in Albany in 1691 where he died in 1761. He resided at 27 Columbia Street. The 1815 Albany City Directory lists Wendells residing at eleven separate addresses. Hermanus Wendell had a residence on State Street near Lodge and Wendell street behind their residence, is named in their honor. Holmes and his father carry the name of Holmes's great-great grandfather, Boston Probate Judge Oliver Wendell (1733-1818). Holmes is buried in Arlington National Cemetery, Section 5, Grave 7004-A.



D-CADY HERRICK (1846-1926): D-Cady Herrick was born on April 12, 1846, in Esperance, NY. At age four he suffered a debilitating accident which left him crippled for life. His family moved to Albany in 1853 and he was educated in the Albany Schools. After graduating from Yale, he studied law with two of Albany's most prominent attorneys, Lyman Tremain and Rufus W. Peckham Sr. He furthered his legal studies by graduating from Albany Law School in 1868, as a classmate with William McKinley and was then admitted to the Bar that year. In 1880 Herrick was elected District Attorney, serving until 1886. He next served as Albany Corporation Counsel and was the right-hand man of Daniel D. Manning, the Albany County Democratic political leader. In 1883, Herrick was a strong supporter of Grover Cleveland as was Manning. When Cleveland was elected president, Manning became the Secretary of the Treasury and Herrick was left in full control of the Albany County Democratic Party. In 1891 he was elected to the State Supreme Court and in 1895 was elevated to the Appellate Division. However, he received harsh criticism for remaining politically active while on the bench. Standards of judicial involvement in politics were different 100 years ago and this is what the New York Times said about Herrick on September 25, 1904, when he was running for Governor: *"D Cady Herrick, incorruptible Judge—even non-partisan judge—but skillful politician; bitter political enemy of David B. Hill [New York State Democratic Party leader] yet placed in nomination by Hill in the interests of party victory; crippled in body, but strong and forceful in personality—such is the Democratic candidate for Governor in a nutshell."* Herrick lost that year to the Republican candidate Frank W. Higgins by 80,000 votes. Under Herrick's leadership, the Albany County Democratic party was predominant until overthrown by the Barnes Machine around 1900 when they lost the mayor's office. Many believe that one of Herrick's party chieftains, Packy McCabe, who refused to back the incumbent Mayor was in cahoots with Barnes and the Republican victories were the result of a dirty deal between McCabe and Barnes. McCabe became Republican county chairman in 1901.

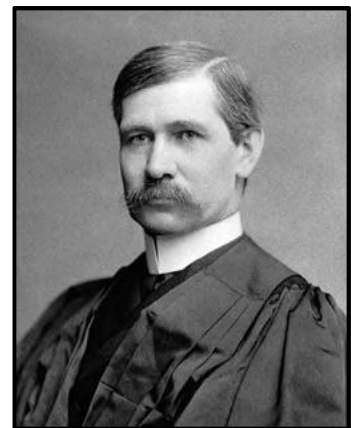


When his political and legal careers were on the rise, Herrick moved into twin brownstones residences at 151 Washington Avenue, previously occupied by the Albany County Democratic leader Daniel Manning who became Cleveland's Secretary of the Treasury. After his political downturn, Herrick retreated from active politics but remained as a respected elder statesman. He continued the practice of law with his son Charles J. Herrick who also served as Albany County District Attorney. Herrick also served as the defense counsel in the impeachment trial of Governor William Sulzer 1913. Herrick had a long association with Albany Law School. He was a Trustee from 1897-1926 and a faculty member for eighteen years. The origin of Herrick's first name has always presented a puzzle. One version is that his father wanted to name his son after his friend David Cady but did not want to give him two first names, so he shortened it to D-Cady. Another is that his mother chose the name "Cady," but his father did not want that to be corrupted to "Katie," making him the subject of school yard taunts. Whatever explanation may be true, it did not prevent Herrick from becoming one of the most intriguing persons to ever traverse the Albany legal community. It is likely that the Herrick family has the longest direct descendant political and legal history in the annals of Albany County. D-Cady Herrick's father, Jonathan R. Herrick, represented Albany County in the Assembly in 1877. Herrick's half-brother served in the New York State Assembly and Senate. Herrick's son, Charles J. Herrick, was Albany County District Attorney from 1924-1928. Herricks grandson, D Cady Herrick II, served in the Assembly from 1949-1954. Herrick's great-grandson, Stephen W. Herrick served as Albany City Court Judge, Albany County Court Judge and is currently the Albany County Public Defender. Herrick died on February 21, 1926, at age 80. He is buried Albany Rural Cemetery in Sec. 116, Plot 15.

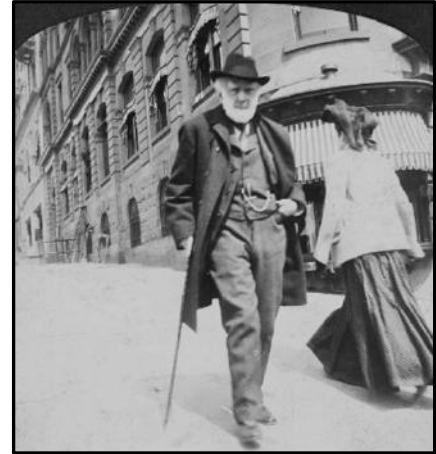


Herrick-Manning Home
151-153 Washington Ave.

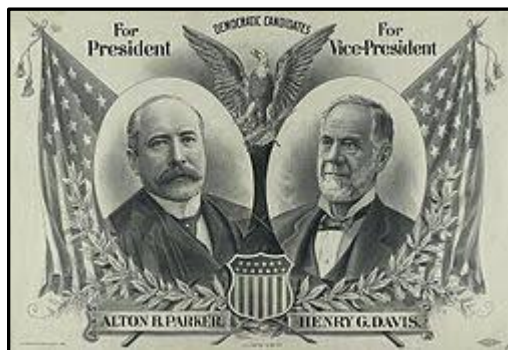
ALDEN V. CHESTER (1848-1934): Alden Chester was born at Westford in Otsego County on September 4, 1848. He can trace ancestors in America back to the Mayflower. After completing his education locally, he graduated from Columbia Law School in 1871 and began practicing law in Albany shortly thereafter. In 1895 he was elected to the Supreme Court where he served until 1918 with seven of those years on the Appellate Division. Prior to commencing his judicial career, Chester was active on many fronts. For seven years he was an assistant U.S. Attorney for the Northern District and for two years he served as an assistant Corporation Counsel for the City of Albany. He was President of Albany Medical College, a trustee of the Albany College of Pharmacy, a governor of Union University and a lecturer at Albany Law School and President of the American Bar Association in 1919. Chester died on February 12, 1934. He was the author of the three volume work *The Legal and Judicial History of New York*, 1911 and *Courts and Lawyers of New York: A History*, 1925. Chester resided at 139 South Lake Avenue when he taught at Albany Law School. His law offices were in Suite 18 in the Tweedle Building at the corner of State and Pearl Streets. He died on February 12, 1934, and is buried in Albany Graceland Cemetery, Chester Mausoleum 1000-E3.



WILLIAM PLATT RUDD (1851-1929): William P. Rudd was born in Albany on June 9, 1851. He graduated from Union College in 1873 and received a master's degree from the school in 1876. He graduated from Albany Law School in 1875 and was admitted to the Bar that year. After law school he opened a practice with one of Albany's most esteemed lawyers of that period, Hamilton Harris, under the name of Hamilton & Rudd with offices in the Tweedle Building. From 1910-1924 he was a Justice of the Supreme Court. Rudd was one of the most active community members of the Bar during his professional life. He served as Albany Corporation Counsel and was the founder and first president of the Albany County Bar Association. He served on the Albany School Board for seven years and was a Trustee of Union College. He served as a trustee of the Albany Institute and Historical Society and the Albany Chamber of Commerce. He was also the president of the Albany Homeopathic Hospital and the University Club. He was a vestryman at St. Peter's Church and president of the Young Men's Association. Rudd died on October 29, 1929, at age 78. He is buried in Albany Rural Cemetery, Sec. 59, Plot 46.



ALTON BROOKS PARKER (1852-1926): Alton Brooks Parker is one of the most remarkable figures to ever grace the Albany legal scene. He was born on a farm outside Cortland, NY on May 14, 1852. Parker started his professional career as a schoolteacher at age 16, younger than some of his students. When he moved to Kingston, he read law with Ulster County Judge Augustus Schoonmaker. In 1873 two momentous events took place in Parker's life; he married Marie Louise Schoonmaker (a distant relative of Judge Schoonmaker) and he graduated from Albany Law School in 1872. Upon graduation, he practiced law in Kingston. In 1877 Parker was elected Ulster County Surrogate---at age 25---and the only Democrat to win in the County that year. Parker earned a lot of political currency with his early support of Grover Cleveland, and they became lifelong friends. At age 33, he became chair of the State Democratic Committee, the youngest person to ever hold that post. In 1885, Governor David B. Hill appointed Parker to the Supreme Court at age 33, making him the youngest judge on that court. In 1889, at age 37, Parker was appointed to the Court



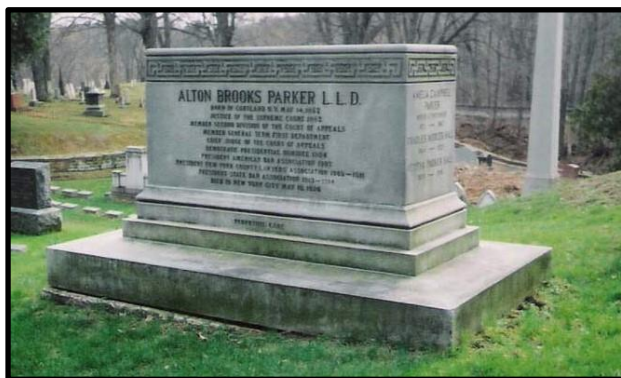
of Appeals, where he was the youngest judge on that court. Parker ran and was elected to be Chief Judge of the Court of Appeals in 1897 by a plurality of 61,000 votes. This was a remarkable victory because he ran as a Democrat and his party lost the presidential election in New York the year before by 268,000 votes, a shift of more than 330,000 votes. When court was in session, Parker resided in the Ten Eyck Hotel located on the northeast corner of State and Chapel Streets. He eventually bought a home in Esopus, Ulster County,

where he lived for the rest of his life. Parker was famous for his morning hour-long horse rides in Albany before going to the courthouse.

On the bench, Parker had a reputation as a progressive and a humanitarian. In *People v. Lochner*, Parker wrote the majority opinion upholding New York's maximum work hour regulation for bakers. That decision would be overturned by another Albanian, Rufus W. Peckham, Jr., when the case got to the United States Supreme Court. Peckham held that the regulation violated the baker's "right to contract" thus ushering in what has been called the Lochner Era which would last until 1935 when it was set aside by the Supreme Court's holding in *West Coast Hotel v. Parrish*.

Parker's stature nationally was so well established that he was continuously importuned to run for president. In 1904 he accepted the Democratic nomination. However, Parker was not able to successfully make the uphill climb against the very popular Teddy Roosevelt and lost by record margins. After his defeat, he returned to the practice of law in New York City and represented several major clients in the labor movement such as in the Danbury Hatter's Case, Samuel Gompers and the American Federation of Labor. He was also the chief prosecutor in the impeachment trial of Governor William Sulzer.

Little grass grew under Parker's feet in his professional life. He was a founder and Director of the American Bar Association, Founder and President of the New York State Bar Association,



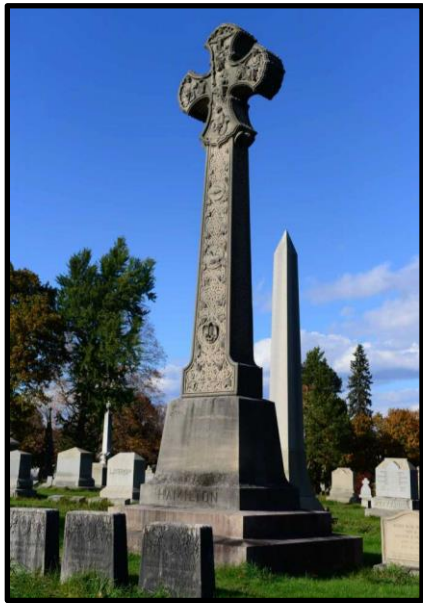
President of the New York County Lawyer's Association and President of the Ulster County Bar Association. In 1909 he collaborated with Thomas H. Hubbard and Justice David J. Brewer to establish the Canon of Ethics for the American Bar Association. He also found time to be an instructor at Fordham Law School. Parker died of a heart attack on May 10, 1926, at age 74, while driving through Central park. He is buried in Wiltwyck Cemetery in Kingston, New York.

ANDREW HAMILTON (1854-1908): Andrew Hamilton was born on April 29, 1854. He was the patriarch of a prominent family beset by tragedy. His only son died at age 7 of a childhood illness. A few years later, his three grown daughters were killed in a train accident while returning from a funeral of a family friend in Hartford, CT. All the glory and heartache of the human condition endured by the Hamiltons was poured into the exquisitely detailed Celtic cross designed by famed architect Marcus T. Reynolds that dominates their family plot, near the Cypress Fountain in Albany Rural Cemetery. Andrew Hamilton was born in Lansingburgh and attended Christian Brothers Academy and Albany Academy. He worked his way up from clerk at Western Union office to a teacher, which allowed him to study law at night. He was admitted to the New York Bar at age 21 in 1875 and started a law practice with Hugh Reilly. In 1878, he married Jessie R. Walker, and she



raised their three daughters as his law practice grew and he moved into politics. In addition to his private practice, Hamilton was elected Albany City Court judge, Albany County district attorney and was appointed clerk of the state Court of Claims. He was the author of several legal textbooks and was a noted authority on corporate and insurance law. Hamilton was a former counsel to the New York Life Insurance Co., whose business dealings were scrutinized by a legislative commission that investigated the insurance industry in 1905. The probe uncovered a slush fund used to lobby and bribe legislators on bills favorable to the insurance industry that became known as “the yellow dog fund.” Hamilton was tied to the scandal. “The Judge,” as he was known, made a successful impassioned defense of himself and the insurance industry before the legislative commission in the state Assembly chamber.

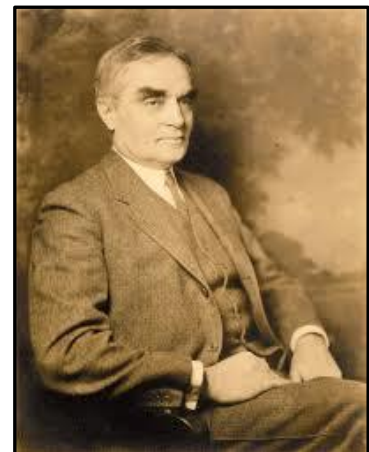
But mental exhaustion and poor health sidelined Hamilton, who never recovered from a string of losses: the death of his son in 1900, the death of his law partner Reilly in 1904 and the death of his wife in 1907. Hamilton died on March 1, 1908, of a heart attack while he slept. He was 54. Four years later, on Oct. 4, 1912, the Springfield express train plunged down a 30-foot embankment near Westport, Conn., killing Hamilton’s three daughters who were returning from



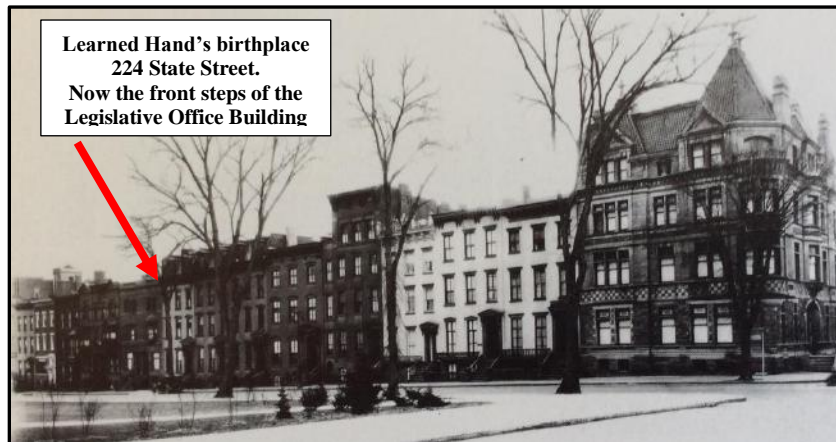
the funeral of family friend, Patrick Garvan in Hartford. Also killed was Mrs. E.P. Gavit, of Albany. Hamilton’s daughters — Mary Hamilton, 27, of Albany; Elizabeth Hamilton Brady, 32, of New York City and Jessie Hamilton Ransom, 34, of Albany — were buried in the family plot two days later. Hamilton’s daughter Elizabeth married James C. Brady, the son of Andrew Brady, one of the wealthiest New Yorkers in the 19th century. Brady amassed his fortune as an inventor and entrepreneur who owned a large gas utility and an electric streetcar company. His philanthropy included endowing Brady Maternity Hospital in Albany. Brady’s son inherited much of his father’s vast wealth, but according to newspaper accounts, Elizabeth Hamilton Brady endured a loveless marriage and expressed a deep unhappiness to friends at the time of her death. Hamilton is buried in Albany Rural Cemetery, Section 28, Lot 91. This excerpt is taken from Paul Grondahl’s *These Exalted Acres*, a history of Albany Rural Cemetery.

LERNE D HAND (1872-1961): One of Albany’s many claims to judicial greatness is as the birthplace of Learned Hand. Often called the “Tenth Justice,” Hand is generally—maybe universally — considered to be the greatest American justice never to make it to the Supreme Court. Justice Benjamin Cardozo was once asked to name the greatest living American justice on the Supreme Court. He answered that the greatest living American jurist was not on the Supreme Court.

Learned Hand was born on January 27, 1872, in the home of his parents, Samuel and Lydia Hand, located at 224 State Street in Albany. His given name was Billings Learned Hand. His first and middle names were surnames of grandparents. He stopped using Billings when he entered Harvard. The Hands were a prominent



New York State Legal family. Hand's grandfather was Augustus C. Hand of Elizabethtown, New York. Augustus was a well-connected Jacksonian Democrat (Learned would later become a Teddy Roosevelt Republican). Augustus served in the New York State Senate, the U.S. House of Representatives, as a justice of the New York State Supreme Court and for a short term on the Court of Appeals.



Hand's father, Samuel Hand, left Elizabethtown for Albany in 1859, at age 26. He became one of the State's most successful appellate lawyers and a trusted adviser of several Democratic governors. In 1875, at age 42, Governor Tilden offered him an appointment to the State Supreme Court, but Samuel Hand declined. At age 45, he

was named to the Court of Appeals but was not confirmed by the Tammany controlled Democratic Senate. Samuel died eight years later. Learned Hand believed that had his father lived, Governor Grover Cleveland, who would become President Cleveland, would have appointed Samuel Hand to the U.S. Supreme Court instead of Court of Appeals Judge Rufus W. Peckham.

Learned Hand, a bookish youth, attended Albany Academy, which is now the Albany City School District Administration building in Academy Park, across from the Court of Appeals. After graduation, he attended Harvard College and Law School. On graduation from law school he returned to Albany in 1896, and eventually joined the practice of Marcus T. Hun. Hun was the official reporter of the Court of Appeals decisions and a reform minded democrat.

Hand found himself unchallenged by the practice of law in Albany. He tried teaching at Albany Law School for a year, but his intellect and ambition outgrew Albany. Another point of view became a standing joke among his fellow jurists: "Hand became famous as a judge in New York because he couldn't make a living as a lawyer in Albany." In 1909, he was appointed by President Taft to the Federal District Court in Manhattan. In 1924, he was appointed by President Coolidge to the Second Circuit Court of Appeals. He served there until his death in 1961. Probably Hand's most famous case on the bench was *Masses Publishing Co. v. Patten* (1917). In this case, Hand set down the "direct incitement test" to determine if speech was protected by the First Amendment. This test was eventually adopted by the Supreme Court in 1969 in *Brandenburg v. Ohio* which held that inflammatory speech cannot be punished unless the speech is intended to directly incite or produce imminent lawless action and is likely to incite or produce such action. This decision implicitly overruled *Schenck United States* (1919) where Holmes famously announced his "clear and present danger test" with the analogy that no one is permitted to falsely shout fire in a theatre."

Although Hand was appointed to the Federal bench by President Taft, this would not prevent Hand from turning on his benefactor and injecting himself into national politics on behalf of his opponent. As a close confidant of Teddy Roosevelt, Hand often counseled him during his run for the presidency on the Bull Moose ticket in 1912. That third party run probably cost Taft his re-election and made Woodrow Wilson president. Hand had his hands in the drafting of the Progressive Party's platform and other political position papers. He also wrote political pieces for the *New Republic Magazine*. However, his most direct participation in politics was in 1913, when, as a sitting Federal judge, he ran as the Progressive Party's candidate for Chief Judge of the State of New York. He was beaten by the Democratic candidate, Willard Bartlett, by about 350,000 votes.

Hand was a judge for fifty-two years and wrote over four thousand opinions. Unfortunately, his memories of Albany are not pleasant. He always thought it a dreary place, though in his youth it was the twentieth largest city in the United States. In his later years he recalled Albany as "a hick town up the river." Even with Hand's recognized brilliance, not all his opinions were correct. Hand died on August 18, 1961, at age 89. He is buried in Albany Rural Cemetery, Sec.11, Plot 14.



HAROLD J. HINMAN (1877-1955): Harold J. Hinman was born on February 22, 1877, in Albany, NY. He graduated from Albany High School, Union College and Albany Law School in 1901. After being admitted to the Bar, Hinman started practicing law with Randall J. LeBoeuf who would go on to serve on the State Supreme Court. In 1902 he formed a law practice, Bender & Hinman, becoming in 1912 Arnold, Bender & Hinman with offices at 109 State Street. In 1910, at age 33, he was elected to the Assembly as a Republican. This was a year in which all nine statewide offices were won by Democrats. Hinman replaced Albany Law School Dean J. Newton Fiero who left to become the Official State Court Reporter. He served in that body until 1916 and over his six-year tenure, he served as chair of the Judiciary Committee, Minority Leader and Majority Leader. In 1915, as majority leader, Hinman proposed that the Legislature meet year-round except for July and August for one week each month. He argued that his proposal would allow for greater deliberation on important legislation and eliminate the end of session rush when hundreds of bills are passed in the dead of night. Hinman also argued that his plan "*would make it possible to get men of greater capacity to except legislative office because they would not be compelled to give four or five months of continuous service to the neglect of their own business affairs,*" as the New York Times described it. From 1915 to 1918 he was a Deputy Attorney General. In 1918 he was elected to the State Supreme Court and appointed by Governor Nathan L. Miller to the Appellate Division in 1922. Hinman served on the bench until 1932 and remained as a referee until 1940. One of his most significant contributions to the law was his dissent in the 1922 case of *Beardsley v. Kilmer*, involving the question of whether it was tortious conduct for a person to engage in lawful conduct with the malicious motive to hurt another. Hinman in dissent said that such a proposition would allow "a



man who is wealthy enough and malicious enough to shut the door of opportunity to the object of his hatred by rivaling him in business, with no other aim in view than his destruction.” Hinman’s dissent would become the law of New York when his rationale was adopted by the Court of Appeals in 1932 in *Al Raschid v. News Syndicate Co.*, to recognize the cause of action of *prima facie tort*.



Hinman-Straub Family Grave Site

In 1932 Hinman formed what would become one of Albany’s most prestigious law firms with his son-in-law, J. Vanderbilt Straub. The firm would eventually be most well known as *Hinman, Straub, Pigors and Manning*. Hinman was closely associated With Albany Law School where he served as a trustee for over 35 years, 25 as President. He was also a trustee of Union College and President of the Albany Board of

Education. Hinman died at his residence at 292 State Street on February 21, 1955, after a long illness. He was 77. He is buried in Albany Rural Cemetery, Sec. 127, Plot 102.

ELLIS J. STALEY, SR. (1877-1943): Ellis Judd Staley was born on November 14, 1877, in Carlisle, Schoharie County, NY. His farther, a farmer, moved to Albany to attend business interests and Ellis graduated from Albany High School. After reading for the law he was admitted to the bar in 1903 and formed a practice with Charles J. Tobin. When Staley was elected to Supreme Court, Tobin joined a practice called Tobin Wiswall & Walston. This firm would evolve into Tobin and Dempf. The firm represented a large concentration of Catholic organizations including six Dioceses. Charles Tobin resided at 60 South Manning Blvd. In 1905, Staley became secretary to the State Attorney General and became an assistant Attorney General. He served in the New York State Assembly in 1908 and was a delegate to the Republican National Convention in 1916. He also served as counsel to the Forest, Fish and Game Department, and was the Albany County Attorney. During these years he served as chair of the Albany



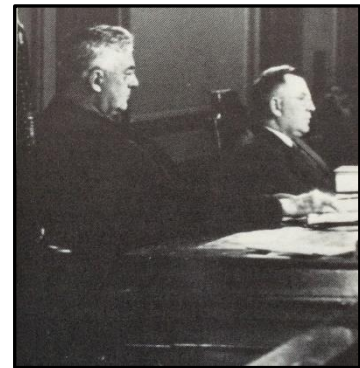
Ellis J. Staley, 1932

County Republican Committee and on the State Executive Committee. He was elected Albany County Surrogate in 1918 and resigned when the Governor appointed him New York State Conservation Commissioner and Chairman of the first Water-Power Commission. From 1921-1935 he was a Justice of the Supreme Court. His reelection bid was denied by the election of Francis Bergan. Perhaps his most significant accomplishment came as County Attorney when he over saw the construction of the County Courthouse. Judge Bergan called him the “father of the courthouse. Staley resided at 361 State Street. He died on February 8, 1943, at age 65. He is buried in Albany Rural Cemetery, Sec. 109, Plot 25.

EARL H. GALLUP (1880- 1970): Earl H. Gallup was born on May 31, 1880, in Knox, NY at the residence where his grandfather and father were born. He graduated from high school in Jersey City and then attended Albany Law School, graduating in 1905. While in law school, he clerked in the office of David B. Hill, the former Governor of New York and leader of the State Democratic Party and continued to work there for two years after being admitted to the Bar. Hill's summer home became the original club house of Wolfert's Roost Country Club. From 1907 to 1908 Gallup was the chief clerk of the State Inheritance Tax Bureau. After that, he engaged in the private practice of law until 1923. In 1920 he joined the United States Attorney's Office for the Northern District as an assistant and became the United States Attorney in 1922. He held that position for only a few months as he.



He resigned because he was elected Albany County Judge. Gallup most famously presided at the kidnapping trial of Dan O'Connell's nephew in Albany County Court in March 1934 (See Trials sections). He stands as the longest serving County Judge in County history, twenty-seven years from 1923-1950. Gallup died in Norwich, NY on January 31, 1970, and is buried in Albany Rural Cemetery, Sec. 27, Plot 77.



Dan O'Connell testifies at the kidnapping trial of his nephew. Hon. Earl H. Gallup presiding, March 1934.

GILBERT V. SCHENCK (1882-1946): Gilbert Van Evera Schenck's family traces a long lineage in upper New York dating back to the first settlements by the Dutch. Schenck was born on December 28, 1882, in Palatine, Montgomery County, NY. His early schooling was local, but he continued his education at Albany Boys' Academy and Union College. He graduated from Albany Law School in 1906. After his admission to the Bar in that year he opened his own office for the practice of law. From 1902 to 1916, Judge Schenck served in the 10th Infantry of the New York State National Guard. He was the commander of the Third Anti-Aircraft Gun Battalion during WW I, holding the rank of Major and he was decorated for bravery. Schenck had deep connections to the Albany County Democratic Party. He was a close friend of Dan O'Connell and was a teammate of Dan's brother



The Unkept Schenck Family Plot

Ed O'Connell (founding partner of O'Connell & Aronowitz) on the Union College football team. Schenck started his law career at O'Connell and Aronowitz as would his son Martin. Gilbert Schenck was appointed Albany Corporation Counsel in 1922 right at the time that the O'Connell-Corning Albany Democratic political machine had overthrown the hegemony of the Barnes Republican Machine and took back City Hall under Mayor William S. Hackett. Schenck was elected Surrogate Judge in 1928 and then to Supreme Court 1933. In 1939 he was appointed

to the Appellate Division by Governor Herbert H. Lehman. This was coming up on a time when Governor Dewey would launch a fierce series of investigations into the Albany County Democratic Party involving vote corruption. Dewey was never able to get any of the big fish because O'Connell controlled the judiciary and the jury pool. Illustrating this is the censure by the Assembly Judiciary Committee of Judge Schenck. Schenck was caught on wiretaps talking with Dan O'Connell about how the judges voted in a voter fraud case pending in the Appellate Division.



Schenck is the father of Martin Schenck who served as Albany County Court Judge from 1951-1972. Gilbert's father and Martin's namesake, Martin Schenck (1847-1918), was a famous railroad civil engineer. He served as the New York State Engineer and Surveyor (an elected position) from 1892-93. From 1895-1899 he was the Troy City Engineer and then Chief Engineer for the New York City Parks Department. Gilbert V. Schenck and his family resided at 571 Western Avenue. He died on March 24, 1946, at age 63. He, his father and his son are buried in Albany Rural Cemetery, Sec 108, Plot 144.

JOHN BOYD THACHER II (1882-1957): John Boyd Thacher II was born October 26, 1882, in Leadville, CO. His father is George H. Thacher, and his grandfather is George H. Thacher, Sr. the founder of the Thacher Carwheel Company which made train wheels for railroads and a fortune for the family. His family returned to Albany a few years after John's birth and his father resumed ties with the grandfather's business. His grandfather was mayor of Albany for three separate terms and his uncle and namesake was also a mayor of Albany.

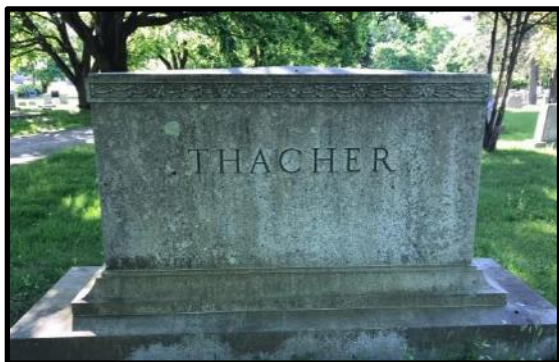


John Boyd Thacher II graduated from Albany Academy in 1900, Princeton University in 1904 and Albany Law School in 1906. From 1911-1913, Thacher was a Deputy Attorney General. After practicing law for a few years, Thacher served in WW I and saw action in France, serving on the Lorraine front as an ambulance driver. When he returned, he got involved in politics and served on the Albany Common Council and as City Treasurer from 1921 to 1925. In 1925 he was elected President of the Common Council. In 1926, the incumbent Mayor George S. Hackett was killed in a car accident in Cuba and Thacher became interim Mayor. He was then elected and served as Mayor until 1940 when he resigned to become the Children's Court Judge where he served until 1947. His resignation made room for the election of Erastus Corning II as Mayor.

In 1946, Thacher tried his hand for higher judicial office and lost a bid for Supreme Court to the Republican candidate, Isadore Bookstein. Many have an impression that the O'Connell-Corning machine was monolithic power from the 1920's to the present but there were frequent exceptions to this state of affairs. In 1946, the Republicans swept every statewide office and also took down Democrats in local races. The popular Democratic Governor, Herbert Lehman, had died and a lackluster candidate, James M. Meade, who was the U. S. Senator and resided in western New York could not meet the challenge. The ticket was also upstate top-heavy. Mayor Erastus Corning II was the candidate for Lt. Governor. The result was a Republican sweep for Governor,

Lt. Governor, Comptroller, Attorney General, Chief Judge, associate judge of the Court of Appeals and U. S. Senator.


After leaving the bench Thacher practiced law at 100 State Street in the firm of Thacher



and Casey. Always interested in child welfare, he was instrumental in developing Camp Thacher in Bethlehem. Thacher is the grandson of Mayor George H. Thacher (1860-61) and the nephew of his namesake Mayor John Boyd Thacher (1886-87). The Uncle's estate donated the land in the Helderberg's for Thacher Park and his widow donated the land for Thompson Lake State Campgrounds. The Thacher's resided at 830 Myrtle Avenue. Thacher died on April 25, 1957, and is buried in Albany Rural Cemetery, Sec 125, Plot 6.

EDWARD S. KAMPF (1900-1971): Edward Kampf was born on October 14, 1900, in Albany, NY. He graduated from Albany Law School in 1924. He served on the Albany County Board of Supervisors from 1931-1935. Kampf was the Albany Police Court Judge from 1935 to 1945. During that time, he was associated with the law firm of Byrne, Casey, Keenan and Trombly. In 1946, he was appointed by President Truman to the Federal District Court for the Northern District to fill the vacancy created by the death of Frederick H. Bryant. He served until 1948 when he left the bench for personal reasons. His move from Police Court to the Federal bench was a complicated chess game as described by Paul Grondahl in his biography of Erastus Corning. Jake Herzog was the son and nephew of men important to the machine. In 1939, at age 28, Dan O'Connell made Herzog the election commissioner. As Herzog was preparing to go off to war, he met with Dan who asked him what he wanted when he got back. Herzog told him he wanted to be a judge. After being injured on Okinawa, Herzog returned to Albany, forgetting about his conversation with O'Connell. But O'Connell had not forgotten. At a meeting with Dan, Herzog was told that it was all set. "I've got it all arranged. Truman will appoint Bucky Kampf to the Federal Court, Burns will go to City Court and I'll make you Police Court Judge." Kampf was succeeded by James T. Foley. Kampf





JUDGE EDWARD S. KAMPF

E. S. Kampf Dies; Retired Judge

Edward S. Kampf, retired U.S. District Court judge in Albany for the Northern District of New York and retired Police Court judge, died Monday. He died in the Columbus Hotel, Miami, Fla. where he was vacationing.

Judge Kampf lived at 206 South Main Avenue, Albany. He was 70.

A native of Albany, he was a graduate of Albany Law School. He served as a member of the Albany County Board of Supervisors from 1931 to 35. He was appointed by Mayor John Boyd Thacher to fill a vacancy on the Police Court bench. He served in that post from 1935 to 45. HE WAS appointed to the

Federal bench by President Harry S. Truman and took the oath of office on Feb. 12, 1946. He retired in 1948 to practice law with the Albany firm of Blodget, Kampf and Lynch. He retired from law practice about 10 years ago.

Judge Kampf was long associated with the law firm of Byrne, Casey, Keenan and Trombly. He was associated with the firm during his tenure as Police Court judge.

He was a past exalted ruler of the Albany BPOE. JUDGE KAMPF was the husband of the late Vera Thompson Kampf.

Survivors include his mother, Lizetta Goetz Kampf; two brothers, John J. and Kenneth Kampf; and a sister, Mrs. Edward Hornburger, all of Albany. Funeral services will be at 10 a.m. Friday in St. Teresa of Avila Church. Burial will be in Our Lady Help of Christians Cemetery, Glenmont.

practiced law in Albany until 1961. The recent news that the Kenmore Hotel and its famous Rainbow Room are being restored recalls an interesting story about Kampf's connection to the hotel. In October 1938, Kampf was celebrating his 38th birthday at the Rainbow Room. He was the Police Court Judge at the time and the hotel's attorney. Entertaining him that night was the famous band

leader Russ Morgan and his lead singer, Peggy Lee. Morgan's fame was linked to his composition, "Your Nobody till Somebody Loves You" and his musical accomplishments earned him a star on the Hollywood Walk of Fame. The newspaper reporter who recounted this story remembered how Kampf, as a past president of the Elks Lodge, was seen every year leading the Elks Parade waving his straw boater while the band played his favorite song, "Easter Parade." That song was reprised by Peggy Lee at the Kenmore for his birthday celebration. The reporter concluded that "it was a gala night for a fine gentleman and may his soul rest in peace." Kampf died on March 8, 1971, in Miami, FL while on vacation. He is buried in Our Lady Help of Christians Cemetery in Glenmont, NY.

RUSSELL G. HUNT (1901-?): Russell G. Hunt was born in 1901. He graduated from Albany Law School in 1923. During his career he served as Albany Corporation Counsel and in 1951 he was elected president of the Albany County Bar Association. In 1953, he was elected Albany County District Attorney. In 1956 he was nominated to the Court of Claims by Governor Averill Harriman and served until 1960. In 1960 he was elected to the Supreme Court and served until 1975.



A small diversion at this point is taken to provide some background into how candidates were selected for the major elected legal offices in the County. First, there were four attorney/law enforcement positions of importance. The County Attorney and the City of Albany Corporation Counsel were appointed by the County Legislature and Mayor, respectively. The Sheriff and District Attorney were elected. All judicial offices from Traffic Court to the Court of Appeals were also elected. From the early 1920's until the early 1970's no person could occupy any of these local positions without the imprimatur of Dan O'Connell with two exceptions. The Court of Appeals judges were elected statewide and the judges on the Appellate Divisions were appointed by the governor from the elected Supreme Court bench.

On paper, a person could challenge a party backed candidate in a primary, but this possibility existed only on paper. As a result, the Albany County Democratic Party always had a friendly bench. Its control of the Supreme Court Bench was also significant but not monolithic because Supreme Court Justices were elected in a seven county district. The Democratic party also controlled the jury pool. This political control over the judicial process enabled O'Connell to successfully fend off Attorney General and then Governor Thomas Dewey's many investigations into Albany County matters in the late 1940's. This would change.

For a dozen or more years during the 1960's-70's, Albany County and City finances and police operations were scrutinized the SIC (State Investigation Commission) and the Albany *Times Union*. This scrutiny first took its toll at the polls in 1966. Dan Button, the Republican candidate for Congress, defeated the machine candidate, President of the Albany Common Council Richard J. Conners. The roof would collapse on the Democratic Party in 1968. Long time District Attorney Jack Garry was retiring. Upcoming 30 year old Republican Arnold Proskin easily defeated Joseph Scully, the Clerk of the Federal Court, for District Attorney. Scully was criticized for running his campaign from the porch of his camp on Lake George.

The electoral disaster of 1968 for the Albany County Democratic Party continued. Republican Walter Langley defeated stalwart Julian Erway for State Senate. The Republican Candidates for Assembly, Ray Skuse and Fred Field, defeated Frank Cox and Harvey Lifset. Button was reelected to Congress, defeating Albany Attorney Jake Herzog. The Lifset defeat was particularly damaging. This Albany Attorney was a WW II hero and six-term incumbent. He had

risen to be chair of the powerful Assembly Ways and Means Committee. In 1972, Proskin would beat back 30 year old assistant Corporation Counsel Thomas Keegan by a wide margin and then defeat Joseph Harris for County Court in 1976. Both Harris and Keegan would land on their feet once the Machine picked itself up off the ropes. Keegan would be elected to Police Court, County and Supreme Court. Harris would be elected twice to County Court and then to Supreme Court. But while the Republicans were successfully challenging Democratic candidates, no one was yet challenging the Party from within.

There are always a couple of exceptions that prove the rule. In 1973, Jack McNulty from Green Island successfully challenged the party selected candidate, William Mahoney, for Sheriff. McNulty won by 400 votes. But no judicial candidate would even attempt this route to the bench until well after Dan "O'Connell died in 1977 and Erastus Corning died in 1983. In 2005, when Margaret T. (Peggy) Walsh successfully defeated the party endorsed candidate, John Reilly, in the Democratic primary for Family Court, and ended the party's stranglehold over judicial nominations ended. Reilly would also land on his feet, becoming a Family Court Magistrate until he was elected to City Court. The party's hold on the District Attorney's office would also end in 2005 year when P. David Soares defeated incumbent party selection Paul T. Clyne, son of famous Albany County Judge John Clyne.

KENNETH S. MacAFFER (1901-1963): Kenneth Seaborne MacAffer was born on March 1, 1900, in Green Island, NY where he received his elementary education. He graduated from Troy Highschool in 1917 and Albany Law School in 1920, at a time when admission to law school did not require a university degree. MacAffer was admitted to the Bar in 1921. After graduation he began practicing with the firm of Hun, Parker and Reilly (Hun being of the Court Reporter fame). In 1922, he was an unsuccessful candidate for the New York State Assembly. In 1924 he became an associate with the law firm of Tobin, Wiswall, Walton and Wood. In 1927 the firm became Wiswall, Walton, Wood and MacAffer. From 1938 to 1949 he was the chair of the Albany County Republican Party. MacAffer was elected to the State Supreme Court in 1949. Just two weeks before his death he was appointed to be the Administrative Judge for the Third Judicial District. On the bench, he served as President of the State Supreme Court Judges Association. He also served as president of the Board of Trustees of Albany Law School. MacAffer died on January 10, 1964, at age 63.



FRANCIS BERGAN (1902-1998): Francis Bergan was born on April 20, 1902. He was born in Albany because the potato failed in Ireland and his grandparents were forced to emigrate to America to start a new life. Born Michael Francis, his family never used his first name. His parents had a grocery store at the corner of Albany and South Pearl Streets in North Albany. His father died when Francis was seven. The family was held together by his mother, with the help of many other family members. The family eventually moved to 486 Clinton Avenue where Judge Bergan lived into his thirties before moving to 70 Woodlawn Avenue.



Judge Bergan graduated from St. Patrick's Elementary School on Central Avenue and Cathedral Academy which was located at the no longer existing corner of Hawk and Elm Streets. His education was not limited, however, to just the schoolroom setting. For example, a big push came from his Aunt Margaret. Each Christmas, Margaret would give her nephew one of Dickens' novels. In a few years, Francis had worked his way through all the author's works. No one could read all of Dickens without gaining a keen understanding of the human condition and many the absurdities of the law.

In high school, Judge Bergan showed an early interest in politics and became a regular commentator on public issues, evidenced by the many letters he sent to the editors of local papers. At Cathedral, he honed his communication skills as the lead member of the school's debating team. All this led to his first professional job during his senior year of high school as a reporter for the *Knickerbocker Press*. After high school, Judge Bergan went directly to Albany Law School, which would not have been an unusual step in the first part of the last Century. He graduated in 1923. He also took courses at the New York State Teachers College but would not get his bachelor's degree from Siena until 1948, 13 years after he became a Justice of the Supreme Court.

During his last year of law school, Judge Bergan became a feature writer for the *Times Union*. This gave him an opportunity that would set a course for the rest of his professional life, he had the chance to interview the patriarch of the Albany County Democratic Party, Dan O'Connell. These two Irishmen hit it off immediately. Both were Civil War buffs, and both had read all of Dickens' works. This mutual association would eventually lead to Bergan's election to Albany City Court in 1929 and to Police Court in 1932. As Police Court Judge, he garnered State-wide acclaim for his successful efforts to reform the Vehicle and Traffic Law.

The elections of 1935 were crucial for both the Republican and Democratic parties. Roosevelt's New Deal program was under attack and the Democrats hold on the New York Assembly was at risk. Then, as now, the push and pull over nominations to the Supreme Court was furious. The Republicans re-nominated the well-regarded Ellis J. Staley, Sr. It had been the practice for the major parties to cross-endorse a sitting justice, but the Republicans did not extend this courtesy to the other Democratic nominee, Harry J. Schirick of Kingston, because he was sitting by appointment and not election. With all deals off, Dan O'Connell went to his bench, securing the nomination of his thirty-three-year-old Police Court Judge, passing over City Court Judge Charles J. Duncan, County Court Judge Earl H. Gallup and District Attorney John T. Delaney.

In 1935, Herbert H. Lehman was governor. John Boyd Thacher was Mayor of Albany. Frank Cooper was the Federal District Court Judge. Frederick Crane was the Chief Judge of the Court of Appeals. James P. Hill was the presiding justice of the Appellate Division. The Supreme Court bench was made up of Ellis J. Staley and Gilbert V. Schenck of Albany, Pierce H. Russell of Troy, Sydney F. Foster of Liberty and Harry E. Schirick of Kingston. Harold J. Hinman of Albany was a referee. Earl H. Gallup was the County Court Judge. James J. Nolan sat in Children's Court and Edward D. Rogan was the Surrogate. City Court was comprised of Anthony DeStefano, David Wanger and Charles J. Duncan.

Throughout the campaign, one might have thought that Bergan's father owned the *Times Union*. Judge Bergan had proposed creating a separate court part for traffic cases and the *Times Union* ran a month-long exposé on traffic accidents and violations. Judge Bergan's traffic court got more front-page coverage than all the other courts combined. The coverage was adulatory. One full page article in mid-October was titled, "Justice Francis Bergan's Rise Meteoric." Another feature article on October 31st was spread across three columns and extended down more

than half the page. It carried a bold and capped headline: **“JUSTICE BERGAN COMPLETES REVISION OF ANTI-CRIME LEGISLATION.”**

Though Staley had the benefits of incumbency, the Independence party line, the endorsement of the Knickerbocker Press and the Republicans poised to take over the Assembly, it was not enough to overcome a 30,000-vote plurality for Bergan in the City of Albany. Francis Bergan became the youngest Supreme Court Justice in the history of New York and that record probably stands today. Also elected that year, to the Assembly, was a relatively unknown twenty-seven-year-old by the name of Erastus Corning 2nd.

Judge Bergan carried throughout his judicial career a reputation for fairness, integrity, scholarship and an abiding love for the law. One measure of this is that, as a lifelong Albany Democrat, he was appointed to the Appellate Division by Republican Governor Thomas E. Dewey in 1952 and as Presiding Justice in 1960 by Republican Governor Nelson A. Rockefeller. The Dewey appoint is remarkable given the fact that Dan O’Connell’s judges had frustrated Dewey’s investigations into Albany County corruption at every turn. On the Appellate Division he carried a full caseload in both the Third and First Departments. In 1963, he was elected to the Court of Appeals with Democratic, Republican and Liberal party support.

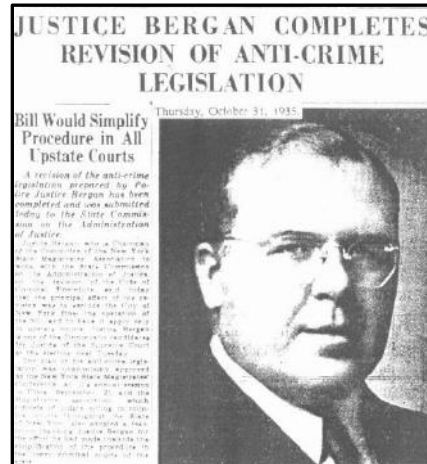
On the Court of Appeals, Francis Bergan became one of New York’s great common law judges and is rightfully included in any list that also contains Benjamin Cardozo. Cardozo transformed New York negligence law with his opinions in *Palsgraf v. Long Island Railroad* and *MacPherson v. Buick*. But equally significant are Bergan’s decisions in *Boomer v. Atlantic Cement Co.* (26 NY2d 219 [1970]) and *Dole v. Dow* (30 NY2d 143[1972]).

Boomer v. Atlantic Cement involved the issue of the cement dust byproduct from Atlantic Cement’s operations creating a nuisance for Boomer and his neighborhoods. Prior to *Boomer*, the only remedy available to abate a nuisance was a permanent injunction. Judge Bergan’s decision fashioned an alternative remedy that fully compensated the owners for the “servitude” imposed on their property by the nuisance created by Atlantic’s smokestack discharges, while allowing the three hundred employee enterprise to continue operations. Oscar Boomer, the lead plaintiff, ran Boomer’s Garage in Ravenna since 1946. He died March 26, 2007.

Dole v. Dow reset the restrictive rules for contribution between joint tort-feasors by giving a decent burial to the active-passive negligence doctrine. As a capstone to his career, Judge Bergan wrote *The History of the Court of Appeals, 1847-1932*. Court of Appeals Judge Joseph Bellacosa, at a memorial service for Judge Bergan, summed up his life as a man and as a judge in this way:

Judge Bergan was a man of the world and of his community who blended a preeminent and constant purity of purpose and a perception of what the law and judges and public servants were supposed to be about, doing the right thing and serving the people and the community with a simple straight-forward message and philosophy that he lived, practiced and taught.

Francis Bergan was a faculty member of Albany Law School from 1960-1989. He died on March 23, 1998, at age 96. He is buried in St. Agnes Cemetery in Menands, NY. He is Albany’s greatest judge.



JAMES T. FOLEY (1910-1990): Judge James T. Foley was born in Troy and graduated from Catholic Central High School, Fordham College and Albany Law School. According to Federal District Judge Roger J. Miner, as a young man Foley was known as “Charcoal,” referring to his appearance after a day of delivering coal. Foley received his law degree in June 1934 and was admitted to the New York State Bar that September. He entered private law practice in Troy in 1935 with Abraham Goldstein. In 1938 he served as assistant legal counsel during the New York State Constitutional Convention. From 1939 to 1942 he was the confidential law secretary to New York State Supreme Court Justice William H. Murray (whose son William R. Murray would become a Supreme Court Justice in 1975 by defeating the incumbent Ellis J. Staley, Jr.). Foley interrupted his legal career and enlisted in the U.S. Navy in February 1942. After combat service in the Atlantic and Pacific Theatres, he was discharged with the rank of Lieutenant Senior Grade. At the conclusion of World War II, Foley resumed his private law practice and position with Justice Murray. As a lawyer he was active in local Democratic politics and was an alternate delegate to the Democratic National convention in 1948 that nominated President Harry S. Truman. Drawing the eye and favor of Albany County’s Democratic chairman, Daniel P. O’Connell advanced Foley’s name to President Truman for an appointment to the Federal bench. Foley was confirmed as a United States District Judge for the Northern District of New York on February 2, 1949. At that time, age 38, he was the youngest judge on the Federal bench. In May 1963, Foley became Chief Judge of the Northern District, a position he held until June 30, 1980. One of his more famous cases was in 1979 when he ruled that the New York State Police had discriminated against women and minorities. He ordered the State Police to observe hiring quotas for ten years. In 1988, the Federal Court House in Albany was dedicated in his name. His service to the court ended upon his death on August 17, 1990. At the time, he was the longest serving Federal Judge in the country.



**Federal District Court Judge
James T. Foley and Supreme
Court Justice Thurgood Marshall,
June 1984**

Federal District Judge Roger J. Miner’s comments given at the memorial service held for Judge Foley on December 5, 1990, drew out the essence of Foley’s life. Judge Miner describes Foley’s first published opinion. It involved a case where the law office failure of an attorney failed to timely ask for a jury trial. Foley held that “mistake, error, omission or inadvertence should be corrected where reasonable explanations are presented and where important rights may be destroyed.” Judge Miner felt that this decision encapsulated Judge Foley’s approach to life and the law by observing: “The decision included these words: *‘Blackstone said that trial by jury is the glory of the law. It is my thought that the right to seek the glory should not be hampered by unreasonable obstacles.’* I say this first decision was vintage Foley because it applied the compassion, kindness, mercy and lenience for which he was known. He always sought to accommodate the human factor in the justice equation—the foibles of men and women and the human condition” (<http://digitalcommons.nyls.edu/judges/8>).

MARTIN SCHENCK (1912-2000): Martin Schenck was born November 2, 1912, in Albany, NY. His family is descended from early 1650 Dutch settlers. He graduated from Yale in 1934 and Albany Law School in 1937. He practiced law with his father, Gilbert Schenck, at O'Connell and Aronowitz. He served as the Albany Traffic Recorder from 1946 to 1950. In 1951 he was elected as Albany County Court Judge and served until 1972. During that term he served as president of the New York Association of County Court Judges. Judge Schenck is the author of *Up Came Hill: The story of the Light Division and its Leaders*, the story of Confederate



General A.P. Hill, written in 1958. Schenck wrote the book with the encouragement of Dan O'Connell who was a self-taught historian and Civil War buff. Schenck would take each chapter out to Dan who would review it and offer edits. The book is dedicated to Dan O'Connell. In 1943, Schenck entered the Army as a private in the 78th Infantry Division and rose to the rank of captain. He graduated from the Armored Course at the Command and General Staff College at Fort Leavenworth, Kansas and was assigned to the General Staff at the Pentagon. As noted in the biography of his father above, Martin's grandfather was a civil engineer of some fame. The Schencks greatly benefitted by their association with the O'Connell-Corning political machine.



Martin's father was good friends with Dan O'Connell but, more importantly, he practiced law with Ed O'Connell, the "brains" of the O'Connell Machine. Gilbert Schenck and Ed O'Connell played football together at Union College. Martin was a close friend and frequent golf partner of Mayor Corning. Both were WW II veterans. Judge Schenck died on October 12, 2000. He is buried in the family plot at Albany Rural Cemetery, Sec. 108, Plot 144.

ELLIS J. STALEY, JR. (1914-1981): Ellis J. Staley, Jr. was born in Albany on September 12, 1914. He graduated from Albany Academy and Yale University and, in 1939, from Albany Law School. Staley engaged in the private practice of law with Browne, Staley, Sanford and Forner from 1944 to 1961 and taught taxation law at Albany Law School from 1945-1956. For several years, he was chair of the Albany County Republican Committee. In 1960 he was unopposed for election to the State Supreme Court with Russell G. Hunt and Isadore Bookstein. All were from Albany County. In 1974 he was defeated for Supreme Court by William R. Murray of Troy by 26,000 votes. However, the next year he ran again with Roger J. Miner of Columbia County and they defeated Milton Levine of Sullivan County and Daniel H. Prior Jr. of Albany. Prior, a Democrat, was the son of the famous Republican Albany trial attorney who defended Legs Diamond in 1935 and the associates of Dan O'Connell who got caught up in the Dewey investigations of the late 1940's. Miner would go on to be appointed to the Federal District Court by President Reagan. From 1966 until his retirement in 1980 Staley served on the Appellate Division-Third Department. Staley's father, Ellis J. Staley Jr., served as the Albany County Attorney and is deemed "The father" of the Albany County Courthouse which was constructed in



1917. Staley died at his home on January 12, 1981, at age 66. He is buried at Albany Rural Cemetery, Sec. 109, Lot 25.

HAROLD E. KOREMAN (1916-2001): Harold E. Koreman was born in Albany on June 12, 1916. He attended the Holy Cross Academy, Christian Brothers Academy and the College of Holy Cross where he graduated in 1937. In 1940 he graduated from Albany Law School and was admitted to the bar in the same year. In 1941 he married Esther Mary Spalt. From 1941 to 1946 he was a Special Agent for the FBI. To pick up on Koreman's resume, it is worth quoting from Paul Grondahl's description of Koreman in his book *Mayor Corning: Albany Icon Albany Enigma* "A brief Koreman biography is illustrative of the birthright quality of the machine. Koreman was born in 1916 and raised in the South End—O'Connell turf. He knew the O'Connell's from the neighborhood growing up. Their families were friends. An uncle, Ed Koreman, was an O'Connell alderman in the South End. Harold showed ambition by becoming the first lawyer in the family. Uncle Dan marked him as promising kid to watch. Koreman landed a job with the FBI and left town in 1941 for five years but returned to Albany and reaped the first of his political rewards in 1947 when he was hired by the machine's district attorney, Juliann Erway, a lifelong friend and fishing buddy of Erastus Corning. Koreman worked as an assistant District Attorney until Corning made him his Corporation Counsel in 1954. The machine had bigger rewards in store for the good agent, a comfortable Bench. Koreman rose from Surrogate Court Judge to State Supreme Court to the Court of Claims where he retired as presiding judge in 1986. In retirement, he keeps a picture of his three patron saints on a wall in his home: Dan O'Connell, Judge Francis Bergan and Mayor Corning. "Albany's a small town when you get down to it," Koreman said. "We all grew up together. Our families had associations going way back. See what I mean by family? It was the accepted order of things."



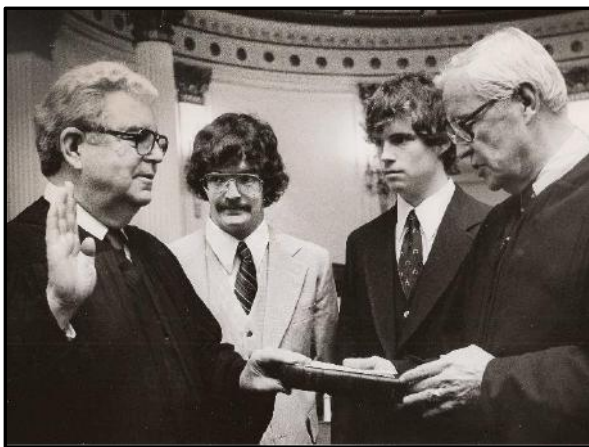
To place Grondahl's observations in some perspective it is worth noting that there have been many great judges from Albany County that have had strong associations with the Albany County Democratic Party. The truth is that for over eighty years, from about 1920 until 2005, no lawyer has become a judge in Albany County when running in opposition to the machine (Family Court Margaret (Peggy) Walsh was the first). Koreman's electoral climb is an interesting story. He ran for Supreme Court in 1963 when there were four vacancies. Two were created by Francis Bergan's elevation to the Court of Appeals and Justice Deckelman's retirement.

The parties cross endorsed all four candidates; John H. Pennock and Harold Koreman, both Democrats from Albany; DeForest C. Pitt a Republican from Rensselaer County and Kenneth S. MacAffer, a Republican from Albany County who was the Albany County Republican Chair. Getting elected to the Supreme Court in New York was the most undemocratic of processes, controlled entirely by the part chairs of the seven counties that made up the Third Judicial District. It was the same all across the State. Koreman died on January 17, 2001, at age 84. He is buried in

Our Lady Help of Christian Cemetery in Glenmont, NY. His wife died three months later on March 28th at age 84. They were married for 60 years. She is buried next to her husband.

EDWARD S. CONWAY (1917-1999): Judge

Edward S. “Ned” Conway was born on January 1, 1917, in Cohoes, NY. He graduated from Vincentian Institute and from Rensselaer Polytechnic Institute in 1942. Conway saw combat in the Navy in WW II as an Officer aboard the Destroyer *Barry*. His ship is credited with sinking nineteen enemy German submarines before it was sunk by a kamikaze pilot at Okinawa. He received the Presidential Unit Citation for distinguished service. After returning from the war he entered Albany Law School and graduated in 1949. Conway related the following family history to William Kennedy which appears in Kennedy’s book *Oh Albany*: Conway’s father was a prominent attorney who attained considerable wealth representing bootleggers during prohibition. He was also Dan O’Connell’s personal attorney and represented O’Connell during the baseball betting pool scandal in the 1930’s which resulted in O’Connell’s only criminal conviction and jail sentence. At their mansion house in Cohoes, Conway’s father John G. Conway would raise chickens to be supplied to Dan for his cockfights. Conway remembers going to cockfights with his Dad and Dan in Saratoga. John Conway sold Hedrick’s Brewery (which he acquired as a fee from a bootlegger client) to O’Connell in the early 1930’s for \$25,000. This is what financed the purchase of the Cohoes mansion. Ned Conway was an unusual breed of politician in Albany County, a staunch Irish-Republican. In 1959 he ran for District Attorney and was soundly defeated by the Democrat’s candidate, John T. Garry. Conway practiced law for seventeen years in the family law firm of Conway, Conway & Conway. He also served from 1960 to 1966 as chair of the Albany County Republican Party. In that position he candidly admitted that he used his position to engineer a seat for himself on the Supreme Court. That took place in 1966 when he was cross endorsed by the Democratic, Republican and Liberal parties leading to the defeat Rosemary Byron who ran on the Conservative line. Insiders are of the opinion that O’Connell saw that Conway was such an effective political leader it was better to take him out of the game by making him a judge. It was a wise move for everyone because Conway was beloved as a judge. Every lawyer who practiced in Albany while he was on the bench has a Ned Conway story and they are all positive. One would search in vain to hear a discouraging word said about Judge Conway. He died on July 2, 1999, from pulmonary thrombosis at age 82. He is buried in St. Agnes Cemetery in Cohoes, NY.



**Judge Ned Conway with sons being sworn in
by his brother Supreme Court Judge
John J. Conway, Jr. (7th Dist.)
January 1, 1981**

LEONARD A. WEISS (1923-): Leonard A. Weiss was born in Rochester PA and grew up in Buffalo. He graduated from the University of Buffalo after serving a stint in the Army during WW II. After the war, Weiss entered Albany Law School and graduated in 1948. From 1948 until 1978 he engaged in the general practice of law. In 1977 he was appointed to the City Court by Mayor Corning and was then elected to a full term. His stay was short in City Court as he was elected to Supreme Court in 1978, running unopposed with T. Paul Kane, the only judge in recent memory to be elected to the Supreme Court from Schoharie County. In 1981, Weiss was appointed to the Appellate Division by Governor Carey and was designated Presiding Judge by Governor Cuomo in 1992. He served in that position until 1993 when he reached the mandatory retirement age of 70. He remained on the court as a certificated justice until 1994 when he retired and entered the private practice of law with McNamee, Lochner, Titus and Williams. He also served as Chair of the Albany County Democratic Party for several years after leaving the bench.



JOHN J. CLYNE (1925-1998): John J. Clyne was born on November 14, 1925, in New Haven CN. During WW II he served in the navy and saw combat in the Pacific theatre. The family moved to Delmar in 1941 and Clyne graduated from Bethlehem Highschool in 1943. After serving in the Pacific Theatre in the Navy in WW II, Clyne enrolled at Holy Cross College and graduated in 1950 and then from Albany Law School in 1953. After graduating law school, he became associated with the law firm of Hinman, Straub, Pigors and Manning until 1972. He also served as the Albany County Attorney from 1964 until 1972. As County Attorney he was the *de facto* County Executive as the County had only a Board of Supervisors at the time. In that position he would carry out the instructions of Dan O'Connell who still pulled every political string at the County and City level. Upon his death, Albany Supreme Court Judge Thomas Keegan a longtime friend and political ally of Clyne said: *'He was one of the most powerful people in the county Democratic organization. There was Dan O'Connell, Erastus Corning and John Clyne. Though in County matters you might reverse Corning and Clyne.'* As County Attorney, Clyne was at the center of Erastus Corning's scheme which allowed Nelson D. Rockefeller to fund his Empire State Plaza. Rockefeller knew he could not get bonding authority through the State Legislature and approved by the voters. Instead he turned to the County which issued the Bonds. Corning controlled the Count Legislature so there was no question of political opposition. Without Corning there would have been no South Mall. John Clyne provided the legal guidance to finalize the billion-dollar project. In 1971, Clyne waded into the electoral side of politics when he ran for Supreme Court. This was not an auspicious time to run as a Democrat because the SIC investigations for the past several years had almost daily revelations of corruption involving Albany County Democratic politics. On the county level it involved mostly purchasing practices and no-bid contracts. Clyne ran against the Republican candidate Howard J. Hughes and lost by 50,000 votes district wide. As



**Judge John Clyne
1984**

some measure of the SIC fallout, Clyne lost Albany County by 5,000 votes. The next year enough memories had faded, and Clyne was elected to the County Court where he served until 1984.

In 1986 Clyne switched parties and ran as Republican for State Supreme Court against the Rensselaer County Surrogate Warren F. Travers. This was a seat that became vacant when Rensselaer County Court Judge Con Cholakakis was appointed to the Federal Bench. Travers had the advantage of running with incumbent Governor Mario M. Cuomo who defeated his Republican opponent Andrew O'Rourke by a 32% margin. Clyne had the advantage of having both the Republican and Conservative ballot lines in a District that still leaned Republican. Clyne was also endorsed by the New York Post on the theory that he would be assigned downstate and, with his no nonsense reputation, would clear up the congested criminal court calendars—giving evidence to the appropriateness of Clyne's sobriquet, "Maximum John." District Attorney Sol Greenberg insisted that on court ordered wiretaps, criminals could be heard advising confederates not to commit crimes in Albany County because of the presence of "Maximum John" on the bench. Dan O'Connell is even on record disapproving of some of the lengthy sentences handed out by his protégé. The Supreme Court election was a test of the waning strength of the Albany County Democratic Party who looked upon Clyne as a traitor to the party that had nourished his career for decades. Travers won by a margin of 3,400 votes out of more than 250,000 cast. Travers is the only judge in the Third Judicial District to ever win a contested judicial election with only one party ballot line. After his retirement from the bench Clyne was associated with the law firm of Casey, Yanas, Mitchell and Amerling. John Clyne died on October 12, 1998, at age 72 after a long bout with throat cancer. He is buried in Calvary Cemetery in Glenmont, NY.

JOSEPH HARRIS (1929-1997): Joseph Harris was born in the South end of Albany to parents who owned a dry-goods store. He graduated from Albany High School in 1946 where he was the valedictorian. He then graduated from Cornell, *Phi Beta Cappa* and Yale Law School. He also served in the Air Force on the Judge Advocate Staff and mustered out as a captain. Upon returning to Albany, he was elected Albany County Legislator for a number of years and practiced law at 100 State Street with the firm of Ungerman Ackerman and Harris. He was also an assistant Public Defender and recognized as one of the best criminal defense attorneys during that time. Public Defender Douglas P. Rutnik said that Harris "would go to the wall for a client." On one occasion Harris obtained an acquittal for a client late on a Friday afternoon. The client was returned to jail, despite the acquittal, because the Parole Board had a hold on him arising out of the charge. Harris located the Parole Board chairman's residence and went there on that Friday evening to get the hold released. On another occasion, Harris had a client who was wrongly imprisoned. He went to the residence of Supreme Court Justice William Murray in Troy on a Saturday morning to get a writ of *Habeus Corpus* signed. Murray answered the door in his underwear, escorted Harris into his library and signed the writ.

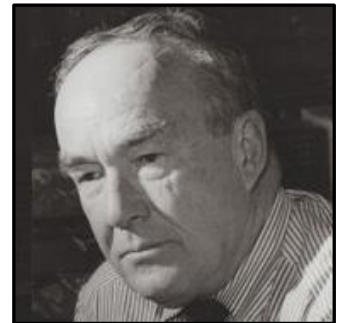
Harris ran for County Judge in 1974 and was defeated by then District Attorney Proskin. In 1976 he ran again for that office and defeated Harry Rezzemini to become the Albany Count



Joseph Harris, Albany County Judge 1976-1988, Justice of the Supreme Court, 1988-1997, poses with former U.S. Attorney General Ramsey Clark in 1974,

Judge. In 1988 he ran unopposed for Supreme Court. On the bench, Harris was recognized for several ground breaking decisions. He presided over the first murder trial in the United States, *People v. Wesley*, where the defendant was convicted based on DNA evidence. His decision was affirmed by the New York Court of Appeals. In 1989 he approved the first right-to-die petition. In 1995 he ordered the State to stop putting two inmates in maximum-security cells designed for one person. In 1996 he ruled that the State must collect taxes on cigarettes and gas sold on Indian reservations. By all accounts, Harris was recognized as the most brilliant judge of his time to serve on the bench at any level in Albany County. On the other hand, he was also famous for his imperious behavior and excessive sentences.

THOMAS M. WHALEN III (1934-2002): Thomas M. Whalen was born on January 6, 1934. He was educated at Manhattan College and Albany Law School. From 1964 to 1988 he was a partner at Cooper, Erving and Savage. He was a protégé of firm partner Eugene Devine who, as the Albany County Treasurer, was closely connected to legendary Democratic party leader Dan O'Connell. In 1969, with the help of Devine, Whalen was elected Albany City Court Judge. To win, he fended off a strong challenge of former assistant Corporation Counsel and future Federal District Court Judge Lawrence E. Kahn.

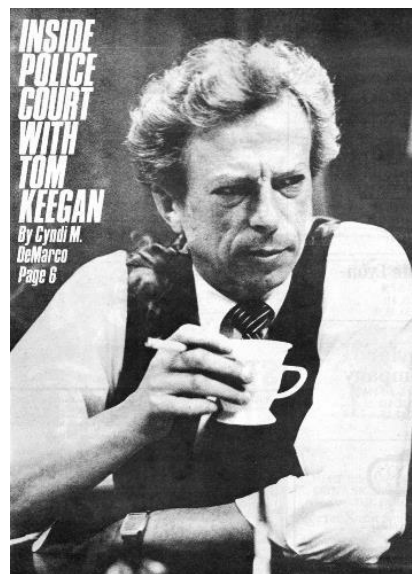


Kahn was a Democrat turned Democrat and was running with the favorable winds generated by the investigations into local Albany Democrats. Whalen would serve in City Court until 1975. In 1981, he was selected by longtime Albany Mayor Erastus Corning to be his successor. In that year, Whalen was elected as President of the Albany Common Council and became mayor on Corning's death in 1983. He served for three terms as Mayor and is recognized for having reformed and modernized Albany's government and instilled a new civic pride in its citizens. Albany was named an All-America City on his watch. Upon his retirement as mayor he returned to the private practice of law. At the end of his term, he was nominated by Senator Moynihan to Federal District Court, but he withdrew his nomination which was held up in the politics of the confirmation process. Whalen was the second partner of Cooper Erving and Savage to serve as Albany mayor. Teunis Van Vechten was a four-term mayor in early 19th Century. Whalen died on March 4, 2002, at age 68 in a one-car automobile accident. He is buried in St. Agnes Cemetery in Menands, New York.

THOMAS W. KEEGAN (1940-2018): Tom Keegan was one of those judges who obtained larger than life status during his career and deservedly so. His fame was obtained primarily during his stint as **the** Albany Police Court Judge. The emphasis is added because at a time when Albany's population and crime rate was higher than today's, he covered a court alone, as a part time judge. There are now three full time judges doing the same job. Keegan was born on October 14, 1940 in Albany. He graduated from Vincentian Institute in 1958 and Siena College in 1962. He obtained his law degree on scholarship from Villanova Law School in 1965. His first job as an attorney was with the State Commerce Department. However, Keegan possessed a solid Albany County Irish-Democratic Party family pedigree. His grandfather was Albany County Sheriff and Dan O'Connell ally, Edward J. "Owney" Keegan. Tom Keegan was also a frequent fishing companion of Erastus Corning at the Alcove Reservoir. This led to a job as an assistant Albany Corporation Counsel. In 1971, five years after being admitted to the Bar, Keegan ran for District Attorney. He lost to the republican candidate, Arnold W. Proskin by 30,000 votes. At the time, the Albany County Democratic Party was still reeling from the fallout of the State SIC investigations into local

corruption. In 1968, the party suffered a Pearl Harbor size catastrophe. The Democrats lost the races for Congress, District Attorney, State Senator, and two Assembly seats. Two months after his defeat, Mayor Corning appointed Keegan to an opening as Albany Police Court Judge.

As Police Court Judge, Keegan was renowned for several things, not the least of which was the Nickle plated, chrome finished Smith and Wesson that he carried on the bench and everywhere else. He was also famous for the biting sense of humor he expressed from the bench. Today, it would probably result in complaints to the Judicial Conduct Commission but the 1970's was a long time ago. *Times Union* reporter, and noted historian of Albany politics, Paul Grondahl observed: "*Keegan works his crowd better than Johnny Carson in his prime—a little smirk here, a wisecrack there, a sigh into his microphone...*" However, his humor could mask his abiding respect for the law and innate sense of fairness. "*You have to know that you're not the sharpest knife in the drawerBut I know that if I were to croak tomorrow, the sun would come up with someone else sitting in my chair,*" Keegan said in a 2004 interview. One of the strengths that Keegan brought to the bench was his knowledge of the streets and an abiding sense of "*there but for the grace of God go I.*" Working



closely with Father Peter Young and Bishop Howard Hubbard, Keegan diverted persons accused of status crimes into drug and alcohol treatment programs before anyone had ever heard of drug courts. In 1989 Keegan was appointed to fill a vacancy in County Court and was then elected in November of that year to a full term. In 1991 he was elected to the State Supreme Court where he became Administrative Judge in 1998. He retired in 2004. Judge Keegan died on February 17, 2018, of a heart attack while attending the Daytona 500.

LAWRENCE E. KAHN (1937-): Lawrence Kahn was born on December 8, 1937, in Troy, NY. He graduated Union College in 1959 and Harvard Law School in 1962. He pursued post-graduate studies at Oxford from 1962-1963. From 1963 to 1974 he was engaged in the private practice of law with his brother at the firm of Kahn & Kahn which was the premier Family Law practice in the Capital District. Kahn also served as an assistant Corporation Counsel for the City of Albany from 1963-1968. From 1974 to 1980 he was Albany County Surrogate Judge. In 1979 he was elected to the New York State Supreme Court. For each of his elections he was able overcome big Democratic enrollment advantages attesting to his personal popularity. Kahn served in Supreme Court until 1996 when he was nominated by President Clinton for Federal District Court Judge upon the recommendation of Senator Alfonse D'Amato. Judge Kahn is a ten-year veteran of the New York



National Guard, serving from 1955 to 1965, mustering out at a rank of Sergeant E-6. Judge Kahn has also long been an adjunct professor at the Sage Colleges and Albany Law Schools.

ANTHONY V. CARDONA (1941-2011): Anthony V, Cardona was born on His family lived in the South end of Albany where his father Victor, an émigré from Italy in 1919, opened a grocery on Grand Street in 1927. Judge Cardona graduated from Christian Brothers Academy in 1958 and Manhattan College in 1962. From 1963 to 1977 he served in the United States Navy as a Naval officer in the Vietnam War. After his honorable discharge from the Navy he attended Albany Law School, graduating in 1970. After Law School he practiced with the law firm of Ainsworth, Sullivan, Tracy and Knauf. During this time, her also was a Law Guardian for Children in Family Court, a part time Public Defender and Town Attorney for the Town of Coeymans. In 1985 he was elected Albany County Family Court Judge and served there until he was elected to Supreme Court in 1990. In the 1990 election, Mario Cuomo defeated the Republican candidate Pierre Rinfret by 31% of the vote. Added to this edge for all Democratic candidates was the fact that the Republican candidate for Supreme Court, Dan Lamont of Schoharie County, failed to timely file his certification and he was left to run on only the Conservative party line. Cardona was reelected in 2004 when the four major parties cross-endorsed Cardona and William McCarthy for two open positions. From 1992 to 1993 he served as the Administrative Judge for the Third Judicial District. In 1993 he was appointed to the Appellate Division by Governor Cuomo and designated Presiding Justice in 1994. He served in that capacity until his death in 2011. In addition to those duties just mentioned, Judge Cardona was the Chair of the Family



Violence Task Force from 1994 to 2005. He also served as a trustee of Albany Law School and was president of the Council of Chief Judges of the American Bar Association from 2002-2003. On the morning of November 15, 2004, two weeks after Judge Cardona's election, he was informed that his confidential law secretary Peter Porco was brutally murdered at his home and his wife was brutally assaulted. The Porco's son Peter was eventually convicted of the crimes and is now serving a life sentence (See Trials section). Judge Cardona died on December 4, 2011, after a long bout with cancer. He is buried next to his wife Aline in St. Agnes Cemetery, Menands, NY.

VICTORIA GRAFFEO (1952-): Victoria A. Graffeo was an Associate Judge of the Court of Appeals from November 2000 to 2014. She was born in Rockville Centre, New York in 1952. Educated in the Schenectady and Guilderland public school systems, she graduated from the State University College at Oneonta in 1974 and received her J.D. from Albany Law School of Union University in 1977. She engaged in the private practice of law from 1978 to 1982 and entered government service in 1982 as assistant counsel to the New York State Division of Alcoholism and Alcohol Abuse. She began employment in the State Legislature as counsel to Assembly Minority Leader Pro Tempore in 1984 and served as chief counsel to the Assembly Minority Leader from 1989 through 1994.



On January 1, 1995, she was appointed Solicitor General for the State of New York by Attorney General Dennis C. Vacco and served in that capacity until appointed, in September 1996, by Governor George E. Pataki to fill a vacancy in the State Supreme Court, Third Judicial District. She was elected that November to a full term as Justice of the State Supreme Court and, in March 1998, became an Associate Justice of the Appellate Division, Third Department. Her appointment to the Court of Appeals by Governor George E. Pataki was confirmed by the State Senate on November 29, 2000. She currently resides in Guilderland, New York.

MAE D'AGOSTINO (1954-): Mae D'Agostino was born in Albany in 1954. She is 1977 *magna cum laud* graduate of Siena College and member of the women's varsity basketball team. She received her JD degree from Syracuse Law School in 1980 and was the recipient of the International Academy of Trial Lawyers award for distinguished achievement in the art of science and advocacy. Prior to becoming a federal Judge, she was one of the most accomplished medical malpractice defense lawyers in New York State. She is a past trustee of Albany Law School where she serves as a faculty member teaching medical malpractice law. D'Agostino was nominated to Federal Court by President Obama and confirmed on March 28, 2011, by a vote of 88-0.



HON. LESLIE E. STEIN (1956-): Leslie Stein is an Associate Judge of the Court of Appeals. She was born in New York City in 1956 and received her B.A., Phi Beta Kappa, from Macalester College and her J.D., Magna Cum Laude, from Albany Law School. Judge Stein began her legal career as the law clerk to the Schenectady County Family Court Judges. She then became associated with the Albany law firm of McNamee, Lochner, Titus & Williams, P.C., where she practiced matrimonial and family law, and became a partner in the firm. While a practicing attorney, Judge Stein was elected a Fellow of the American Academy of Matrimonial Lawyers. She began her judicial career as an Albany City Court Judge and Acting Albany County Family Court Judge. She was then elected to the New York State Supreme Court, Third Judicial District for a term commencing January 2002.



She served as the Administrative Judge of the Rensselaer County Integrated Domestic Violence Part from January 2006 until February 2008, when she was appointed a Justice of the New York State Appellate Division, Third Department. In October 2014, Judge Stein was nominated by Governor Andrew M. Cuomo to serve as an Associate Judge of the Court of Appeals and her nomination was confirmed by the New York State Senate on February 9, 2015

Judge Stein is a past co-chair of the NYS Unified Court System Family Violence Task Force. She was a founding member of the New York State Judicial Institute on Professionalism in the Law and chaired the Third Judicial District Gender Fairness Committee from 2001 - 2005. She has also served on the Executive Committee of the Association of Justices of the Supreme Court of the State of New York, as an officer of the New York State Association of City Court Judges, and as a member of the Board of the New York Association of Women Judges. Judge Stein has lectured and developed curricula for continuing legal education of attorneys and judges on multiple topics. She has a long history of involvement in various state and local bar associations and in several other professional and civic organizations. She resides in Albany, New York.

FEDERAL JUDGES FROM ALBANY COUNTY¹

Roger Skinner	1819-1825	Alfred Conkling	1825-1852
Joseph P. Bradley	1870-1892 ²	Rufus W. Peckham, Jr.	1895-1909 ³
Learned Hand	1909-1951 ⁴	Edward S. Kampf	1946-1948
Lawrence Kahn	1996–Date	Mae D’Agostino	1954-Date

1. The Northern District of New York was created on April 9, 1814.
2. Justice of the United States Supreme Court.
3. Federal District Court, 1909-1924; United States Circuit Court, 1924-1951.
4. Chief Judge 1948-1951; Senior Judge, 1951-1961.

COURT OF APPEALS JUDGES FROM ALBANY COUNTY

Elisha H. Hurlbut (Ex. Of.)	1850-1850	Ira Harris (Ex. Of.)	1850-1850
Rufus Wheeler Peckham Sr.	1870-1873	Samuel Hand	1878-1878
John K. Porter	1865-1867	Rufus W. Peckham Jr.	1887-1889
Francis Bergan	1964-1972	Victoria A. Graffeo	2000-2015
Leslie E. Stein	2015-Date		

APPELLATE DIVISION JUDGES FROM ALBANY COUNTY*

D. Cady Herrick	1896-1900	Alden Chester	1902-1909
Harold J. Hinman	1922-1932	Gilbert V. Schenck	1939-1944
Francis Bergan	1949-1963 (1)	Harold E. Koreman	1975-1977 (2)
Ellis J. Staley, Jr.	1966-74 & 1976-80.**	Leonard E. Weiss	1981-1994 (3)
Anthony V. Cardona	1993-2011(4)	Victoria A. Graffeo	1998-2000
Bernard J. Malone	2008-2012	Leslie E. Stein:	2008-2015

William E. McCarthy 2009-
Michael C. Lynch: 2014-Date

John C. Egan, Jr.: 2010-Date
Eugene P. Devine: 2014-Date

*The Appellate Division as now constituted was created in 1896. Prior to that, appeals from lower courts were heard at a term of the Court of General Sessions of the Supreme Court.

**In 1974, Staley was defeated by William R. Murray (D-Rensselaer County) by 26,000 votes. He was elected the next year. Running with Judge Roger Miner of Columbia County, they defeated Milton Levine (D-Sullivan County.) and Daniel H. Prion, Jr. (D-Alb).

- (1) P.J., 1960-1963
- (2) P.J., 1975-1977
- (3) P.J., 1992-1993
- (4) P.J., 1994-2011

JUSTICES OF THE SUPREME COURT FROM ALBANY COUNTY

The Supreme Court of the Province of New York was created in 1691. It heard appeals from the inferior courts and appeals from it were taken to the Governor and his Council. It sat in New York City and had four terms each year. The individual judges would ride circuit and sit with local judges in the Court of Oyer and Terminer. In 1691 it started with five judges. This was reduced to three in 1701 and continued with three for the whole province until 1758 when a fourth judge was added. One judge was always designated as the Chief Justice. Under the first Constitution of 1777, the Court was essentially continued. The Council of Appointment selected the judges and retirement age was set at 60. At first there were just three judges and a fourth was added in 1792 and a fifth in 1794. In 1785, it was directed that two terms each year should be held in Albany. The October term lasted three weeks and the July term two. In 1804 an Official Reporter position was created and in 1807, a clerk's office was opened in Utica. In 1823, the number of Supreme Court Judges from the whole state was reduced to three.

The Supreme Court that we recognized today was the result of the Constitutional Convention of 1846. The state was divided into eight districts with four judges to be elected from each district. Terms were fourteen years with a mandatory retirement age of 70. In 1870, the Legislature abolished the General (i.e. Appellate) Terms of Supreme Court and divided the State into four departments. The Governor was authorized to designate a Presiding Justice and two associate justices that would constitute an appellate term.

Robert R. Livingston	1763-1775	Robert Yates	1770-1790
John Lansing, Jr.	1790-1801	James Kent	1798-1823
Ambrose Spencer	1804-1823	William L. Marcy	1829-1831
Greene C. Bronson	1836-1853	Ira Harris	1847-1859
Amasa J. Parker	1847-1854	Elisha P. Hurlbut	1847-1850
Malbone Watson	1847-1857	Deodatus Wright	1857-1861
Rufus W. Peckham, Sr.	1860-1870	William Law Learned	1870-1874
Rufus W. Peckham, Jr.	1883-1886	Alton B. Parker	1885-1897
D. Cady Herrick	1891-1904	Alden Chester	1895-1918

William P. Rudd	1911-1924	Harold J. Hinman	1919-1932
Ellis J. Staley, Sr.	1921-1935	F. Walter Bliss	1933-1944
Gilbert V. Schenck	1933-1946	Francis Bergan	1936-1963
Isadore Bookstein	1946-1962	Kenneth S. MacAffer	1950-1964
Ellis J. Staley, Jr.	1961-1974	Russell G. Hunt	1961-1975
Ellis J. Staley, Jr.	1976-1980	John H. Pennock	1964-1985
Harold E. Koreman	1964-1977	Harold J. Hughes	1972-1999
Edward S. Conway	1967-1993	Daniel H. Pryor, Jr.	1980-1994
Leonard Weiss	1979-1994	William F. McDermott	1986-1992
Lawrence E. Kahn	1980-1996	Joseph Harris	1988-1997
Paul E. Cheeseman	1988-1991	Thomas W. Keegan	1992-2004
Anthony V. Cardona	1991-2011	Victoria Graffeo	1997-2000
Joseph C. Teresi	1994-2016	Joseph Cannizzaro	2000-2005
Bernard J. Malone	1999-2012	Leslie E. Stein	2002-2015
Thomas J. Spargo	2002-2006	John Egan	2006-Date
William E. McCarthy	2005-Date	Eugene Devine	2007-Date
Michael Lynch	2006-Date	Michael Mackey	2016-Date
Thomas Breslin	2012-Date	Chrystina L. Ryba	2016-Date

COURT OF CLAIMS JUDGES FROM ALBANY COUNTY

Under the doctrine of sovereign immunity, no person can sue the state unless the state affirmatively gives up its immunity. That was the case in New York from its beginnings until 1817. In that year, the Erie Canal Act, expanded in 1825 and 1870, authorized commissioners to award damages to claimants whose land had been taken for the canal or otherwise damaged by canal construction or operation. In all other circumstances, a person harmed by state action was relegated to seeking the passage of a private bill to obtain redress for their grievance. In 1876, a State Board of Audit was created to hear claims other than those arising out of canal operations. In 1883, both the Board of Audit and the Canal Commission were abolished, and the State Board of Claims was established to hear all claims against the State. In 1897 this Board was renamed the Court of Claims and the commissioners became judges. In 1911, that legislative court was abolished, and its jurisdiction was transferred to a new Board of Claims. Showing some signs of legislative psycho-frenzy, in 1915 a second Court of Claims was created; this time with a requirement that its judges be attorneys with ten years' experience. This did not resolve all matters because in 1920, the Court of Appeals ruled that the State had not waived sovereign immunity for the torts of its employees (*Smith v. New York* (227 NY 405)). This decision was remedied by a third Court of Claims Act in 1920. The Court of Claims finally became a Constitutional Court in 1950 with amendments that judges be appointed by the governor, confirmed by the senate and serve nine-year terms.

ALBANY COUNTY COURT JUDGES

Peter Schuyler	1691-1701	Jon Abeel	1702-1702
Peter Schuyler	1702-1717	Kiliaen Van Rensselaer	1718-1725
Rutger Bleecker	1726-1732	Ryer Gerritse	1733-1748
Robert Sanders	1749-1757	Sybrant G. Van Schaick	1758-1761
Rensselaer Nicoll	1762-1772	Abraham Ten Broeck	1773-1773
Walter Livingston	1774-1774	John H. Ten Eyck	1775-1777
Volkert P. Douw	1778-1780	Abraham Ten Broeck	1781-1793
Leonard Gansevoort	1794-1796	John Taylor	1797-1799
Nicholas N. Quackenbush	1803-1803	David McCarty	1804-1805
Charles D. Cooper	1806-1806	Jacob Ten Eyck	1807-1811
Apollos Moore	1812-1827	James L'Amoreaux	1828-1832
Samuel Cheever	1833-1837	Jacob Lansing	1838-1842
Peter Gansevoort	1843-1846	William Parmelee	1847-1850
Albert D. Robinson	1851-1858	George Wolford	1859-1862
Jacob H. Clute	1863-1870	Thomas J. Van Alstyne	1871-1883
John C. Nott	1884-1889	Jacob H. Clute	1890-1895
Clifford D. Gregory	1896-1907	George Addington	1908-1921
Isadore Bookstein	1922-1922	Earl H. Gallup	1923-1950
Martin Schenck	1951-1972	John J. Clyne	1973-1981
Arnold Proskin	1974-1975	Joseph Harris	1976-1988
John G. Turner	1990-1995	Thomas Keegan	1990-1991
Thomas G. Breslin	1992-2012	Larry J. Rosen	1995-2001
Stephen Herrick	2003-2013	Peter Lynch	2013-2019
William Carter	2017-Date	Andra Ackerman	2020-Date

ALBANY COUNTY SURROGATE JUDGES

John De Peyster	1756-1775	William Hannah	1766-1766
Peter Lansing	1766-1768	Stephen De Lancey	1769-1777
John De Peyster	1778-1781	Henry Oothoudt	1782-1782
John De Peyster Douw	1782-1786	Abraham G. Lansing	1787-1807
Elisha Dorr	1808-1809	John H. Wendell	1810-1810
Richard Lush	1811-1812	John H. Wendell	1813-1814
George C. Merchant	1815-1815	Christopher C. Yates	1815-1818
Ebenezer Baldwin	1819-1820	Abraham Ten Eyck, Jr.	1821-1821
Thomas A. Brigden	1822-1830	Anthony Blanchard	1831-1839
Moses Paten	1840-1843	Anthony Blanchard	1844-1846
Lewis Benedict, Jr.	1847-1850	Orville H. Chittenden	1851-1854
James A. McKown	1855-1858	Justus Haswell	1859-1862
Israel Lawton	1863-1870	Peter A. Rogers	1871-1883
Francis H. Woods	1884-1889	Martin D. Conway	1890-1895
George H. Fitts	1896-1905	Newton B. VanDerzee	1906-1918
Ellis J. Staley, Sr.	1919-1921	George Lawyer	1922-1928
Gilbert V. Schenck	1929-1933	Edward G. Rogan	1934-1957

Harold E. Koreman	1958-1963	John J. McCall	1964-1973
Lawrence E. Kahn	1974-1979	Raymond E. Marinelli	1980-2000
Cathryn M. Doyle	2001-2014	Stacy L. Petit	2015-Date

CHILDREN'S COURT JUDGES

Daniel J. Dugan	1923-1928	John J. Brady	1929-1934
James J. Nolan	1935-1940	John Boyd Thacher II	1941-1947
James A. Quinn	1948-1949	Merton D. Meeker	1950-1950
Robert J. Laffin	1951-1963		

FAMILY COURT JUDGES

Robert J. Laffin	1964-1966	Ralph S. Leonard	1967-1972
Phillip G. Coffey	1964-1984	Michael V. Tepedino	1973-1982
Anthony V. Cardona	1985-1990	Beverly Cipolo Tobin	1989-2002
Thomas Breslin	1990-1992	Gerard E. Maney	1991-2019
W. Dennis Duggan	1993-2014	Margaret Walsh	2008-2018
Susan Kushner	2014-Date	Richard Rivera	2015-Date
Amy Joyce	2020-Date		

ALBANY CITY COURT JUDGES (Including Police and Recorder's Court Judges)

Isaac Swinton	1686-1687 RC	Derick Wessels	1687-1696 RC
Jan Bleecker	1696-1700 RC	Johannis Bleecker	1700-1701 RC
Johannis Abeel	1701-1709 RC	Robert Livingston Jr.	1709-1710 RC
Johannis Cuyler	1710-1725 RC	Rutger Bleecker	1725-1726 RC
John De Peyster	1726-1728 RC	Dirck Ten Broeck	1728-1746 RC
Edward Collins	1746-1748 RC	Robert Sanders	1748 1750 RC
Sybrant G. Van Schaick	1750-1756 RC	John G. Rosenbloom	1756-1759 RC
Volkert P. Douw	1759-1761 RC	John Ten Eyck	1761-1778 RC
Abraham Yates Jr.	1778-1780 RC	Leonard Gansevoort	1780-1789 RC
Peter W. Yates	1789-1793 RC	John Taylor	1793-1797 RC
Abraham Van Vechten	1797-1808 RC	John V.N. Yates	1808-1810 RC
Theodorus V.W. Graham	1810-1811 RC	John V.N. Yates	1811-1816 RC
Philip S. Parker	1816-1821 RC	Estes Howe	1821-1825 RC
Ebenezer Baldwin	1825-1826 RC	James M'Kown	1826-1841 RC
William Parmelee	1841-1847 RC	Deodatus Wright	1847-1852 RC
William A. Young	1852-1855 RC	William S. Paddock	1856-1859 RC
John C. Nott	1874-1886 PC	William S. Paddock	1876-1879 RC
Andrew Hamilton	1882-1885 CC	Franklin M Danaher	1883-1883 CC

Edward Brennan	1884-1886 CC	John W. Walsh	1886-1895 CC
Thomas F. Wilkinson	1887-1892 CC	John Gutman	1890-1890 PC
Peter Stephens	1890-1897 PC	Thomas A. Meegan	1893-1897 CC
George Addington	1894-1910 CC	Mathias J. Severance, Jr.	1896-1901 CC
James J. Farren	1898-1899 CC	John J. Brady	1898-1996 PC
David Muhlfelder	1900-1911 CC	William W. Woolard	1902-1907 CC
Henry Stern	1902-1903 CC	Robert W. Scott	1904-1915 CC
Richard W. Brass	1908-1913 CC	Henry Hirschfield	1912-1922 CC
Isaac B. Barrett	1914-1915 CC	Edward J. Halter	1916-1921 CC
Daniel H. Prior	1916-1925 CC	John J. Brady	1916-1924 PC
Edward Easton, Jr.	1918-1922 RC	Edward Halter	1916-1921 CC
John T. Delaney	1922-1922 CC	Leopold Minkin	1923-1925 CC
Edward N. Scheiberling	1923-1928 CC	George A. Reilly	1926-1927 CC
Walter L. Collins	1923-1926 RC	John J. Brady	1925-1928 PC
Julius Illch	1926-1931 CC	Walter L. Collins	1927-1934 RC
James J. Nolan	1928-1934 CC	Edward G. Rogan	1929-1931 PC
Francis Bergan	1930-1931 CC	David Wanger	1932-1938 CC
Andrew G. Seelman	1932-1933 CC	Francis Bergan	1932-1936 PC
Charles J. Duncan	1934-1944 CC	Anthony DeStefano	1935-1949 CC
Sol Rubenstein	1935-1938 RC	Edward Kampf	1936-1946 PC
Sol Rubenstein	1939-1949 CC	M. Michael Dobris	1938-1950 RC
Francis J. Burns	1945-1945 CC	Robert J. Laffin	1945-1949 RC
Jacob H. Herzog	1946-1953 CC	Robert J. Laffin	1949-1951 PC
George Myers	1950-1955 CC	Joseph A Yavonditte	1950-1958 CC
M. Michael Dobris	1951-1960 PC	John E. Holt-Harris, Jr.	1951-1977 RC
Ralph S. Leonard	1954-1955 CC	Samuel Jacobs	1955-1961 CC
Philip G. Coffey	1958-1959 CC	Michael V. Tepedino	1958-1965 CC
John W. Reh fuss	1960-1965 CC	Ralph S. Leonard	1961-1965 PC
Harold Segal	1962-1972 CC	Evariste G. Lavigne	1966-1973 CC
Simon Rosenstock	1966-1969 CC	Michael V. Tepedino	1966-1972 PC
Thomas M. Whalen III:	1970-1975 CC	Richard A. Kohn	1972-1973 CC
John J. Yanas	1973-1977 CC	Morton M.Z. Lynn	1973-1985 CC
Thomas W. Keegan:	1972-1989 PC	Edwin S. Tobin	1976-1984 CC
Leonard Weiss	1977-1978 CC	Steven A Safranko	1978-1989 RC
John G. Turner	1979-1984 CC	E. David Duncan	1983-2006 CC
Madonna Stahl	1984-1997 CC	Larry Rosen	1985-1994 PC
Steven A. Safranko	1990-1996 CC	Stephen W. Herrick	1995-2002 *
John J. Egan	1996-2005	Leslie E. Stein	1997-2001
Garry Steigelmeier	2004-2019	William Carter	2002-2016
Thomas Keefe	2002-2016	Cheryl Coleman	2002-2004
Helena Heath	2005-Date	Rachel Kretser	2006-2016
John Riley	2016-Date	Holly Trexler	2016-Date
Joshua Farrell	2016-Date	William Kelly	2020-Date

* In 1995, the positions of Recorder's (Traffic) Court, Police Court and City Court became part of a unified City Court.

COLONIE TOWN JUSTICES

Charles D. Miller	1895-1897	Lewis W. Dayton	1895-1904
George W. Stedman	1895-1896	William W. Woodard	1895-1897
James C. Archibald	1897-1908	William Volk	1897-1901
Fletcher C. Onderdonk	1898-1898	Lewis W. Dayton	1902-1902
Christopher Valentine	1904-1910	John G. Brown	1909-1909
Christopher Valentine	1924-1925	W.C. Springer	1924-1925
Dolson	1924-1925	Myron L. Chapman	1924-1927
Chauncey Bell	1924-1927	John W. Hayworth	1928-1933
Andrew Petregal	1926-1933	John G. Brown	1924-1932
Albert E. Cotter	1928-1932	William D. Stairs	1932-1940
Nordin J. Shambrook	1932-1966	Harry J. D'Agostino	1960-1972
Frank A. Tate	1966-1975	Guy C. DeLollo	1973-1976
Philip Caponera	1975-2001	George A. Roland	1974-1981
Nicholas J. Greisler	1977-1999	Nicholas J. Criscione	1982-1993
Mary S. Sweeney	1994-2005	Peter G. Crummey	2000-Date
Richard DiStefano	2002-2005	Andrew C. Sommers	2005-Date
Susan M. Tatro	2005-2009	Norman C. Massry	2009-Date

GREEN ISLAND TOWN JUSTICES FROM 1944

Francis D. Burke
William E. Beam
Albert J. Sterling
Allen DeConno
Jeffrey Dorrance
Joseph A. Liotta

Edward J. Brannigan
William S. Cowieson
James Maloney
David Brennan
Julie A. Iannone
Albert J. Sterling



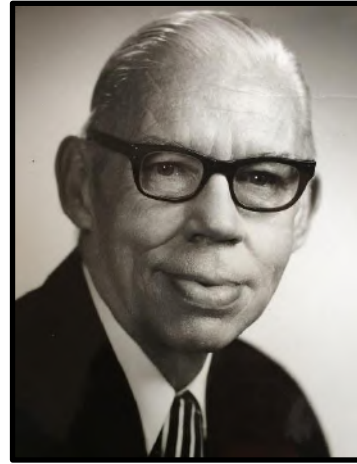
Hon. Michael V. Tepedino (1969)
Albany Police Court Judge, 1966-1972
Family Court Judge, 1973-1982



Judge John G. Turner (1980)
Albany City Court Judge, 1979-1984,
Albany County Judge, 1990-1995



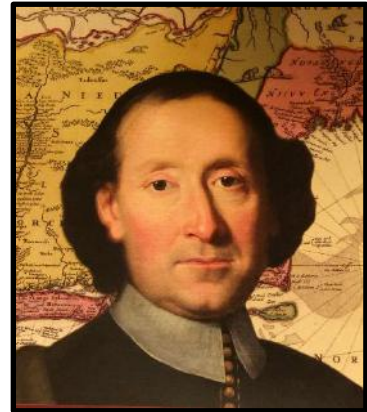
Hon. Beverly Cipollo Tobin sworn in as Family Court Judge by Family Court Judge Anthony V. Cardona, with her husband City Court Judge Edwin S. Tobin looking on, January 1, 1989.



**Hon. John McCall,
Surrogate. 1964-1973.**

V: THE ALBANY COUNTY BAR

In 1641 **Adriaen Van der Donck**, (c. 1620-1655) a lawyer educated at the University of Leyden in Holland, arrived in New Netherlands to protect the Patroon's interest and to set up the Patroon's Courts in Albany County which was then called Rensselaerwyck. He probably can be considered the first lawyer to appear in the first court in the Patroonship of Rensselaerwyck but the identity of the first lawyer in all New Netherlands is subject to question. Alden Chester in his multi-volume history, *Courts and Lawyers of New York: a History, 1609-1925*, states the following: "As a matter of fact, however, he [Van der Donck] was not the earliest lawyer in New Netherland. He was well versed in canon and civil law, and eventually received a doctorate of such sciences; but another lawyer, **Lubertus van Dincklagen**, 'a man of superior education, doctor of laws, and an able and accomplished jurist' was in New Netherland, in legal capacity, for some years before Van der Donck came out to Rensselaerwyck, as *voorsprecke* [literally, to speak for another, an advocate] and *officer of justice* of the Patron's Court. In either case, from either point, Albany County has one of the richest legal histories in the United States, due primarily to the quality of its Bar and the fact that courts have been operating and lawyers have been practicing here for 400 years.



Adrien Van der Donck
The First Lawyer in
Albany County?

Inheriting much of the Dutch legal system, Colonial New York organized its legal system under a code known as "Duke's Laws" in 1685. The first courts were the Court of Sessions and the Town Courts. That evolved with the creation of the Courts of Oyer and Terminer. The Dutch Courts of Burgomasters and Schepens evolved into the Mayor's Court. In 1683, the Court of Chancery was added. In 1691 the Colonial government created the Court of Common Pleas and a Supreme Court. These Courts operated, in a fashion, until 1775 when the American Revolution caused the British Courts to cease operation. When operating they were highly informal. Record keeping of proceedings was rare, law books were almost non-existent, (Blackstone's Commentaries were not published until 1765) the Colony had only a handful of trained lawyers and few judges were lawyers. For example, the Mayor's Court was made up of the Mayor and three Alderman. Admissions to practice law was equally ad hoc. It usually involved just the application to a judge for permission to practice and might require the sign off of another lawyer. The Colonial Courts continued, to some degree, the distinction made in England between Solicitors and Barristers. In the New York Colony, an attorney could be a person's agent and prepare legal documents while a "Counselor" would be an advocate in court. Hence the designation that is carried over to this day as "Attorney and Counselor at Law." However, It was not until after the Revolutionary War when the Congress and the State's had the time and resources to inaugurate and regulate a comprehensive system of law.

The biographies of many of the most distinguished members of the Albany County Bar have been set forth in the sections covering the Bench, Famous Law Firms and Albany County Legal Institutions, especially Albany Law School. The list below itemizes the sections where those biographies can be found. Following this list are the short biographies of a selection of lawyers that do not appear in the other sections.

		SECTION
VOLKERT PETRUS DOUW	(1720-1801)	Bench
ABRAHAM YATES, JR.	(1724-1796)	Bench
ROBERT YATES	(1738-1801)	Bench
JOHN TAYLER	(1742-1829)	Bench
JOHN JAY	(1745-1839)	Bench
ROBERT R. LIVINGSTON,	(1746-1813)	Bench
LEONARD GANSEVOORT	(1751-1810)	Bench
JOHN LANSING, Jr.	(1754-1829)	Bench
ABRAHAM G. LANSING	(1756-1834)	Bench
ABRAHAM VAN VECHTEN	(1762-1837)	Bench & Law Firms
JAMES KENT	(1763-1847)	Bench
STEPHEN VAN RENSSELAER	(1764-1839)	Bench
AMBROSE SPENCER	(1765-1848)	Bench
ROGER SKINNER	(1773-1825)	Bench
DANIEL CADY	(1773-1859)	Law Firms
ANTHONY VAN SCHAIK	(1779-1822)	Law Firms
TEUNIS VAN VECHTEN	(1785-1859)	Law Firms
WILLIAM LEARNED MARCY	(1786-1857)	Bench
EBENEZER BALDWIN	(1789-1839)	Law Firms
GREENE C. BRONSON	(1789-1863)	Bench
ALFRED CONKLING	(1789-1874)	Bench
IRA HARRIS	(1802-1875)	Bench
AMOS DEAN	(1803-1868)	Institutions
AMASA J. PARKER	(1807-1890)	Bench
ELISHA P. HURLBUT	(1807-1889)	Bench
RUFUS WHELLER PECKHAM, SR.	(1809-1873)	Bench
CHARLES MULFORD JENKINS	(1810-1900)	Law Firms
JOSEPH P. BRADLEY	(1813-1892)	Bench
SAMUEL WILKESON JR.	(1817-1889)	Law Firms
DUNCAN MCMARTIN	(1817-1894)	Law Firms
WILLIAM LAW LEARNED	(1821-1904)	Bench
PAUL FENIMORE COOPER	(1824-1895)	Law Firms
THOMAS JEFFERSON VAN ALSTYNE	(1827-1903)	Bench
MATTHEW HALE	(1829-1897)	Albany Law School
GEORGE L. STEDMAN	(1831-1898)	Albany Law School
REDFIELD PROCTOR	(1831-1908)	Bench
SAMUEL HAND	(1834-1886)	Bench
ABRAHAM LANSING	(1835-1899)	Albany Law School
IRVING BROWNE	(1835-1899)	Albany Law School
EDWIN WELD CORNING	(1836-1871)	Albany Law School
DAVID JOSIAH BREWER	(1837-1919)	Albany Law School
HENRY REED RATHBONE	(1837-1911)	Albany Law School
THOMAS H. HUBBARD	(1838-1915)	Albany Law School
RUFUS W. PECKHAM, Jr.	(1838-1909)	Bench

OLIVER WENDELL HOLMES, JR.	(1841-1935)	Bench
KATHERINE G. STONEMAN	(1841-1925)	Albany Law School
AMASA J. PARKER, JR.	(1843-1938)	Bench
WILLIAM MCKINLEY	(1843-1901)	Albany Law School
D-CADY HERRICK	(1846-1926)	Bench
J. NEWTON FIERO	(1847-1931)	Albany Law School
DANFORTH E. AINSWORTH	(1848-1927)	Law Firms
JAMES C. MATTHEWS	(1848-1930)	Albany Law School
ALDEN V. CHESTER	(1848-1934)	Bench
WILLIAM PLATT RUDD	(1851-1929)	Bench
ALTON BROOKS PARKER	(1852-1926)	Bench
KOZU SENZABURO	(1852-1897)	Albany Law School
JAMES F. TRACEY	(1854-1925)	Law Firms
GEORGE W. KIRCHWEY	(1855-1942)	Albany Law School
JAMES FENIMORE COOPER	(1858-1938)	Law Firms
ALINTON R. TELLE	(1859-1903)	Albany Law School
DANIEL NAYLON, JR	(1860-1939)	Law Firms
ALBERT RATHBONE	(1868-1943)	Law Firms
WILLIAM VAN RENSSELAER ERVING	(1871-1940)	Law Firms
FREDERICK TOWNSEND II	(1871-1949)	Law Firms
LERNED HAND	(1872-1961)	Bench
HAROLD D. ALEXANDER	(1874-1949)	Albany Law School
WILLIAM T. BYRNE	(1876-1952)	Albany Law School
ABBOTT H. JONES	(1876-1939)	Law Firms
HAROLD J. HINMAN	(1877-1955)	Bench & Law Firms
ELLIS J. STALEY, SR.	(1877-1943)	Bench
EARL H. GALLUP	(1880-1970)	Bench
CHARLES B. SULLIVAN	(1881-1975)	Law Firms
GILBERT V. SCHENCK	(1882-1946)	Bench
JOHN BOYD THACHER II	(1882-1957)	Bench
BARCLAY JERMAIN SAVAGE	(1882-1952)	Law Firms
ROLAND FORD	(1886-1970)	Law Firms
EDWARD N. SCHEIBERLING	(1888-1967)	Law Firms
EDWARD J. O'CONNELL	(1888-1939)	Law Firms
SAMUEL F. ARONOWITZ	(1890-1973)	Law Firms
ISADORE BOOKSTEIN	(1891-1973)	Law Firms
ROBERT H. JACKSON	(1892-1952)	Law School
FRANK A. McNAMEE	(1892-1972)	Law Firms
F. WALTER BLISS	(1892-1982)	Albany Law School
KENNETH CREBLE	(1893-1974)	Law Firms
RUTH H. MINER	(1893-1980)	Legal Aid Society
EDWARD G. ROGAN	(1896-1961)	Law Firms
J. STANLEY CARTER	(1897-1973)	Law Firms
M. JAMES CONBOY	(-)	Law Firms
EDWARD S. KAMPF	(1900-1971)	Bench
KENNETH S. MacAFFER	(1901-1963)	Bench

FRANCIS BERGAN:	(1902-1998)	Bench
ARTHUR J. HARVEY	(1903-1986)	Legal Aid Society
C. EMORY LOCHNER	(1904-1981)	Law Firms
EDWARD S. ROONEY	(1906-1970)	Law Firms
J. VANDERBILT STRAUB	(1907-1991)	Law Firms
JAMES T. FOLEY	(1910-1990)	Bench
EUGENE P. DEVINE	(1912-1974)	Law Firms
DOMINICK L. GABRIELLI	(1912-1994)	Albany Law School
E. STUART JONES	(1912-2001)	Law Firms
MORRIS "MARTY" SILVERMAN	(1912-2006)	Albany Law School
ELLIS J. STALEY, JR.	(1914-1981)	Bench
THOMAS F. TRACEY	(1914-1994)	Law Firms
LAWRENCE H. COOKE	(1914-2000)	Albany Law School
JOHN E. KNAUFF	(1915-1996)	Law Firms
HAROLD E. KOREMAN	(1916-2001)	Bench
HARRY S CHRISTENSON	(1916-1980)	Law Firms
EDWARD S. CONWAY	(1917-1999)	Bench
DAVID STERLING WILLIAMS	(1917-2008)	Law Firms
ALBERT A. MANNING	(1918-2004)	Law Firms
WERNER H. PIGORS	(-)	Law Firms
MARGRETHE R. POWERS	(1922-1990)	Legal Aid Society
LEONARD A. WEISS	(1923-)	Bench & Law Firms
THOMAS FORD	(1924-)	Law Firms
JOHN J. CLYNE	(1925-1998)	Bench
STEPHEN A. MANEY	(1927-1993)	Law Firms
LAWRENCE F. KLEPPER	(1927-1994)	Legal Aid Society
JOHN R. DUNNE	(1930-)	Law Firms
HOWARD A. LEVINE	(1932-)	Law Firms
KATHERYN D. KATZ	(1933-2012)	Albany Law School
THOMAS M. WHALEN III	(1934-2002)	Bench & Law Firms
MELVIN OSTERMAN	(1935-2005)	Law Firms
JOHN HANNA, JR.	(1935-2019)	Law Firms
MICHAEL WHITEMAN	(-)	Law Firms
LAWRENCE E. KAHN	(1937-)	Bench
THOMAS W. KEEGAN	(1940-2018)	Bench
MIRIAM NETTER	(-2010)	Legal Aid Society
ANTHONY V. CARDONA	(1941-2011)	Bench
E. STUART JONES, JR.	(1942-)	Law Firms
JAMES C. BLACKMORE	(1943-2018)	Law Firms
BERNARD J. MALONE	(1943-)	Law Firms
BEVERLY CIPOLLO TOBIN	(-)	Albany Law School
BARRY A. GOLD	(1945-2002)	Law Firms
MARY ELIZABETH COX	(1946-)	Albany Law School
JOEL HODES	(-)	Law Firms
DALE THUILLEZ	(-)	Law Firms
VICTORIA GRAFFEO	(1952-)	Bench

LESLIE E. STEIN	(1956-)	Bench
ANDREW M. CUOMO	(1957-)	Law Schools
MICHAEL GARCIA	(1961-)	Law Schools

ALBANY COUNTY DISTRICT ATTORNEYS

Year of Appointment or Election

Abraham Van Vechten	1796
George Metcalf	1801
Daniel L. Van Antwerp	1811
Daniel Cady	1813
Samuel S. Lusk	1813
Daniel L. Van Antwerp	1818
Samuel A. Foote	1819
Benjamin F. Butler	1821
Edward Livingston	1825
Rufus W. Peckham	1838
Henry G. Wheaton	1841
Edwin Litchfield	1844
Andrew J. Colvin	1846
Samuel H. Hammond	1847
Andrew J. Colvin	1850
Hamilton Harris	1853
Samuel G. Courtney	1856
Ira Shafer	1859
Solomon F. Higgins	1862
Henry Smith	1865
Rufus W. Peckham, Jr.	1868
Nathaniel C. Moak	1871
John M. Bailey	1874
Lansing Hotaling	1877
D-Cady Herrick	1880
Hugh Reilly	1886
Andrew Hamilton	1891
Eugene Burlingame	1894
John T. Cook	1898
Zeb A. Dyer	1898
George Addington	1901
Rollin B. Sanford	1907
Harold D. Alexander	1913
Timothy Roland	1919
Charles J. Herrick	1922
John J. Conway	1923

John T. Delaney	1931
Ernest B. Morris	1944
Julian B. Erway	1944
Russell G. Hunt	1953
George N. Meyl	1956
John T. Gary II	1958
Arnold Proskin	1968
Ralph W. Smith, Jr.	1974
Sol Greenberg	1974
Paul A. Clyne	2000
P. David Soares	2004



**Ralph W. Smith, Jr.,
Chief Assistant District Attorney
District Attorney, 1974
Federal Magistrate Judge**



**District Julian Erway with
Albany Mayor, Erastus Corning II,
Election Day, November 5, 1947**



**District Attorney Sol Greenberg sworn
into office by Supreme Court Justice
John H. Pennock (1964-85), on
January 1, 1975. Greenburg is the
longest serving District Attorney in
Albany County History, 24 years.**



**Arnold W. Proskin, Albany County
District Attorney, 1968-1974 (elected at
age 30), Albany County Judge 1974-
1975, Member of the State Assembly,
1985-1992**



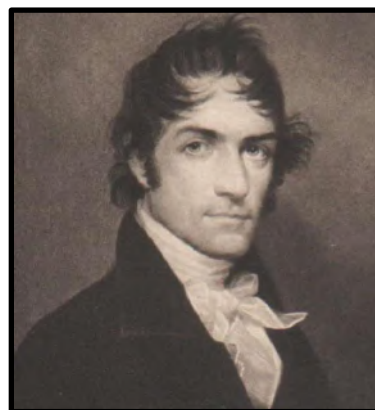
**Law Offices of
Aaron Burr, Esq.
23 Norton Street**

AARON BURR (1756-1836): There is no need to recount the brilliant and tragic career of Aaron Burr. Revolutionary War hero, Attorney General of New York, United States Senator from New York (Burr replaced General Schuyler, Hamilton's father-in-law, in the Senate, no doubt adding to Alexander Hamilton's vexation toward him) Vice-President of the United States. In between, he was perhaps the first and most effective political operator America has known, delivering New York State for Jefferson. Less well known is his career as one of America's foremost attorneys practicing during the beginning years of this country and having many collaborations with Alexander Hamilton. That would turn out to be a fateful partnership. Both



Hamilton and Burr had extensive legal matters in the Courts in Albany. When Hamilton was in Albany, he had the luxury of being able to work and stay at the mansion of his father-in-law, General Philip Schuyler. Burr had his own law office. The large building shown in the photograph above fronts on South Pearl Street. The building behind it faced south and was #23 Norton Street. It housed Burr's law office. These buildings have been razed over one hundred years ago and Norton Street no longer exists.

Harmanus Bleecker (1779-1849): Harmanus Bleecker was a great-great grandson of one of the original Dutch colonists who helped settle the 17th-century community of Beverwyck, the forerunner of Albany. He became a successful attorney who left a bequest of \$80,000 (equal to more than \$2 million today) to the city. His legacy can be found in the Harmanus Bleecker Library on the corner of Washington Avenue and Dove Street (now an office building), Bleecker Stadium, Bleecker Park and Bleecker Place, off Eagle Street in the Mansion neighborhood. He was an ambitious and brilliant young man who joined a law firm at 17, passed the bar exam and opened a law practice by the time he turned 21. He became a successful attorney and ran a training school for law students. He was a trustee of Albany Academy and the Albany Bible Society. Bleecker enjoyed teaching and took a deep interest in education. He was appointed to the board of the State Normal School (now the University at Albany) and was named a regent of the State University of New York. He was also drawn to politics and was elected as a Federalist congressman in 1811. He grew disillusioned with Washington and returned to Albany, where he won election as a state assemblyman and served for two years. In the 1820s, his legal expertise was tapped, and he was named one of New York state's commissioners who negotiated with their counterparts of New Jersey to determine a legally binding boundary between the two states. He also was a member of the original Board of Governors that founded City Hospital, which became Albany Medical Center. Bleecker, who was single, devoted himself to his political, humanitarian



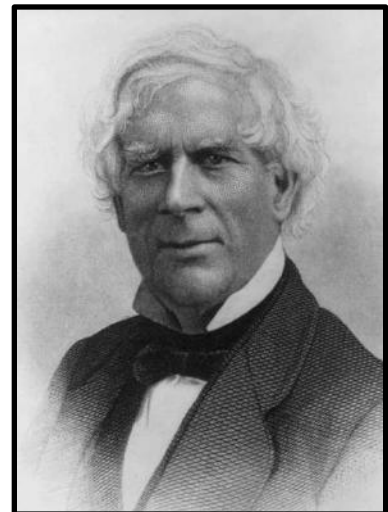
and legal work. Given his understanding of Dutch culture and his fluency in the language, he was appointed ambassador to the Netherlands in 1837 by President Martin Van Buren, a political friend from Albany. He served in the post for five years. He undertook a grand tour of Europe in 1838 at age 59 and was greeted warmly in the Netherlands, where he stayed for extended periods. Bleecker's role was largely social and administrative, and he dealt with passport matters and hosted receptions for visiting Americans in Amsterdam. He was called upon to intervene in a fight between two U.S. sailors in Rotterdam that ended up in a fatality. His ambassadorship had one other notable consequence. He met and wed a Dutch woman 34 years his junior, Cornelia Mentz. He was 62 and she was 28 when they wed in 1841. A year after his marriage, he stepped down as



ambassador in 1842 and retired from public life and business pursuits. He practiced law on a part-time basis and he and his wife settled back in Albany. When Bleecker died in 1849, his will gave his entire estate to his widow, but it stipulated that upon her death the remainder should be used to benefit the city he loved. His wife married Henrich Coster, a Dutch resident, and the couple returned to Holland. When she died, an estimated \$80,000 of her first husband's estate remained and it went to Albany, where generations enjoyed the public library, football and baseball fields and park that bears his name. Harmanus Bleecker was buried in a family plot, Section 3, Lot 61. (With thanks to Paul; Grondahl, author of *These Exalted Acres*, a history of Albany Rural Cemetery, photos by Wil Waldron.)

Thurlow Weed (1797-1882): Thurlow Weed was not a lawyer or a judge. He held political office only briefly, two terms of one year each in the New York State Assembly from Monroe County. But he was the great political influencer of his time through his ownership of the *Albany Evening Journal*. He was also the maker and breaker of Presidents, Governors, Senators, Congressman, State Senators and Assemblymen and Judges by his control of the Republican Party in New York and across the nation. He elected and defeated lawmakers. For these reasons he must be included in any legal history of Albany County.

Weed was a political power broker in Albany and Washington. He was a close friend of William Seward, New York's Senator and almost a Republican candidate for the presidency. That effort failed but Seward became Lincoln's Secretary of State (and purchaser of Alaska, *Seward's Folly*). Weed was given several nicknames, including "The Dictator" and "The Wizard of the Lobby." He was a Whig and an architect of the Republican Party who later edited and published an influential GOP mouthpiece, the *Albany Evening Journal*. He was one of the first to exploit the nexus of journalism and politics.



Weed grew up poor on a farm in Greene County and his father spent time in debtors' prison. With only a few years of schooling in Catskill, he left to work as a blacksmith's apprentice and earned 6 cents a day. At 9, he shipped out as a cabin boy on a Hudson River sloop. He could finally afford to buy his first pair of shoes. After military service in the War of 1812, he settled in Albany and plied his printer trade at local shops and newspapers. In 1817, at age 20, he became press foreman at the *Albany Register*. He filled in writing editorials and was good at it. The next year, he married Catherine Ostrander of Cooperstown and failed in his attempts to start a newspaper in Chenango County. He backed DeWitt Clinton for Governor and John Quincy Adams for President and he was rewarded for this support. He parlayed those connections into a seat in the state Assembly in 1825 at age 28. After re-election to a second term, he established the *Albany Evening Journal* in 1830.

Weed had a disarming charm and was a skilled manipulator behind the scenes. He established his GOP bona fides by battling Martin Van Buren's Democratic machine, the Albany Regency, and relished a tussle with the Democratic paper, the *Albany Argus*. He leveraged his friendship with Secretary of State Seward and elbowed his way into the role of confidant to Lincoln, who sent him as an emissary to Britain and France to urge those countries not to support the Confederacy during the Civil War. Seward and Weed persuaded Lincoln to donate the president's handwritten draft of the Emancipation Proclamation to the Albany Army Relief Bazaar for a fundraising raffle in February 1864 that was used to purchase medicine and supplies for sick and wounded Union soldiers. The draft E.P., as it is known, survived the 1911 Capitol fire and is the most important holding in the State Library. It is preserved in a secure glass case, stored in a vault and occasionally put on display in the Capitol. Weed commissioned his friend, architect Marcus T. Reynolds, to build an extravagant octagonal south tower addition to the D&H Building on Broadway at the foot of State Street (now SUNY Central) to be his newspaper's office and with a penthouse apartment.



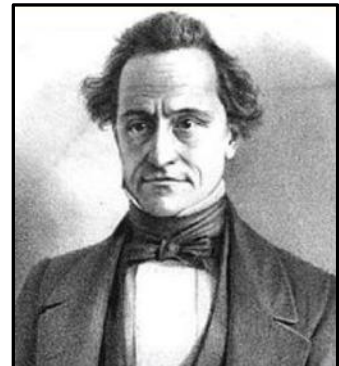
The Weed family plot in Albany Rural Cemetery is located on a prominent corner along Linden Avenue in Lot 1, Section 109. It is dominated by a towering gray granite obelisk. The name of Weed's grandson is also chiseled into the marker. William "Billy" Barnes, "the boy boss," inherited the *Albany Evening Journal* and was the boss of a Republican political machine that was unseated by the Democratic O'Connell-Corning organization in 1921. Barnes's fortune crashed with the demise of his political machine, and he sold the paper in 1924. Weed moved to New York City and, after a life of Kingmaking, he retired from public life in 1867. He died on November 22, 1882 (With thanks to Paul Grondahl, author of *These Exalted Acres*, a history of Albany Rural Cemetery, photography by Wil Waldron.)

LEWIS BENEDICT (1817-1864): Louis Benedict was born on September 17, 1817, in Albany, NY. After attending Albany Academy, he graduated from Williams College in 1837. After college he read for the law with John C. Spencer (See Spencer entry below). He was admitted to the Bar in 1841 and became a partner with Marcus T. Reynolds (See Reynolds entry below). In 1848 he was named Corporation Counsel of the City of Albany. In 1847 he was named by the Governor to be Judge-Advocate General. In 1848 Benedict was elected Surrogate. Most of Benedict's deserved prominence comes from his part played in the Civil War. He



can be credited with getting New York State on a war footing in January 1861. During the war he is remembered for his leadership during the storming of Fort Hudson on the Mississippi. Benedict would be killed on April 9, 1864, leading his troops in a furious charge toward enemy lines during the Red River Campaign at the battle of Pleasant Hill. He was 47. Benedict is buried in Albany Rural Cemetery Section 3, Lot 38

BENJAMIN F. BUTLER (1795-1852): Benjamin F. Butler, Martin Van Buren's law partner in Albany, was also born in Kinderhook, on December 17, 1795. He should not be confused with the Union Civil War General Benjamin F. Butler. His early years were spent attending the common schools and working in his father's store. At age 14, he enrolled in the prestigious Hudson Academy, 15 miles down the road from Kinderhook. In 1812, at age 17, he began clerking with Martin Van Buren who was 30 at the time. In 1816 Van Buren and Butler moved their practice to Albany and in 1818, Butler was called to the Bar, giving him the privilege to advocate in court for clients. Butler



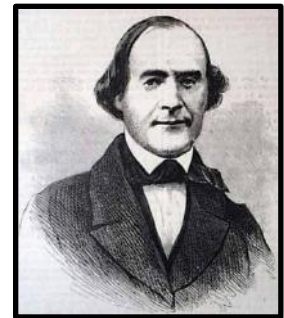
**Butler Monument, Woodlawn Cemetery,
Bronx, NY**

was appointed Albany County District Attorney in 1821, at age 26, and served until 1825. In 1824, he was appointed by the Legislature to a three member committee to be a Law Revision Commission.

In 1828 Butler was elected to the State Legislature. In 1833, at age 38, Butler was appointed to be the Attorney General of the United States to replace Roger B. Taney who became Chief Justice of the Supreme Court. He later became Secretary of War in the Jackson administration and held that post and that of the Attorney General for a year. Butler continued as Attorney General for the first year of the Van Buren Administration when he resigned to become the U.S. Attorney for the Southern District of

New York. When Polk became president, he offered the post of Secretary of War to Butler who declined to remain as U.S. Attorney. In 1835 Butler organized the law school at the City University of New York. One testament of Butler's skill as a lawyer comes from Francis Wellman in his classic, *The Art of Cross-Examination*. Wellman said that Butler was regarded as a highly effective trial lawyer and one of the most successful cross-examiners of his day. Butler died while on a trip to Europe on November 8, 1858, at age 62. He is buried in the Woodlawn Cemetery in the Bronx.

PETER CAGGER (1814-1868) Peter Cagger was born on November 10, 1814. He sits at the pinnacle of Catholic lawyers in Albany County, considering that his legal career coincided with a wave of anti-Catholic prejudice sweeping the Country. His parents were famine immigrants to America, first living in New York City and then Albany. After graduating from the College of Chambry in Quebec, Cagger started reading for the law in the firm of Reynolds and Woodruff (See entry for Marcus T. Reynolds below). After being admitted to the Bar he associated with Samuel Stevens in the firm of Stevens and Cagger. With Stevens untimely death, the firm became Hill Cagger & Porter with offices at 374 Broadway. Hill has the distinction of being one of the few attorneys to have his portrait hung in the Court of Appeals. It recognized his station as having argued more cases in that Court than any other attorney. Cagger's other partner John K. Porter is famous for having been a member of the Court of Appeals and as the Prosecutor who tried the criminal case against Charles Guiteau, the assassin of President Garfield. His cross-examination of Guiteau is credited with defeating his insanity defense. Cagger was also actively politically and controlled the New York State Democratic party during the mid-1800's with August Belmont and Dean Richmond. He was also a director of the National Commercial Bank and Trust Company.



Cagger Hospital, Broadway and North Ferry St., renamed St. Peter's



**Cagger Monument,
Saint Agnes Cemetery**

Misfortune fell early on Cagger as he died at age 53 after being thrown from a carriage on July 6, 1868, while riding through Central Park in New York City. Cagger left a legacy of philanthropy in Albany County. In 1865 Cagger purchased a lot at the corner of Broadway and North Ferry Street for the construction of the St. Vincent Orphan's Asylum. After his death (and failing to have a Will) his wife and daughter funded the transformation of this property into Cagger Hospital which became St. Peter's. He also purchased the land to found St. Agnes Rural Cemetery. Unfortunately, he was one of the first to be buried there just one month after selecting his gravesite. The New York Times described it as the largest funeral that Albany had ever seen. Cagger is buried on "Founders Hill" in St. Agnes Cemetery which borders Albany Rural Cemetery in Menands.

AMOS DEAN (1803-1868): Amos Dean was born on January 16, 1803, in Barnard, Vermont. He graduated from Union College in 1826. He was admitted to the New York Bar in 1829 after studying law with the distinguished Judge Alfred Conkling, the father of one of New York's most famous senators, Roscoe Conkling. Dean then started a partnership with Azor Taber, one of Albany's most eminent lawyers with offices in the Backus Building on the corner of State and James Streets. Dean made his mark in the field of education. He organized the Albany Young Men's Association and served as a founding trustee of Albany Medical College, the Dudley Observatory and the Albany Female Academy, the first high school for women in America. At the Medical College he held a professorship in medical jurisprudence. As Albany Law School's first Dean he also lectured on and authored a treatise on medical jurisprudence. During these years he also wrote an eight volume *History of Civilization*. In Albany, Dean resided at 77 Ten Broeck Street. Amos Dean was the first president of the University of Iowa serving from 1855 to 1859. Dean died on January 26, 1868, and is buried in Albany Rural Cemetery, Sec. 52, lot 2.



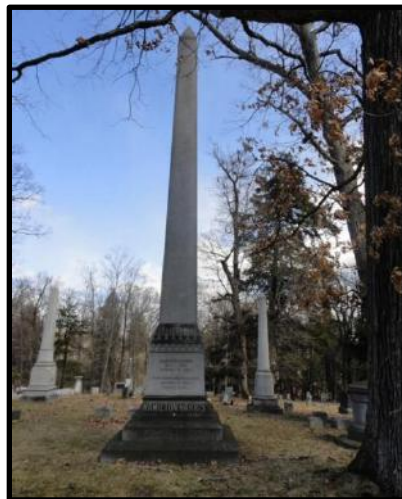
MATTHEW HALE (1829-1897): Matthey Hale was born in Chelsea, VT on June 20, 1829. His grandfather was Nathan, *I regret that I have only one life to live for my country* Hale. He graduated from the University of Vermont in 1851. After graduation, he started to read for the law in the offices of Kellogg & Hale (Hid older brother) in Elizabeth Town, Essex County, NY (The paternal residence of the Hands). In 1853 he was admitted to the Bar and took up practice of law in Poughkeepsie. After a few years in Poughkeepsie and in New York City, he moved back to Elizabeth Town and practiced with Augustus Hand, the grandfather of Learned Hand and Hale's father-in-law. In 1856, he married Hand's daughter. She died in 1867, prompting his move to Albany. In 1868 Peter Cagger, the partner of his brother-in-law Samuel Hand, died in Albany. This also prompted Hale to move to Albany and join a partnership with Samuel Hand. After the partnership went through several iterations, it became Hale and Bulkey with offices at 25 North Pearl Street. Hale is distinguished from many other of his contemporaries in that he rose to the pinnacle of the Albany County Bar without ever holding a public office in Albany. He was elected to the State Senate in 1867 while residing in Elizabethtown. In 1888 Hale wrote the State's electrocution law (For more on that, see *People v. Carlyle* in the Trial section.). Hale died on March 25, 1897. He is buried in the Riverside Cemetery, Elizabethtown, NY



HAMILTON HARRIS (1820-1900): Hamilton Harris was born in the Town of Preble, Cortland County, NY on May 1, 1820. He started his education in the common schools and then at the Homer Academy followed by Albany Academy. Harris graduated from Union College in 1841. After graduating from college, he entered apprenticeship with his brother Ira Harris who would serve as a Justice of the State Supreme Court and as United States Senator (See Bench section) Harris was admitted to the Bar in 1845. In 1848 he began a partnership with Hooper C. Van Vorst. That would end in 1853 when Van Vorst moved to New York city to become a Judge of the Court of Common Pleas. Harris would then form a partnership with Samuel D. Courtney to be followed in 1857 by a partnership with Clark B. Cochrane and John H. Reynolds, both of whom would become members of Congress. This partnership would last until 1875. It dissolved because of the death of both partners. Harris would then form a law firm with his son Frederick Harris and William P. Rudd (See Rudd in the Bench section) with offices in the Tweedle Building.



In 1853, Harris was elected Albany County District Attorney. One of his most famous trials during his tenure was *People v. Hendrickson*. Hendrickson was convicted of killing his wife by poison and the trial established the start of forensic science in America. (See “Murder in Bethlehem” in Trials section, case reported at 10 N.Y. Reports, 13). From 1816 to 1876, there were 43 murder indictments tried in Albany County and Harris was lead counsel for 10 of them. In one of the most celebrated judicial corruption cases of the second half of the 1800’s, Harris successfully defended Supreme Court Justice Theodore Westbrook against corruption charges leveled against him by then Assemblyman Theodore R. Roosevelt. The case arose out of the bribery and patronage scandals involving the operations of the Manhattan Elevated Railway (Told at length in Paul Grondahl’s book on the early career of TR, *He Rose Like A Rocket*).



Harris also had a significant political career as a member of the Whig party and founding member of New York’s Republican party, becoming State Chairman for several years. In 1850 he was elected to the Assembly. His great accomplishment in State government is the construction of the State Capitol and was considered at the time to be the “father” of that building. One local newspaper described it this way: *The father of this structure, which is to rank foremost among the majestic buildings of the world, is Hamilton Harris.* In 1875 Harris was elected to the New York State Senate where he served for two terms and then retired to the private practice of law. In that aspect of his legal career he was the lead counsel for the New York and Hudson River Railroad and the Boston and Albany Railroad. Harris is known for having the largest law library and largest private library in upstate New York. He died on December 14, 1900, and is buried in Albany Rural Cemetery, Section 19, Plot 3.

JOHN V. HENRY (1767-1829): John V. Henry was admitted to the Bar in Albany in January 1882, along with Aaron Burr. In 1800, he became a member of the State Assembly as a Federalist and was also appointed by Governor Jay to be the State Comptroller. As a Federalist, Henry's political career ended with the election of Republican-Democrat Governor George Clinton. From that point until his death on October 22, 1829, at age 62, Henry was one of the leading members of the Albany County Bar. Upon his death one of his colleagues eulogized him this way: *"The great superiority of Mr. Henry as an advocate consisted in his skill in condensing his arguments---in saying everything which could be said in favor of the position he wished to establish with the fewest possible words. These words were selected in the best possible manner. He never used a word except the very best to express his ideas. He was generally not florid and seldom aimed at brilliancy, though, if the occasion requires, he could be impressive, brilliant and powerfully eloquent."* The census lists Henry's boyhood home as being on Court Street which is now occupied by the site of the Old and New Post Offices. His office was listed as 19 Columbia Street which would have been east of Broadway. His brother was a successful Albany merchant, and both brothers married both Seaton sisters. Henry is buried in Albany Rural Cemetery, Section 19, Lot 17.



JOHN E. HOLT-HARRIS (1917-1999): John E. Holt-Harris could be included in the "Bench" section because his tenure as Albany Traffic Court Judge, then carrying the official designation as "Recorder," was legendary. Never much for trappings, his court was held in a small room on the second floor of Albany City Hall. Declining to wear a robe, he sat behind a simple table dispensing justice and trying to make Albany's streets a safer place to traverse. Part of his method was to keep a display of photographs of horrid traffic accidents to show the respondents what could happen to an unsafe driver. But this simple setting belied the true power of Judge Holt-Harris. Holt-Harris was a principal of one of Albany's most prestigious law firms, since disbanded. DeGraff, Foy Conway and Holt-Harris. As a member of that firm and with his close connections to the O'Connell's and Erastus Corning, Holt-Harris was the consigliere of the Albany County Democratic Party. His friendship with Corning dates to their college days.



John Evan Holt Harris, Jr., was born on February 10, 1917, in Staten Island. He graduated from Albany High School and received his undergraduate degree in 1937 and law degree in 1940 from Cornell. In 1940 he married Elizabeth Schenck. She was the daughter of Appellate Division Judge Gilbert Schenck and sister to Martin Schenck, the Albany County Court Judge. During WW II he enlisted in the Navy and received training at the Royal Naval College in Greenwich, England. He commanded a PT boat in the Pacific and the Aleutian Islands. He rose to the rank of Lt. Commander. After returning to Albany from military service, Holt-Harris was elected as Albany Recorder Court Judge in 1951 and held that position until 1978. For 52 years he was a trustee of the Albany Public Library and a member of the Albany Board of Education for 20 years. He also served as a trustee of the Albany Medical Center Hospital and the Albany Academy for Boys. When not attending to those duties, he served as a director of Project Strive for 29 years and for 20 years was a chancellor of the Episcopal Diocese of Albany. He was also chairman of the State



Board of Law Examiners for 12 years and a member of the University at Albany's Council for 10 years, serving as chairman for 7 years. Holt-Harris was also a member of the City of Albany Strategic Planning Committee. For the lengthy period that Mayor Corning was incapacitated because of a fatal illness, Holt-Harris was part of a group that governed the City which included Thomas Whalen as President of the Common Council, Vincent McArdle, Corporation Counsel, and retired Court of Appeals Judge Francis Bergan. For years, Holt Harris practiced law from 100 State Street.

Judge Holt-Harris died on August 25, 1999. He is buried in the Saratoga Battlefield National Cemetery in Schuylerville, NY, Section 8, Site 619.

Marcus T. Hun (1845-1920) Marcus Tullius Hun was born on May 22, 1845, in Albany, NY. His father was a doctor of high repute and the family had two mansions on the north side of Washington Avenue just west of the intersection with Eagle Street. There was a great public outcry in the 1970's when those mansions were razed for the erection of an office building. At an early age Hun studied at private schools in Massachusetts and at the Albany Boys Academy. In 1865 he graduated from Union College and then attended Albany Law School. Upon graduation he was admitted to the Bar and formed a partnership with Orlando Meads at 25 North Pearl Street.

In 1874 Hun was appointed Supreme Court Reporter. He held this position until 1905, a period of 35 years. On December 21, 1875, he married Mary Keith Van Der Poel, with whom he had five children. In 1894, Hun also became reporter for the new Appellate Division of State Supreme Court which was created by constitutional amendment. This long tenure of service provides the familiarity of every law student with "the Hun Reports." There are 92 Volumes of Hun Reports for decisions of the Supreme Court and 108 volumes of Appellate Division Reports. James



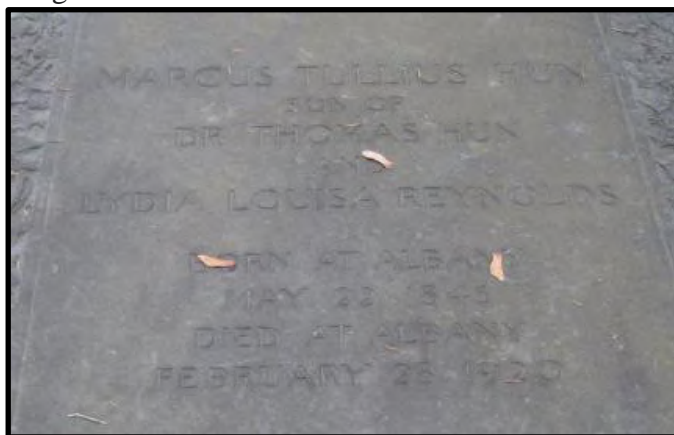


Fenimore Cooper, the grandson of the famed author, read for the law with Hun and was admitted to the Bar in 1882. He then went on to become a founding partner of the famed Albany Law firm of Cooper Erving & Savage.

While Law Reporter, Hun formed a partnership with his brother, Leonard G. Hun, under the firm name of M. T. & L. G. Hun. After the death of his brother, he joined a firm with Russell and Learned Hand. This lasted until 1902 when Hand relocated to New York City. Hun then formed a new partnership with Lewis R. Parker, under the name Hun & Parker. In 1904, Hun, as chair of the “Committee of Thirteen,” was called upon to defend D-Cady Herrick, now a Supreme Court Justice, but most recently the head of the Albany County Democratic Party. Herrick was investigated for claims that he continued to participate in patronage politics after “taking the silk.” The

Committee of Thirteen was a civic group with a mission to eliminate public graft. Hun had earlier convinced Learned Hand to join the group as its general counsel.

Hun also served at various times as a director of the Albany Trust Company, and of the New York State National Bank. Later he was elected president of the Albany Savings Bank. Hun was also trustee of the Albany Law School, a member of the chapter of All Saints' Cathedral, a charter member of the Fort Orange Club and President of the Albany Cemetery Association. Hun died on February 28, 1920. He is buried in Albany Rural Cemetery, Section 17, Lot 1.



HARVEY M. LIFSET (1916-2005): Harvey Lifset was borne in Schenectady, NY in 1916. He graduated from Nott Terrace Highschool and Union College in 1937. In 1940 he graduated from Albany Law School, *cum laud*. After law school he entered the Army. Deploying with the 82nd Airborne Division, he won five combat metals for bravery during the Battle of the Bulge, attaining the rank of Major. After the war, he served in the Army Reserves and retired as a Colonel.

During most of his legal career Lifset was in the partnership of Lifset and Deily. He was also of-counsel to McNamee, Lochner, Titus and Williams and associate counsel to the Legal Aid Society. Lifset is shown at right with his wife shaking hands with Dr. Thomas T. Hale. Hale was the Director of the Albany Hospital, later to be called Albany Medical Center Hospital when it merged with the medical college, from 1949-1968. His son, with the same name,



Harvey Lifset with wife and Dr. Thomas Hale, Jr., President of The Albany Hospital, 1958

became a famous medical missionary in Nepal with his wife and the author of several spiritual texts. Dr. Hale resided at 44 Union Street, Slingerlands, NY.

Lifset was a member of the Congregation Beth Emeth and B'nai B'rith. He was a member and past president of the Greater Albany Chamber of Commerce and past president of the Lyons Club. He was chairman of the Board of WMHT and a member of the Jewish War Veterans and the 82nd Airborne Division Association.

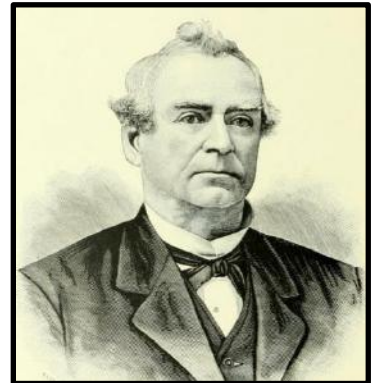
Lifset had a significant career in politics. From the start, the Albany County Democratic machine recognized the value of military service to the electoral success of its candidates. Dan O'Connell started this off in 1919 when he successfully campaigned for the office of Albany Assessor in his Navy uniform. Erastus Corning was the G.I. Joe Mayor. Lifset was a true war hero. 1956 became Lifset's year and Dan sent him out to win an Assembly seat which he would hold for 12 years, rising to become the chair of the powerful Ways and Means Committee. Lifset's political career came to end in the disastrous election of 1968 for the Democrats. In that year, the Democrats lost two assembly seats, a state senate seat, and the District Attorney's office. The congressional seat, taken from the Democrats in 1966, also remained in Republican hands. Lifset lost to Colonie's Fred Field by over 7,000 votes.

Lifset died on May 21, 2005. He is buried in the Beth Emeth Cemetery, Turner Lane, Loudonville, NY

JAMES A. McKOWN (1819-1897): James A. McKown was born

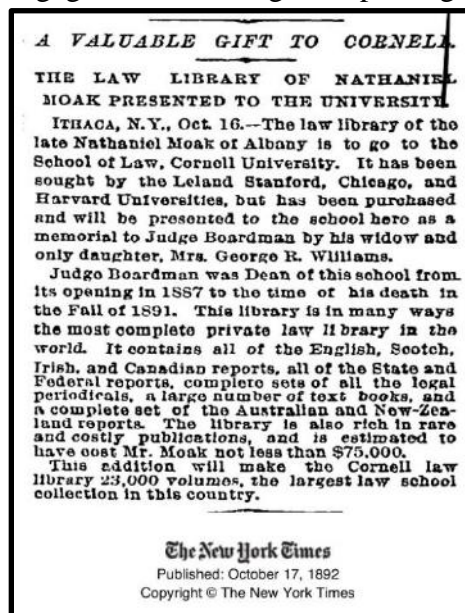


in Guilderland, NY on March 19, 1819. After being educated in the Guilderland Common Schools he was elected Justice of the Peace and served in that capacity for 18 years. This service led to his being elected as an associate judge of the County Court and Court of Sessions in 1852 at the age of 33. As evidence of the formality of legal education and judicial qualifications at the time,



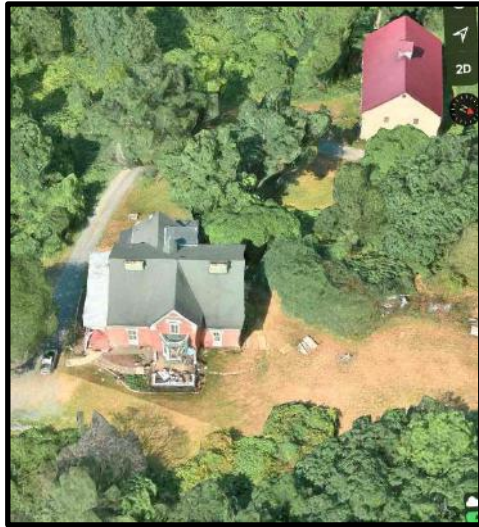
McKown was not admitted to the Bar until 1853. In 1856, McKown moved to Albany and in 1855 was elected Surrogate. He practiced from 114 State Street now the location of the County Building on the southeast corner of State and Lodge Streets. The McKown family legacy is preserved in Guilderland with the designation of McKown Road in McKownville. The family had several branches and, starting with McKown's uncle of the same name, born in 1722, they number over 100. McKown died in 1897 at age 78. He is buried in Albany Rural Cemetery Section 52, Lot 11.

NATHANIEL C. MOAK (1833-1892): Nathaniel Moak was born at Sharon, NY on October 3, 1833. Moak was educated in the common school in Sharon and then at then at the Cherry Valley Academy and the Academy of Cooperstown. In those academies he engaged in a course of study that would later lead to his expertise in medical jurisprudence. In 1853 he read for the law in the offices of John E. Dewey in Cherry Valley and was admitted to the Bar in 1856. In 1859 he joined the practice of Judge Edward Countryman. This lasted until 1862 when he formed a partnership with Edwin Clark. Both Moak and Clark were strong Unionists and agreed that it is not in the best interest of their families if both went off to war. They agreed to cast lots and one would go off to war and the other would maintain the practice and pay to the other's family an equal share of the firm's profits. It was Clark who went to war and Moak kept his agreement to Clark's family. After the Civil War ended, Moak moved to Oneonta and was a principal partner in a few firms. Several years later, Moak relocated to Albany where he was elected District Attorney in 1871. Moak returned to the private practice of law after his term as District Attorney Ended. In that area he engaged in the editing and updating of several legal practice text. They include, *Clarke's Chancery*



Reports, *Van Santvoord's Pleadings*, *Underhill on Tort's* and the 35 volumes of *The English Reports*. Moak's law library contained 16,000 volumes, including all the American, English, Ireland and Canadian Reports. In 1892, Moak's library was donated to Cornell Law School. The New York Times described it as the largest private law library in the world and the donation would make the Cornell Law Library the possessor of the largest collection in the United States. Moak was a staunch Democrat and was a close friend of Governor Dix and he campaigned for Grover Cleveland. However, he never held public office after serving his one term as District Attorney. Moak's law offices were at the corner of Chapel Street and Maiden Lane. He resided at 31 Lancaster Street, now the site of the "Egg," the Empire State Plaza Performing Arts Center. Moak died at home on September 17, 1892. He is buried in Lakewood Cemetery in Cooperstown, NY.

JOHN C. NOTT (1835) John Cooper Nott was born in Guilderland, NY on August 15, 1835. His grandfather was Dr. Elipalet Nott who was president of Union College from 1804 to 1866. His father was Benjamin Nott who also graduated from Union College and was admitted to the Bar, eventually becoming a judge of the Court of Common Pleas. In 1843 the Nott family moved to Bethlehem where they resided at 146 Glenmont Road, raising their eleven children,



**Nott Family Residence
Town of Bethlehem**

including John. In Bethlehem, Nott started his education in the common schools of Bethlehem and then attended Albany Academy. He graduated from Union College in 1856 and read for the law with the firm of Cagger Porter & Hand (See Cagger above and Hand in Bench section). In 1863 Nott graduated from Albany Law School and was also admitted to the Bar. In 1866 he formed a partnership with Recorder Judge William S. Paddock and was elected a school commissioner. In 1878 he was elected Police Court Justice and served in that capacity until 1890. In 1882 Nott formed a partnership with Isaac B. Barrett, practicing law from 50 State Street. The next year he was elected County Court Judge and served there until 1889. Nott died on January 11, 1890, at age 54. He is buried in Albany Rural Cemetery, Section 19, Lot 15. (With thanks to Susan Leath, Bethlehem Historian.

DANIEL H. PRIOR (1888-1953): Daniel H. Prior was born on April 20, 1888, in Albany. He graduated from Albany High School in 1906. He graduated for the College of The Holy Cross and Albany Law School and was admitted to the Bar in 1911. He served as First Assistant District Attorney from 1914 to 1916 when he was appointed to fill a vacancy on the City Court. He was elected to a full six year term on that court in 1919 on the Republican ticket. Prior married



Lions Guard the Entrance to Cedar Hill.



Aerial View, 1960

Catherine Winkler of Albany in 1913 and had eight children, including future Supreme Court Justice Daniel H. Prior, Jr. In that same year, Prior lost a bid for Congress by 80 votes to Peter G. Ten Eyck. The Prior family resided at 164 South Manning Blvd before moving to Cedar Hill in Bethlehem (Shown above.). His law office was at 51 Chapel Street.



Attorney Dan Prior, Alice and Jack Diamond 1931.

The Cedar Hill mansion, a Marcus T. Reynolds design, is surrounded by its own history and legend. It was purchased in 1907 as a summer home by Martin Glynn from J. B. Lyon. Lyon had purchased the property in 1887 from John Taylor Cooper, who had purchased the property from the Van Rensselaer estate. Cooper was the owner of one of the famous Wellington Row mansions on State Street which was anchored for many years by the Wellington Hotel. Cooper owned 134 State Street. At 132 State Street stood the building that housed the Christian Brother's Academy before it moved to New Scotland Avenue. Glynn was the accidental governor who succeeded the impeached William Sulzer (Who was represented by the head of the Albany County Democratic Party, D-Cady Herrick.). Glynn was the first Irish Catholic Governor of New York and the only governor to come from Albany. The Lions that guard the gate (shown above) are thought to be obtained from the entrance to the Delevan House after it burned in 1884. The Delevan House was Albany's grandest hotel. Lincoln stayed there (while John Wilkes Booth was staying two blocks away at the Stanwix Hotel). It stood on the location of the New York Central Station, now Norstar Bank.

Prior gained statewide fame as a trial lawyer especially in the area of criminal defense. The capstone of his practice was the successful defense of Leg's Diamond in Rensselaer County in 1931 in two successive trials. Between 1943 and 1945, Prior, a Republican, represented the Albany County Democratic machine against the investigations of the Dewey administration. Prior was also indicted for income tax violations, but the charges were dropped. Dewey tried very hard to bring down the O'Connell machine, even to the point of bringing in special counsel and out-of-county judges. The one thing he could not substitute was the jury pool and that was completely under O'Connell's control. At the time of his death, Prior was also facing tax charges.

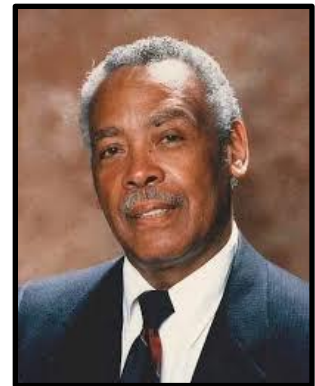
Prior's son, Daniel H. Prior Jr., was elected to the State Supreme Court for the Third Judicial District in 1979. He ran on the Democratic, Liberal and Right-To-Life lines and defeated three other candidates. Also elected that year on the Republican, Liberal and Right-to-Life Lines was Lawrence E. Kahn, the Albany County Surrogate who would go on to become a Federal



District Judge. In New York, this is called fusion voting, where one candidate can run on several different party lines. As one can see, strange bedfellows abound when the Liberal Party and the Right-To-Life Party both endorse the same candidates, one a Republican and one a Democrat. Such is the stuff of the fiction of electing judges in a non-partisan fashion. Daniel H. Prior, Jr. was the long time law clerk of Judges Russell H. Hunt of Albany and William R. Murray of Troy. He was a graduate of Vincentian Institute and Holy Cros College. He died on June 27, 1994, at age 76. His father died on

May 2, 1953, at age 65. He is buried in Calvary Cemetery in Glenmont, NY. (With thanks to Susan Leath, Bethlehem Town Historian)

PETER PRYOR (1928-2022): Peter Pryor graduated from Albany Law School in 1954, only the second Black to do so. After the ceremony he went with some friends for a celebration at Keeler's Restaurant on State Street. When all the drink orders were served, Pryor had been passed over. The bartender told him that "we don't serve colored's here." Pryor would go on to become the preeminent civil rights lawyer in the Capital District. Before there was a Breonna Taylor or a George Floyd or an Eric Garner there was Billy Brown. In 1957 he was shot four times in the back by Albany Police Officers as he ran away. The cops were cleared despite Pryor's heroic efforts to seek justice. In 1962, Pryor represented Samuel Clark who was beaten by Albany Police, but they were never called to account. A Black attorney (the only Black attorney at the time) representing a Black man in 1960 Albany was a near act of rebellion against the State. *"Blacks were second-class citizens in Albany when I arrived here in 1947. I had been a soldier with a rifle in Europe and I wanted to be a soldier in the courts of Albany fighting on behalf of social justice,"* Pryor told the Times Union's Paul Grondahl in a 2018 interview. Upon receiving the University at Albany's Citizen Laureate award with his wife Barbara in 2018 he conveyed the following to the gathering: *"Each generation relays its experience forward, and we are all better for it. Our shared community values are at the core of what we pass on."*



**Prior Examines a Witness at a
Police Misconduct hearing**

Peter M. Pryor was born in Savannah, Georgia in 1928. He was the son of a Methodist minister and a nurse and the grandson of a pioneering Black attorney. He entered the Army at age 14 and rose to the rank of Sergeant by the time he was discharged in 1945. After service in the Army, he graduated from Siena in 1952. Coincident with his career in the law, Pryor served the community in several other capacities such as a member of the New York State Board of Regents and President of the Albany branch of the NAACP. He has retired with his wife to St. Augustine, FL.



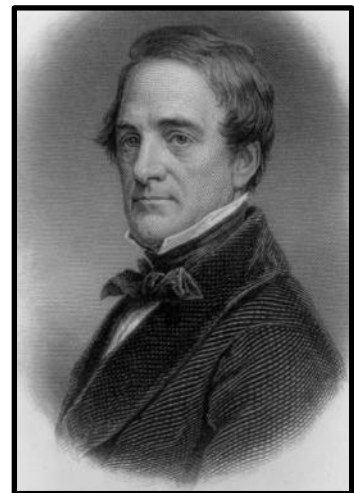
**Reynolds Family Plot,
Albany Rural Cemetery
Section 17, Lot 1**

MARCUS T. REYNOLDS (1788-1864): Marcus T. Reynolds was born on December 29, 1788, in the town of Florida, Montgomery County, NY. In 1808 he graduated from Union College. After college he read law in the offices of Martin B. Hildreth of Johnstown, NY who was a former New York Attorney General. In 1811 Reynolds was called to the Bar and practiced for several years in Johnstown until he moved to Albany in 1828. During his years in Albany he was thrown from a horse resulting in the need for his leg to be amputated. During the years from 1817 to 1853 a search of the reports of the appellate courts shows that Reynolds had more reported cases than almost any other lawyer in the state. He also served as the president of three railroad lines including the Albany and Northern RR.

Reynolds is the grandfather of Albany's greatest architect of the same name who is responsible for almost all of Albany's architectural gems built between 1890 and 1930, including his masterpiece, the D&H Building which now houses the administrative offices of the State University System at the foot of State Street and Broadway. One of his other gems is the Dutch styled Engine 4 Firehouse on Delaware and Marshall Street near St. James. Reynolds' son and father of the famous architect, Dexter

Reynolds, was a close friend and classmate of Chester A. Arthur at Union College. He graduated from Harvard Law School in 1850 and was a Union Officer during the Civil War. He was also the holder of over 20 patents. Reynolds' other son, Cuyler, was Albany's preeminent historian and the first curator of the Albany Institute of History and Art. He is the author of the multi-volume history of Albany called *Albany Chronicles*. Marcus Reynolds was forced to retire from the practice of law 10 years before his death because of ill health. He died on July 13, 1864, at age 77. At the time of his death he lived on the SE corner of Pearl Street and Maiden Lane. He is buried in Albany Rural Cemetery, Section 17, Lot 1.

JOHN C. SPENCER: John C. Spencer was born in Hudson, NY on August 12, 1786. He was the son of Ambrose Spencer whose biography can be found in the Bench section of this work. He was educated at the Hudson Academy and then at Union College where he graduated in 1803 at age 17. After college he read for the law with his father and was called to the Bar in 1809. Shortly after marrying he began a law practice in Canandaigua. The Spencer family was well connected. John's sister was married to Albany Mayor John Townsend. His father, the Chief Justice, remarried after the death of his first wife to the sister of Governor Dewitt Clinton. When that wife died, he married the other sister. In 1807, Spencer served as Secretary to Governor Daniel D. Tompkins. In the War of 1812, he served as Brigade Judge Advocate General. In 1817, he was elected to Congress and In 1818 Governor Tompkins appointed him District Attorney of the Western District. In 1820, he became Speaker of the New York State Assembly at





**Spencer Family Plot
Albany Rural Cemetery**

age 34. He also served in the New York State Senate for several years. In 1828, he served with Benjamin Butler of Albany to form a Law Revision Commission. During this time, he also became a leader of the Whig Party with William H. Seward, who would become Lincoln's Secretary of State and Thurlow Weed, the Republican State leader and publisher of the *Albany Evening Journal*. In 1836, Spencer moved to Albany and was involved in the election of William Henry Harrison to the presidency. Harrison succumbed to illness shortly after taking office and was succeeded by John Tyler who made Spencer the Secretary of War. He also served a year as Tyler's Secretary of the Treasury. President Tyler nominated Spencer twice to fill positions on the Supreme Court, but Southern interests prevented his confirmation. With the demise of the Whig party, Spencer left politics in 1852 and public life due to declining health. When civically active, he was instrumental in starting the Albany Hospital in 1849 and served as its first president. He also worked to start the State Asylum for Idiots (an acceptable medical term at the time). From 1839-1842 he served as Secretary

of New York State and Superintendent of Common Schools. Spencer died on May 17, 1855, at age 67. He is buried in the Spencer family plot at Albany Rural Cemetery, Section 45, Lot 1.

LELAND STANFORD (1824-1893): Amasa Leland Stanford was born in Watervliet (now that part of Colonie known as Roessleville) on March 9, 1824. His father Josiah owned a significant amount of farmland on the Lisha Kill and ran the Elm Grove Hotel also known as the "Little White Tavern" which stood just west of the New York Central overpass on Central Avenue until 1941. Josiah Stanford was also involved in the construction of the Albany & Schenectady Railroad which was the first scheduled passenger railroad in America. Leland's grandfather, who leased 180 acres from the Van Rensselaer patroon Stephen Van Rensselaer in the hamlet



Stanford, wife Jane, son Leland Jr.



**"Locust Grove" Estate of Josiah and then
Charles Stanford**

of Lisha Kill, also helped to develop the Albany-Schenectady Turnpike (Now Route 5) which went through his land. There would later to be other large purchases of land and Josiah built a country estate called "Locust Grove" near what is now the intersection of Route 5 and Ball Town Road. The building still exists and has been relocated and now serves other purposes. The Locust Grove mansion was built in 1815 by Harmanus P. Schuyler, the great-grandson son of Albany's first mayor Pieter Schuyler. Harmanus and General Philip Schuyler

were second cousins. (Tracing the lineage of the Dutch settlers can be mind-numbing. The Schuyler, Van Rensselaer, Van Cortlandt, Livingston, Ten Broeck, Pruyn, and Cuyler families all had 7-10 children and all intermarried, giving their children similar names.)



Stanford Crypt, Albany Rural Cemetery, Section 18, Lot 105

Stanford has no significance to the practice of law in Albany County, but his fame and legal education here deserves an entry. Stanford was one of eight children of Josiah and Elizabeth Phelps Stanford. His brother Charles would become a New York State Senator. He is buried in Albany Rural Cemetery. Leland Stanford received his legal training at Cazenovia College, graduating in 1845. He then began reading for the law in the Albany offices of Wheaton Doolittle and Hadley. Stanford was admitted to the bar in 1848 and immediately took the advice of

Horace Greeley to “go West, young man.” Out west he would become Governor of California, United States Senator and founder of the Central Pacific Railroad. He died on June 21, 1893 and is buried in family mausoleum on the Stanford University Campus along with his wife Jane and his only son, Stanford Jr. Jane was murdered by strychnine poisoning in 1900 while in Hawaii. The case was never solved. Jane Elizabeth Lathrop was also from Albany. Her father was a wealthy Albany merchant and helped found the Albany Orphan’s Asylum. Jane would also donate the family’s residence at 132 Washington to the Albany Orphanage to be used as an infant nursery. The asylum was first located in a rental building on Western Avenue. In 1832, it moved to the corner of Western Avenue and Robin Street. In 1907 it moved to New Scotland Avenue and became the Parsons Home for Children.

There is a postscript to this story. According to Times Union reporter Paul Grondahl it goes like this. Leland and his wife and son were touring Europe in 1884 when their son, 14, was stricken with typhoid in Florence and died. Seeking a fitting tribute to their son, who they wished to bury in the family crypt in Albany Rural Cemetery, Stanford wished to purchase 3/4ths of Albany Rural Cemetery to endow a university. The Cemetery was not able to truncate the land so drastically and the Stanford family was not able to assemble a sufficiently sized parcel around the Locust Grove family estate in Niskayuna. And, for this reason, Stanford University is now in Palo Alto, CA and not in Albany, NY.



AZOR TABER (1798-1855): Azor Taber was born in Knox on May 1, 1798. As a young man he read for the law in the office of Chancellor John Lansing. In partnership with Amos Dean (see above) he formed one of the most thriving law practices in upstate New York. Under the name of Taber and Dean, their offices were in the Backus Building on the corner of State and James Streets. Not surprisingly, he was given the sobriquet of *Razer Taber*. In public life, he was the State Senator from the Albany District from 1851 to 1854. In poor health in 1854, he retired to Knox where he died on June 10, 1855, at age 57. He is buried in the family grounds at Albany Rural Cemetery, Section 3, Plot 60.



LYMEN TREMAIN (1819-1878): Lymen Tremain was born at Durham, NY in Greene County on June 14, 1819. At age 13 Tremain entered the Kinderhook Academy in Columbia County. After completing his studies at the Kinderhook Academy, he read for the law with a local attorney, John O'Brien. This was followed up with a clerkship at the New York City firm of Sherwood and White.

In 1940 Tremain was admitted to the Bar and he returned to Durham to form a partnership with O'Brien. In 1841, at age 22, he was elected Town Supervisor as a Democrat in a town that was primarily Whig. In 1844 he was appointed District Attorney. At age 27, he was elected County and Surrogate Judge. As his practice developed, it required his frequent presence in Albany. He had a long relationship with Rufus W. Peckham and in 1851, Tremain relocated to Albany and formed a partnership with Peckham. This would last until 1860 when Peckham was elected to the State Supreme Court. Peckham, the father of Rufus Jr. who would serve on the U.S. Supreme Court, went on to serve on the Court of Appeals. He drowned at sea on a trip to Europe in 1873 when his ship was rammed at sea by another vessel.



Tremain was elected Attorney General in 1856. In 1865, Tremain was elected to the Assembly and elected Speaker by that body. In 1871, he assisted Wheeler H. Peckham in the prosecutions of the Tweed Machine. Wheeler Peckham was the brother of Rufus Jr. and son of Court of Appeals Judge Rufus Sr. After a hung jury in the first trial, Tweed was convicted in the second trial in 1873 and sentenced to a lengthy prison term. In 1872 Tremain declined an invitation to run for Governor and the next year he was elected to Congress on the Republican ticket. Tremain also attained national acclaim from the defense side of the courtroom. His most famous case was the defense of Edward Stokes, the killer of 36 year old robber baron "Diamond Jim Fisk." The defense was insanity. Tremain obtained a hung jury in the first trial. The second trial resulted in a verdict of first degree murder but Tremain's strategy of preserving reversible error was successful and the verdict was overturned. On the third trial, Stokes was convicted of manslaughter and served four years of a six year sentence.

Tremain had a serious infliction of rheumatism which require two extended trips to Europe. However, his physical suffering would pale when compared to family tragedy. He had four children, three sons and a daughter. His eldest son died in battle at Hatcher's Run in the civil war. Another son died after falling down the stairs in view of his father. His third son became his law partner and obtained such acclaim that he was asked to run for Attorney General. His campaign was not successful though he ran ahead of his ticket in Albany County. However, he was stricken with a sudden disease which proved fatal. His lingering conditions and the sorrow in his heart was too much for Tremain to bear and he died on November 30, 1878, at age 59. Tremain is buried in Albany Rural Cemetery, Section 35, Lot 12.

CHARLIE TORCHE (1911-1996): Charlie Torche could not have been invented because people's imaginations do not extend that far. Not even William Kennedy could have found room for him in *Chango's Beads and Two Toned Shoes*." Nor will we ever see the likes of him again because the practice of law and lawyers have changed-----for the better most would agree. "Torchey" was born on Herkimer Street in Albany's South End on November 8, 1911, to Joseph and Bertha Torchinsky, the owners of the Star Bakery on South Pearl Street. According to Torche, he got his start in Democratic politics when he rode his pony in Lincoln Park and became friends with another child also riding his pony. The child turned out to be Franklin Delano Roosevelt, Jr. This story was independently confirmed decades later by famed Knickerbocker News reporter Arvis Chalmers who interviewed FDR Jr., as an adult. That might also lend credibility to Torche's claim that he was in bed with a nurse in Honolulu when the Japanese attacked Pearl Harbor. When the nurse anxiously asked what they should do Torche replied, "first my dear, we should get dressed." This may be one of the stories that are too good not to be true. Torche could not be described as having Hollywood good looks, but he did possess a passing resemblance to Peter Lorrie. So who is to say what happens in wartime.

On the other hand, this might also validate a comment Torche made about a reporter who had exaggerated his service record. "He was just perambulating in the suburbs of veracity," Torche said. From his early start in Democratic politics, Torche claims to have attended every Democratic National Convention from 1942 to 1992. In 1968 he arrived at the convention in a limousine with cowbells on it and driven by a chauffeur named "Fabulous Howard." The limo played the theme from the *Bridge on the River Kwai*, and a red carpet rolled out when the passenger door opened. At that convention he had buttons made with the photo of Harlem's famous Black Congressman, Adam Clayton Powell and Georgia's famous segregationist, George Wallace. Powell wore the button with a good natured spirit, but Wallace refused. Torche ran several tongue-in-cheek campaigns for national office marked by catchy slogans. Maybe his most famous was "honesty is no substitute for experience." He followed that with, "Throw the rascal out, put the real rascal in," "Forget the rest, buy the best," and "Keep the Torche lit." Despite the hobnobbing he did with the rich and famous, Torche was famous for his good heart and charity toward someone down on his luck. A veteran of WW II, he never forgot his humble roots in Albany's South End.

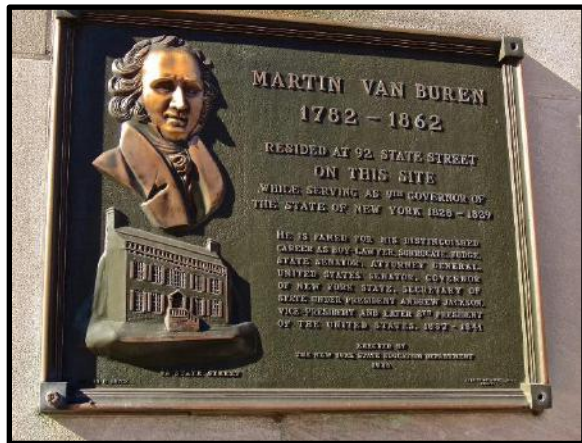
Paul Grondahl had an interview with Torche that appeared in the *Times-Union* on October 31, 1993. Torche, then 82, was not in good health but Grondahl noted that even in his youth, he always had the appearance of a cross between Yoda and Peter Lorre. "Albany just wouldn't be the same without him because he always had a funny line, always brought a laugh along with him, said William Kennedy, Albany's Pulitzer Prize winning author who first met Torche when Kennedy was a cub reporter at the *Times-Union*." But Torche had a serious side. Torche enrolled at RPI to pursue a career in medicine. This changed to a path in the law when he transferred to

Cornell and got his law degree there. After law school he clerked with Albany attorney George Zwick and was a sole practitioner for a time. He was eventually hired as a lobbyist for the Longshoremen and Ironworkers Unions. Maybe through his natural affability and skills as a raconteur, he became the confidant of Mayor Corning, Dan and Solly O'Connell, governors and legislators. But his work routine helped. He would start his day at the cafeteria in the Capitol Building, gathering intel for the day. After breakfast at the Capitol, Torche said he would walk down to Keeler's restaurant for an "eyeopener." After a day of lobbying broken only by a liquid lunch at the Ambassador, across from the Capitol at 180 State Street, Torche could be found at the Ten Eyck hotel bar on State Street and Maiden Lane and then the bar at the Dewitt Clinton. His evening was usually concluded with a nightcap at the "21" restaurant on Elk Street. All these locations were the haunts of Albany's movers and shakers and Torche could always be found in the middle of it. Torche died on November 5, 1996, at age 85. He is buried in the Independence Benevolent Cemetery of Fuller Road in Albany.

ROBERT V.N. YATES (1779-1839): Robert V. N. Yates was born on December 18, 1779, in Albany, NY the son of Robert Yates a delegate to the Philadelphia Constitutional and later the Chief Judge of the New York Supreme Court of Judicature. He read for the law under the tutelage of John V. Henry. After being admitted to the bar he was appointed by the legislature to formulate a budget for the construction of the Capitol Building that preceded the current Capitol. In 1808 he was appointed as a Master in Chancery.

Most of his fame came in a highly contentious legal dispute with Chancellor Robert Lansing in which Lansing sought to have him held in criminal contempt. It involved a series of cases, *In Re John Van Ness Yates*, involving a jurisdictional issue between the New York Supreme Court of Judicature and the New York Chancery Court. Yates spent several weeks in the Albany County Jail while the Chancery Court and the Supreme Court fought over jurisdictional issues. Upon the conclusion of this litigation, Yates sued the Chancellor seeking the monetary penalty under the Habeas Corpus Act. The dispute was eventually resolved in Yates's favor, regarding the incarceration issue, by the Court For the Correction of Errors and is reported at 6 Johnson Reports, 335. But Yates did not prevail on the central issue of the case because the court established the principle that a judge of a court of general jurisdiction cannot be called upon to answer in a civil action for an error of judgment within any matter of his jurisdiction, now termed judicial immunity. Yates served as Judge of the Albany Recorder's Court Judge from 1808-1816. From 1818-1826 he served as Secretary of State. Yates was a prolific writer and the author of several case collections and practice and procedures texts. Robert V.N. Yates died on January 10, 1839, at age 60. He is buried in Albany Rural Cemetery, Section 8. Plot 1. There are no known depictions of Robert Yates.

MARTIN VAN BUREN (1782-1862) Martin Van Buren was born on December 5, 1782, in Kinderhook, NY, then part of Albany County. Starting at age 14 he read for the law with Francis Sylvester, a leading member of the bar. At age 18 he was trying cases in the local justice courts. In October 1803 Van Buren was formally called to the Bar at a term of the Supreme Court in Albany. In 1807 he married and had four sons with his wife who died in



Plaque on National Savings Bank Building, 90 State Street.



1819. Van Buren never remarried and raised his sons as a single father. In 1808 Van Buren was appointed

Columbia County Surrogate. However, as all know, Van Buren's success was not at the Bar but in politics. In 1812 he was elected to the New York State Senate. When he was reelected in 1816, he relocated to Albany and formed a law partnership with Benjamin F. Butler. Butler would serve as Albany County District Attorney, U.S. Attorney for the Southern District of New York and Attorney General of the United States in the Jackson Administration. In 1821, the New York

State Legislature selected Van Buren to be a U.S. Senator. In 1828, Van Buren became Governor, but his tenure was short lived because he became Secretary of State the next year in the Jackson administration. In the next eight years he would serve as Vice-President of the United States and be elected to the Presidency. He is the only President to speak English as a second language, Dutch being his native language. Much of his presidency was rough sailing due to the Panic of 1837 and being an opponent of the rising anti-slavery movement. For example, in the famous *Amistad* case, the Van Buren administration appealed to the Supreme Court taking the position that the slave cargo should be turned over to "its" Spanish "owners." The Supreme Court ruled that the slaves were free and should be returned to their native land. However, as head of the "Albany Regency" Van Buren is considered to be the inaugurator of the modern two party system. He died at his Lindenwald estate on July 24, 1862, at 79. He is buried in the Kinderhook Reformed Dutch Church Cemetery, as are his wife Hannah, his parents, and his son Martin Van Buren Jr.

VI. NOTABLE TRIALS

PEOPLE V. STRANG

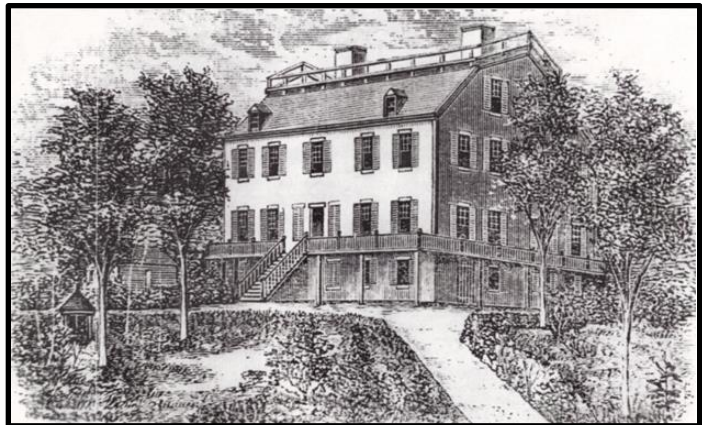
Murder At Cherry Hill

**The Story Of The Nefarious And Dastardly Murder Of John Whipple
By His Wife Elsie And Her Lover Jesse Strang
In 1827 Albany, New York**

**Hon. William A. Duer, J.S.C., presiding judge
Mayor and Recorder James Stevenson, assoc. judge
County Judge and Alderman Richard S. Tread, assoc. judge
Welcome Esleeck, Esq., assoc. judge**

**District Edward Livingston, for the People
Thomas J. Oakley and Calvin Pepper, Esqs., for the Defendant**

1827 Albany, NY is one of the most exciting cities in America. The three great manorial mansions of the Ten Eycks, Schuylers and the Van Rensselaers still stand guard over the Hudson but now, instead of green pastures, they look down upon lumber yards, boat docks and foundries. Albany, two years after the completion of the Erie Canal, finds itself the seventh largest city in the Country. The old patroon system of the Van Rensselaers is giving way to industrial America. The canal was the internet of its day. In an instant, shipping rates between Albany and Buffalo

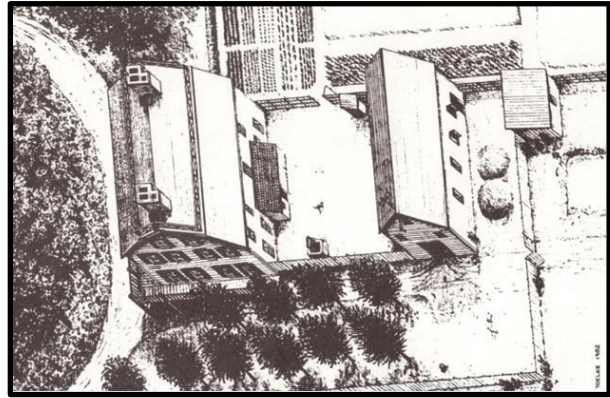


Cherry Hill Mansion

dropped 90%. Albany is now a day trip from New York City by steamboat. It is the beginning of Albany's golden age. On July 4, 1827, all slaves are freed in New York and in 1828, DeWitt Clinton dies; the beginning and end of eras. Between 1825 and 1830, Albany's population would grow from 16,000 to almost 25,000. Erastus Corning, the Mayor's great grandfather, is a First Ward Councilmen. His son, Erastus, Jr., would be born that year. James Stevenson is the Mayor, and the City Directory lists ninety-four attorneys and thirty-four physicians.

Cherry Hill stands on a rise about one mile south of the city center on the Bethlehem Turnpike. It was built in 1787 by Phillip Van Rensselaer, a Revolutionary War veteran and cousin of the Patroon, Stephen Van Rensselaer. In the Spring of 1827, the mansion is occupied by a mixture of descendants, servants, a few slaves who would be free in two months, field hands and boarders: eighteen in all. One of these hired hands was a Joseph Orton. Two of the borders were Joseph Whipple and his wife Elsie.

Whipple, a man of humble origins and ordinary means, at age 23, caught the eye of the spirited Elsie Lansing, age 14, and they eloped and were married in Waterford on January 19, 1817. To both of their good fortunes, Elsie came into the inheritance of her famous riverboat captain grandfather, Abraham A. Lansing. Lansing was the husband of Philip Van Rensselaer's sister also named Elsie. Part of that inheritance was the Columbian hotel which stood near the corner of what is now Madison Avenue (then Lydius Street) and Broadway (then South Market Street). Whipple, a sound businessman, nourished his wife's inheritance and he went into what could be described as canal development. It was only natural that they would move into Cherry Hill, so Elsie would be surrounded by relatives while he traveled with his business.



Cherry Hill Estate, 1827

Joseph Orton was a strange man. In fact, Orton was an alias. His real name was Jesse Strang. Strang was born in Westchester County in 1797. He married and had a family of four children whom he deserted and headed to Sandusky, Ohio. In Ohio, he faked his murder and headed back East as Joseph Orton. In the summer of 1846, he hired out to the Van Rensselaers for \$10 per month, including room and board at Cherry Hill. All the ingredients for lust, romance, adultery, intrigue, conspiracy and finally murder were now united under one roof.

Within the confines of Cherry Hill, the flamboyant and flirtatious Elsie, now 25, caught the eye of Strang, now 30. It started with letters, passed between them by the children and servants of Cherry Hill. It would progress to assignations in bedrooms, barns and hallways. At the beginning, their plan was to escape together to Montreal. During the winter of 1827, Elsie's plan (and there is little doubt that she was the prime motivator) morphed to murder. They would hire some Irish toughs working on the canals or two hit men from Canada. They would poison him with arsenic, trying twice and failing both times. Having gone too far to turn back, Elsie convinced Strang to take up arms.

With money supplied by Elsie, Strang bought a rifle from Edward Fay's gun shop on Beaver Street for \$15...six weeks of pay for Strang. He whittled three lead bullets from the stock of a riding whip and took the gun into the woods with some panes of glass to practice. He wanted to determine how much the glass deflected the bullet if shot through at an angle. He determined that the glass pushed the shot only about an inch off target.

On Sunday, March 6, 1827, Whipple returned home from a business trip to Kingston. It was time for action. Prior to this day, Elsie and Strang started spreading the story of mysterious prowlers hanging about the edges of the property at night. For the murder, their plan was simple but devious. Strang would climb on the roof of the porch that ran along the back of the house. Elsie would raise the blind of Whipple's sitting room and, in the evening, Strang would crawl onto the roof and shoot Whipple. So as not to make noise, Elsie, the night before, had put a pair of Whipple's heavy socks under Strang's pillow. In case Whipple was in another room, they had a signal. A stick was left against the kitchen stoop. If Whipple were in his bedroom, she would leave a white cloth on the stick. If he went to the north sitting room, she would place an old shoe on it. The porch roof would give him a vantage point for either room.

Strang's alibi was also simple but devious. He would go to town, create a diversion, rush back to Cherry Hill, shoot Whipple and hope people believed that he had not the time to do it all. That evening Whipple came down to the basement kitchen where Strang was sitting and reminded him to shoot any prowlers he saw lurking about. Little did he know that in about an hour, Strang would take to heart half of that advice.

Just before dark, Strang headed to town and made a big deal of buying some buttons at Sheldon's and Syke's store on South Market Street. Just after nine, he went to Meig's druggist shop and then stopped in at a tailor. Banking on the fact that no one was watching their watch too closely, he sped back to Cherry Hill. He retrieved his rifle from the stable and went to the north west corner of the lot and pulled off his boots and socks and put on Whipple's socks. Running to the back of the shed, he climbed on a box and onto the roof. Whipple was sitting in plain sight with his back toward the window talking to Abraham Van Rensselaer. Strang took aim and shot Whipple under the left arm, piercing a major artery. Whipple struggled to his feet and stumbled to the hallway where he fell and died.

Strang retraced his steps to retrieve his boots and socks. He made his way to the northwest of Cherry Hill where a stream ran down a ravine which is now the location of Fourth Avenue. At that place, he buried the gun and Whipple's socks. He made his way out to South Pearl Street and back to Cherry Hill to find the place in full commotion. When Strang entered the house and saw the body, Abraham Van Rensselaer would later testify that Strang turned "white as a sheet." Strang was sent to summon the Coroner who immediately assembled a Coroner's jury, with Strang as a member! That night, Whipple's body was laid out in Abraham Van Rensselaer's bedroom and Van Rensselaer bunked that night with Strang. It was a night at Cherry Hill like no other.

The May 9, 1827, issue of the *Albany Argus* described the murder this way: "**HORRIBLE ASSASSINATION.** One of the most horrible instances of deliberate assassination that we have ever been called upon to record, was committed in this vicinity on Monday evening." The paper went on to note that "no cause, except upon conjecture, has been assigned for the commission of this deed." The City immediately offered a reward of \$250 for information leading to the arrest and conviction of the assassin. That was followed on May 10th by a proclamation of Governor Dewitt Clinton offering a \$500 reward.

Jesse Strang and Elsie Whipple immediately became suspects, and their arrests came within the week. The District Attorney put together an airtight case consisting of a parade of witnesses that would establish the time line and the couple's incriminating behavior before and after the murder. The District Attorney also had an impressive amount of forensic evidence, including the gun. Most damning was the confession that Strang made to his jailer.

The trial of Jesse Strang commenced before the Court of Oyer and Terminer (To Hear and Determine) on July 26, 1827, in the State Capitol's Assembly Chamber. Presiding was the Honorable William A. Duer. Also sitting on the panel of judges presiding at the trial were



Exactly as it Looked in 1827
Jesse Strang stood on Roof and Shot
Joseph Whipple Through the Window.

Mayor James Stevenson, the City Recorder and Aldermen Richard. S. Treat, who was a county judge and Welcome Esleeck, who was a lawyer. District Attorney Edward Livingston, assisted by A.D.A. Samuel A. Foote, represented the People. Thomas J. Oakley and Calvin Pepper represented the defendant. Oakley had been hired by Strang's parents. He was from Poughkeepsie and was a former Speaker of the Assembly and State Attorney General. Pepper was the local counsel, and he would gain notoriety at the end of the case by publishing his client's thirty-five page confession and offering it for sale at the execution. No doubt an innovative though gruesome way to collect a fee. The jury empaneled for this trial consisted of a cordwainer (shoemaker) and merchant from Albany and ten farmers from Rensselaerville, Berne, Knox, Westerlo, Coeymans and Bethlehem. All were men as women were not qualified as veniremen.



Whipple's Position When He Was Shot

In 1827, Albany was still a relatively small community, even though it had ninety-four attorneys. In such a setting, one could expect a close knitting of business interests and personal relationships. At the time, the concept of a conflict of interest, or the appearance of such, was not well developed. For example, the prosecutor in the Strang case was related to the Van Rensselaers and was married to a Lansing. Elsie Whipple's grandfather was the famous Abraham Lansing. The trial judge had represented the Whipples in Chancery Court in a claim against Abraham Lansing and Philip Van Rensselaer, the original owner of Cherry Hill. Those defendants were represented in that case by the same attorney who would defend Elsie in the murder case. Finally, Welcome Esleeck, one of the Alderman presiding at the trial, would testify in Strang's trial.

Trying to get a sense of the organization of the courts of New York in 1827 would be as difficult a challenge for us as a lawyer of those days trying to make heads or tails out of our current system of eleven trial courts. Under the Dutch Patroon system, civil and criminal cases were heard in manorial courts run according to Dutch law. After the English took over from the Dutch in 1664, they operated Courts of Assize which, in their various forms, could consist of the Governor, his council and justices of the peace. This court was abolished in 1684 and replaced by the Court of Chancery, consisting of the Governor and his Council. The main trial court was called the Court of Sessions. Cases were also heard in Township Courts by justices of the peace.

In 1686, the Royal legislature created Courts of Common Pleas presided over by the Mayor, Recorder and three Alderman. For any attorney admitted before about 1976, he or she can remember the Albany Recorder's Court presided over by Judge John E. Holt-Harris hearing traffic cases. However, in its day, the Recorder was an all-purpose court and the Judge exercised administrative authority commonly exercised by the executive branch. The only judicial experience of John Marshall, our greatest Supreme Court Chief Justice, was as the Recorder for the City of Richmond.

In 1691, the judiciary was reconstructed with the creation of the Supreme Court of Judicature which met in New York City and its judges rode circuit. Appeals from this court would go to the governor and his Council, known as the Court for the Correction of Errors. The court of last resort under British rule was the Privy council in London. In 1822,

constitutional amendments again reorganized the courts. The State was divided into eight judicial circuits with each circuit having a judge. At the time of the Strang trial, there were still a multitude of courts, including the Board of Magistrates, a Police Justice Court, County Court and Surrogate Court. Felony cases were heard in the Court of General Sessions, but capital cases had to be heard in the Court of Oyer and Terminer. One could think of this court as the criminal trial term of Supreme Court. Our Court of Appeals was not created until 1847 and, at that time, the court of Chancery was abolished, and equity jurisdiction was transferred to Supreme Court. As an aside, James Kent, the great Chancellor, served in that court from 1814 to 1823 and lived at 21 Columbia Street.

The conduct of the Strang-Whipple trials would be quite familiar to us today-except for its dispatch. It lasted only a day and a-half. Also, if there was a challenge for cause to a prospective juror, separate "triers" would determine if they were qualified to sit. The thorniest legal issue that came up was whether Strang's confession to the jailer was involuntary and therefore inadmissible. To render a confession inadmissible at that time would have required a high degree of governmental misconduct that would have called into question the truthfulness of the confession. Strang's attorneys showed that prior to confessing to the jailer, he had been visited by the Mayor (who was also a judge in the case), an Episcopal minister and other public officials, all urging him to come clean. He had also been questioned at the jail by the Police Court Justice, who would testify at the trial. The Grand Jury also visited him in jail! Finally, six weeks after his arrest and after being falsely told that Elsie had confessed and implicated him in everything, Strang folded.

On the motion to suppress the confession, the issue became one of timing; namely, were the inducements to confess made so antecedent to the confession as to attenuate the taint. The prosecution argued that they were, and the defendant argued that they were not, both citing *Chitty's Criminal Law* and *Strakie on Evidence*. After listening to legal argument on the issue until 11:30 P.M., on a Thursday night, Judge Duer adjourned to the next morning. Duer ruled that the confession would be heard by the jury.

"To exclude confessions, they must be shown to be *consequent* upon the inducements held forth, not merely *subsequent*. The cases stated when confessions have been excluded, are when they were immediate upon the inducements and then confessions of a like import subsequently made are excluded. In this case, the confessions were long subsequent to the inducements, and from the facts and circumstances of the case, the court cannot say they were consequent."

With evidence of the confession, made through the testimony of the jailer, now before the jury, all hope for an acquittal was lost. The judge charged the jury, and a guilty verdict was returned within twenty minutes. Elsie Whipple's trial started the next Monday. It should be noted that Duer had issued a gag order and the local press did not publish contemporaneous accounts of the trials. However, the trials were open to the public and were held to standing room only crowds. Elsie's counsel attended Strang's trial, so, there is little doubt that anything came as a surprise to them. But it probably did permit the selection of an untainted jury. For Elsie's case, the jury consisted of twelve farmers, again, mostly from the Hill Towns.

Elsie's trial took five days. The case against her was entirely circumstantial and it required numerous witnesses for the People to make their case. The final witness was to be

Jesse Strang and whether he could be called to testify presented the thorniest legal issues in the case.

The first issue was whether a convicted felon was competent to testify. Duer held that incompetency arose upon the judgment. Strang was found guilty of a felony but had not yet been sentenced. Accordingly, since a final judgment had not yet been entered, he was still competent to testify. The Judge also noted that as a matter of public policy, an accomplice was competent to testify against his co- accomplice and that was within the discretion of the court.

Next, Duer noted that an accomplice who testifies against an accomplice would be entitled to the mercy of the court up on sentencing and, based on cited precedent, even a pardon from the legislature. Duer was not of a mind to find that allowing Strang to testify was in the interest of justice . He noted that Strang was clearly the principal in the murder and that Elsie was, at best, the follower: *"The prisoner at bar appears as a young woman, now about 25 years of age...of a character light, frivolous, weak, vain, impudent and wicked, and guilty to a certain extent; a fit instrument in the hands of a designing man, but destitute of those qualities which might be supposed to have swayed the mind or controlled the actions of the person with whom she had illicit intercourse."*

After some discussion among the court and counsel, it was agreed to submit the case to the jury. They returned a verdict of not guilty without leaving their seats. Sometimes prejudice against the “weaker sex” has its advantages. The next day, Saturday, August 4, 1827, Duer sentenced Strang to be hanged. The Judge's remarks go on for over 1500 words and are a great sentencing oration for that or any other day. Here is a snippet:

"Your guilt has been most clearly established . By your own confession, you planned and executed the destruction of the deceased with the most deliberate and perfidious cruelty. Not with the ferocity of the tiger; but with the cunning of the serpent----the malignity of a fiend. Impelled by lust and avarice. From this instant consider yourself cut off from the world, and all therein. Look only to your entrance to the next. And in your final departure, seek not the applause of men; but humble yourself as becomes you before an offended God. Affect not the character of an heroic felon; but endeavor to behave like a Christian: And, however penitent and contrite you may feel, be not deluded into supposing yourself a martyr or a saint; but remember to the last moment of your life, that you are a malefactor and a sinner."



Whipple Family Monument.

Saturday, August 25th broke clear and warm. It was a great day for a hanging and the City of Albany turned out in style. *The Argus* described it this way: *"The city was alive with strangers. Early in the morning and until the hour of execution, every avenue leading to the city was thronged with vehicles; the steam-boats that came up during the morning, and the ferry boats, literally swarmed; and the streets and sidewalks were so filled by the passing crowds as to render it difficult to pursue the ordinary avocations "* The authorities called out twelve companies of soldiers to keep order.

The gallows stood in a ravine known as the Ruttenkill Hollow. The Ruttenkill started in the western part of the city and flowed down a broad ravine that included what is now Washington Park Lake and Hudson Avenue. It was the only stream that flowed through the walls

of the old city when it was called Beverwyck. The ravine had hills on three sides forming a perfect amphitheater for a hanging ground. Above this spot now sits the "Egg" at the Empire State Plaza. The crowd that awaited the hanging was estimated at 20,000.

Just past 1:00 P. M. Strang was led by foot from the jail located at the corner of Howard and Eagle Streets. The procession included the sheriff, the gaoler, a man of the cloth and a military escort. On the gallows, Strang handed over to Reverend Lacy from St. Peter's Episcopal Church, his full thirty-five page confession and then went to his fate fully composed. The Argus reflected on the execution this way: *Life; and so atrocious was the case, that there were few to regret to his fate - none, that we know of, to deny the righteousness of the law. Whilst we may question the utility of such spectacles, tending as they do in general, to gratify a morbid curiosity, and to excite a sympathy for the criminal rather than an abhorrence, and consequently a prevention, of crime; we trust none who were the witnesses of this scene, will forget that this ignominious death was the consequence of an indulgence in vicious courses and criminal passions."*

Strang was the last person publicly executed in Albany. His body was taken by steamboat to Fishkill for burial by his parents. After the trial, Elsie went to live for a while with an uncle in Otisco. A little over a year after the trial, in December 1828, she married Nathan Freeman. They lived in Metuchen, New Jersey until Freeman died in 1830. Elsie died in 1832 at age 30. John Whipple, age 33 at the time of his death, is buried in Albany Rural Cemetery in Section 83, Plot 22.

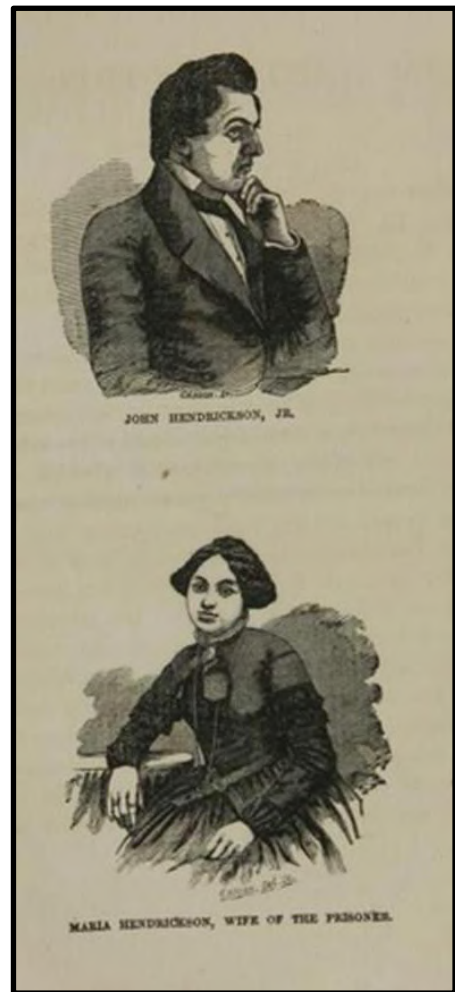
PEOPLE V. HENDRICKSON
A MURDER IN BETHLEHEM
FORENSIC SCIENCE AND EXPERT EVIDENCE
IN 1850 ALBANY, NEW YORK

Court of Oyer and Terminer
Hon. Richard J. Colvin, Presiding Justice
Hon Samuel O Schoonmaker, Assoc. Justice
Hon. Cornelius Vanderzee, Assoc. Justice

District Attorney, Andrew J. Colvin, for the People
Henry G. Wheaton and William J. Hadley, Esqs., for the Defendant

The Capital District has a long and distinguished judicial, legal and medical history. In 1853, it all came together in the trial of *People v. John Hendrickson*. This trial ignited the debate over scientific evidence and its presentation in courts of law and set a trajectory that eventually led to *Frye* and *Daubert* and now back again. This is a story of a murder in Bethlehem.

At the end of the work day on March 10, 1853, any Albanian stopping into their equivalent of a Stewarts or Mobile-on-the Run to pick up the *Albany Evening Journal* would find a small story about John Hendrickson of Bethlehem being held for the murder of his wife. Four days earlier, as Hendrickson explained to the authorities, he tried to nudge his wife Maria over to her side of the bed in the middle of the night and found her to be unresponsive because she was dead. None of the other six people in the house thought it was anything but God calling Maria to her final rest. But was it death by natural causes or murder most foul? Mr. and Mrs. Hendrickson were a young couple, he twenty and she nineteen. They had been married for two years. From the start, things did not go well for them. Maria was from a traditional, conservative family. She was a young woman of refinement and high propriety. Her father, Lawrence Van Dusen was a former County Clerk and possessed of substantial means. Hendrickson also was from a good family, but he was much a no-account. "Of indolent and dissolute habits," the *New York Times* described him. He was unemployed at the start of the marriage and the newlyweds were forced to live with the Van Dusens in Clarksville. Shortly after the wedding, Maria became pregnant but shortly after that Hendrickson was charged with assaulting another woman, Catherine Elmendorf of Clarksville. While out on bail, Hendrickson fled to Corning, New York until things cooled down. He returned shortly after the birth of their child and brought back a case of venereal disease which he promptly gave to his wife. Could things get worse? Yes. The



baby died six weeks after birth while sleeping with Maria and John. Maria reported that when she awoke, the baby was cold and clammy and being held in John's arms with blood dripping from the baby's nostrils. She accused John of murdering the baby.

After this, Maria's father banished Hendrickson from his residence. With prudent foresight, Van Dusen redid his will just in time to prevent Hendrickson from ever obtaining any part of his estate. Van Dusen died in October 1852. About a year after Hendrickson's banishment, Maria left her parents' home, reconciled with her husband and moved into his family's residence in Bethlehem. She told her mother that it was her "duty to use every exertion to make him a better man." Maria might have tolerated the persistent venereal disease given to her by her husband, but his continued dalliances were too much to bear. The *New York Times*, in commenting on Hendrickson's breach of promise to marry a Schoharie County woman noted, "*under such circumstances few women could have stood so severe a test for another hour.*" Maria started making plans to leave him sometime in March. These plans that were interrupted by her untimely demise.

Sleeping with John Hendrickson was obviously a high risk enterprise and suspicions then, as they would now, immediately turned to him as the most likely suspect in his wife's death. But, if the straying husband did it, what was the cause of death? The day after her death, Maria's body was brought to her parents' house in Clarksville. Two of Albany's most distinguished medical doctors were summoned to do an autopsy and convene a coroner's jury. Dr. John Swinburne and the Coroner, Dr. Thomas, concluded that it was death by poisoning. But what poison?

Some of Maria's internal organs were removed and sent to Albany Physician, Dr. James H. Salisbury for analysis. Dr. Salisbury concluded that Maria was poisoned with aconite. Aconite was an alkaloid derived from the *Aconitum* plant, better known as monkshood (because of the way the flower is shaped) or wolfsbane (because it was used to poison wolves). This blue mountain plant was well known for its toxicity. In popular literature, for example, Severus Snape questioned Harry Potter in *The Prisoner of Azkaban* about the plant and its properties. As a poisoning agent, its lethality has been known since antiquity. In very small doses, however, it could have been used by Maria to treat the symptoms of her venereal disease.

Hendrickson was swiftly indicted by District Attorney, Andrew J. Colvin. The importance of the case can be measured by the fact that the Attorney General of New York, Levi S. Chatfield, entered the case to assist. The circumstantial evidence against Hendrickson was strong. He had means, motive and opportunity. Witnesses described seeing a candle burning in the couple's bedroom an hour before Hendrickson said he woke from his sleep. One of the household servants noticed that the wife's nightgown smelled of vomit, evidence of an expected reaction to aconite poisoning. Two witnesses were prepared to testify that Hendrickson purchased some aconite the week before Maria died and that he had also inquired about another powerful poison, prussic acid. But how would the District Attorney prove that it was aconite that was the cause of death?

In the 1850's, Albany Medical College was one of the leading institutions of medical learning in the Country. The College, along with Albany Law School, were respected centers in the field of medical jurisprudence. The Medical College faculty included Dr. T.R. Beck, the most well-known and widely published author in the area of medical jurisprudence. Others with national reputations included Amos Dean, a founder of Albany Law School and medical College founder, Dr. Alden March, who would later be president of the American Medical Association. Dr. John Swinburne, former head of the anatomical department at the Medical College, was one of New York State's most experienced forensic pathologists, though that term would not have been used at the time.

The D.A.'s weak link in the case would turn out to be the expert at the center of the case, Dr. James H. Salisbury, though this weakness was not apparent at the time and certainly not to the jury. It was not that Salisbury was insufficiently trained. Though only twenty-eight, Salisbury was an accomplished medical chemist. He was a graduate of Albany Medical College and RPI and had been a chemist for the State Geological Survey. At the time of the trial, he was the chief chemist for the State Agricultural Society. He was a true research scientist. Salisbury's opinion would ultimately carry the day, but the long term outcome of the trial was to showcase how, in 1853, the intersection of the judicial system and the scientific method failed to lead to reliable opinion evidence.

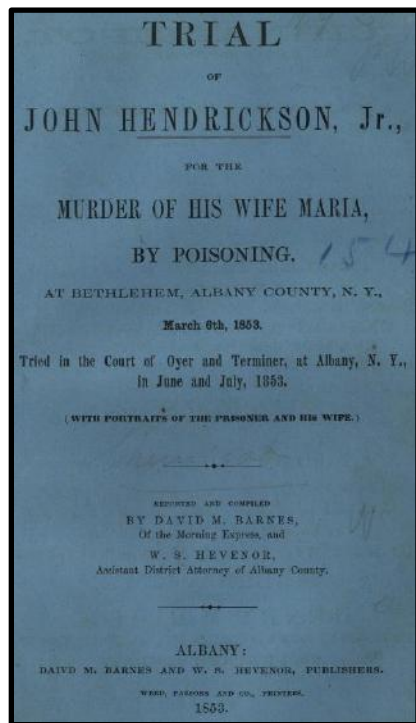
At the time of the trial, no one aside from Salisbury had yet discovered a way to isolate the vegetable alkaloids and identify their presence in human or animal tissue. Despite this prosecutorial vulnerability, the defense brought to their case a weak array of experts trying to refute not only Salisbury's findings and his methodology but also the autopsy opinions of Swinburne. It had little effect on the jury. In any event, an Albany County jury was not about to let an unemployed, two-timing, venereal disease infecting, no-account walk free on a charge of killing his devoted wife.

After twenty-one days of trial, Hendrickson was convicted and sentenced to death. It did not matter that Salisbury had not preserved the aconite that he claimed to have extracted from the victim's organs. He said he tested the extractions on a cat to make sure it was truly aconite poison, but the cat did not die. Hendrickson's attorney quipped on summation that the cat should have died out of deference to the Dr. Salisbury's opinion.

It was not until after the verdict that the medical profession started to seriously question the expert evidence in the Hendrickson trial, especially when a transcript of the testimony started to circulate among the profession. By 1850 standards, the issue then went viral. Across the Country, hundreds of accomplished physicians and scientists came out against the verdict. Among them was Dr. Alonzo Clark, the president of the New York State Medical Society and Professor of Pathological Anatomy at the New York College of Physicians and Surgeons. Critiques of the expert trial testimony appeared in several medical journals. Six of Albany's most respected physicians, including Alden March, one of the founders of Albany Medical College, came out against the medical evidence. In medical journals and textbooks on medical jurisprudence, *People v. Hendrickson* became the model for how a forensic medical examination should not be done and how scientific evidence should not be presented in court.

Passions only increased when the verdict was upheld on appeal. The surprising aspect of the appeal is that the attorneys for Hendrickson never raised the expert medical testimony as a ground for reversal. The majority opinion, (10 NY 13, April 1854, 5-3, there were eight judges on the court of Appeals at the time) was written by Albanian and co-founder of Albany Law School, Justice Amasa J Parker. Parker ruled that the statements made by Hendrickson to the coroner's jury were voluntary and admissible at trial, even though Hendrickson was compelled to testify at the hearing. They also ruled that the admission of Van Dusens will was not error because it was evidence of motive. No mention was made over what would later become the most criticized aspect of the trial, the aconite evidence. With no pardon forthcoming from newly elected Democratic Governor, Horatio Seymour, Hendrickson was hung, with great public approval, in the yard of the Albany County Jail on May 5, 1854.

Despite the conviction, there is little doubt that Salisbury's opinion would not have met today's *Daubert* standard. *Daubert* requires the use of scientifically valid principles, properly applied, using valid scientific procedures, with the ability to replicate results with a known rate of



error. Nor would Salisbury's opinion have met the *Frye* professional acceptance standards. In 1853, there was no peer review as we know it today, though there were prestigious medical journals. Salisbury had not published in any of these and would not publish the results of his 1853 experiments until 1862. In 1867, he did publish an article claiming to have discovered a plant substance that caused syphilis and gonorrhea. Perhaps another example of the Doctor's rush to judgment. It would also now be reversible error for the prosecution's experts not to save a quantity of the alleged poisonous substance sufficient for the defense to test.

Salisbury's opinion and the firestorm of controversy that it set off left the field of medical jurisprudence completely unsettled. It remains unsettled today, maybe even more so. The National Academy of Sciences released an extensive study titled, *Strengthening Forensic Science In The United States: A Path Forward*. Noting that DNA evidence has become the gold standard of expert, scientific courtroom evidence, the report calls into question the reach that has been given to other types of scientific evidence. These include such areas as handwriting

comparisons, blood spatter examinations, fiber matches, tool mark identifications, hair analysis, tire tracks, shoe prints, paints, bite marks see (*People v. Lemuel Smith* below), bullet composition and even fingerprints. The report noted that, the forensic science system....has serious problems that can only be addressed by a national commitment to overhaul the current structure that supports the forensic science community in this country. With that preface, the Academy called for the creation of a National Institute of Forensic Sciences to bring discipline and uniform standards to the field. Maybe then we will find out if there are two snowflakes that are alike. Maria Van Deusen Hendrickson is buried in the Van Deusen Family Burying Ground, East Berne, Albany County, NY.

PEOPLE V. CARLYLE HARRISON DEATH BY ELECTROCUTION IN 1893

New York Court of Appeals
10 N.Y. Crim. 260, 136 N. Y. 423, 49 St. Rep. 751

The case of *People v Carlyle Harrison* was not tried in Albany County nor did the crime take place in Albany County. However, because of its several connections to Albany, it deserves mention here. Carlyle Harrison was charged with murdering his young wife, Helen Neilson Potts, by administering morphine to her at her boarding school in New York City. Helen Potts enrolled at Miss Comstock's boarding school, in New York City in December 1890. Located at 32 West Fortieth Street in Manhattan, it was one of New York's most prestigious finishing schools for women. At the time of her death she was 19. On the evening of Saturday, January the 31, 1891 Potts retired to her room. On her way she ran into the assistant principal and said that her young doctor friend had given her some capsules for her malaria, and it was essential that she sleep through the night after taking a dosage. She asked the vice-principal to ask her roommates when they returned not to wake her. They did wake her, and it would lead to the downfall of Carlyle Harris. When her roommates returned from their concert, Helen was woken, and they saw her discomfort. During the night, Potts again awoke in severe distress. Doctors were summoned. Despite their best efforts, Potts was dead by eleven the next morning.



Carlyle Wentworth Harris

The symptoms of the deceased caused one of the doctors to think that this was a case of poisoning by morphine or opium. In the room they found an empty pill box inscribed with the defendant's initials, "C. W. H., medical student." Harris was summoned by the doctor. He told the doctor what the prescription was. The doctor knew that such a dose of sulphate of morphine would not cause death. He directed Harris to go to the pharmacist to verify the dosage. The defendant reported back that the prescription had been filled correctly but he, in fact, had never verified this.

Partly because of this subterfuge there was no autopsy and Potts was buried. After further investigation, due to dogged investigation of the assistant District Attorney assigned to the case, Francis X. Wellman, of the *Art of Cross-Examination* fame, the body was exhumed 55 days later. The autopsy showed clear evidence of death by morphine, but did Harris cause her death?

Harris befriended Potts in the summer of 1889 at the Jersey Shore and they began seeing each other socially when they returned to New York City for the winter. On February 8, 1890, they went before an alderman, and were married under the assumed names of Girarles Harris and Helen Neilson. They kept the marriage secret over the next year, but it became known to the deceased's close friend who urged her to tell her parents. When she told Harris about her intentions to make their marriage known, Harris remarked that he would rather see her and



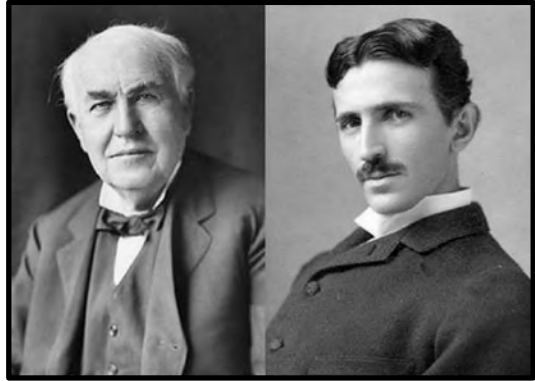
Helen Potts

himself dead than have it made public because it would ruin his career. After this, Potts went to Scranton to visit an uncle, a doctor who discovered that Potts was pregnant. After examining Potts he discovered a still- born 5 month old fetus. In later conversation with the Doctor, Harris admitted that he had performed an abortion on Potts which he thought was successful. He also bragged that he had done this to other women, that he had been secretly married to two of them and had a child with a third.

Harris came from a highly respected, well-to-do family. Despite that good stock, Carlyle's character was infused with deviosity. Nevertheless, he was able to talk Helen's mother into accepting the secret marriage and to enrolling her daughter into Miss Comstock's school to prepare her daughter for society life. All of this was acceptable to Helen, not knowing that this would give the defendant the opportunity to plot her demise.

The trial filled the New York tabloids with pages of sensational copy, but Wellman put in an airtight case and Harris was convicted. The Court of Appeals unanimously upheld the defendant's conviction which carried the death sentence. It held that the circumstantial evidence was properly admitted and established the defendant's guilt overwhelmingly. The pharmacy had indeed filled the prescription correctly, but the defendant had altered one of the capsules. His downfall was caused when the victim took the fatal pill early in the evening and the progression of her symptoms were witnessed by her roommates. She was supposed to die in her sleep. Which gets us to electrocution and the case's connection to Albany County.

At this time in the United States the big debate was over electricity, specifically Direct Current v. Alternating Current. On one side was Thomas Alava Edison and direct current. The upside of direct current was its safety. At its distribution power of under 600 volts it was not dangerous to humans. Its downside was that it could not be transmitted over long distances and required distribution centers for each square mileage of coverage. On the other side was George Westinghouse who used dynamos powered by alternating current designed by Nikola Tesla. The upside of alternating current was that it could be transmitted over long distances. The downside was that it was deadly to humans at relatively low voltages. Westinghouse and Tesla would win the technology war, but not before Edison pulled out all the stops, including use of the electric chair in New York. In 1884, there was an outpouring of support for finding a more humane way to execute someone. Death by hanging was fraught with difficulties that swung between a prisoner being decapitated

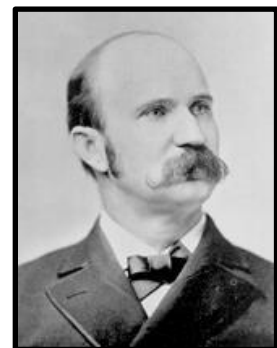


Thomas Edison

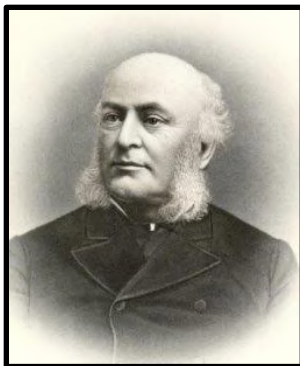
Nikola Tesla



George Westinghouse



Gov. David B. Hill



Matthew Hale

by too long a fall or dangling for several minutes in the noose until he strangled. Proposals were floated to kill condemned prisoners by electricity. This suited Edison just fine because it fit into his narrative that alternating current was dangerous. The New York legislature appointed a three member commission to study the issue. One of its members was Albany attorney **Matthew Hale**, grandson of Nathan, *I regret I have only one life to give for my country*, Hale, hung by the British for treason. The commission recommended the use of electricity as an alternative to hanging and Hale drafted the law that was signed by **Governor David B. Hill** on June 4, 1888. Hill's continuing connection to Albany is as the owner of a country estate called Wolfert's Roost which became the first club house of the



Wolfert's Roost



Postcard of William Kemmler, New York's first electric chair victim, August 6, 1890, Auburn Prison.

preferred golf course of the rich and famous of the same name. Hill, a Democrat, died at Wolfert's Roost 1910. He was originally from Elmira but is buried in Montour Cemetery in Montour Falls. However the law did not specify the method of electrocution and that would require another commission. Into this Fray came Harold Brown a rabid anti A-C current foe and behind scene associate of Thomas Edison. Fray held several demonstrations around the country using A-C current to electrocute horses and other animals. Indeed, he was so successful that he was awarded the contract to install the electric chairs in Auburn and Sing Sing prisons and he surreptitiously obtained three Westinghouse-Tesla generators to be installed. Edison eventually relocated his production facilities to nearby Schenectady, though by this time, he had become a minority stockholder in General Electric. George Westinghouse, famed inventor of the railroad airbrake, was born in in 1846 in Central Bridge, NY, not far from Howe's Caverns. He was an engineer in the Union Navy during the Civil War and is buried in Arlington National Cemetery.

The final connection of this case to Albany County is Carlyle Wentworth Harris. Harris was executed in Sing Sing, the tenth person to meet his fate in New York's electric chair. The next day, his body was brought to Albany for burial in the Albany Rural Cemetery, Section 4, Lot 11. There are 12 Harris's buried in this plot, including Carlyle's mother Frances McCready Harris who died in 1919. Only his mother, brother and reverend Edgar T. Chapman were present at Carlyle's funeral. Hellen Neilson Potts is buried in the Mount Prospect Cemetery, Monmouth, N.J. There is one final connection that falls into the old category of Ripley's Believe It Or Not. On August 8, 1881, history records the first death by human generated electricity when a man in Buffalo grabbed two opposing leads from an electric generator. In June 1883, a person from Albany County was set to meet a similar death, but this one inflicted on purpose by the State of New York after conviction of intentional murder. Fate and excellent lawyering intervened and he was saved from the electric chair by New York's highest court which ruled that the State's death penalty statute was unconstitutional. The man who was electrocuted accidentally in Buffalo in 1881 and the man who was set to be electrocuted in Albany

in 1983....both were named Lemuel Smith. (See Albany Trial of Lemuel Smith below.) The story of Albany's connection to Carlyle Harris is told with celerity in *People of Albany*, by Peter J. Hess. The story of the Carlyle-Potts murder case is fully explored in in *Six Capsules: The Gilded Age Murder of Hellen Potts* by George R. Deckle, Sr.)

People v. Jack “Legs” Diamond
Street Justice for America’s Most Famous Bootlegger
In 1931 Albany and Troy, New York

Trial 1

Attorney General John G. Bennett, for the People
Daniel F. Prior and Abbott Jones, Esqs., for the Defendant
Kings County J.S.C. James C. Cropsey, presiding

Trial 2

Asst. Attorney General John T. Cahill for the People
Daniel F. Prior and Abbott Jones, Esqs., for the Defendant
Schoharie County J.S.C. F. Walter Bliss, presiding

New York City had the Five Families and their Dons. Chicago had Al Capone. And Albany had Jack “Legs” Diamond. Diamond’s crimes were mostly committed in Greene County. His trial took place in Rensselaer County. But he lived at the Kenmore on Pearl Street, rented rooms for his wife at 67 Dove Street, kept his mistress at 31 Ten Broeck Street and was shot and killed in Albany County...probably by the Albany Police. Pulitzer Prize winning author, William Kennedy, of North Albany origin and *Times-Union* fame, wrote a whole book about Diamond called “Legs.” He has also recounted the death of Legs Diamond in a history of the Capital City in his book *O Albany!* Kennedy is also the owner of 67 Dove Street, the residence where Diamond was assassinated. Much of what we think we know about the killing of Jack Diamond in Albany on December 18, 1931, is based on rumor and speculation. The aura that envelops Jack Diamond comes mostly from his aggrandizement by the New York City tabloids. But some of this rumor, speculation and aggrandizement has the ring of truth. In the movie *The Man Who Shot Liberty Valance* we are advised, *when the legend becomes fact, print the legend.*” And what better place than Albany, NY for the legend of this legendary bootlegger to become fact. William Kennedy in *O’Albany* put it this way; *Prohibition in Albany was a contradiction in terms. Very little was ever prohibited in this city, which always had a mind to do what it wanted to do and never mind the civil law, or the moral law, either. Albany was always a place where you could restore your spirit or smudge your soul.*” So, with thanks to William Kennedy, here is the legend of Jack “Legs” Diamond. In recounting the trial and death of Jack Diamond, much will be learned about the legal underbelly of Albany in the 1930’s.



**Jack Diamond leaves the
Rensselaer County Court House
Just Hours Before His Death.**

Jack Diamond was born in Philadelphia on July 10, 1897. His parents were Irish immigrants who came to America in 1891. He had one sibling, a younger brother Eddie, born in 1899. Their mother died in 1913 and the family moved to Brooklyn but not before Jack and Eddie had joined the Boiler Gang. The streets of Brooklyn were also an attractive nuisance for Jack. He joined a gang there called the Hudson Dusters. By age 17 he had his first arrest under his belt, for burglary----of a Diamond store. Diamond served in WW I but was convicted of desertion and



**Jack Diamond's Girl
Marion "Kiki" Roberts**

sentenced to five years in prison. He was released in 1919 upon a general commutation of such sentences by President Wilson. After his release from prison he became the bodyguard for Arnold Rothstein, and this was his entrée to the big time.

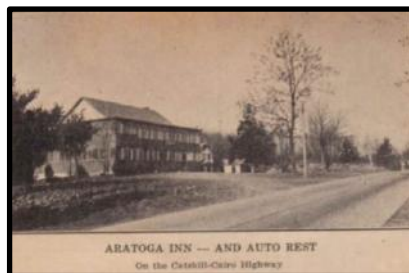
Rothstein swept a wide path in the history of organized crime in America. He was known as "the Brain" and became a leader of the Jewish mob. Rothstein was strongly connected to the fixing of the 1919 World Series. But he saw in prohibition an opportunity and was instrumental in organizing crime along a business model. In that effort, he took several young mobsters under his wing, including Lucky Luciano, Meyer Lansky and Frank Costello. Jack Diamond was in good company. Rothstein was murdered at

a business meeting at the Park Central Hotel in New York City on November 6, 1928. The motive for murder might have been Rothstein's failure to pay gambling debts owed from a game he said was rigged. Another theory is that Dutch Shultz had him murdered because Rothstein's bodyguard, Jack Diamond, killed a Shultz ally.

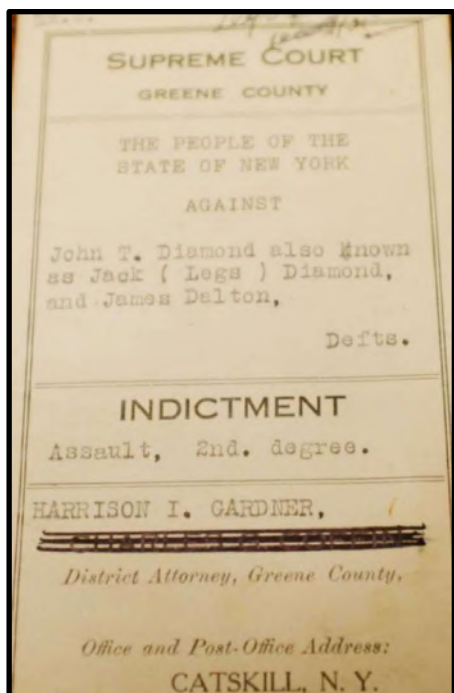
As Diamond progressed up the ranks of the New York underground, his reputation progressed with him. He possessed all the essential vices for success---a ruthless disregard for life and limb, both his and others, mixed with large doses of

gambling, drinking, and womanizing. This was all capped off with a flamboyance that made him a darling of the press. Diamond created an aura of invincibility, having survived at least five attempts on his life where he was struck multiple times. One of note took place on the front steps of the Aratoga Inn in Cairo, NY where he took a shotgun blast to the chest and was rushed to the Albany Hospital (Now Albany Medical Center). His nickname "Legs" could have come from his abilities on a dance floor (one newspaperman called him the "dance hall sheik") or his multiple escapes from death, or his skill as a youth in evading the police, take your pick. But no one called him Legs to his

face. Prohibition provided an enormous economic opportunity for criminal enterprise. But New York City was getting crowded, and Diamond moved his bootlegging operations upstate to Greene County. Diamond's glory years in upstate New York were short lived. In 1931 he kidnapped two



**Diamond Shot on the Front
Steps of the Aratoga Inn,
April 27, 1931**



**Alice Diamond comforts her
husband in The Albany
Hospital after he was shot at
the Aratoga Inn in Cairo, NY**

truckers named Grover Tucker and James Duncan. He tortured Tucker to find out where he was taking his load of hard cider, knowing that it was headed to a still that was in competition with his. When the torture-kidnaping became known to the authorities, Governor Roosevelt brought the hammer down on bootlegging operations in the Catskills. He formed a task force and Diamond along with several associates were arrested and indictments were quickly returned in Greene County.

Then the legal maneuvers began. Diamond secured the services of the best criminal legal defense talent in upstate New York. Daniel H. Prior of Albany had a reputation for mesmerizing juries. Abbott Jones, the founder of the famed Troy law firm that would include his son and grandson, E. Stuart Jones Sr. and Jr., knew Rensselaer County inside and out. Jones was a former City Court Judge and District Attorney. They secured a change in venue and the trial was moved from Greene County to Rensselaer County. This was very good for the defense. Diamond was not a popular figure in Greene County where many farmers had their own stills, and they did not cotton to someone from New York City horning in on their bootlegging business.

Getting a change of venue to Rensselaer County was also an astute move for another reason. Prior was an Albany Republican, but he had close connections to the O'Connell brothers and the Democratic Party. Being Irish probably did not hurt. O'Connell had his own fingers in the illegal distribution of alcohol. Prohibition would not end until 1933. At the end of Prohibition,

O'Connell would buy Hedrick's Brewery for \$25,000 from his attorney John J. Conway. It would become mandatory to have Hedrick's on tap in your bar if you knew what was good for business. But during prohibition, no booze moved in or through Albany County without Dan O'Connell's permission and without paying tribute. O'Connell had no use for a competitor in Albany County least of all Jack Diamond. Prior knew that O'Connell controlled the jury pool in Albany County and that his client would have better chances in Rensselaer County.



**Diamond's Residence, Hamlet of Acra,
Route 23, Cairo, NY**

The subject of Hedrick's Brewery deserves a short diversion which involves one of Albany's most beloved judges, Supreme Court Justice Edward S. "Ned" Conway. Ned's dad was, as noted above, John J. Conway who was Dan O'Connell's personal attorney. Although he was a Republican his saving grace was that he was Irish. The Conways were from Cohoes. In 1923, John Conway was elected Albany County District Attorney. The O'Connell machine was on the ascendancy in Albany County at this time, but their reach was not yet countywide. This would change in 1927 when Conway was defeated and would be the last Republican to hold that office for 50 years (Arnold Proskin elected D.A. in 1967 would be the next). Anyway, during the 1920's Conway represented some bootleggers who were secretly pumping beer from their brewery in Kingston through an underground pipe to a warehouse a half mile away. Conway took title to the



**Edward "Ned" Conway sworn in
as Supreme Court Justice by his
Brother, Supreme Court Justice
John G. Conway, January 2, 1967**

Hedrick brewery in payment for legal fees and then he sold it to Dan O'Connell at the end of Prohibition for \$25,000. John's son, Ned, would get an inside view of Dan O'Connell's life, attending cock fights with his dad and caddying at Wolfert's Roost for Dan's brother Solly. As Ned rose in Republican politics, eventually to the position of county chairman, Dan could see the threat to his fortunes posed by this talented Republican. The answer was to make Conway a Supreme Court Judge, which Dan did. Conway was elected to the Supreme Court in 1966 as a Republican with the cross-endorsements of the Democratic and Liberal parties. He was unopposed for reelection in 1980. He left the bench in 1990 upon reaching the mandatory retirement age of 70.

Conway was a graduate of Vincentian Institute, RPI (1942) and Albany Law School (1949). He was an officer in the Navy during WW II and served on the Destroyer U.S.S. Barry which was credited with sinking 19 German submarines. Then, moving to the Pacific, Theatre, he escaped death when his ship was sunk by a kamikaze pilot at Okinawa. Judge Conway was born on January 1, 1917. He died on July 1, 1999, and is buried in St. Agnes Cemetery, Cohoes, NY.

The first trial of Jack Diamond began on July 13, 1931. It would be the biggest most stupendous in Rensselaer County History, indeed, in the history of the Capital District. Paul Grondahl of the *Times Union* described it this way.

Diamond swaggered through the throngs lining the sidewalks around the courthouse, where he was being put on trial on charges of kidnapping and assault. Diamond walked a few blocks across Second Street each morning to the courthouse from the office of his lawyer, Abbott Jones, and basked in the adulation of Trojans who shouted Diamond's name, cheered and reached out to clasp his hand. "He carried a big wad of cash and he'd peel of bills and hand them out to people. They loved hm," said E. Stewart Jones, Jr., grandson of Diamond's attorney, Abbott Jones.

As criminal trials go, this one was straightforward. Indeed, it was a simple assault. But indicative of its importance was the presence of seven attorneys for the prosecution and four for the defense. For reasons not clear, the trial was bifurcated with the charges involving each victim to be tried separately, even though it was one cohesive event. This put the defense at a great disadvantage since they would have to win two trials for the same defendant in front of two different juries hearing the same evidence. The chances that something could go wrong were high.

In charge of the first trial that started in July 1931 was Supreme Court Justice James C. Cropsey, sent up from Brooklyn at the A.G.'s direction to set things in order. Normally this case would have been heard by the Rensselaer County Court Judge James F. Brearton, an Albany Law School Graduate. The term "no nonsense Judge" was invented for Judge Cropsey. Not counting jury selection, this trial with 18 witnesses would last one day. At the start of jury selection Cropsey, on his own motion, revoked Diamond's bail and remanded him to the Rensselaer County Jail (which is now the Rensselaer County Family Court about four blocks away from the County Court House) On the first day of jury selection, he went beyond normal business hours until a full jury panel was selected. The jury



Justice James C. Cropsey

was told it would be sequestered at the Hendrick Hudson Hotel on Monument Square. Even then, after being in session for 11 hours, he made the attorneys make their opening statements at 8:00 p.m. Court was adjourned at 9:00 p.m. The only advantage of the late session was that it avoided the searing heat of mid-July in a court room with no air-conditioning. It was a large courtroom and exists today with substantially the same layout as in 1931. It was graced with high ceilings and thick walls, being a Presbyterian Church in its previous life.

The New York Times captured the flavor of Judge Cropsey this way: “When Judge Cropsey called for those who wanted to present legal excuses for release from duty there was a virtual stampede. About seventy-five ruddy faced farmers, worried about their crops, and a few business men came before him. In crisp cutting words, Justice Cropsey turned them back, one by one. Business, he told them, was no excuse for trying to evade service. ‘If you had no juries and no courts you would have no business to protect.’”

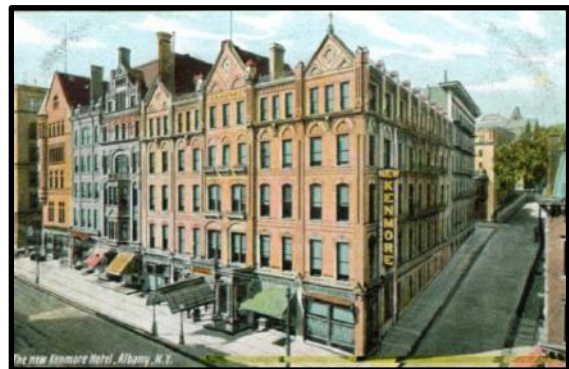
To describe Cropsey as prickly would be a mild criticism. Again, as reported by the *Times*: “You’re incompetent,” one prospective juror was told. “Step down, but I want you to stay here every day that this trial lasts.” This talesman had admitted that he believed everything he read in newspapers. “You’re dumb, step down,” another perspiring farmer was told, “but don’t leave the courtroom.”

James C. Cropsey was born in Brooklyn in 1873. He graduated from Columbia Law School in 1893 and then became a negligence lawyer in Brooklyn. A longtime Republican, he was named Police Commissioner in 1910 by Mayor William J. Gaynor but he resigned in protest two years later because he was being asked to appoint incompetent persons to the Department. In 1911 he was elected Kings County District Attorney. In 1916 Governor Charles S. Whitman appointed Cropsey to the Supreme Court. He was elected to a full term that Fall and again in 1930 when he was cross-endorsed. In 1926 and 1929, he was mentioned as a candidate for Governor. In his obituary *The New York Times* said, “Among lawyers who practice before him he was looked upon as a strict presiding officer who wished no time wasted but also as one from who they could expect absolute fairness.” Cropsey died on June 16, 1937, at age 64.

The jury heard from several witnesses who described the kidnapping and torture of bootlegger Grover Parks, and the defense presented several alibi witnesses. The jury returned a verdict of “not guilty” after less than two hours of deliberation. The acquittal stunned the prosecutors. When the verdict was announced by Jury Foreman E.A. Goyer, the courtroom erupted in cheers as did the crowds outside, showing what a cult like following Diamond had attracted. In this trial the People were represented by New York’s Attorney General John G. Bennett, which is some measure of the importance that FDR placed on breaking up Diamond’s criminal empire. Bennett had a distinguished legal career in public service. He was



Attorney Dan Prior greets Alice and Jack Diamond on The Kenmore.



Diamond’s Digs, The Kenmore Hotel, Pearl and Columbia Streets.

the Chief Judge of the New York City Court of Special Sessions and Attorney General from 1931 to 1942. In 1942 he lost his bid for governor, being defeated by Thomas Dewey. Bennett, a graduate of Brooklyn Law School, died on October 4, 1967, at age 73. He is buried in Holy Cross Cemetery in Brooklyn. Ironically, his defeat to Dewey is attributed to Dewey's successful prosecution of the first Mafia Don, Lucky Luciano. Bennett, with two acquittals of Jack Diamond on his watch, was not so lucky. Bennett was assisted by Assistant Attorneys General Henry Epstein and John T. Norton.

In August, Diamond was convicted in Federal Court on related bootlegging charges and was out on bail pending appeal. His second trial began in the Rensselaer County Courthouse. In the December trial involving James Duncan, he rested without calling any witnesses, although he promised the jury that he would present an alibi defense. This probably did not surprise the prosecutor John T. Cahill, age 27. The main alibi witness for Diamond in the July trial was Dr. Joseph D'urgolo of Jamaica, L.I. Based on that alibi testimony, he was arrested for perjury on July 21, 1931. D'urgolo, who was the chair of the New York State Psychotherapists Association but not a doctor, testified that he was having dinner with Diamond and his wife at the Kenmore Hotel in Albany when the assault happened in Green County. Diamond maintained a suite at the Kenmore under the name of Jack Duffy.

On December 17, 1931, Jack Diamond was acquitted on kidnapping charges involving a 20 year old Green County farm boy named James Duncan. After being charged by Judge F. Walter Bliss the jury deliberated for just over 4 hours before reaching his decision. According to Stu Jones, right after the acquittal, Diamond reached for his roll of cash, turned to Abbot Jones and offered to pay his \$30,000 legal bill right there. Abbott Jones responded, "No, go out and celebrate tonight. We'll settle up tomorrow." The bill would go unpaid.



**Trial Judge
F. Walter Bliss**



**Prosecutor
John T. Cahill**

Cahill was a distinguished trial attorney.

In 1927 he joined the prestigious New York City Law firm of McAdoo Cotton and Franklin. As special state prosecutor in the Diamond trial, Cahill brought the weight and prestige of the New York Attorney General's office to bear. As U. S. Attorney for the Southern District from 1939-1941 he successfully prosecuted Federal Judge Martin T. Manton, the first United States Federal Judge to be sent to prison for accepting bribes. He also sent Louis Lepke Buchalter, the head of Murder Inc. to prison. Cahill was also famous for prosecuting George Burns and Jack Benny for smuggling valuables past customs. They both paid heavy fines.

Cahill died in 1966 at age 62. Judge F. Walter Bliss had a full career. He was born in Gilboa, NY in 1892. He graduated from Cornell in 1913 and Albany Law School in 1915. As Schoharie County attorney he successfully represented the Town of Gilboa in a law suit against New York City requiring the City to pay taxes on the Gilboa Dam and Reservoir. Bliss was appointed to a vacancy on the Supreme Court by Governor Roosevelt in 1930 and elected to a full term the next year, just before starting the Diamond trial. In 1933, Governor Lehman appointed Bliss to the Appellate Division where he served until 1944. Bliss died on September 8, 1982, at age 90. Bliss is buried in the Middleburgh Cemetery in Middleburgh, NY.



The December Trial: Asst Atty General John T. Cahill questions victim Grover Parks. To Park's immediate right is Judge F. Walter Bliss. Diamond sits between his attorneys with his hand holding his head. Atty. Daniel F. Prior sits in front of Diamond. To Diamond's right, with the white hair, is Atty. Abbott Jones. In the first row, to the far left, sits Diamond's wife Alice. (Photo Courtesy of E. Stewart Jones, Jr.)

When the verdict was announced, Diamond's wife jumped into his arms. The New York Times discretely noted that Diamond's "companion," 21 year old *Ziegfeld Follies* girl, Marion "Kiki" Roberts (born Strasmick) was not present. Apparently, Mrs. Diamond was an understanding woman. She once told the press that Kiki had her man's attentions, but she had him. After the trial, Diamond's wife, sister-in-law and nephew went back to 67 Dove Street in Albany where Jack had rented rooms for \$10 a week from Mrs. Laura Woods. He rented them under the name of Kelly which, given his notoriety would seem to do little to protect his family's privacy. Diamond then headed to an acquittal celebration party at Freddie Young's speakeasy at 513 Broadway across from Union Station. At around 1:30 a.m. he told his wife he had to meet with some newspapermen and would be back in half an hour. He then headed to 21 Ten Broeck Street where he kept Kiki stashed away from his wife. At about 4:30 in the morning Jack Storer took Diamond back to 67 Dove Street in his cab.

His wife, sister-in-law and 6 year old nephew were still at the speakeasy. Diamond stumbled up to his room, got undressed and fell asleep, alone, in his bed with about 30 minutes left to his life. One must conclude that the house was under surveillance. About 30 minutes after Diamond got back to his apartment two gunmen entered Diamond's room fired six shots, three of

which entered Diamond's head. A couple of witnesses saw two men run across the street, enter an idling maroon sedan and head north on Dove Street. It is though that the sedan was a Packard. About an hour later, a patrolman on duty in Saugerties spotted a maroon sedan speed through town with two men in the front. He passed along the car's license plate number to the authorities, but that information seems to have disappeared inside the Albany Police Department. It is worth quoting from the vivid prose of Meyer Berger who filed a special to the *New York Times* on December 18, 1931.

Mrs. Wood heard the gangster make his way slowly up the stairs and then heard the door of his room opening. After that she dropped off to sleep again, but not for long. That brief interval of sleep was battered by shots, four of five of them. Neither Mrs. Wood nor her sister could remember the number. They heard the rush of feet on the stairs. The assassins were holding the balustrade as they came down. It sounded as though it might tear loose. The front door banged, and feet thudded across the street. Mrs. Wood ran to the window. Day was breaking and there was enough light to see a man's hand shutting the door of the maroon sedan next to the driver's seat. The gears clashed noisily, and the car slid away with a roar.

The frightened woman suspected then that her new lodger had been murdered, but instead of going to his room she telephoned to the Broadway establishment. Diamond had given her the number for emergence use. Mrs. Diamond answered. "I think there's been a shooting upstairs," gasped Mrs. Wood, "You'd better hurry over." Mrs. Diamond, her red hair disheveled, her blue-green eyes distended stopped at the door in Storey's [maybe Storer's] cab a few minutes later. Occupants of near-by houses had heard shots. But none called the police. Almost an hour passed before the police heard the news. When they arrived Dr. Thomas Holmes, Diamonds personal physician was there. So was Storey and Mrs. Diamond and a few other lodgers, in their night clothes, stood staring at the skinny figure stretched out on the bed.

Mrs. Diamond was hysterical. She had wiped the bloodstains from the sunken cheeks and the leering lips. She smoothed the cheeks between hands that trembled. A big, red-haired women, somewhat hard featured under ordinary circumstances, she changed when she wept over his body. "Help me, somebody," she appealed to the physician and the mute, frightened lodgers. "They've killed Jack. Oh, they've killed him." When the policeman came she appealed to them too. When they wanted to take her out she fought with all the strength of hysteria. She tried to hold on to the bed-posts, she let herself be dragged and her arms thrashed out. Her face was wet with tears. "I didn't do it. Let me alone!" she cried. "They've killed Jack. They've killed him."

How much of the above is factually accurate is hard to tell, but it sounds like a close approximation. However, one example of inventiveness is Mrs. Woods's ability to see in the dawn's early light the hand of a man closing the door of a sedan parked across the street. The shooting took place at about 5:00 a.m. Sunrise in Albany, NY on December 18, 1931, was at 7:20 a.m. It was still the dead of night at 5:00 a.m..

The *Times Union* colorfully described the events of December 17, 1931, this way: *Jack "Legs" Diamond, survivor of a dozen skirmishes with the law and the lawless alike, today went*

from a clandestine tryst with Marion “Kiki” Roberts, his showgirl sweetheart, to a tryst with death in an Albany rooming house.” So who killed Jack Diamond?

No one has investigated this case more closely than William Kennedy. Here is a summary of the case he makes in *O’Albany* that it was the Albany Police, some of which is based on interviews with people who knew Jack Diamond and who testified in his behalf.

■ A month before his death, Diamond was arrested in a rooming house on State Street in Albany. He was told by the police to leave town and don’t come back. During his trial, he came back.

■ Dan O’Connell in a 1974 interview with Kenned said, “Prior [Diamond’ attorney] brought him around but he brought him around once too often. Fitzpatrick finished Legs. Dave Smurl was afraid of Prior. He went on the force too late. But Fitzpatrick wasn’t afraid.” [Smurl was the Albany Police Chief. Fitzpatrick would go on to lead the infamous Albany Police Night Squad and eventually become chief.]

■ Dan O’Connell said to Kennedy, “Fitzpatrick and Diamond were sitting in the same room and Fitzpatrick followed him out. Fitzpatrick told him he’d kill him if he didn’t keep going.”

■ In the early 1960’s, Kennedy interviewed Bob Murphy and Ray O’Connor in the bar at the Kenmore. Murphy had testified in Diamond’s first trial providing an alibi. O’Connor was the night city editor of the *Times Union* in 1931. O’Connor kept repeating, “I got out before the bulls came in and I saw him dead.” Meaning that he had been tipped off and got to the scene of the crime before the police did. TU reporter Joe O’Heaney was also tipped off. So who tipped them off? O’Heaney lived next to police headquarters at Eagle and Beaver Streets, and it was the custom for the police to tip off O’Heaney when anything important happened.

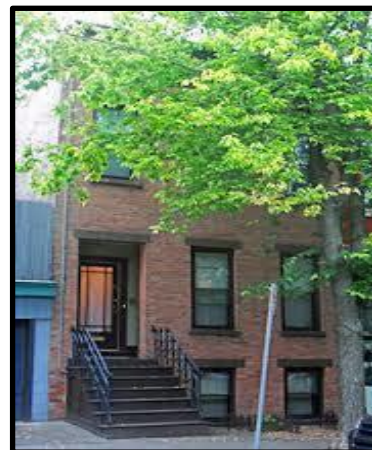
■ Who but the police knew where Diamond was staying? He registered under an assumed name. The reaction of his wife when reaching the death scene is telling. “I didn’t do it” she kept saying to her husband’s dead body. Meaning she did not tell anyone where they were staying.

■ On July 9, 1931, *The Albany Evening Journal* reported that Diamond was assigned a 24 hour guard (surveillance?) by the Albany Police Chief. On August 27th, the *Times Union* reported that Diamond was staying at a residence on Clermont Street, just off Western Avenue. Clermont runs from Western to Washington Avenue, two blocks east of Brevator. The paper also reported that because Diamond was out on bail based on a Federal Court conviction, he was under police surveillance. Given this background, it seems most likely that the police had Diamond under surveillance during the December trial.

■ Diamond was mixed up with the Oley gang led by two Albany brothers, John and Francis Oley who would later be involved in the kidnapping of O’Connell’s nephew. The Oley’s were peddling beer in Albany. Dan O’Connell would not have wanted an Oley-Diamond bootlegging partnership operating in his county.



**67 Dove Street, Then and Now.
Diamond died in the 2nd Floor
middle bedroom**



■ Kennedy interviewed Leo O'Brien, one of Albany's leading reporters in the 1930's. Kennedy related what Dan O'Connell had told him about Fitzpatrick. O'Brien responded, "I never heard that, but I'd be inclined to believe it."

■ Kennedy interviewed a person who was intimately involved with the Democratic machine from the 1920's. He also related the story that had come from O'Connell, that Fitzpatrick had something to do with Diamond's assassination. The person told Kennedy, "He had everything to do with it. He also added that there were three men, all police, who went into Diamond's room and shot him, and that one of the shooters was Detective John W. McElveney.

■ After Diamond was murdered, Fitzpatrick's career rose like a rocket. In 1925 he went on the force at age 27. He became a sergeant at age 30. Less than two months after Diamond's murder he made Lieutenant. Two years later he was made assistant chief and head of the Night Squad. In 1940 he became Chief.

■ The assassination of the most famous gangster in America would not have taken place in Albany without O'Connell knowing about it---or even green lighting it. But a direct order would not have been needed. "Who will rid me of this meddlesome priest," would have been enough. Dan knew for sure. *"Fitzpatrick finished Legs."*

■ Surely the police could have located the red Packard getaway car. During the Great Depression, an expensive red Packard would have stuck out in Albany like a yellow Jeep Wrangler stood out in Bethlehem. We will never know what the police did to locate the getaway car. All the police records on the Diamond case are missing. Hmm...?

There is an interesting postscript to this story involving Fitzpatrick and his protégé, Detective John McElveney. Some bad blood developed between the two. It might have started when Fitzpatrick accused McElveney of giving a heads up to the operator of a gambling den about an upcoming raid. Fitzpatrick and McElveney got into a fight over this and Fitzpatrick damaged McElveney's jaw. This injury required dental surgery that went wrong, resulting in a jaw fracture and expensive medical fees. McElveney asked Fitzpatrick to cover his medical expenses and Fitzpatrick refused. There were other grievances between the two but whatever the circumstances McElveney reached a breaking point. On January 5, 1945, at 3:00 p.m. he walked into the Chief's office and told him it was time to even the score. McElveney meant to shoot Fitzpatrick in the jaw, but he shot him in the head, killing him instantly. McElveney walked out of the Chief's office and turned his gun into the Desk Sergeant, telling him, "I did it. He ruined my life." McElveney would

plead guilty to second degree murder and receive a sentence of 20 years. He served 11 and was pardoned by Governor Harriman. He died of cancer in 1968.

Was Jack Diamond an innocent man? That would be hard to believe given his arm long rap sheet filled with arrests for violent crimes. Did his brilliant lawyers raise reasonable doubt with the jury? Could be. But in the second trial they abandoned the alibi defense that was manufactured for the first trial. Why? Perhaps because in 1931, the defense was not required to disclose pre-trial the names of the alibi witnesses. By the time of the second trial, all those witnesses would have been investigated by the prosecutor. After the trial, some jurors expressed the opinion that it was the word of one criminal against another, as the victims were also bootleggers. Were threats made or bribes given to the jurors? There was word on the street that this was so. The truth will never be known but when the “legend becomes fact, print the legend.”

Jack Diamond’s miserable, pathetic life ended with his burial in the Mt. Olivet Cemetery in Queens, NY., on December 23, 1931. *The New York Times*’ headline was “*Gangdom Absent At Diamond Burial, Slain Racketeer Goes to Bleak Grave In Rain With Family as Only Mourners, Curious Crowd Looks On, Former Friends Are Not Among 200 Who Watch Simple Internment Without Church Ritual.*” Jack Diamond had escaped death four times before December 17, 1931, and he had 11 bullet wounds to prove it. The three that were placed in his head as he slept at 5:00 a.m. on the second floor of 67 Dove Street in Albany New York would be his fifth confrontation with death and this one he lost. Jack “Legs” Diamond was no heroic figure of any sorts. He betrayed everyone close to him. His two wives, his mistress, his friends, his business associates had no claim on Jack Diamond’s loyalty because Jack Diamond had no loyalty. In death, he even stiffed his lawyers as their retainers would go unpaid.

Diamond’s wife, Alice Kenny Schiffer Diamond was found on July 1, 1933, on the floor of her Brooklyn room with a bullet to the brain. There were three used coffee cups on the kitchen table, indicating that her killers had been invited in. At the end, from the glamor of a life with Jack Diamond, she had been reduced to selling autographed photos of her and Jack in the freak show tents on Coney Island. The motive for her killing is up for speculation and alternates between silencing her for things she knew about Diamond’s operations and her witnessing a murder committed by a neighborhood gang. Her killers were never caught. Marion “Kiki” Roberts toured the vaudeville circuit for a few years and then faded into obscurity.

PEOPLE V. STREWL

246 AD 400

THE KIDNAPPING OF THE PRINCE OF ALBANY, JULY 7, 1931

District Attorney John T. Delaney, for the People
Daniel F. Prior, Esq., for the Defendant
County Judge Earl H. Gallup, presiding

In the 1920's and 30's kidnapping was primarily an economic crime, especially as America entered the Great Depression. With the end of Prohibition in March of 1933, and the loss of income to a substantial portion of the criminal element, another source of income was needed. Kidnapping a bank executive's child and collecting a \$10,000 ransom was only a moderately risky criminal act back then. Between 1931 and 1932, over 2,000 persons were abducted in the United States. This changed a bit with the most famous kidnapping in history. In March 1932 "Little Lindy," the 20 month old child of the most famous man in the world, Charles A. Lindbergh, was taken from his bed at the Lindbergh's rural estate in Hunterdon County, NJ. This resulted in the greatest manhunt of all time and passage by Congress of the *Lindbergh Act* which made kidnaping a federal crime. This would at least deter kidnapers from crossing state lines with their victim. This obviously did not deter those who kidnapped Dan O'Connell's nephew. The O'Connell kidnaping crime made national headlines, and this is the story.

7.	banquet McCormack's Corners, on Western Turnpike, R. 20 Ph. 2-8895	
les	NEWCOMERS establishing homes in Albany are extended a civic and social welcome and many courtesies through the activities of the Welcome Wagon service. You may assist in this service by telephoning the addresses of new residents to 8-1458.	SAL
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30	SEDGEWICK	SAL
ers.	10-9-13-13-9-5-7-9-12-12-15-21-7-8-12-25	re
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M.	20-15-13-12-25-14-3-8	SAL
v-	2-1-18-14-5-25-18-9-12-5-25	v
on	10-9-13-15-8-1-7-5-14	re
at	20-15-13-4-25-11-5	tu
	13-21-19-8-20-18-1-3-20-14-5-18	ci
r's	2-9-14-4-25-18-9-12-5-25	es
ck.	* 1-12-5-19-15-2-18-5-9-14	S
	Wanted	5
	ANTIQUES AND HOUSEHOLD furniture.	For
	W. A. Davis, 76 Central Ave. 4-1768.	W
9.	ANTIQUES, glassware, gold, silver, etc.	sh

The Kidnappers' Secret Code

The four O'Connell brothers who ran the Albany County Democratic machine, in varying degrees, were all in the neighborhood. Moving up from the South end, Ed O'Connell lived at 41 Summit Avenue. Patrick (Packy) lived at 15 Besch Avenue. John (Solly) lived at 14

Putnam Street. And Dan lived at 142 Whitehall Road. All within walking distance of St James. They were a thoroughly Irish clan---with one exception. In the 1930's, a typical Irish family would have six, seven, eight or more kids. Among the four brothers, there was only one child, Solly's son, John Jr, or "Butch," as he was known.



Lt. John J. O'Connell Jr.



14 Putnam Avenue, Kidnap site

In the wee morning hours of July 7, 1933, 23 year old Lt. John J. O'Connell, Jr. was returning to his Putnam Street Home after a date with Mary Fahey, the woman who would become his wife. They had gone to the movies at the Palace and then got

something to eat at Joe's Delicatessen on Madison Avenue near Ontario. O'Connell was a powerfully built college football player and amateur boxer who stood 5'11" and weighed in at 208. He was also a Lieutenant in the National Guard. He lived with his mother at the Putnam Street home. His mother and father were separated.



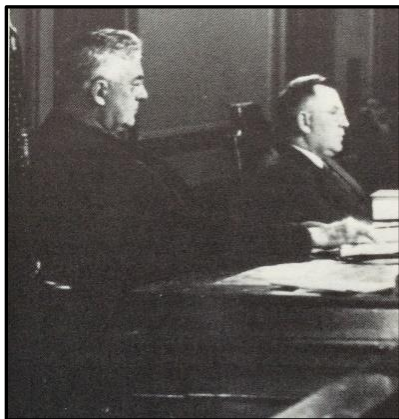
**O'Connell's Helderberg Camp
164 Beaver Dam Rd.**

As "Butch," got out of his car, four men emerged from the dark, put a gun to his head, and dragged him into their car. He was blindfolded, bound and gagged and not seen for the next three weeks. Six hours later, a truck carrying O'Connell would arrive at 734 Adams Street in Hoboken, NJ. This would be O'Connell's home for the next three plus weeks as he was handcuffed to a bed. Over the next 23 days, the kidnapping would play out with some striking similarities to the Lindbergh kidnapping. There were coded messages and secret names placed in Newspapers, extended negotiations over



**Erastus Corning II with John
"Solly" O'Connell, 1938**

the ransom amount, marked ransom notes, interstate searches, and nighttime meetings on park benches. The next evening, a phone call was made to Ed O'Connell's office which was taken by his secretary, Grace Spierre. The caller gave her this message: *"Tell Eddie to tell Danny to go down to the post office to get a letter that is there for him."* It was later noted by George Meyers, Ed O'Connell's law partner, to Chief Smurl and NYSP Major John Warner that only Ed and Dan's closest friends from the South end called them "Eddie" and "Danny."



Dan O'Connell testifies at the kidnapping trial of his nephew. Hon. Earl H. Gallup presiding, March 1934.

The instruction letter would include a demand for \$250,000 and an instruction to send them names of potential intermediaries by using coded messages placed in various newspapers. In a letter that followed, they were specifically instructed to put a coded message in the classified section of the *Knickerbocker News* and the *Times Union* with the suggested names. To ensure that it was only the parties that were communicating, the code name to use would be "Sedgwick." A third coded communication was placed in the *New York Evening Journal*, *The Sun* and the *World-Telegram*. The instructions were to use "known racketeers." In the meantime, the police were hard on the trail. They first searched for likely suspects that were not at their usual haunts and came up with three. One was Manning "Manny" Strewl, a local bootlegger and the second was his sometimes partner, John Oley. Both had prison records. The third was Albany ex-con, Percy

"Angel-Face Geary.

To let the kidnappers know they were on to them, the names of these three were included in the coded lists that were placed in the classifieds. Proving the adage that "they only catch the dumb ones," the kidnappers accepted Strewl as the intermediary when his name appeared on the last list. The code



Manny Strewl

used was juvenile Dick Tracy, 1=A, 2=B, 3=C... and so on. A week after the letter of acceptance arrived from New York City, Strewl met on a bench in Washington Park with Dan O'Connell. After three more meetings, Strewl and Attorney Louis Snyder went to Dan's house on Whitehall Avenue where O'Connell

handed over \$42,500 in cash ransom money. Strewl and Snyder left and headed to New York. Fearing that the serial numbers were recorded, the kidnappers demanded another form of exchange. Strewl called O'Connell from a phone booth in Pennsylvania Station in Manhattan, and it was agreed that the money would be replaced by exchanging it at the Bank of Manhattan. In the early morning hours of

June 30th, the kidnapers drove to an intersection in the Bronx and let John O'Connell out of the trunk of their car where Strewl and Albany Lawyer Louis Snyder were waiting on the other side of the street. At about 5:00 a.m., O'Connell, Strewl and Snyder, ending 23 days of high drama, up to Dan O'Connell's summer camp in the Helderbergs. When they got out of the car they were greeted by Dan, NYSP Major Albany Police Chief Smurl and several detectives who questioned Strewl.



John Jr. enters Court with Uncle Dan

Strewl was allowed to leave from Dan's camp, but he was picked up for questioning the next day and released again. On August 8th, Strewl was arrested in Monticello on a sealed Albany County indictment. John Jr. would tell a story of being manacled to a bed and blindfolded the whole time, except when his blindfold slipped, and he caught a glimpse of his kidnappers. With clues given to the police, that he heard church bells and a factory whistle, the police were able to determine the location of the hostage hideout in an apartment in Hoboken, NJ. The trial would unfold in March 1934 in the courtroom of Albany County Judge Earl Gallup. Strewl was represented by Daniel H. Prior, the legal savior of Jack Diamond. Handwriting experts testified that Strewl wrote the ransom letters and a Toronto salesman testified that he overheard a conversation among four men in a New York City hotel planning the kidnapping. He identified two of them, Manny Strewl and John Oley. A James Cagney "you dirty rat" moment occurred at trial when John O'Connell identified Manny Strewl in Court. Strewl jumped up and said, *You're a God darned liar, I saved your life you son-of-a-bitch, and here you are trying to hang me, and you know it you dirty son-of-a-bitch*" (Trial Record, p.129).



"Angel-Face" Geary



**The Hedrick Brewing Co.,
Southwest Corner of Central and Ontario**

Strewl was convicted, sentenced to 50 years and sent to Dannemora. All the while, the police were searching for the Oley brothers and "Angel-Face" Geary. In 1936, Strewl's conviction was reversed by the Appellate Division, 3-2, in an unusually long opinion for that Court, 31 pages. The majority held that the verdict was against the weight of the evidence given the substantial proof that Strewl was acting as an independent mediator. This conclusion was helped by the impeachment of O'Connell concerning his identification of Strewl as being a person he saw at kidnap house. O'Connell had given a long newspaper interview in which he said that he could not identify any perpetrators. Added to this was the fact that when released, he made no hue and cry against Strewl to anyone, despite being in the presence of the District Attorney and several police officers. Indeed, he did not tell the District Attorney that Strewl was one of his kid nappers until two days after his release. The Court also found errors in Judge Gallup's charge to the Jury. It was also error to allow the jury to have a magnifying glass to examine the disputed ransom notes and the Court suggested that the prosecutor surreptitiously planted it in the deliberation room. The second trial, now held in Catskill, ended when Strewl entered a plea to blackmail and accepted a sentence of 15 years. As Strewl and Fisher were rolled up so was the rest of the kidnap gang. This included John Oley's brother, Francis who was arrested in Denver. John Oley was arrested in New York City and Percy

“Angel-Face Geary” was arrested in a Brooklyn rooming house. Other persons implicated in the kidnapping were Harold “Red” Crowley, Charles Harrigan, John “Sonny” McGlone, George Gargillio and Thomas Dugan. All were convicted in Federal Court on August 13, 1937 and received lengthy sentences. After 12 years in prison, Geary was facing imminent release on parole. But life on the outside appeared daunting. Three days before he was scheduled to be released, he jumped under a moving truck in the prison yard killing himself. At the start of the trial on Federal charges in Binghamton for several other defendants, two of them, Francis Oley and Christopher Miller hung themselves in their jail cells. All told, eight persons would pay for the kidnapping of O’Connell and 13 were implicated in related crimes. After the trial dust had settled, John O’Connell was installed as a figurehead chair of the Albany County Democratic Party in 1939 but removed in 1945. He then went to work for Hedrick’s Brewery, the family business, and died in 1954 at age 45. His father, Solly O’Connor died the year before at age 69. Strewl, Crowley and



Oley were paroled in 1958. Strewl returned to Albany and died on December 15, 1998, at age 95. The ransom money was never recovered. As one might expect, legend arose that it remains hidden in Washington Park.

J. J. O'CONNELL JR. IS DEAD IN ALBANY

Upstate Democratic Leader's
Nephew Was Victim in 1933
of Sensational Kidnapping

ALBANY, Sept. 4 (AP)—John J. O'Connell Jr., a nephew of upstate New York's most powerful Democratic leader, Daniel P. O'Connell, and the victim of a sensational kidnapping in the Thirties, died today in St. Peter's Hospital.

Mr. O'Connell, who was 44 years old, was vice president and general manager of the Hedrick Brewing Company here. He had suffered a cerebral hemorrhage a week ago.

He himself had not been active in politics in recent years, but

from 1940 to 1946 he served as Democratic chairman of Albany County. He relinquished the post to his "Uncle Dan," who long has been the party's chief in Albany County, whether holding the chairmanship or not.

On July 7, 1933, Mr. O'Connell, then 24 and a National Guard lieutenant, was kidnapped from the sidewalk in front of his home here. He was released unharmed after twenty-three days, when his uncle paid a \$40,000 ransom.

Eight men whom Federal authorities described as part of the nation's largest organized kidnapping ring were convicted in connection with the case.

Long Sentences for Four

John J. Oley and Percy Geary were sentenced to seventy-seven years and Harold M. Crowley to twenty-eight years in Alcatraz. Manning Stewl served ten years in Clinton State Prison, then was turned over to Federal authorities to serve a twenty-two year prison term.

Mr. O'Connell was elected

county chairman at the age of 30. He succeeded another uncle, Edward J. O'Connell, who with two brothers—one of them Daniel, the present county leader—had wrested political control of the county from the Republicans in 1921. The third brother, Patrick, died the year of the kidnapping.

John O'Connell was a graduate of Manlius School, near Syracuse, where he played football and was an officer in the cadet battalion.

Besides his Uncle Daniel, he leaves his mother, Mrs. Catherine O'Connell of Loudonville; his widow, the former Mary Fahey; four children, John J., Mary Ann, Ellen and Edward; three aunts and a great-aunt, Mrs. Ann Cook. All live in Albany. His father died last year.

Led Fight Against Farley

The son of a former alderman and district leader, John J. O'Connell Jr. cut his political teeth as

a ward president before being installed in 1940 as chairman of the Albany County Democratic Committee.

As county chairman, Mr. O'Connell led an unsuccessful fight in 1944 to unseat James A. Farley as state Democratic chairman when Mr. Farley came out against a fourth term for President Franklin D. Roosevelt. He also found himself in frequent rows with Governor Dewey, who has often attacked the O'Connell machine as corrupt and in league with criminals.

The New York Times

Published: September 5, 1954

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CODLING V. PAGLIA

32 NY2d 330

A Revolution in Products Liability in 1967 Albany County, NY

Neil Hesson and Harvey J. Lifset for Paglia

John T. DeGraff, Carroll J. Mealey and Frederick Reister for Codling

Justice DeForest C. Pitt, presiding

August 2, 1967 was a beautiful Wednesday summer day in Glenmont, NY. Christino Paglia was heading south on Route 144 in his new Chrysler Newport. It was only four months old with 4,000 miles on it. Without warning and for no apparent reason, Paglia's car drifted into the northbound lane and struck head on a car being driven by Frank Codling. The car was owned by Frank's wife Marcia. The evidence showed that at the time of the collision Paglia was going 45-50 mph and neither blew his horn nor applied his brakes. The evidence also showed that the Codling vehicle came to a near stop just before the accident. The Paglia's had experienced no mechanical difficulties with their car before the accident. Law suits ensued.

At the close of the evidence the Court charged the jury as follows: (1) "Did the defendant Chrysler Corporation negligently manufacture and assemble the Paglia automobile with a defective power assist steering system?" (2) "Did the defendant Chrysler Corporation breach its implied warranty of merchantability and fitness of the Paglia automobile?" (3) "If the product is in fact defective the manufacturer is liable to any person properly using the product and to persons not using the defective product who are innocent bystanders, for injury resulting from its defective and unfit condition." The trial court also charged the jury that contributory negligence was not a



John T. DeGraff
Attorney for the Codlings



Harvey J. Lifset,
Attorney for Christino Paglia

defense to Paglia's action for personal injuries and property damage against Chrysler for breach of warranty. The case went up on appeal and the Court of Appeals said, **"We hold that today the manufacturer of a defective product may be held liable to an innocent bystander, without proof of negligence, for damages sustained in consequence of the defect."**

The case was tried before a jury of twelve. By a 10-2 vote, the jury found that Chrysler was not negligent, but it had breached its implied warranty of merchantability. They awarded Codling \$150,000 against Chrysler and \$200,000 was awarded to Codling.

On appeal, the Appellate Division, affirmed the jury verdicts in favor of the Codlings against Chrysler, but reversed the judgment for Paglia on his cross claim against Chrysler. The Appellate Division also affirmed the jury verdict against Chrysler in favor of Paglia for his own injuries and property damage. When it got to the Court of Appeals, they found ample evidence in the record to support the factual determinations made by the jury — that Chrysler breached its implied

warranty of merchantability and fitness, and that such breach was a proximate cause of the accident. Chrysler argued that there was no proof that the steering mechanism was defective, but the jury heard Paglia's testimony which was persuasive. The automobile "went to the left" and that he "tried to steer to the right" but that "she locked on me or something." "I couldn't steer right. It went to the left and I tried to steer to the right, and she wouldn't budge, she wouldn't give."

The law on the implied warranty of merchantability was clearly fixed by 1967. For most cases, the plaintiff did not have to prove the specific defect but could rely on a presumption that it was defective if the product did not work as intended. The novel question in *Codling* was whether the implied warranty extended to innocent bystanders. The Court went through the history of the developing law on this question. It noted that, historically, the law started with a proposition that there could be no liability without privity of contract. The first chink out of that armor occurred in 1961 when the Court of Appeals allowed an infant-plaintiff to recover damages for injuries caused by pieces of sharp metal found in a can of salmon, where the canned food had been purchased by her father.

In 1962, the Court held that the manufacturer of a chemical used for treating fabrics to prevent shrinkage was held liable to a remote purchaser. In 1963 the Court held that an airplane manufacturer, though not the manufacturer of the defective component part, was liable for wrongful death of a passenger. And in 1969, the manufacturer of a defective oxygen-type protective mask was held liable for injuries sustained by persons who attempted to rescue users of the mask, under the doctrine of "danger invites rescue".

"The erosion of the citadel of privity had been proceeding apace and even more rapidly in other jurisdictions, all with the enthusiastic support of text writers and the authors of law review articles as evidenced by an extensive literature. Once one exception had been made, others followed as appealing fact situations presented instances in which, in language of result, liability has been imposed to avoid injustice and for the protection of the public" (*Codling*, 339). The Court called this process "a developing and more analytical sense of justice..... Our decision is one of policy but is mandated by both justice and common sense."

"We accordingly hold that, under a doctrine of strict products liability, the manufacturer of a defective product is liable to any person injured or damaged if the defect was a substantial factor in bringing about his injury or damages; provided: (1) that at the time of the occurrence the product is being used (whether by the person injured or damaged or by a third person) for the purpose and in the manner normally intended, (2) that if the person injured or damaged is himself the user of the product he would not by the exercise of reasonable care have both discovered the defect and perceived its danger, and (3) that by the exercise of reasonable care the person injured or damaged would not otherwise have averted his injury or damages" (*Codling*, 343).

The Court did find that it was error for the trial court to charge that contributory negligence of Paglia was *not* a defense that Chrysler could use. Under then existing rules of liability, it would have provided a complete defense to Chrysler's negligence. Accordingly, it reversed this part of the judgment. Although the Court in *Codling* had taken a bold step in abandoning the concept of privity to protect innocent bystanders, it did not have the courage to take the next step of abandoning the unjust concept of allowing the most minimal quantum of contributory negligence to completely forgive the negligence of the perpetrator. However, while the *Codling* case was on appeal, the Court of appeals issued [*Dole v. Dow Chem. Co. \(30 N Y 2d 143\)*](#) which established the new rule that all negligence must be apportioned on a 0 to 100% scale but only between the defendants. The *Codling* Court was unwilling to extend apportionment of negligence to all parties. The *Dole* decision was written by Francis Bergan, Albany's greatest judge.

Codling highlights the current (and never ending) debate over whether the Constitution, or indeed any law, should be interpreted from an originalist point of view which concentrates on the meaning of the words used in the law when the law was written or whether meanings can evolve to meet the circumstances of the time. We have all heard the repeated mantras that judges are not legislators and a judge's job is to call balls and strikes. Both sides' cases are overstated. No serious legal thinker believes that the Constitution somehow evolves on its own. On the other hand, it does seem to be an exercise in futility to try to determine how James Madison would apply the Constitution to a case involving the internet, a circumstance he could not have imagined. Even our most staunch originalist, Antonin Scalia, said that the Constitution should not be interpreted strictly or liberally but on a fair trajectory of the arc of its development.

In the States, however, the situation is much different. The Courts have been developing the Common Law, i.e. legislating, for hundreds of years. The law of contracts, financial transactions, torts and evidence have primarily been Judge made in New York. McKinney's Consolidated Laws of New York contains Volume 1 *Statutes* and Volume 156, *The General Construction Law* which call for our laws to be liberally construed-----unless the law is in derogation of the Common Law, in which case it is to be strictly construed.

BOOMER V. ATLANTIC CEMENT COMPANY

26 NY 2d 219 (1970)

SERVITUDES ON THE LAND IN RAVENA, NY

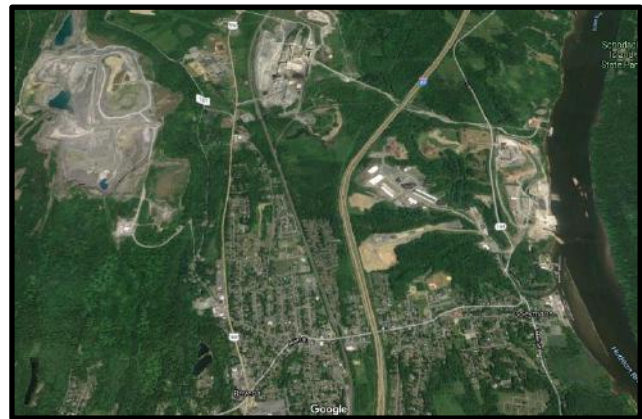
E. David Duncan for Oscar Boomer

John J. Biscone and Daniel H. Prior for Charles J. Meilak

Thomas F. Tracey for Atlantic Cement

Columbia County Surrogate R. Waldron Herzberg, presiding

Anyone who has looked south from a tall building in downtown Albany or driven to or from New York City on the Thruway has seen the giant towers of the Atlantic Cement Company and the enclosed chute that goes from the plant under the Thruway and over Route 144 to the river. Located just north of the village of Ravena on Route 9W, it is now owned by *LafargeHolcim*. It was most recently in the news for a plan to burn tires. In 1970 its problem also aroused a public outcry. Its plant was depositing cement dust on everyone's property, creating health problems and damaging homes and cars. Oscar Boomer and other village residents were mad as hell and they weren't going to take it anymore. Some of Albany's best attorneys jumped into the breach. The case landed on the docket of Judge Waldon Herzberg, the Columbia County Surrogate sitting by designation in Albany County Supreme Court. Herzberg, a graduate of Yale and Albany Law School (Class of 1933), was the Columbia County Surrogate from 1963-1971. He died in Carmel, CA on June 20, 1990. His estate funded The Judge R. Waldron Herzberg and Ruth Miller Herzberg Memorial Scholarship.



**Atlantic Cement Company Complex and
Village of Ravena**

The following is a summary of Judge Herzberg's opinion. The plaintiffs sought an injunction against Atlantic Cement to restrain it from emitting dust and raw materials and from conducting excessive blasting in operating its plant. The plaintiffs claimed that these conditions constituted a nuisance upon their lands. Atlantic began the production of cement at this plant in 1962. Atlantic spent more than \$40,000,000 to build one of the largest and most modern cement plants in the world. The company installed at great expense the most efficient devices available to prevent the discharge of dust into the atmosphere. The plant employed over 300 people. The evidence in this case established that Atlantic took every possible precaution to protect the plaintiffs from the discharge of dust into the atmosphere. Nevertheless, Atlantic in the operation of its cement plant between September 1, 1962, and June 1, 1967 (a period of 57 months), created a nuisance on the lands of the plaintiffs.

The discharge of large quantities of dust upon each of the properties and excessive vibration from blasting deprived each party of the reasonable use of his property and thereby prevented his enjoyment of life and liberty therein. The Court considered the plea of plaintiffs that

an injunction should issue in this action. Although the Supreme Court has the power to grant and enforce an injunction, equity forbids its employment in this instance. The defendant's immense investment in the Hudson River Valley, its contribution to the Capital District's economy and its immediate help to the education of children in the Town of Coeymans through the payment of substantial sums in school and property taxes lead the Court to conclude against the issuance of an injunction.

The ownership of property will be protected unless there are other considerations which forbid, as inequitable, the remedy of the mandatory injunction. A court of equity can never be justified in making an inequitable decree. If the protection of a legal right would do a plaintiff but comparatively little good and would produce great public or private hardship, equity will withhold its discreet and beneficent hand and remit the plaintiff to his legal rights and remedies. After reviewing all the evidence in this action, The Court finds that an injunction "would produce great public ... hardship." In awarding damages to the time of trial the Court is bound by precedent to grant only the loss of rental value or loss of usable value sustained. For all the plaintiffs, the Court determined their total permanent damages were \$185,000.

On its way to the Court of Appeals, the parties would have to stop at the Appellate Division. On November 4, 1968, that Court issued a unanimous decision affirming the lower court. One could never guess from the Appellate Division's decision that this case would become famous nationwide and be taught in every law school in the country. It dispatched the issues in less than 350 words. When the case got to the Court of Appeals, Judge Francis Bergan of Albany would have other ideas.

The Court of Appeals issued its ruling on March 4, 1970. It was a 4-1 decision with Judge Jasen dissenting. Chief Judge Breitel and Judge Gibson did not participate. Judge Bergan framed the broad issue this way: *There is now before the court private litigation in which individual property owners have sought specific relief from a single plant operation. The threshold question raised by the division of view on this appeal is whether the court should resolve the litigation between the parties now before it as equitably as seems possible; or whether, seeking promotion of the general public welfare, it should channel private litigation into broad public objectives*



E. David Duncan, Attorney for Oscar Boomer, backed by maps of Ravena, NY

Bergan went on to describe the wide public interest in the problem posed by pollution and questioned whether it was within the provenance of the Court to institute broad public policy within the context of a law suit between private parties. On the other hand, he noted that it has long been the standing law of New York that where a plaintiff can show substantial damages that will continue, an injunction will issue. "The rule in New York has been that such a nuisance will be enjoined although a marked disparity be shown in economic consequence between the effect of the injunction and the effect of the nuisance."

One of the procedural problems that would arise out of the trial court's decision, as affirmed by the Appellate Division, is that Boomer and all the other Village of Ravena residents would have to bring law suits each year to be compensated for the damage to their property the year before. On the other hand, to issue a permanent injunction would close a multi-million dollar operation and a

loss to the community of good paying jobs and property taxes that supported the schools, police, emergency and all other government services.

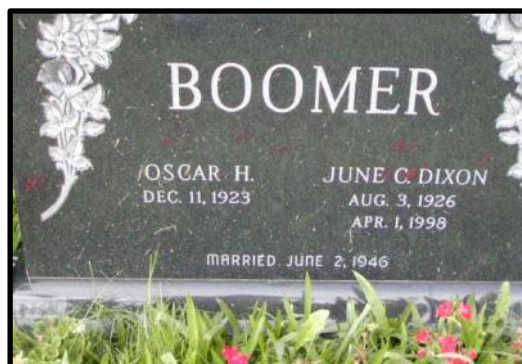
The Court selected a middle ground. It would approve a permanent injunction that would, in effect, be stayed if the defendant paid all plaintiffs' damages, past, present and future. "It seems reasonable to think that the risk of being required to pay permanent damages to injured property owners by cement plant owners would itself be a reasonable effective spur to research for improved techniques to minimize nuisance."

Judge Jasen issued a forceable dissent. He argued that the majority's resolution was the equivalent of allowing an eminent domain by a private party for a private use. "In permitting the injunction to become inoperative upon the payment of permanent damages, the majority is, in effect, licensing a continuing wrong. It is the same as saying to Atlantic, you may continue to do harm to your neighbors so long as you pay a fee for it. Furthermore, once such permanent damages are assessed and paid, the incentive to alleviate the wrong would be eliminated, thereby continuing air pollution of an area without abatement." Jasen termed the majority's award of relief an "inverse condemnation."

If you Google "*Boomer v. Atlantic Cement Co.*" you get over 1 million hits. If you Google *Palsgraf v. Long Island Railroad*, you get 26,000 hits. The influence of *Boomer* cannot be overestimated. It has been taught in every law school in America in torts, environmental law and equitable relief courses. It came at the birth of the environmental movement and the developing intersection of economics and the law which was centered at the University of Chicago Law school in the person of Noble Prize winning Professor Ronald H. Coase. In his seminal publication *The Problems of Social Cost*, Coase outlined the problem of "externalities." That is, situations where an enterprise imposes a societal cost that is not paid for by the business entity. The cost of single use plastic bags or the problem of acid rain polluting Adirondack Park lakes are good examples of externalities. Certainly, Atlantic Cement raining down cement dust on the residents of Ravena, NY is another.

Professor Daniel Farber of Berkley Law School put it this way. "*Thus, Boomer was emblematic of the issues that would preoccupy a whole generation of legal thinkers, issues that continue to shape environmental debate today. It is likely to remain a prominent case so long as those issues continue to perplex scholars, students, and policymakers.*"

As for Oscar Boomer, he had a full life. He died on March 26, 2005, at age 81. He had operated Boomer's Garage in Ravena since 1946. He left two sons, two daughters, five grandchildren and four great-grandchildren. He is buried in the Chestnut Lawn Cemetery in New Baltimore, NY.



PEOPLE v. ????
The Murder of the John Gratto
And his Seven Children
By Arson in 1978 Cohoes NY

It stands as the worst mass murder in Albany County History. On June 2, 1971, John Gratto, 31 and his seven children, all under 10, burned to death in their home at 108 Ontario Street in Cohoes, NY. There crime has never been solved. Brendan Lyons of the *Times Union* recounted the tragedy on June 26, 2010, this way:

COHOES — The seven young children of Virginia and John Gratto were a few hours from death. It was a hot Friday night in June 1978. The needy family, several of the kids still in diapers, crammed into their Chevy Corvair and drove south on Route 32 into Menands. The plan was to watch a line-up of R-rated horror and sex films at the Tri-Cities Drive-in. But as storm clouds gathered the family returned to Cohoes around dusk. They settled in for a sweltering night inside their two-story apartment in the city's east end, near the confluence of the Hudson and Mohawk rivers.

John Gratto, an unemployed truck driver, slid into a recliner as his wife, whose latest job was peddling cosmetic products, fixed him something to eat. To some neighbors, the Grattos were just another large family struggling to get by. Beneath the surface, their story was a tragic tale of broken dreams, marital problems, financial hardship and abuse. Virginia Gratto and John Gratto Sr.(right) had a troubled marriage that was marked by abuse and financial hardship. Virginia Gratto was pregnant with her eighth child when a fire in the family's Cohoes home killed John Sr. and their seven children. Virginia left the area but remained a suspect in the blaze, police have said. A year earlier John Gratto had served 60 days in a local jail for molesting the couple's second-oldest child, Evelyn, who was 8 years old. As part of a plea in Rensselaer County Family Court, Gratto also allegedly admitted abusing their oldest child, Eleanor, 9, who was in third grade.

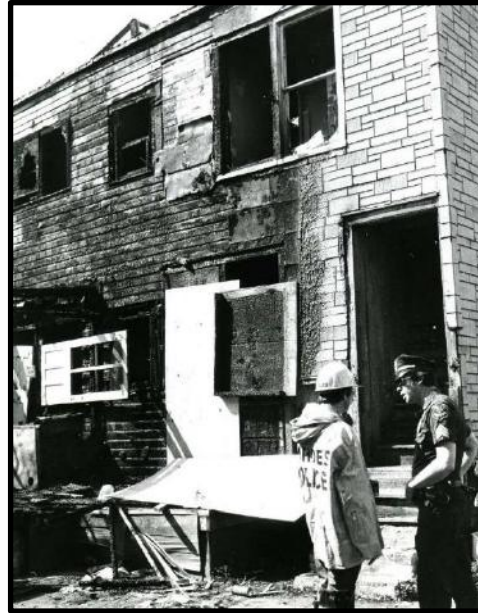


Virginia and John Gratto, 1978

Gratto, 31, was rail thin and had a reputation as a hard drinker. He fell asleep in his chair that night as the couple's five older children headed upstairs to their bedrooms on the third floor. Virginia Gratto, three months pregnant with her eighth child, tucked her 4-month-old twins, Sarah and Patricia, into a crib outside her second-floor bedroom and settled into bed to watch the late television news. The fire that would kill John Gratto and his children began less than an hour later. Despite the passage of 32 years, no one has ever been charged with setting the fire.

In [2010] investigators quietly re-opened the case and crisscrossed the country re-interviewing witnesses. Once again, they have zeroed in on Virginia Gratto as their primary suspect. In March 2010, a team of detectives flew to Washington, where Gratto lives, and questioned her for more than seven hours in an interview that sources said culminated with Gratto making incriminating admissions. But in a case that's more than three decades old, with little physical evidence and many witnesses who have died, forgotten or moved on, it's unclear whether anyone will ever be charged.

Shortly after the blaze investigators determined it was deliberately set by someone who poured an accelerant near a rear porch and lit it. They also concluded the fire that engulfed the four-unit apartment building had a second point of origin in the back of the Gratto's apartment, near the kitchen. Still, in 1978 the art of arson investigation was more guess-work than science. Law enforcement sources familiar with the case said there was very little physical evidence to support the conclusions of the New York City fire investigators who had flown up -- on loan from Mayor Ed Koch -- to help solve one the region's most unsettling arson cases on record.



In the days following the blaze Virginia Gratto told police she had fallen asleep in her second-floor bedroom after watching the 11 o'clock news. Minutes later, she said, Sarah's cries woke her mother as blinding and acrid smoke started filling the apartment. Virginia Gratto told police she was unable to breathe. She couldn't get to her crying babies who were just a few steps away. It's unclear whether she screamed for her husband or tried to wake him. She exited the interior front door, which firefighters later found closed and locked. On the street outside, "she began screaming for help," according to a grand jury report issued a year after the fire.

Detectives and firefighters were immediately suspicious of Virginia Gratto, who fled the burning building without her twin babies, Sarah and Patricia, who were sleeping a few steps from Gratto when the fire struck their Cohoes apartment. Fire Chief Ray LaMora spotted Virginia Gratto outside the security line watching their firefighting efforts. "I just keep thinking back, my gosh, how could she possibly be in that building in bed when everybody else was in bed and get out and look as good as she did when I first saw her," LaMora said. "She didn't look like she was in a hurry to get out or she was burnt, or her clothes might be burnt. ... So right away you form opinions. That's your job. You try to right away figure what the hell happened here. And right at that very time I was kind of suspicious and when I was able to talk to her she wasn't very talkative."

Hours later, after Gratto returned from being checked at a hospital, LaMora approached her. He said someone behind Gratto told her not to say anything. She already had an attorney. The firefighters found the five bodies of the older children huddled near a bed in their third-floor bedroom. A neighbor who was there and got out safely said the children's bedroom window was inexplicably blocked by a board nailed across it.

Michelle Proctor, who was 19, was drifting to sleep when she heard the nails of her dog pacing nervously across the floor. The apartment she shared with her now-husband, Chuck, was separated from the Gratto's by a thin wall. The dog, a mixed-breed named "Babe," wouldn't stop fidgeting. Chuck Proctor saw the flames lapping up the back of the house below a window. He started hopelessly dousing the flames with pitchers of water. "Get out," he yelled to Michelle. They ran downstairs. Michelle Proctor was wearing only her bathing suit bottoms and wrapped in a comforter. She dropped her puppy in the chaos.

Outside, Michelle Proctor locked eyes on Gratto. Where were the children, she recalled thinking. The Gratto's Corvair wasn't against the curb, where it usually was parked. Proctor, now 50, said State Police investigators visited her twice in April to go over everything she could remember. Proctor said she remembered being stunned that when she ran outside the fire fight was underway and the block filled with onlookers. "They were hosing down the house," Proctor said. "She told them we went camping, we weren't home. Gratto did." Chuck Proctor, unaware the Gratto children were trapped, ran back inside and raced upstairs to the third floor. He flipped over a chair and a couch looking for the dog, which was already safe outside.

Michelle Proctor, in a recent interview at her Duaneburg home, shook her head and jabbed a cigarette in the air for emphasis as she recalled Virginia Gratto being void of emotion and overly concerned with retrieving her pocketbook after the fire. "I wouldn't breathe one breath before their bodies were in the ground," Proctor said. "She had to walk right by her husband to get out. They said they found him by the door holding the two babies." Also, Proctor said, it bothered her that Gratto had burns on her face when she had exited the apartment so quickly, apparently before the fire had engulfed it.

In the days following the fire the investigation, led by Cohoes detectives, intensified. The community, and police, looked on Gratto with deep suspicion. The publicity didn't help. The fire's ashes were still hot when Gratto stood out front that morning and told a reporter: "I've got to stay calm. I'm having another kid in December and I don't want to lose it. I have to start life over again." A Times Union article a day after the fire described how Gratto climbed into the Corvair, asked someone to move their truck and said: "I want to get the heck out of here and never come back." A couple months later Gratto left the state and moved to Washington, near the Canadian border. She quickly married an apple orchard farmer whose brother, according to news reports at the time, had sent her a sympathy card offering her a new start out west. But Gratto wasn't the only suspect.



Virginia Gratto at the burial of her seven children and husband. Dan Dwyer stands to her left.

"I want to get the heck out of here and never come back." A couple months later Gratto left the state and moved to Washington, near the Canadian border. She quickly married an apple orchard farmer whose brother, according to news reports at the time, had sent her a sympathy card offering her a new start out west. But Gratto wasn't the only suspect.

In the crowd outside the fire that night stood John Kilduff, a taxi driver who was one of the first witnesses on the scene. Kilduff and his brother, George, a deceased volunteer firefighter, had demonstrated a knack for showing up quickly at fire scenes in the 1960s and 70s. Some 13 years earlier firefighters in neighboring Troy were suspicious of how often the Kilduff brothers turned up at fires. In October 1965, after the brothers were found watching an abandoned shirt factory fire, Troy police hauled them in for questioning. The Kilduffs, at the time in their early 20s, were unmarried and living with their parents. Detectives grilled them for hours about a house fire in early 1964 that killed nine children ranging in age from 2 to 18.

The Kilduffs, who liked to jump in and help at fire scenes, had been spotted at the 1964 fatal fire and helped remove the children's bodies. Police said they made "incriminating statements" and the brothers were charged with arson and first-degree murder. But the case was later thrown out when an appellate court ruled their statements had been coerced. Troy police at the time said the brothers had admitted setting 14 fires across Troy. John Kilduff's presence at the Gratto fire on June 2, 1978, wasn't something detectives could overlook. Days after the fire John Kilduff told a Times Union reporter he spotted the flames while driving his taxi along Ontario Street. He pulled over, yelled into his cab radio that 108-110 Ontario Street was on fire, and jumped out to help, he said. In 1978 Kilduff told the Times Union that he didn't know Gratto, but then said he had driven her in his cab. Detectives built a timeline and concluded that Kilduff, based on his cab fares that night, was not involved with the blaze. Police sources close to the case said Kilduff may have been one of a few men who had close ties with Virginia Gratto, who had a troubled marriage and claimed her husband had been abusive.

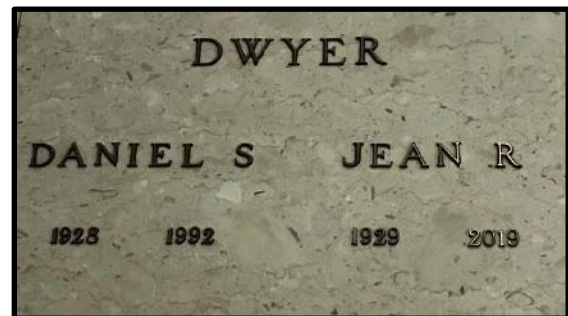
Thomas Mallon, who was 42 when the fire struck, came forward two weeks after the fire and identified himself as John Gratto's friend and a boyfriend of sorts to Virginia Gratto. "I wanted to marry her," he said, adding they had met while being treated at a state-run hospital. Mallon died 11 months later. Michael Robich, 81 in 2010, who was Cohoes police chief at the time of the fire, said he wished Albany County prosecutors had filed criminal charges, even if the evidence was

largely circumstantial. "I firmly believe that her attitude, if they would have allowed it in, her state of mind ... it would have been a factor," Robich said. The former chief, who still lives in Cohoes, said he met with investigators at the Albany County district attorney's office several weeks ago to pore through the massive case file. The meeting was part of an ongoing effort by State Police, federal agent, Cohoes detectives and county prosecutors to revive the investigation. Robich conceded the case may never be solved. But he said many of the city's old-timer firefighters and police officers regard it as the one they hope gets resolved before they die. *(Brendan J. Lyons is a Managing Editor for the Times Union overseeing the Capitol Bureau and Investigations. Lyons joined the Times Union in 1998 as a crime reporter before being assigned to the investigations team. He became editor of the investigations team in 2013 and began overseeing the Capitol Bureau in 2017)*

Chief Assistant District Attorney led the investigation into the Gratto arson. Dwyer was a legend in the District Attorney's Office. He would serve there for 22 years, most of it as Chief Assistant. Dwyer was a determined adversary with hundreds of trials under his belt.

Three days after the fire Virginia Gratto told a newspaper, "I have to find a new place for myself and start over." Shortly after the fire, Virginia Gratto received a sympathy card from a man in Washington State. Other reports say that she answered an ad from an apple farmer in Eastern Washington. In either case, she immediately went to Washington to visit a man named Utgard and ended up marrying his brother who was 20 years her senior and a divorced father of four. The marriage took place just two months after all her children perished. Gratto was three months pregnant at the time. She named her baby after her new husband. Also raising the police's suspicions was that Gratto returned to the scene of the fire but seemed concerned in only finding her pocketbook. She was the only family member to escape the inferno.

In March 2010 New York authorities returned to Washington to question Virginia Gratto and news outlets reported she signed a confession which she claimed was coerced. Dan Dwyer would visit the gravesite of the Gratto children each year on the anniversary of their deaths. On his desk instead of a name plaque he kept a sign that said, "Dan, Remember the Grattos." Dwyer died in November 1992 at age 63 after a long bout with cancer. He is buried in St. Agnes Cemetery, Menands, NY. The Gratto's are buried at Elmwood Cemetery in Troy, NY. The case remains open.



PEOPLE V. KAREN ELY
68 NY2d 520
115 AD2d 172, Reversed
MURDER AND JUSTICE IN 1982 ALBANY, NY

Christopher P. Rutnik, for the People
Stephen R. Coffee, for Defendant Ely
County Judge Joseph Harris, presiding

Raymond and Karen Ely had a tumultuous marriage. At the time of his murder, they had been separated for two years. Karen Ely would claim that Raymond abused her, but that allegation came after both her trials. Albany County District Attorney Sol Greenberg said Karen Ely's claims of domestic abuse never surfaced during her trials or during the police investigations into her husband's killing. He suggested that she concocted the allegations to win public sympathy for her case. Indeed, her attorney asked the court to charge the jury the crime of first degree manslaughter, i.e. murder committed under extreme emotional disturbance---like that caused by persistent domestic violence. The Court ruled that the record contained no evidence of such emotional disturbance, even after Ely testified in her defense. In any case, if there was abuse, it was Karen Ely who would strike the last, deadly blow.

In February 1982, Raymond was in possession of a Court order that allowed him to commence overnight visitation with his son on February 6th. The order was entered on stipulation in the parents' divorce proceeding. On February 5th Ray's frozen body was found on the passenger side of his car behind the Albany Bus Station in downtown Albany.

Karen Ely had been planning this murder for a while. In January she solicited Robert Huntington to kill her husband. The plan was this: The court order allowed Raymond to go to Karen's house in Rensselaer to pick up some of his belongings. He would be invited to do this on the evening on February 4th. When Raymond arrived, Huntington would be hiding in the basement. Ely would lure him to the basement by saying she needed some help straightening up a few things. When Raymond went down to the basement Huntington would strangle him with a clothesline. The plan went off without a hitch. As Huntington's rope squeezed out her husband's last breaths, Ely held his hands and said, "It's O.K., Ray, it's O.K."

Ely and Huntington then loaded the body in Raymond's station wagon for abandonment at the Albany bus station. They took Raymond's belongings to make it look like a robbery and Karen disposed of these, with her house cleaner present, in a dumpster in East Greenbush the next day. According to the housekeeper's testimony, on the night of Feb. 4, 1982, Ely told her she had "hired somebody to kill" her husband and wanted to "get rid of a watch and some other stuff."

The police were not fooled by the robbery ruse and suspicions immediately centered on Ely which led to Huntington. At trial, Ely would claim that Huntington got very upset when she



Karen Ely in 1982

told him that her son said that his dad made him watch when he had sex with another women. The child was two at the time. Huntington said that he was depressed and using drugs at the time and Ely played on his emotions. He testified that she offered him part of the inheritance after her husband's death. Huntington was indicted and pled guilty to second degree murder bargaining his testimony for a 17 year-life sentence.

However, the motive was clear. Ely did not want her husband to have overnight visits with his two year old son. At trial, Huntington testified that he told Karen that he was thinking of backing out and she said to him, "Don't back out on me now. We have to do it tonight. We have to do it before the weekend [when the visits would start]." But while the motive was clear to the police, would it be so clear to a jury? Would a jury believe beyond a reasonable doubt that a mother would hire an assassin to kill her child's father so the father could not visit the child at a time that the mother had agreed to in a court stipulation? That was a stretch, and more evidence was needed. But there were tapes!

As happens in many contentious divorces, one party's attorney will instruct his client to tape phone conversations with the other spouse to protect against false allegations of harassment or to show some improper motive. Raymond's attorney told his client to do exactly this, and the police had three of those tapes. But were they admissible? In New York, one party is permitted to secretly tape his phone conversation with another. But there are many other evidentiary hurdles to clear.

That Karen Ely murdered her husband was clear. For example, an issue that was not addressed in the Court of Appeals opinion was the testimony of Mary Beth Matthews. Matthews said that while she was an inmate at the Albany County Jail, she was approached by Ely about testifying for her. Ely wanted Matthews to say that she was at the Bus Station on the night of February 5th and that she tried to buy drugs for him. The importance of this case is its status as the leading case in New York on the evidentiary requirements for the admissibility of recordings. The starting point for any item of evidence is whether it is authentic. In the case of tapes that would be whether it is the person's voice on the tape and was the tape altered in any way. After that hurdle is cleared, the Court may examine whether the recordings are relevant, prejudicial or privileged. For the Court of Appeals, it found that the tapes were not admissible because their authenticity could not be established and, even if they were, portions were prejudicial. It reversed the judgment of the Appellate Division and of the trial court. It is worth noting that thirteen judges looked at the issue of the tapes' admissibility and seven found that they were not admissible and six determined they were.

Indeed, while the case is a clear restatement of the developed law of the admissibility requirements for voice recordings, it did not break new ground. Rather, the outcome was based on the views of last seven judges who looked at the evidence and their opinions disagreed with the opinions of the first six. Overall, it was a close question. The tapes were highly incriminatory. Ely told her husband that he would only get to see his son "over my dead body." She told her husband was not his child and would have left him earlier, but her attorney told her to stay married until her arson charges were resolved. She said she would agree to waive all child support if he agreed

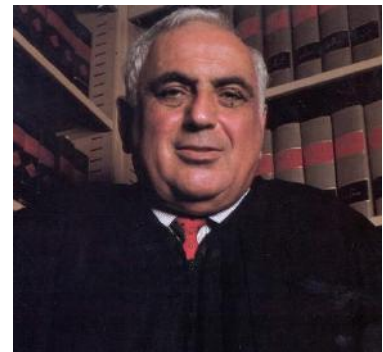


Karen Ely, Paroled in 2017

to not see the child. She said that she would move to Florida if the father ever got visitation. She also said she was willing to lie under oath.

No doubt, the tapes exercised a circuitous route on their way to court. All three tapes were made by the dead husband. The normal way of authenticating a tape would have been for Raymond Ely to testify that he listened to them, and they are complete unaltered recordings of the conversations with his wife. That option was not available to the prosecutor. The prosecutor could have had an expert testify that after examination, there were no cuts or splices in the tapes. This was not done. What the prosecutor had was testimony of Raymond's girlfriend-roommate that Raymond made two of the tapes outside the home and then stored them in a paper bag in the closet. She did not know when or where the tapes were made. As for the third tape, Raymond's attorney Paul Oliver testified that his client brought the tape to his office a few weeks after it was recorded, and he kept it in the case file. *People v. Ely* established a bright line standard that if you don't have a participant to the taped conversation who can testify that it is complete and unaltered you are going to need expert authentication.

Karen Ely's first trial in February 1983 lasted almost three weeks and heard from 30 witnesses. After her conviction was reversed in December 1986, she was retried in May 1987, convicted and resented to 25 years to life. That judgment was upheld on appeal in December 1990 (164 AD2d 442). On September 10, 1992, the Federal District Court denied her *Habeas Corpus* petition brought by attorney Thomas Marcelle. At her trials she was represented by Albany attorney Stephen R. Coffee and the People were represented by Christopher Rutnik. In 2017, after serving 35 years in prison, she was paroled. But now she was an admitted murderer---and perjurer. "I wish there were such things as a do-over," Ely, now 71, told state parole board members on March 7, according to a transcript of the meeting provided to the Times Union. Raymond Ely feels the same way. As of 2018, Ely was working as a paralegal at a New York City law firm. One example of human compassion and love that arose out of the trials was the friendship that developed between Alma Ely, the victim's mother, and Rosina Huntington, the murderer's mother---an unusual expression of shared sorrow and forgiveness.



**Judge Joseph Harris,
Trial Judge**

UNITED STATES OF AMERICA

v.

JAMES J. COYNE, JR.

United States Court of Appeals,
Second Circuit. Decided July 30, 1993.

POLITICAL CORRUPTION IN 1980'S ALBANY, NEW YORK

Stephen Coffey, for the Defendant, first trial

Gene Napierski and James A. Resila, for Defendant, second trial.

Gary L. Sharpe, U.S. Atty., N.D.N.Y., Thomas Spina, Jr., Asst. George A. Yanthis, Asst.

U.S. Atty., of counsel, for the United States.

Federal District Judge Lee P. Gagliardi, presiding

In 1975, James J. Coyne went from being a relatively obscure Albany County Clerk to political stardom after the June nominating meeting of the Albany County Democratic Committee held at the Polish Community Center on Washington Avenue Extension. On that night, Coyne emerged as the compromise candidate of the opposing Ryan-Nolan and Corning factions of the Party for the newly created office of Albany County Executive. Reaching that compromise was convulsing and almost tore the Party apart. Mayor Corning threatened to resign if the Ryan-Nolan candidate, Col. Andy Anderson, was selected. Corning was backing Altamont Mayor Bill Aylward. Coyne, a former school seemed a safe bet. Coyne was a loyalist whose families went way back with the Albany County Democratic Party. His father was a past Colonie Town Chairman Afterall, each side of the political feud was looking for a placeholder who only needed to follow directions. To ensure this outcome, the drafters of the new County Charter had created a weak county executive office. However, as is often the case, the powers overestimated their powers of control and underestimated their puppet. Jim Coyne was not about to be anyone's puppet. Coyne would not be just a placeholder and in the coming years he would surprise many.



**Coyne and his trial attorney
Stephen Coffey enter Federal
Court, May 1992**

Coyne turned out to be a political natural and smarter than his underestimating opponents predicted. With his ruggedly handsome looks (and a passing resemblance to actor Lee Marvin), an infectious smile and garrulous laugh, he was instantly likeable. This helped him put together coalitions that resulted in permanent improvements to the Capital District. However, first he needed some power, and he did this by a series of successful court challenges that increased the authority of the office of the County Executive.

Three of his achievements would hint at the seeds to his downfall.... a life to be lived in the fast lane. But it turned out to be a lane where he could not keep up. He brought a Continental Basketball League franchise to the Albany Armory and with it league championships. He brought an arena football franchise to Albany and with it more titles. Heritage Park in Colonie, which was the home for several years of a Yankees minor league team, was a Jim Coyne project. A hockey team would follow. However, his greatest achievement was the construction of the Knickerbocker Arena (now the Times-Union center) in downtown Albany. Even people with only a modest memory of Albany recall the pictures of Jim Coyne on opening night of the arena. In full black tux, he shared the stage with Frank Sinatra. He celebrated this opening of the \$70 million arena on January 30, 1990, with more than 16,000 other fans at a sold-out concert by "The Chairman of the Board." There seemed to be no limit to Coyne's horizon. He mapped out for himself a path to the Governor's Mansion which went through getting elected State Comptroller. He could have had it all. But it would be all downhill from there and not in a good way. This is how Coyne describe it in his book *The Watermark Conspiracy*.

But that night, it was Jim Coyne and Frank Sinatra in a gala black-tie affair featuring limousines, cocktail dresses, shrimp, and caviar. Albany was born again, and people were proud. You could see the glow of joy on their faces...Sinatra was fabulous, and Albany was rejuvenated. I was elated, a dream for the benefit of Albany was finally a reality...January 30, 1990, was the high point of my political career and the achievement of a goal that took fifteen years to reach...But it eventually had a devastating effect on my career and on my personal life. Never in my wildest nightmare could I have imagined something that took a full one-third of my life to realize, a project for the benefit of all the people of the Capital District, would be, in the end, the cause of grief beyond description.

Life in the fast lane with the rich and famous requires money. Jim Coyne did not have money. He tried to supplement his modest County Executive's salary (\$57,000 in 1986) by importing "gray" Mercedes Benzes. These were cars that came from Germany without the expensive upgrades needed to meet American pollution standards. He invested in racehorses. At trial it would come out that Coyne, over nine years, had shares in thirty-two racehorses with 120 partners, including holding a 25% share in a stallion named "Wistful Roberto." Gambling is also an activity often done in the fast lane and Coyne's best friend and attorney, who also got tied up in the Federal probe, disclosed at trial that Coyne would often bet \$4,500 per week on NFL football games. Coyne admitted to having \$100,000 in gambling debts.

As misguided as these ventures may have been, Coyne went completely off the track when he solicited a \$30,000 bribe in July 1986 from a local architect involved in the design of the Knickerbocker Arena. In 1991, at age 47 and after being Albany County Executive for 16 years, Coyne was facing a twenty-eight count Federal indictment and his bankruptcy petition listed debts of \$510,589.91.

At trial, the evidence established an elaborate bribe scheme disguised as a loan with local architect, Gregory Crozer. Crozer made almost \$5 million for work on the Knickerbocker Arena, which was spearheaded by Coyne. The evidence that the jury found convincing was that Coyne solicited \$30,000 from Crozier to pay personal debts. Coyne's confidante, attorney Joseph V.

Zumbo, disguised the transaction as a payment for services rendered by Zumbo to Crozier and then a loan by Zumbo to Coyne. When the Feds started their investigation in 1987, Zumbo prepared the note and invoices and backdated them. The evidence also showed that Coyne lied on bank loan applications. At a campaign fundraiser in February 1987, where Coyne raised \$100,000, he was quoted as saying, "I can guarantee that they're not going to find anything." They always say that.

Coyne was indicted in June 1991 on 28 felony counts of extortion, mail fraud and bribery along with miscellaneous charges. In April, 1992, his friend and business associate Joe Zumbo was indicted for perjury (He plead guilty in November 1992 to lying to Federal officers.). Crozier was also indicted, and Crozier convicted after trial.

At his first trial in May 1992 Coyne was represented by Stephen R. Coffee, regarded as one of the most skilled trial attorneys in upstate New York. After deliberating for 17 hours over three days, the jury was deadlocked, and the Court declared a mistrial. Coffee declared it "an absolute victory."

Coyne's retrial was in the Foley Federal Courthouse in Albany in July 1992, also in front of Federal District Court Judge Lee P. Gagliardi. Gagliardi, took the assignment because Judge Con G. Cholakakis had begged off due to what he described as time constraints. Gagliardi was famous for keeping a tight rein on attorneys. His nickname was the "time-enator". He was appointed to the Southern District bench in 1971 by President Nixon. Gagliardi had taken senior status in 1985 and was sitting in the District of Vermont. He gained fame soon after taking the bench when he presided over the conspiracy trial of Nixon's Attorney General John N. Mitchell and Commerce Secretary Maurice Stans. His reputation as the *time-enator* was solidified early on. In both the Stans/Mitchell case and in the famous Joan Chesimard case involving the murder of a New Jersey trooper in 1971 by the Black Panthers, Gagliardi faced mandamus appeals for not giving the defendants' attorneys sufficient time to prepare for trial. After being convicted, Chesimard escaped from a New Jersey prison and fled to Cuba where she still lives. Gagliardi died on October 30, 1998, at age 80 in Manchester, VT.

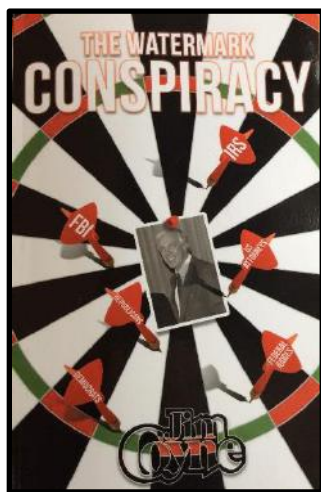
At the second trial, Coyne was represented by Albany attorneys Eugene E. Naperski, John J. Phelan III, and Thomas J. O'Connor, three of the best trial attorneys in upstate New York. They faced Assistant United States Attorney George Yanthis. The jury heard from 38 witnesses. The trial proceeded essentially along the lines of the first one. It might be assumed that the defendant has a better chance of sowing reasonable doubt in a second trial because he has heard and seen the entirety of the Government's case the first time. But such is more often not the case. The Government also heard the case, and it has essentially infinite resources to shore up deficiencies in their case that were revealed in the first trial. The defendant, on the other hand, most likely has depleted his resources. On October 15, 1992, after 17 hours of deliberation, Coyne was convicted on nine felony counts. In August 1992, Coyne had pled guilty to three of twenty-four counts of bank fraud, with the sentence to run concurrently with any other sentence, as part of a plea bargain.



Federal District Court Judge Le P. Gagliardi, the "Time-Enator"

Coyne was sentenced by Judge Gagliardi on November 19, 1992, to serve 46 months in Allenwood.

The political fallout for the Albany County Democratic Party was even harsher than that which befell Coyne. The Federal investigation into Coyne's business interests was a continuing drag on the Party's fortunes. In the 1989 elections the Democratic candidates for Sheriff and County Clerk won by shrinking margins. After Coyne's indictment in the summer of 1991, the floodgates opened, and the Republicans swamped the Democrats in the November's elections. William Hoblock, the Republican candidate for County Executive, beat the Democratic candidate



Robert G. Lyman, garnering almost 60% of the vote. Lyman had little success in distancing himself from the Coyne scandals. He was a long time member of the Democratic machine and Coyne's County Attorney. Hoblock's election broke the Democrats' 70 year control of County government. Hoblock was the first Republican elected to countywide office in almost 20 years (Arnold W. Proskin was the last, elected County Judge 1973.).

Coyne would attempt three political comebacks: His bids to be elected Albany County Clerk in 1997, President of the Albany Common Council in 2001 and a run in 2012 for the Assembly seat vacated by Jack McEneny were all unsuccessful. Coyne has steadfastly asserted his innocence on the bribery charge. In 2016 he published *The Watermark Conspiracy*. The book posits a theory that there was a wide ranging conspiracy involving the FBI, IRS and others. The centerpiece of the theory is a missing document that was submitted to the FBI for testing to determine if its watermark showed when the paper was produced. This could show that certain actions of Coyne were taken before any criminal intent could have arisen, thus establishing Coyne's innocence. The document went into the bowels of the government never to be seen again.

PEOPLE V. LEMUEL SMITH

“The Poster Boy for Capital Punishment”

John Clyne, Albany County Judge

63 NY2d 41 (1984)

59 NY2d 156 (1983)

88 AD2d 173 (1982)

77 AD2d 212 (1981)

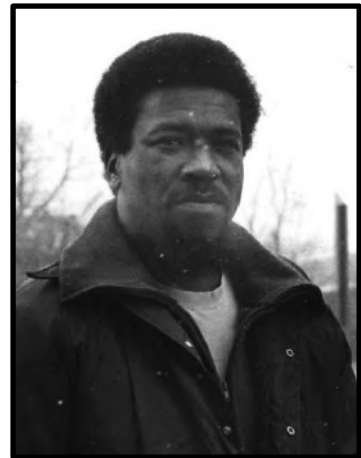
110 Misc. 2d 118 (1981)

Dan Dwyer for the People

Douglas P. Rutnik and Sanford Rosenblum for the Defendant

Judge John J. Clyne, presiding

No one knows when or where Lemuel Smith committed his first crime. Maybe it was a larceny or burglary when he was a young teen in Amsterdam, NY where he was born on July 23, 1941. He was the son of John Smith, a worker at General Electric who was deacon of his church, and his wife Mildred. As Black middle class families went in the 1940's and 1950's, the Smiths were doing well. They owned their own home. Except for the tragedy of the death of their first child, John Jr., in 1939 at 11 months, their life and Lemuel's was going well in 1958. Smith was a high school basketball star. If Lemuel Smith had any claim to insanity it was that his father drove him crazy. Deacon Smith was fire and brimstone person who never let up. Life for Lemuel was a 24 hour sermon. The Deacon must have skipped over the Sermon on the Mount.



Lemuel Smith

On the cold icy night of January 21, 1958, Lemuel Smith had just walked his girlfriend home and was returning to his house. At the same time, Dorothy Waterstreet was returning from a meeting at the Trinity Lutheran Church. Dorothy rejected her friend's protestations that she should ride home with them. She was going to walk and decided to take a short cut across a parking lot. Lemuel Smith was coming from the other direction. She knew the Smith boy. He was a friend of her son Skip. It was just last week that she had given them a ride to the high school for a meeting. As they approached each other, Lemuel's demons had returned. He believed that his dead brother John occupied him and controlled his psyche. It was not him who would bludgeon Dorothy Waterstreet to death with an iron pipe, it was John. He was only a spectator.

Police suspicion immediately focused on the 6'2" 200 lb. 16 year old. Three witnesses put him near the scene, and they recovered Lemuel's blood stained pants and Lemuel's gray winter coat that witnesses described. Lemuel rushed to have the coat dry cleaned but it did not get all the stains out. The police also had shoe imprints in the snow near the scene of the crime, size 13.5, Lemuel's size. But this was before DNA, and they needed someone who could place Lemuel at the scene or a confession. A confession they would not get because the Smith family quickly retained Charles Tracey, the immediate past District Attorney of Montgomery County. There were

two witness who could place Smith at the scene of the crime. A prominent local attorney and his legal secretary were furthering their romance in his nearby parked car. It would have been extremely embarrassing for them to come forward. He convinced himself that he could not make a helpful identification. His secretary wanted to come forward but on balance the costs would far outweigh the benefits, to her at least, and she chose silence.

The police were stuck and were relegated to harassing Smith and making life for him and his family miserable. Lemuel moved to Schenectady but that helped little. Finally, the family attorney convinced them to send Lemuel to live with an aunt in Baltimore before the police pinned some false charge on Lemuel. A change of scene to Baltimore did not change Smith. In July 1958, just past his 17th birthday, Lemuel bludgeoned Edna Johnson, a pretty 25 year old cashier at a local Dry Cleaners that he had been stalking. Edna survived and identified him at trial. Lemuel was convicted and on April 12, 1959, he was sentenced to 20 years. He did 10, during which time he killed no women. He was successful on his third time before the Maryland Parole Board because he had befriended the prison Chaplain who pleaded for his release. A similar advantage would be obtained by Smith in Green Haven Correctional Facility that enabled him to murder prison guard Donna Payant in 1981.

In 1968, Smith was back in Schenectady and got a job at a sheet metal plant with the help of his parole officer Art Finkel. His parents had moved to Saratoga to be closer to John Smith's church and to avoid the opprobrium directed at them in Amsterdam. Smith moved into an apartment at 321 State Street and spent a lot of time at the Schenectady County Library looking for jobs and for women.

May 19, 1969, would be a busy day for Lemuel. He needed sex. He would abduct a woman from the parking lot of the Schenectady Library and drive her to a nearby park where he tried to rape her in her car. It was interrupted when a bystander intervened. Smith fled to the home of a friend of his mother's a few blocks away. She would be his next victim because he still needed sex. He abducted her and forced her to drive him to his mother's house in Saratoga where he raped her. Through the victim's guile she convinced Smith to let her drive home where she was met by her husband who called the police. Smith was arrested on multiple charges in Schenectady and Saratoga Counties. On November 11, 1969, Schenectady County Judge Archibald C. Wemple sentenced Smith to a term of 4-15 years. Smith served 7 years, during which time he killed or raped no women.

Smith would become a model prisoner and would benefit by a change in the parole system made by the Legislature in 1976 and signed into law by Governor Carey. The purpose was to relieve overcrowding and it made certain prisoners eligible for parole when they reached their mandatory minimum. In September 1976 Stephen J. Chinlund, the chair of the New York State Commission on Corrections, told the *New York Times* that the state's parole system was "a shambles." He called for a reintroduction of psychiatric programs that were stopped for a lack of financing. Smith, who had served twice his minimum sentence, would be released on parole on October 7, 1976---without psychiatric follow up. At that point he had served 18 of his last 20 years in prison. He was 36 and he was far from finished.

Smith's file ended up on the desk of Parole Officer Joe Early at his office on Madison Avenue in Albany, across the street from the Central Police Station. In his first meeting, Smith presented well, although he called Early a racist because Early denied Smith the right to get a driver's license. Early felt that a convicted rapist should have limited mobility. Smith's attorney, Sandy Rosenblum, had gotten him a job at the House of Montague, a furniture upholstery business that Rosenblum owned with Albany accountant Lester Urbach. As it turned out, it was

conveniently located at 747 Broadway, four blocks from 50 Columbia Street, the scene of his next murder.

Sometime around 3:00 p.m. on November 23, 1976, Thanksgiving Eve, Lemuel Smith entered the religious store located at 50 Columbia Street to rob it---maybe. Or maybe it was his other personality, his dead brother John, telling him it was the time to kill. In the store was the owner and father of five, Robert J. Hedderman age 48, and his office manager, Margaret Byron, 59. Also in the store was Hedderman's elderly father who was asleep in a back room. Smith sliced Hedderman's throat, nearly decapitating him. Byron died of multiple stab wounds. The Albany Police were on the scene by 3:35 p.m. and their forces were quickly marshalled to solve this crime. Edward McCardle was then Police Chief, and his Deputy Bill Halpin led the investigation. In charge of the boots on the ground was Lieutenant Bill Murray aided by famed Albany Detective Teddy Flint.



The Hedderman Religious Goods Store, 50 Columbia Street

Detectives followed a trail of blood east on Columbia Street and found a trash can with a priest's Alb soaked with blood and human feces. The blood trail headed north on Broadway toward the House of Montague, a destination not yet on the police radar screen.

As with any crime scenes, there were peculiarities. As the crime scene was being processed a brown fedora was spotted on a counter near the back of the store. The police thought that the perpetrator might have left it. It turned out to have been left by the District Attorney, Sol Greenberg. If it was a true robbery, it struck the police as odd that neither Hedderman's wallet nor Byron's purse was checked. Oddly, Mrs. Byron's watch was missing. It was unknown then to the Albany Police that after Smith murdered Dorothy Waterstreet in Amsterdam in 1958, her watch was found on the roof of the high school attended by Smith and her son.

The police had some witnesses who saw some things, but all were shaky, and none produced a suspect. But the day after the crime Lt. Murray got a call from Parole Officer Joe Early. He asked Murray if he knew anything about Lemuel Smith. When Murray hung up the phone he did. Smith was quickly interviewed and gave an alibi, he was with his 17 year old girlfriend Jenny Healy. The police did not notice the cut on Smith's finger. In the meantime, the police had located a witness, Theresa Guthrie. Guthrie was a typical street person who had fallen on hard times. While the crime was taking place, she was across the street with two men sharing a bottle of wine. She saw a tall black male running down the street toward Broadway. He was about 30-35 and wore a light colored coat and green pants. Smith now became the one and only suspect, but Bill Murray knew he was far short of having probable to make an arrest. But it was good enough to get a search warrant for Smith's work locker. This turned up a gray hair found on Smith's sweater which would be identified by the FBI as being consistent with the hair of Margaret Byron. But they had no murder weapon.



Trial Judge, John Clyne

In the initial weeks of the investigation it was all hands on deck for the police department. But after a few weeks, undercover narcotics officer Ron McLaughlin returned to his regular duties

in his Arbor Hill territory which included 50 Columbia Street. This would often conveniently place him for lunch at the Yorkstone Pub, a popular watering hole for judges and lawyers on the northeast corner of Columbia and Pearl Streets. It was just 100' from the religious store. In a casual conversation one day with Maureen Toomey, one of the waiters, the Hedderman-Byron murders came up. Toomey, who was unaware that McLaughlin was a cop, told him that after her shift she was waiting for a bus on Broadway and saw this black man run over to a green dumpster and throw a robe in it. McLaughlin knew he had a good witness on his hand because the information about the bloody Alb had not been released to the press.

But Toomey was reluctant to come forward with a killer at large. McLaughlin identified himself as a police officer and she agreed to look at mug shots. She told McLaughlin that if she saw him, she'd know him. After looking at over one hundred suspect photos, Toomey made a positive identification of Smith. Murray knew his case was getting stronger even given the inherent difficulties with eyewitness testimony. In addition to the gray hair found on Smith's sweater, he had Smith's blood type on Byron's and Hedderman's clothes, hair consistent with that of a Black person on Hedderman's overcoat and fibers found on the store's rug that were consistent with those used at an upholstery shop. But was it enough?

Was there something about holidays that stoked the demons within Lemuel Smith? On Christmas Eve, just a month after the Religious Store murders, two contract snowplow drivers were examining their equipment in the outer parking lot of Colonie Center when they noticed a green 1970 Mustang parked between their trucks, like it was hidden there. Pat Richter looked in the window and yelled to his older brother Skip that there was a woman's body in the car. The police responded and found the dead body of 24 year old Joan Richburg of Colonie. She had been bound, strangled and brutally raped. Her throat was slit deeply like the wound suffered by Robert Hedderman and her breasts had been bitten. The time of death was put at around 6:00 p.m. the previous day. Lt. Murray immediately thought of Lemuel Smith even though his alibi for the Religious Store murders was still hanging together. A massive canvass of the Colonie Center mall produced no one who saw Smith and Richburg together. It would turn out that he met her while she was looking in the windows of Macy's.

Smith's lawyer had shut down any chance of interviewing Lemuel, but the police did an end run by having his parole officer do it. As expected, Smith had an alibi for the Richburg murder. He said he worked in the morning and was with his girlfriend the rest of the day. The police did find a hair on Richburg's clothing that was consistent with Smith's hair. But Dr. Milton Halpin, the famed head of the New York City Medical Examiner's office, felt that the Religious Shop murders and Joan Richburg were done by different people because of the directions of the cuts and the difference in the manner of binding the victims.

The police were desperate to solve these brutal murders. They were the most vicious killings ever to have occurred in the Capital District. The fact that the victims included a young woman, and the owners of a religious store was particularly outraging. The public was on edge. If they knew that the number one suspect who was still at large had been convicted of brutally beating a woman in Baltimore and had served time for kidnapping and raping two Schenectady women there would have been riots in the streets.

Things got so desperate that Police Chief McArdle ordered his Detectives to consult with Ann Fisher, a well-known psychic who lived on Willet Street. The Detectives felt foolish with this directive, but they took Fisher to the Religious store. She told them that she felt the evil of two men, a large man who watched and a small man who did the killing. This fit right in with the later claims by Smith that his infant brother did the killings while he watched. Fisher then walked down

Columbia Street and said that the killer had cut himself and discarded something in a trash bin. All This information had not been released to the public. She then walked north on Broadway a few blocks and pointed out a green building where she said the killer went to hide. The building was the House of Montague. This astounded the police because none of this information had been released to the public.

Lemuel Smith was becoming more reckless as the weeks went by. In one assault that the police did not connect to Smith at the time was against a woman that he had been stalking for weeks. It took place in a basement curio shop at 315 State Street in Albany on January 10, 1977. Smith assaulted the owner and then tried to assault her daughter who had fled up a stairway to the law offices of Sullivan Rehfuss and Cunningham. Smith followed her up the stairs and smashed through the locked door with his fist. It was like that famous Overlook Hotel bathroom scene in *The Shining*.” Smith fled when he heard the voices of the lawyers who came to her aid and hid out in a friend’s apartment up the street. Years later, the owner would recognize Smith’s face as her attacker when it appeared in the *Times Union*.

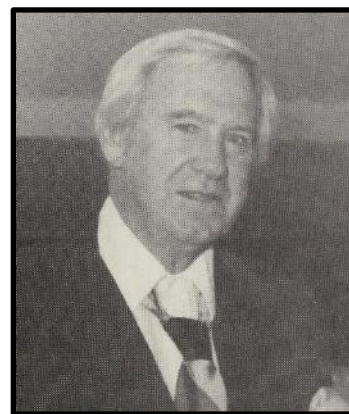
On July 22, 1977, the body of Maralie Wilson was found in a secluded area off Jay Street in Schenectady. The area was known by local kids as the “jungle”. Wilson was a legal secretary at the offices of Lombardi Reinhard and Walsh located at 34 Jay Street. When the detectives arrived, they described it as the worst mutilation death they had ever seen. Several crucial mistakes were made however that hampered the investigation. The police did not secure the crime scene and its integrity was compromised by the unauthorized presence of press photographers and onlookers. Trace evidence on the body was destroyed when a medical technician at Ellis Hospital washed the body before it had been examined. On the other hand, basic police work provided leads that connected Lemuel Smith to the crime. First, his girlfriend was growing disillusioned with Smith and did not provide an alibi. She also told police about his penchant for S&M and bondage. The beat cop who covered Jay Street told of seeing Smith in the area recently. A canvas of merchants produced sightings of a tall Black man who was seen following women in the area. Even Lemuel’s brother-in-law told the police that Smith was capable of murdering Wilson. Also, the mutilations of Wilson’s body were similar to those on the body of the Schenectady woman that Smith had raped in 1969. Months later, Wilson’s body would be exhumed from a Vermont cemetery and transported to Albany for another autopsy to develop bite mark evidence.

Less than three weeks after the body of Marilee Wilson’s was found, Smith would strike again. He had been stalking a teenage legal secretary for a couple of weeks. She worked at a law office on Lafayette Street. On Friday August 19th, Smith entered the law office when no one else was present and abducted the secretary at knife point. He forced her to drive him to his mother’s house in Saratoga where he repeatedly raped her. As they headed back to Schenectady in her yellow Chevy Vega, her parents were at the Schenectady police department, frantically explaining that their daughter was missing. The desk sergeant, in an act of extreme bureaucratic disregard, told them that they could not accept a missing person report until 24 hours had passed. The father then called the Rotterdam Police where his friend was the Chief of Detectives. He took the report and did something else which could have been a lifesaver for their captive daughter. One of his Detectives was part of a CB group called REACT. He notified them of the predicament, and they put out a BOLO, “be on the lookout,” for a yellow Chevy Vega. The Colonie Police were monitoring that citizen’s band channel and the dispatcher put out a system wide broadcast. Officer Bill Lockart and probationary patrolman John Grebert were in their unit at the corner of Wolf Road and Central Avenue when they spotted the car. They pulled it over and arrested Lemuel Smith without incident. The reign of terror was over. Between the October 1976 when he was released

on parole and August 1977, Smith had murdered four persons (three women) and raped three others and assaulted two more. That would be his last day of freedom. John Grebert would go on to become Colonie Police Chief.

The police convened a G6 type summit on August 29, 1977. Representatives from the Albany, Schenectady, Saratoga, Colonie, and Amsterdam police departments attended. It was chaired by the NYSP and held at Troop G in Loudonville. Lemuel Smith faced filed charges against only one victim. But there were cases against six other victims that had not yet reached the courts. And there were two other victims that the police had not connected to Smith. The list of Smith's **known** victims looked like this:

1. January 21, 1958, Dorothy Waterstreet robbed and murdered in Amsterdam.
2. July 17, 1958, Edna Wilson beaten and robbed in Baltimore.
3. May 19, 1969, Carol Ann Ferrucci abducted and raped in Schenectady.
4. May 19, 1969, Ona Pope abducted in Schenectady and raped in Saratoga.
5. November 23, 1973, Robert Hedderman robbed and murdered in Albany.
6. November 23, 1973, Margaret Bryon robbed and murdered in Albany.
7. December 23, 1976, Joanne Richburg murdered at Colonie Center in Albany.
8. January 10, 1977, Beulah Southwell assaulted in Albany
9. January 10, 1977, Beulah Southwell's daughter assaulted in Albany.
10. July 22, 1977, Maralie Wilson raped and murdered in Schenectady.
11. August 19, 1977, Marianne Maggio kidnapped in Albany, raped in Saratoga.
12. May 15, 1981, Donna Payant murdered at Green Haven Correctional Facility.



Chief Assistant District
Attorney, Dan Dwyer

The consensus of the police was that they needed either a confession or an eye witness. Lt. Murray of the Albany Police Department felt he had enough evidence to indict Smith for the Religious Store murders. He reported that Jenny, Smith's girlfriend, had backed off her alibi. She now said she was not with Smith from noon to 5:00 p.m. on the day of the Hedderman-Byron murders. But having enough proof for an indictment is not the same as having enough proof for a conviction. Had DNA evidence been available, every case would be open and shut. But Lt. Murray had another trick up his sleeve.

Police dogs had helped them locate the trail of Smith after he left the Religious Store. Could a tracking dog also identify Lemuel Smith? In early October 1977, the police assembled in Albany's Bleecker Stadium, with that location being facilitated by the City's Commissioner of Parks and Recreation, Richard P. Barrett. The police brought "Crow," a tracking dog who was a veteran of the Vietnam War. Crow had been obtained from the Army Special Forces by Deputy Superintendent of State Police, George L. Infante. Infante would go on to become the Albany County Sheriff. John Curry of the NYSP was Crow's handler. Curry was known statewide for his dogs and their ability to find suspects or missing persons, and to detect drugs and bombs.

The experiment was simple. Lemuel Smith and four other men were randomly placed behind five plywood screens at one end of the stadium. Crow would be allowed to smell the alb and cloth that were recovered from the dumpster near the scene of the Religious Store crime. The police believed these items contained traces of blood and human feces that belonged to Smith. The presence of feces at the Hedderman/Byron murder scene struck most people as very odd. But the police had information that years of anal sex in prison had left Smith with a loose sphincter. This condition was triggered when Smith also experienced an emotional release while committing acts of violence.



Douglas P. Rutnik

After smelling the items, Crow was let loose, and he made his way across the field. With some zigging and zagging, he went right to the location where Lemuel Smith stood. The experiment was repeated three more times with the men randomly alternating places. The results were the same, Crow “identified” Smith. The admissibility of this evidence was questionable, but the experiment startled Smith.

In the meantime, Smith and his attorney Sanford “Sandy” Rosenblum were enduring the legal equivalent of the Siege of Leningrad. His client was facing three abduction/rape charges and four murder charges. Rosenblum’s plan was to have Smith plead to everything and clear the boards, giving the victims’ families closure. In turn, his client would be put in a mental institution for the rest of his life. The problem was that there was no way to make a plea agreement that would guarantee that Smith would never be released. In the end, his house of cards would fall.

As part of his strategy, Rosenblum hired a social worker to work with Smith. He eventually got the Albany and Schenectady County D.A.’s to share the cost. The social worker, who met with Lemuel twice a week for several months, would help develop his insanity defense. At the same time, the prosecutor would benefit because, with Smith’s mental state stabilized, he would be fit to proceed to trial.

On September 29, 1977, Schenectady County indicted Smith for the murder of Marilee Wilson and the rape/robbery of the Schenectady legal secretary. Rosenblum chose a bench trial for the rape trial to be tried by Schenectady County Judge, George Strobel. Rosenblum knew that he could never get a jury to buy into an insanity defense. But he couldn’t get Stroebel to buy into it either. Smith was convicted after a bench trial on July 17, 1978, of rape and robbery. He received two concurrent sentences of 25-life as a persistent felony offender. The outcome also had other adverse collateral circumstances for Smith. In presenting his insanity defense, Smith’s expert psychiatrist testified that Smith had admitted to him that he murdered Robert Hedderman and Margaret Byron. This admission would be admissible in other proceedings because Smith could not claim the physician-patient privilege. A few days after the sentence, Smith slit his wrist in the Schenectady County Jail. Only quick action by the deputies saved his life.



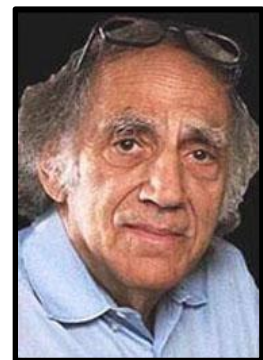
**Sanford Rosenblum,
Lemuel Smith’s Attorney**

In October 1978, Smith was indicted in Albany County for the Hedderman-Byron murders. The case would be tried before Judge John Clyne and prosecuted by the Chief Assistant DA, Dan Dwyer (See profile on Dwyer above in Cohoes Gratto murders entry.).

Pre-trial motions by the DA argued for the admission of three crucial items, (1) the psychiatrist's testimony in the Schenectady trial that described Smith admitting to the Hedderman-Byron murders, (2) the notes of the Social worker that contained other admission such as the murder weapon was located in the floor drain at Smith's place of employment and (3) a taped confession that Smith made on March 5, 1978 at State Police headquarters as part of Rosenblum's strategy to package the Schenectady and Saratoga County charges. The D.A. prevailed on all three issues and Rosenblum promptly withdrew from the case. It fell into the lap of Albany County Public Defender Douglas P. Rutnik.

1978 brought other bad news to Lemuel Smith. On March 9, 1978, the Saratoga County Judge sentenced Smith to 10-20 years for the rape of the Schenectady legal secretary Marianne Maggio as part of a plea bargain. 1979 was no better. On February 2, 1979, Smith was found guilty of the Hedderman-Byron murders after just 3.5 hours of deliberation. Judge Clyne would sentence him to consecutive life sentences of 25-life saying that "there were not enough years" to meet the requirements of justice in this case.

Lemuel Smith, inmate 78D1068, would be sent to Green Haven Correctional Facility in Dutchess County. Green Haven was not a happy ship and was known as a "loose house." Some blamed liberal courts for giving the inmates too many rights. Others blamed the do-gooder reformers who wanted to impose political correctness on a coarse business. Others blamed the reforms that came out of the uprising at Attica Prison where 11 corrections officers and 30 inmates died in September 1971. And some just point to an overwhelmed system where the situation on the ground outstripped the ability to control it. Recent policy changes reduced the training for a correctional officer from 12 weeks to 3. On June 12, 1981, just three weeks after Payant was slain, the State Commission of Investigation issued a 188 page report about Green Haven. It said that *"corruption on a large and regular scale had become institutionalized at Green Have Prison."* Whatever the cause, Green Haven was rife with drugs, alcohol, sex, gambling and official corruption. Two corrections officers had assisted a cop killer in his escape. To say that the inmates were running the prison would not be much of an exaggeration. Into this system was thrust Lemuel Smith and rookie correctional officer Donna Payant.



William Kunstler

There was no doubt that Payant, 30, was an attractive woman and this presented its own problems in a male dominated system trying to control the male dregs of society. Green Haven was a very large operation covering 30 acres, just in the main building area. It had almost 2,000 inmates and 540 guards. Only fifty were women. Still, Payant was intelligent, resourceful and dedicated to her job and to her family. A correction officer's salary would open the doors for her three children to a college education. Smith, on the other hand, knew how to work the system. As usual, he was a model prisoner and got reassigned to an "honor" block. With this came the coveted job as aid to the Chaplin. This gave Smith the ability to traverse the prison unescorted and to have use of the chapel and the Chaplin's office.

On Friday May 15, 1981, Smith struck when the Chaplin was away on National Guard duty. He used the phone to call Payant who was in the yard at her post for that shift. Disguising himself as another correction officer, he asked her to come to the Chaplin's office. Against procedure and better judgment, Payant left her radio with her partner and went to the Chaplin's office alone. Payant was still in the first month of her career as a prison guard. Smith overpowered her and then repeatedly raped her. Payant died of suffocation while being raped. Smith had access

to a dolly and a 55 gallon drum. He placed Payant's body into two black plastic garbage bags and taped them together. He then dumped her body into the drum and covered it with boxes. He was able to convince a guard to escort him to the trash area where he dumped her body into the trash bin. In a short time, a garbage truck took the contents of the dumpster to a local land fill.

Green Haven is a huge facility and initially Payant's disappearance did not arouse concern. But when her car was still in the parking lot at the end of her shift a full court search was undertaken. The next day, with the help of sniffer dogs, her body was found at the landfill. When word of Payant's murder reached the NYSP in Albany, Lt. Pinto, who had been part of the Albany task force, called BCI Captain Francis DeFrancisco and asked if they were looking at Lemuel Smith for the crime and did Payant's body have any bite marks. A second autopsy was ordered and was done by the world famous forensic pathologist Dr. Michael Badin. Badin had consulted on the deaths of Jack and Bobby Kennedy and Marilyn Monroe and more recently he did autopsies on Michael Brown and George Floyd who were the victims of police violence. Smith was charged with the Payant's murder on June 6, 1981. He was 39 at the time. After several pretrial proceedings, Smith was indicted on October 6, 1981.



**Trial Judge
Al Rosenblatt**

The trial in Poughkeepsie began on January 10, 1983, and ended three months later, on April 21, 1983 with a guilty verdict. The jury heard from 83 witnesses during the trial presided over by Supreme Court Justice (later Court of Appeals Judge) Albert M. Rosenblatt about whom a few words are in order. Rosenblatt was elected Dutchess County District Attorney at age 34, County Judge at age 39 and Justice of the Supreme Court at age 45. In 1989 he was appointed to the Appellate Division-Second Department and in 1998, Governor George Pataki nominated him to the Court of Appeals where he served until 2006. Rosenblatt was known as a Renaissance Man for his love of art, history, literature, the law, the outdoors and athletics. He is, tongue in cheek, held responsible for the down fall of Richard Nixon. When first elected District Attorney, there was another assistant District Attorney seeking the position, G. Gordon Liddy. When he did not get the nomination, Liddy's aspirations were deflated but he went off to Washington where he would find himself directing the Plumbers Unit of CREEP, the Committee to Reelect the President, and Operation Gemstone. This all led to the Watergate break-in and articles of impeachment being approved by the House Judiciary Committee against Nixon which resulted in his resignation.

Lemuel Smith's trial was high theatre but not on the account of Lemuel Smith. It started when the District Attorney recused his office because one of his assistants was the brother of a Green Haven correction officer who was accused of drug dealing in the prison and was scheduled to testify for the prosecution. Poughkeepsie trial attorney William Stanton was appointed special prosecutor. Stanton was paid \$500,000 for his work or about 5 times the annual salary of the elected District Attorney. With the intervention of Abbie Hoffman, of the "Whole World is Watching" and Chicago 7 fame, Smith was able to secure the services of celebrity lawyers William Kunstler and C. Vernon Mason.

Kunstler's strategy was to put everyone on trial except Lemuel Smith and he had a lot to work with. He started by trying to destroy the character of the victim by producing evidence of Payant's extramarital



Donna Payant

affairs. Another angle was to put the Department of Corrections on trial. He suggested that there was a conspiracy to kill Payant because she was going to blow the whistle on corruption at the prison and Lemuel Smith was set up to be the fall guy. The entire system could be put on trial because corruption and mismanagement at Green Haven was monumental. Through all the smoke and mirrors put up by the defense the jury saw Lemuel Smith's guilt. The circumstantial evidence was very strong, and two witnesses testified they saw Payant and Smith enter the Chaplin's office. Then there was the bite mark evidence. Smith had mutilated three of his victims by biting their nipples off and Payant was one of those victims. The jury never heard this evidence. What they did hear was the testimony of a forensic odontologist who said that the bite mark on Dona Payant's shoulder matched a known bite mark of Lemuel Smith. The jury did not hear that the known bitemark came from the nose of Maralie Wilson.

On June 10, 1981, Lemuel Smith was sentenced to die in the electric chair under a provision that made murder by a person then serving a life sentence a capital offense. It is the only section of the death penalty statute which at that time had not been declared unconstitutional or otherwise found contrary to law. As might be expected, Lemuel Smith's convictions led to a string of appeals. On June 7, 1983, the Court of Appeals upheld his conviction for the Hedderman-Byron murders in Albany. The court found no error in the admission of Smith's statements made during the meeting at the NYSP headquarters and those made to the psychiatrist who evaluated Smith's insanity defense. On July 2, 1984, the Court of Appeals upheld the conviction of Smith for the Donna Payant murder but ruled that the mandatory death penalty for murder committed by a person serving a life sentence was unconstitutional. Smith was resentenced to a term of 25-life.

Smith is currently held in solitary confinement at the Five-Points Correctional Facility in Romulus, NY. He will be eligible for parole on February 19, 2029, at age 87. Sadly, the lives of Joanne Richburg and Maralie Wilson were never validated by our criminal justice system. Since, in the estimation of prosecutors, Smith had no chance of ever leaving prison other than in a casket, they declined to prosecute him for the murders of those two women. The advances in DNA would now make the cases against Lemuel Smith for the murders of Richburg, Wilson and Dorothy Waterstreet in 1958 in Amsterdam open and shut. The full story of the killing rampage of Lemuel Smith is told with great verve, style and insight by Albanian Denis Foley in *Lemuel Smith and the Compulsion to Kill*.

PEOPLE V. RALPH TORTORICI

249 AD2d 588 (1998)

Domestic Terrorism at the University at Albany

December 14, 1994

Cheryl Coleman for the People

Peter Lynch, Esq. for the Defendant

Judge Larry Rosen presiding

It was December 14, 1994. A cold winter day on the windswept uptown campus of the University at Albany. Several thousand students were engaged in their early morning routines all thinking about the Christmas break which would start in a few days. About 40 of them were preparing for Professor Hans Pohlsander's 9:00 a.m. class, *History of Ancient Greece*. What they were not preparing for and were not prepared for, was the University's first terrorist event. It wasn't political terrorism, the kind that immediately comes to mind now. It was personal terrorism---being held at gunpoint for three hours and not knowing if you will live to see tomorrow.

About five minutes into Professor Pohlsander's lecturer on Alexander the Great, a young man came through the back double doors carrying a large green duffle bag. Pohlsander looked up and asked the man if he was in this class. The man answered by dropping the duffle and taking out a hunting rifle, a Remington 270. At first, most students thought it was a joke. Except for Professor Pohlsander, no other person in the classroom that day was even born when Charles Whitman used a hunting rifle to kill 14 people and wound 31 from a sniper's perch atop the tower in the center of the University of Texas in Austin on August 1, 1966. Who could imagine something like that happening in Albany, NY? The Columbine massacre was still six years in the future.

Ralph J. Tortorici was on track for a good life. He was an honors student and star athlete at Mohonasen High School in Rotterdam, NY. He was a New York State Golden Gloves boxing champion and served honorably in the National Guard from 1988 to 1992. By the time he was 26 he was a senior psychology major at the University at Albany. All those accomplishments would evaporate by noon on December 14, 1994, after three hours of mentally induced terror in the classroom of Hans Pohlsander. What disguised the good parts of Ralph's life was the voices in his head that started at about age 15. Everybody involved in his life knew about them, but nobody knew what to do about them.

The first thing Tortorici did was to order Professor Pohlsander out of the classroom to call security, the State Police and the Governor. He wanted the world to know about a huge government conspiracy. After Pohlsander left, Tortorici tied off the doors with a firehose. As a SWAT team responded to the building and surrounded the classroom, Tortorici ordered the students to barricade the doors with the classroom furniture.

The students were responding in stark terror as Tortorici marched around the classroom brandishing the rifle and ranting about hearing voices in his head. He had long claimed that the government put a GPS locator chip in his teeth and his penis



Ralph Tortorici,
Minutes After His Arrest



when he had an operation for a defective urethra. Sometime after that operation he had a full body x-ray to prove that the government inserted microchips in his body. When the results proved negative, he claimed that the doctors were part of the conspiracy.

After the first hour of bizarre behavior he ordered the students to open their books and study. Police negotiators tried to talk to Tortorici through the class intercom, but Tortorici demanded to speak to the Legislature, the Governor and the President. Toward the end, after over three hours of terror, he ordered one of the male students to move down the aisle. As he did the student swung around and grabbed the rifle. Tortorici got three shots off, one striking the student. As that point another student charged in and tackled Tortorici. Five others piled on but not before Tortorici pulled a hunting knife that was strapped to his leg and slashed one of the students. In the meantime, another student had undone the fire hose and the SWAT team rushed in subduing Tortorici. Every minute of those three hours of terror would be seared into the memories of each of the 37 students in the *History of Ancient Greece* class of Professor Hans Pohlsander. Thanks to the bravery of the students only two were shot and they recovered. The Defendant received superficial, knife wounds. Disaster was avoided for the students, Ralph's was about to begin.

The students could and did go on with their lives but carrying with them varying levels of mental trauma and for two of them, physical trauma. For Ralph Tortorici, he would be entering a criminal justice system where the law was ill equipped to deal with violent acts committed by mentally ill persons. What was seared into Ralph Tortorici's memory? What were the voices in his head? That would be a question to be taken up by the Court, the prosecutor and his attorney.

At this trial, the Defendant and the People of the State of New York would have available to them the absolute best our criminal justice system has to offer. The People were represented by Cheryl Coleman, one of the most experienced and skilled prosecutors in upstate New York. The Defendant would be represented by Peter Lynch, now a Justice of the Supreme Court, and then a veteran Public Defender with dozens of tough trials under his belt. Presiding over the trial would be Judge Larry Rosen, known for his absolute mastery of the law. Veteran Public Defender Bert Gould, one of the area's best criminal defense attorneys, speaking at Judge Rosen's retirement dinner, said this about Rosen, "He was the fairest judge I've ever seen." The tragedy for Ralph Tortorici was that despite facing a process that was firing smoothly on all cylinders and each critical part being expertly overseen by the best the system had to offer---it didn't work.

The facts of this case were not in dispute. What was in dispute was the Defendant's mental state and how to apply the law to the circumstances of this case---and to Ralph. Right after he was arrested, the Court ordered a mental fitness hearing to determine if Ralph (everyone involved would end up calling him Ralph) could proceed to trial. The standard was not rigorous. It only required a finding that the Defendant understand the nature of the proceedings and that he be



A Firehose Secured the Exit



Prosecutor Cheryl Coleman

able to assist in his defense. The prosecutor would mockingly say that to pass the test a defendant only had to know the difference between a grapefruit and the judge.

Even with this low standard, Ralph was found not fit to stand trial and he was sent to the Mid-Hudson Psychiatric Center for treatment. After evaluations there, he was diagnosed with alcohol abuse, cocaine-induced psychotic disorder, and paranoid personality. But with all that, Tortorici was certified to stand trial after less than three months of treatment---without the use of medication which he refused. He was returned to Albany County to face a 15 count indictment. The trial commenced on January 3, 1996. There were two surprising developments. The Defendant requested to be allowed to stay out of the courtroom during the trial. He wanted no further competency hearing. He wanted to proceed to trial, and he directed his attorney accordingly. The second development was that the prosecution still did not have an expert psychiatrist to testify. The one psychiatrist that the prosecutor did arrange to evaluate Ralph found a person so deranged that he was unable to evaluate him. He wrote a nine page letter to the judge expressing the opinion that Ralph was not fit to stand trial.

Judge Rosen went through a detailed examination of the facts and law as it applied to the question of fitness to proceed to trial. This is an entirely different from whether the Defendant possessed the mental ability to know right from wrong and to appreciate the consequences of his acts---the insanity defense. The Court ruled that the Defendant was fit to proceed, and two appellate courts would uphold that ruling. However, the Defendant's mental defect defense failed. After an eight day trial during which the jury heard from thirty-one witnesses, Ralph was convicted of first degree assault, second degree kidnapping, first degree reckless endangerment and first degree criminal use of a weapon. The jury deliberated for just a little over an hour. For them, it wasn't a close call.

On appeal, the Appellate Division held that the Court made a proper evaluation on the question of the Defendant's fitness to proceed which, it noted, was a judicial determination not a medical one. Accordingly, the Court had not abused its discretion on this issue. As for the wisdom of the Defense trial strategy the opinion stated, *"Upon our review of the entire record in this matter, we find that defense counsel put forth a superlative defense on defendant's behalf."* The court also noted that defense counsel secured acquittals on three attempted murder charges, adding, *"In short, there is no doubt that the defendant received not only meaningful legal representation, but exceptional legal representation, as well as the benefit of a trial court which was scrupulous in its devotion to the conduct of a fair trial."*

A strong dissent by Judge Edward Spain in the Appellate Division got the case to the Court of Appeals. Judge Kaye authored a 6-1 opinion (Smith dissenting) upholding the conviction. The Court found that, as a matter of law, Judge Rosen did not abuse his



Trial Judge Larry Rosen



Public Defender Peter Lynch, now a Justice of the Supreme Court

discretion by not, on his own motion, conducting a second competency hearing for the Defendant. Great weight was given to the statements of the Defendant's attorney who informed the court on several occasions that he had consulted with his client at length, and it was his client's wish to not request a second competency hearing. The Court held that the Defendant's attorney was in the best position to assess the Defendant's competency, noting that he had attended the evaluation conducted by the prosecutor's psychiatrist. And who better to determine if a client could assist his attorney in his defense than his defense attorney? Not stated in the body of either appellate court's opinion but mentioned in a foot note by the Court of Appeals was the thoroughness of the forensic psychiatrist's evaluation. Even to a lay person, one hour to reach a conclusion as to a person's mental fitness to stand trial seems short. The Court of Appeals noted that the issue of fitness to proceed was not the intended subject of the evaluation and the psychiatrist did not review the full records of the Mid-Hudson facility or the Albany County Jail.

The case had attracted so much public interest that PBS Frontline was there to cover the trial. They had permission to film the proceedings. On October 18, 2002, it aired a one hour special titled *A Crime of Insanity*. It revealed the darker side of the intersection between the criminal justice system and mental health. One that the jury never saw, and the appellate courts never considered.

When the short life of Ralph Tortorici is examined, the hurdles that many families with a troubled teenager face come into focus. Ralph's parents thought that his aberrant behavior was only normal teenage rebelliousness made worse by drugs and alcohol. When the Tortorici family saw the clear manifestations of mental illness, in this case the insistence by Ralph that the government inserted chips in his brain, what could they do? They are not rich. Their insurance does not cover mental health services and does not cover an adult child. And how do you force someone into treatment? They did about the best that any family facing similar circumstances could do. Only parents who have had the experience of raising a mentally ill child could appreciate what they went through. For example, the family said they went to authorities a few weeks before the crime to tell them that Ralph had made threats about taking hostages. They were told that there was nothing they could do until a crime was committed. The social lifeline gets thrown only when the patient is in neck deep and going under.

When Ralph was sent to the Albany County Jail, he had a guard who knew all about him, his younger brother Matthew. Mathew said that Ralph was good until about age 15. He started to become isolated, antagonistic, belligerent and he had delusions about the police for a long time. When Matthew, a rookie corrections officer was in the control room, he could hear his brother screaming craziness at the top of his lungs from his cell. The Albany County Jail was not a mental health facility. Matthew Tortorici knew it and Ralph showed it.

Cheryl Coleman was as good as they get when prosecuting cases where there was an insanity defense. She told *Frontline*, "You can always find an expert to say what you want to be said." But in this case, she could find no psychiatrist who would testify that Ralph was sane. She searched for six months and "no one wanted to touch it." The one expert she did find to examine Ralph, but not until after jury selection had started, informed the judge that Ralph was not fit to stand trial. Dr. Lawrence Siegel said that Ralph was in such a decompensated state that he could not evaluate him with respect to his mental disease as it existed at the time of the crime. This all fell on the deaf ears of Coleman's superiors.

Coleman and her co-counsel Cyndi Preyser went to the Chief Assistant Larry Weist to seek permission to plead the case out. They told him, “there is now way we’re going to win this...It’s an exercise in futility.” She had seen Ralph at his evaluation and “after 30 seconds” knew he was not faking it. “Was he competent to help his counsel?” Coleman asked rhetorically. “Of course he wasn’t,” she answered. Weist told them they had to take it to trial. “D.A.’s have to get elected...They don’t want to be perceived by the electorate that they were accommodating somebody who they felt should be sent to jail and not some hospital,” Weist told *Frontline*. In Weist’s view, it was the jury who would have to make the tough call on Ralph. If they lost, they lost. Coleman felt that they did not have a “snowball’s chance in hell” of winning. Their job was to do what they do. It would be, according to Coleman, a “burn and destroy kamikaze mission.” But Coleman underestimated her powers of persuasion.



**Chief Assistant D.A.
Larry Weist**

Peter Lynch said that if Ralph Tortorici did not have an insanity defense, nobody in Albany County ever would. But he had two disadvantages. His client was not in the courtroom, so the jury never had to look Ralph in the face. The jury would not be required to decide the fate of another human being that they had to look in the eye. Second, if Ralph had testified, they would have heard him describe the chips in his brain, teeth and penis, put there by the government. They would have heard how he was a decedent of Roman emperors, and he was the victim of a Jewish conspiracy that included atomic particle beams. They would have seen his insanity.

At trial, the prosecution would do “whatever worked...we didn’t care,” Coleman said. Coleman hammered the defense’s doctors on cross-examination. One she mocked by noting that he testified in an earlier trial that multi-murderer Lemuel Smith’s mental illness was caused by his lack of proper “potty training.” On summation she knocked down the insanity defense by pointing out that Ralph’s actions were cocaine fueled and he had a vendetta against the University because of earlier disputes. The psychiatrists...they were just hired guns. For the jury, it was the planning. He brought the gun to the classroom to command a stage for his rantings. Maybe it was insane to do that, but it was not criminal insanity. The psychiatrists’ testimony played no part in their deliberations.

At Sentencing, Ralph went through his litany of craziness, his Roman heritage, implanted microchips, Jewish conspiracies and atomic particle beams. The Judge was not swayed, and he gave Ralph the max, 20-47 years. It was not within the judge’s provenance to second guess the jury’s verdict, that’s the American way. The judge felt that the harm to 37 victims had to be answered by the justice system and a maximum sentence reflecting that harm was warranted.

No one can see the future, but some predicted it. Ralph’s dad and brother did. Ralph was sent to a maximum security prison where much of his time was spent in solitary confinement. Three weeks after arriving in prison he tried to hang himself. For one whole year he was in confinement in a mental health hospital. The tortured life of Ralph J. Tortorici came to an end on August 10, 1999, in his jail cell at the maximum security Sullivan Correctional facility. This time his



suicide attempt was successful. Sadly for Ralph, he could conquer his opponents in the ring as a Golden Glover but not the demons in his head.

“I felt responsible for his death. He didn’t have to die,” a self-reflective, indeed bravely honest Cheryl Coleman told *Frontline*. “It seemed to be so much fun when we did it but after I felt ashamed,” she added. “Was justice done? She asked herself. “We had the discretion to make a higher decision than we did. I wish I hadn’t been a part of it.” Ralph Tortorici is buried in St. Agnes Cemetery alongside his father who died on Thanksgiving Day, 2001 at age 58.

PEOPLE V. CHRISTOPHER PORCO

17 NY2d 877

Patricide in Albany, NY 2004

Decided October 18, 2011

Michael P. McDermott for the People

Terrence L. Kindlon and Laurie Shanks for the Defendant

In 2013 A&E made a movie about Christopher Porco and dubbed him “the Romeo Killer.” Albany’s version of Lizzie Borden would have been a more apt description. In 2004, Peter and Joan Porco were beloved members of their community. Joan was a child speech pathologist and Peter was the confidential law secretary to Anthony V. Cardona, the Presiding Judge of the Appellate Division of State Supreme Court. On the night of November 14, 2004, Christopher Porco entered the family home and brutally killed his father with an ax and chopped his mother to within an inch of her life. It is the most inexplicably and tragically brutal murder to be committed in the 400 years that this area has been settled.



Joan and Peter Porco

At some point, Christopher Porco began living as if he was stuck on a Möbius Strip. His life alternated between lies and money ill gotten. Maybe it started in November 2002 when, at age 19, he staged a break-in at his parents’ homes. He stole two laptops and sold them on eBay. He would do this again in July 2003 but got in trouble by not delivering some of the items he stole and then sold. He explained to eBay and the disgruntled purchasers by posing as his brother and telling them that Christopher Poco had died. In the Spring of 2004 his parents discovered that Christopher was failing his classes at Hudson Valley Community College. He bought himself some time by convincing his parents that the Registrar was to blame. He then forged his HVCC transcripts to regain admission at the University of Rochester. Christopher presented himself to his frat brothers as coming from wealth. He told them that his grandmother owned a lot of land in Connecticut, that the family had a ski lodge in Vermont and a home in Aruba. When frat parties were thrown, it was Christopher who would pay for them.

Christopher was also in debt for student loans and for the purchase of a yellow Jeep Wrangler. The vehicle would become famous. Afterall, how many yellow Jeep Wranglers are there in Delmar, NY? He also secured a \$31,000 loan from Citibank by forging his father’s name on the loan documents. His father discovered the deception two weeks before his murder and called Christopher out on it but not before telling his son in an email, as any parent could understand, *“we may be disappointed with you, but your mother and I still love you and care about your future.”*



The Scene of the Crime
Brockley Avenue, Delmar, NY

For the time of the crime, Porco's alibi was that he was asleep on the couch in the lounge of his dorm in Rochester. The police knew differently. Nine fraternity brothers would testify that they did not see Christopher sleeping in the lounge as he claimed. The Thruway toll collector on duty that night in Rochester recalled a yellow Jeep Wrangler with wide wheels went through his booth at about 10:45 p.m. The toll collector in Albany remembered the same vehicle approaching his booth going very fast at about 2:00 a.m. Security cameras at the University of Rochester captured Porco's vehicle leaving campus at 10:30 p.m. and returning at 8:30 a.m. Porco claimed that he had just moved his car off campus because he was not allowed to park on campus.



Porco's Return Trip From Murder

Investigators would recover the toll card handed to the toll collector by Porco in Albany and would determine that the card contained Porco's DNA. Porco's EZPass transmitter, which was in the center compartment, registered going through the Albany toll booth. A neighbor of the Porco's told police that he saw the yellow Jeep in the family's driveway at 4:00 a.m. on the morning of the crime. A house key that was hidden under a flower pot was left in the front door and the secret code was used to turn off the burglar alarm. At 4:54 a.m., the phone line was cut. The most controversial piece of evidence came from Joan Porco. A Bethlehem Police Detective spoke to Joan as she was being treated by paramedics. He



Christopher Porco with the Yellow Jeep Wrangler with Wide Wheels, in the Court House Parking Lot

He asked her if her older son had attacked her, and she shook her head "no." He then asked if Christopher did it and she indicated "yes." After she came out of a medically induced coma, she claimed that she had no memory of the event and maintained that her son was innocent.

It took a year to return an indictment but over those 12 months the police had constructed a damning mountain of circumstantial evidence. But there was no physical evidence to connect Christopher with the crime. No fingerprints on the ax, no blood in the yellow Jeep. And there was a significant amount of unexplained evidence such as unknown DNA on the underside of Peter Porco's Seiko watch found on his bedstand. Unidentified fingerprints were found on a bedside table and on the back yard phone junction box where the phone wire was cut. Also, the DNA evidence on the toll card was hotly contested because of the time elapsed until its discovery, the limited amount of material to be tested and the new method that was used to analyze it. A large



The Murder Weapon

circle of family and friends were convinced that Christopher was innocent and had funded his bail. It was a stunning sight to watch Christopher mingle with his family and close friends at the

wake while his mother's casket sat just feet away. He remained free until his indictment and was in jail for just a few days before bail was made pending trial.

The trial was moved from Albany County to Orange County to ensure a fair jury pool and it took place in the summer of 2006. Porco was represented by noted Albany criminal defense attorneys Terrence P. Kindlon and his wife Laurie Shanks. The People were represented by chief assistant District Attorney Michael P. McDermott and Steve Rossi. Over seven weeks of trial the jury heard from 80 witnesses. Joan Porco testified in her son's behalf and said he never could have done such a horrible thing. She allowed the press to film the 23rd birthday party she threw for him during the trial. The attorneys on both sides were predicting that the jury would deliberate for at least a week. On August 10, 2006, after less than six hours of deliberations, Porco was convicted on all counts and sentenced by Orange County Judge Jeffrey G. Berry to 50 years to life. As for the controversial head nod from Joan Porco, the jury said it played no part in their conclusions as they credited the testimony of defense's medical experts who said that after being inflicted with such traumatic injuries, Joan Porco would not have been able to formulate answers to the types of questions asked by the detective. Christopher Porco did not testify.

After the trial, the first stop would be to the Appellate Division. Because there was a change in venue to Orange County, the appeal would be heard in the Second Department in Brooklyn. The appeal was decided on March 10, 2010. The first issue was the "nod" evidence. The mother nodded her head to indicate "yes" when asked by the detective if Christopher did. Was that nod admissible as an excited utterance. And did it violate the right to cross-examination under the recent Supreme Court ruling of *Crawford v. Washington*. The Court held that the nod was not an excited utterance because of the time that elapsed between the nod and the assault. Also, it was not spontaneous because it was the product of the detective's probing. The admission of the nod was not a violation of the right to cross-examine because, according to the Court, the mother was available to testify. This was technically true but since the mother said she had no memory of the event, this would be akin to trying to cross-examine a person in a coma. Despite the trial court's error in admitting the nod evidence, the Appellate Division found it to be harmless error because of the overwhelming evidence of the defendant's guilt and the absence of any substantial probability that the nod might have contributed to the conviction. The defendant's position was this is an



**Porco with his attorneys,
Laurie Shanks and Terrence Kindlon**



**Chief ADA Michael McDermott
addresses the Jury**



ADA David M. Rossi

astonishing example of appellate court hindsight because the entire case was circumstantial, there was no forensic evidence connecting the defendant to the scene of the crime and the nod was the only direct evidence connecting the defendant to the commission of the crime.

An equal exercise in improper appellate fact-finding, argued by the defendant, was the Court's conclusion that there was no error in not granting the defendant a "fruit of the poisonous tree" hearing. This hearing would have allowed the defendant to explore the sources of other uncovered evidence to determine if any of it derived from the defendant's suppressed statement. The Court's review of the record concluded that all other facts were independently sourced.

The Court also ruled that it was proper to admit the evidence of the defendant's staged burglaries to show that there was unique pattern that fit with the crime charged.

The Court of Appeals dismissed Porco's legal claims with a dispatch equal to the Appellate Division. The Court remarshalled the evidence and concluded that, although the admission of the nod evidence was error, it was not reversible error because the other evidence of guilt was overwhelming. It also affirmed the admission of evidence of the staged burglaries as showing a uniqueness with similarity to the burglary committed on the morning of the crime.

In the end, it was the meticulous time-line constructed by the police that did Cristopher Porco in. But what kind of person would kill their parents and why? It was a combination of a psychopathology that afflicted Cristopher Porco's, his belief that he was the smartest guy in the room, and it was the money. The prosecutor showed that alive, the Porco's had little liquid wealth. Dead they were worth \$1.1 million. On the other hand, we just don't know why a son would brutally murder a parent. Christopher Porco will be eligible for parole in 2052 at age 73. His mother remains loyal to him to this day. Peter Porco is buried in St. Agnes Cemetery, Menands, NY.



Judge Jeffrey G. Berry

VII: INSTITUTIONS

ALBANY LAW SCHOOL

Albany Law School is the jewel in the crown of Albany County's legal community. For the last 170 years it has been graduating lawyers who have risen to the pinnacle of the Capital District Bench and Bar----and to the White House and the Supreme Court. Albany Law School, the oldest independent law school in the Country, began classes on December 16, 1851. Its twenty-three students met in rented rooms on the third floor of the Exchange Building which stood on the northeast corner of State Street and Broadway, now the site of the "Old Federal Building." The Exchange Building was built in 1836 and housed the Post Office and offices of the New York Central Railroad. Tuition for the sixteen-week program was \$40. The founders (and initial faculty) were State Supreme Court Justice (later U.S. Senator) Ira Harris, Court of Appeals Judge Amasa J. Parker, and founder of Albany Medical College and lecturer in medical jurisprudence, Amos Dean. (Lincoln's law books, preserved at the Ford's theater Museum in Washington, contain books written by Amos Dean.)

In 1852, having outgrown their space in the Exchange Building, the Law School moved to rented rooms on the third floor of the Cooper Building located at the southeast corner of State and Green Streets next to what is now Jack's Restaurant. In 1854, the school moved to the south wing of the Medical College which occupied the Lancaster School Building located on the west side of Eagle Street between Jay and Lancaster Streets (Now the site of part of the skybridge between the Times Union Center and the Empire State Plaza). Among its many achievements, Albany Law School is credited with having the first student-edited law journal in America, started in 1875.



**Albany Law School Journal
April 13, 1876**

In 1879, the Law School moved into the remodeled Universalist Church at 249-251 State Street, between Dove and Swan Streets and an adjoining building. This building was home for the Law School until 1926, when it was razed to make room for the Alfred E. Smith State Office Building. Left in the lurch, the Law School moved to temporary quarters at 51-55 Lancaster Street. It was named by the students "the factory" because of its previous occupant, D. McDonald and Co., Gas Meter Mfg. The school occupied this building until 1929, when it



**The Law School's First Home,
Third Floor of the Exchange Building,
Northeast Corner of State and
Broadway, 1851-52.**

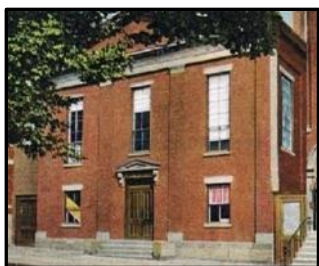


**The Law School's second home, the
Cooper Building, southeast corner of
Green and Pearl Streets, 1852-1854.**



**Albany Law School's third home, the
Lancaster School on Eagle Street,
shared with Albany Medical College.
Stairway on left leads to Law School.
1854-1879**

moved to its current location on New Scotland Avenue. During its transition period, the Law School explored several potential locations. It purchased three buildings at 320-324 State Street to tear down and build a new school building. It explored purchasing the Boys Academy in Academy Park but received objections from the nearby St. Agnes School for Girls. In 1927, Mayor Thacher offered the New Scotland Avenue property. Under the leadership of Board President Harold J. Hinman, Albany Law School would find its new home at the intersection of New Scotland and Holland Avenues which opened in 1929.



Albany Law School's fourth home, 251 State Street, 1879-1928



The Law School's fifth home, the "Factory", 51-51 Lancaster Street. 1928-1929



Albany Law School's present home, 80 New Scotland Avenue. 1929-Date.

THE FOUNDERS

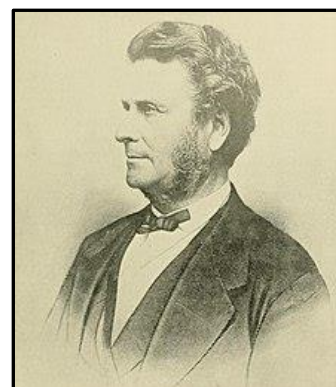


Amasa Parker

Ira Harris

Amos Dean

AMASA J. PARKER (1807-1890): Parker was born on June 3, 1807, in Sharon CN. His professional career started at age sixteen at the Hudson Academy. In 1825 at age 18, he received a degree from Union College. After studying in Delhi with his uncle, of the same name, he was admitted to the bar in 1828. In 1833 he was elected District Attorney of Delaware County. He was also elected to the Assembly and served as a New York State Regent. In 1837 he was elected to Congress. In 1844 he was appointed to the State Circuit Court. In 1847 Parker was elected to the New York Supreme Court and in 1854 he served on the Court of Appeals. After leaving the bench, Parker formed a partnership with his son Amasa J. Parker Jr. While living in



Albany, Parker resided at 143 Washington Avenue. Parker ran twice, unsuccessfully, for governor and declined President Buchanan's appointment as U.S. Attorney for the Southern District. In one of the most famous criminal trials in the annals of Albany county, Parker represented Civil War hero, Brigadier General George W. Cole. Cole shot L.



**Parker Family
Gravesite**

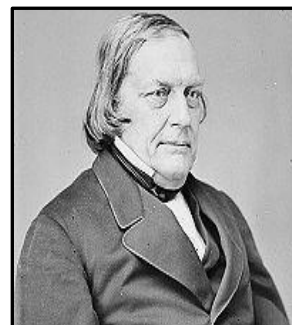
Harris Hiscock, the Speaker of the New York Assembly, in the head while Hiscock stood in the reception room of Stanwix Hall, one of Albany's leading hotels located on Broadway at Maiden Lane. Parker won an acquittal based on a defense of insanity.

Cole claimed that Hiscock had violated his wife while Cole was off fighting the war. Parker died on May 13, 1890, at age 83, arguing a case in the Court of Appeals just a week earlier. Mary Parker, Parker's daughter, married Erastus Corning Jr. She is the grandmother of Erastus Corning II, Albany's long-time mayor. Parker is buried in Albany Rural Cemetery, Sec. 54, Lot 8.

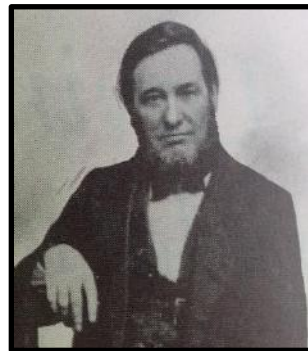


**Parker Residence,
143 Washington Avenue,
Now site of CSEA Building**

IRA HARRIS (1802-1875): Ira Harris was born on May 31, 1802, in Charleston, Montgomery County, NY. He graduated from Union College and studied law under Judge Ambrose Spencer and was admitted to the Bar in Albany 1827. He was elected to the State Senate in 1844 as a Whig and in 1846 he was elected Justice of the Supreme Court, serving until 1859. In 1850, Harris was appointed by the Governor to serve a one-year *ex officio* term on the Court of Appeals. In 1851 he founded Albany School with Amos Dean and Amasa Parker. In 1859, he was the last New York State Judge to sentence a woman to death. In Albany, Harris resided on the southwest corner of State and Eagle Streets. His office was located at 41 North Pearl Street. (For a more extensive biography see entry under "The Bench").



AMOS DEAN (1803-1868): Amos Dean was born on January 16, 1803, in Barnard, Vermont. He graduated from Union College in 1826. He was admitted to the New York Bar in 1829 after studying law with the distinguished Judge Alfred Conkling, the father of one of New York's most famous senators, Roscoe Conkling. Dean then started a partnership with Azor Taber, one of Albany's most eminent lawyers. Dean made his mark in the field of education. He organized the Albany Young Men's Association and served as a founding trustee of Albany Medical College, the Dudley Observatory and the Albany Female Academy, the first high school for women in America. At the Medical College he held a professorship in medical jurisprudence. As Albany Law School's first Dean he also lectured on and authored a treatise on medical jurisprudence. During these years he also wrote an eight volume *History of Civilization*. In Albany, Dean resided at 77 Ten Broeck Street. Amos

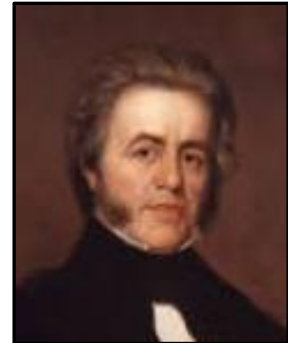


Dean was the first president of the University of Iowa serving from 1855 to 1859. Dean died on January 26, 1868, and is buried in Albany Rural Cemetery, Sec. 52, lot 2.

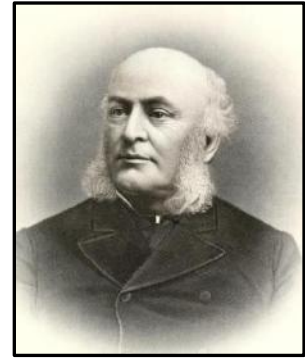
NOTABLE GRADUATES & OTHERS ASSOCIATED WITH ALBANY LAW SCHOOL

There is probably no place in the United States where the legal community has been nourished for so long and for so many by one institution as Albany Law School has done for the Capital District of New York. Albany Law School has a historic tradition of producing judges at all levels of the bench and outstanding lawyers in every field of law. Currently there are more than 300 Albany Law School graduates sitting in every level of Court across the nation. Albany Law School graduates are judges in at least seven states. Since the school's beginnings in 1851, the total number of judges, including two who served on the U.S. Supreme Court—something few law schools can boast—likely surpasses 1,000. In addition, the School counts as graduates dozens of members of state assemblies, state senates, the U.S. House of Representatives, the U.S. Senate, Cabinet Members, Governors, Mayors and a United States President. The contributions to the community of the members of the Bar who have graduated from Albany Law School would be inestimable. Set forth below are just a few examples of those graduates who have made significant contributions to the life of the law.

GREENE C. BRONSON (1789-1863): Greene C. Bronson was the first president of Albany Law School's Board of Trustees. Bronson's early legal career was centered in Utica, NY where he was elected Oneida County Surrogate in 1819. In 1822 he was elected to the Assembly and in 1829 he was appointed Attorney General, where he served until 1836. In 1838 he was appointed to the (old) State Supreme Court and became Chief Justice of that Court in 1845. In 1847 he was one of the first four judges elected to the newly created Court of Appeals. He became Chief Justice in 1850. After he left the bench, Bronson began practicing law in New York City where he also served for a short time as Collector of the Port of New York. In 1859, he was appointed Corporation Counsel of New York City and served in that position until 1862. Judge Bronson held a reputation as a skilled craftsman of the law. He is most famous for the Court of Appeals' first decision in *Pierce v. Delamater*. In that case he ruled he could sit in review of a matter upon which he sat as a member of the old Supreme Court. Showing that he was a person of inestimable fairness, the next year, in *Shindler v. Houston*, he joined an opinion that reversed a judgement to which he assented in the lower court. Bronson died in Saratoga, NY on September 3, 1863. He is buried in Green-Wood Cemetery in Brooklyn, Sec. 36, Lot 4004.



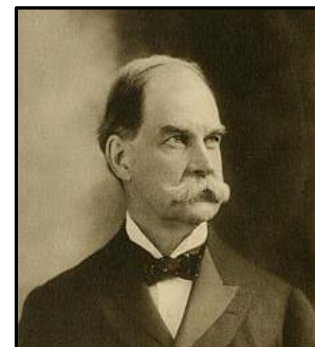
MATTHEW HALE (1829-1897): Matthew Hale was born on June 20, 1829, in Chelsea, VT. After graduating from the University of Vermont in 1851, he studied law in Elizabethtown, NY. He was admitted to the bar in 1853 and started practicing law in Poughkeepsie, NY. In 1856 he married Ellen S. Hand, the daughter of Court of Appeals Judge Augustus C. Hand and brother of Court of Appeals Judge Samuel Hand (father of Learned Hand). Hale was a delegate to the New York Constitutional Convention of 1867 and served in the New York State Senate in 1868-69. In 1886 Governor David B. Hill appointed Hale to a three-member commission to study more humane methods to execute criminals---they selected electrocution (See Trials Section). Hale was a faculty member at Albany Law School, where he taught Domestic Relations and Criminal Law from 1870-1897.



WHEELER HAZZARD PECKHAM (1852) (1833-1905): Wheeler H. Peckham was born in Albany on January 1, 1833. His father Rufus Peckham sat on the Court of Appeals as did his brother Rufus Jr., who also became a U.S. Supreme Court Justice. He was educated at Albany Academy, Union University and Albany Law School, where he graduated in 1852. In 1873, Peckham was the special prosecutor who obtained the conviction of Boss Tweed, leader of Tammany Hall. Peckham was briefly New York County District Attorney but resigned because of poor health. He also served as president of the New York City Bar Association from 1892-1894. Grover Cleveland, a Democrat, nominated Peckham, a Democrat, to the Supreme Court in 1894, but his nomination was blocked by the Democratic party leader of New York, U.S. Senator David B. Hill (whose home would become the original clubhouse of Wolfert's Roost Country Club). The Peckham's are the most distinguished family of lawyers and judges to grace Albany's History, followed closely by the Hands. Peckham died on September 27, 1905, at the age of 72. He is buried in Albany Rural Cemetery in Lot 19, Sec.11.

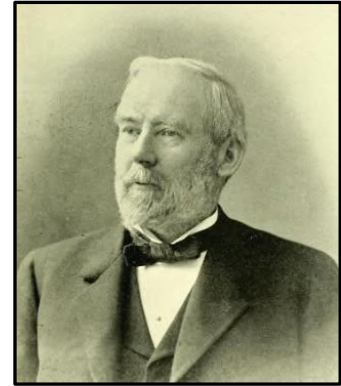


ABRAHAM LANSING (1857) (1835-1899): Lansing was born in Albany, New York on February 27, 1835. He was a grandson of State Treasurer Abraham G. Lansing and grand-nephew of Chancellor John Lansing, Jr. Lansing attended The Albany Academy and graduated from Williams College 1855. He read law with his father, Christopher Yates Lansing, and graduated from Albany Law School in 1857. He later practiced law in partnership with his brother William. In 1869 Lansing became the first New York Supreme Court reporter. He published the first seven volumes of the Supreme Court Reports. In 1876 he was chosen Corporation Counsel of Albany. In 1882 he was elected to the New York State Senate. There he worked for the establishment of the State Railroad Commission and the Niagara Falls State Park. He was a director of the National Commercial Bank, and a trustee of the Albany Savings Bank. He also served as the Parks Commissioner of Albany, Governor of the Albany Hospital, Trustee of The Albany Academy, the Albany Medical College, the Albany Rural Cemetery, and the Dudley Observatory. In 1879 he was an American delegate



to the International Conference (London) for the Codification of the Law of Nations. Lansing died in Albany on October 4, 1899 and is buried in Albany Rural Cemetery, Lot 2, Sec. 55.

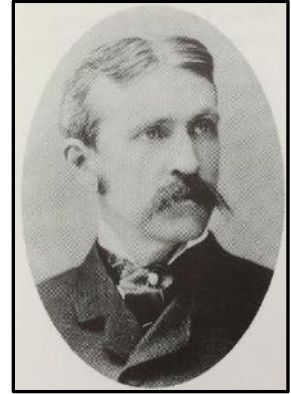
GEORGE L. STEDMAN (1857) (1831-1898): George L. Stedman was born on November 8, 1831, in Southbridge, MA. He graduated from Brown University in 1856 and came to Albany where he received his law degree from Albany Law School in 1857. He read law with the firm of Shephard and Bancroft and later practiced law with several partnerships, including with his son, who also graduated from Albany Law School. Their firm, Stedman & Stedman had offices at 443 Broadway. Stedman ran on the Republican ticket for state senator but lost by a close margin. As town counsel, he drafted the bill which separated the Town of Colonie from Watervliet and he gave it the name "Colonie." The Stedman family residence still stands on the southeast corner of Columbia and Lodge Streets and was incorporated into the County Justice Center. Stedman died in Albany on March 15, 1898. He is buried in Albany Rural Cemetery, Sec. 15, Lot 12.



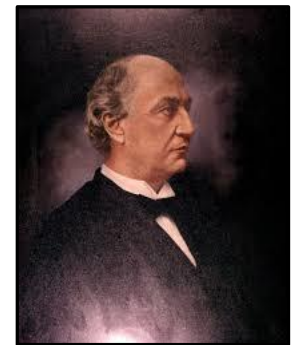
EDWIN WELD CORNING (1857) (1836-1871): Edwin W. Corning, was born on December 4, 1836, in Albany and died August 7, 1871 at age 34. In between he graduated from Albany Law School in 1857. Little record is left of his short life that ended a year before that of his illustrious father, Erastus Corning, the founder of the New York Central Railroad. In 1866 he married Mary Augusta Green de Camp in Saratoga. She was the daughter of Mary Augusta Green and Rear Admiral John de Camp. De Camp received recognition during the Civil War for his efforts to secure the capture of Vicksburg. He retired after forty-three years of active naval service. One is left with the impression that Corning spent the fourteen or so years of his adult life enjoying the fruits of his father's success. He resided until his death with his parents in their mansion at 102 State Street. He is the great uncle of Albany's longtime Mayor, Erastus Corning II. The newspaper article announcing his death made the following observation: "*Corning never pursued the practice of law. The large fortune of his family placed him above the ordinary necessities and he never felt the spur that presses men forward in professional careers. His life, therefore, lacked its proper aim and ambition.*" He did have time to leave a portrait. He is buried in the Corning family plot at Albany rural Cemetery, Sec 31, Lot 2.



IRVING BROWNE (1857) (1835-1899) Irving Browne was born on September 14, 1835, in the town of Marshall, Oneida County. Before graduating from Albany Law School in 1857, Browne studied law with future Court of Appeals Judge Theodore Miller in Hudson, NY. In 1879 he moved to Albany from Troy where he had practiced law for twenty years and became the editor of the *Albany Law Journal* (not connected to the “Law School Journal”) from 1879-1893 and the *American Reports*. The *American Reports*, published between 1871 and 1888, was a digest of all the decisions of general interest of the highest court of every state. In 1893 Browne moved to Buffalo to be near his daughter. Browne also gained much acclaim as an author and translator of literature. Two of his more prominent works were *Humorous Phases of the Law* and *Law and Lawyers in Literature*. He was also a Professor at Albany Law School. Browne died February 6, 1899, at age 63. He is buried in Forrest Lawn Cemetery in Buffalo, Sec. 9, Lot 227.



DAVID JOSIAH BREWER (1858) (1837-1919): David J. Brewer was born on June 20, 1837, in Smyrna, Turkey where his parents were missionaries. By a strange coincidence, the future Supreme Court colleague of Brewer, his maternal uncle Stephen Field, was living with them in Turkey. Brewer graduated from Yale in 1856 after which he read law with his other famous uncle, David Dudley Field author of the famous “Field Code” which unified civil procedure. Brewer then entered Albany Law School and graduated in 1858. After law school, Brewer moved to Kansas to practice law and there he served on the Probate and Criminal Courts, the District Court and was elected to the Kansas Supreme Court in 1870. He also served as City Attorney for the City of Leavenworth. In 1884, President Chester A. Arthur (buried in Albany) nominated Brewer to the United States Court of Appeals for the Eighth Circuit. After twenty-eight years in that position, President Harrison nominated Brewer to the Supreme Court where he served for twenty years until his death. While Brewer is generally considered a champion of minority rights, his two most famous opinions came down on both sides of the fence in that area of law. In *Muller v. Oregon*, he upheld a restriction on the number of hours a woman could be forced to work. This decision contravened the “right to contract” decision of the Supreme Court in the famous *Lochner v. New York* case issued by another Albanian, Rufus



W. Peckham, Jr. However, in the case of *In re Debs*, involving one of America’s most famous labor leaders and perennial presidential candidate, Eugene Debs, Brewer upheld the right of the government to suppress labor strikes with injunctions. In collaboration with Justice Alton Brooks Parker and Thomas H. Hubbard, he helped establish the American Bar Association’s Canon of Ethics in 1909. Brewer died on March 28, 1919, in Washington, D.C. and is buried in the Mt. Muncie Cemetery, Leavenworth, KS.

HENRY REED RATHBONE (1859) (1837-1911): The Rathbones were part of Albany's aristocracy, due mostly to the great wealth generated by their stove business which made Albany the largest manufacturer of iron stoves in America before the Civil War. Henry was born on July 1, 1837. His father Jared was the first popularly elected Mayor of Albany. Prior to that, the Mayors were selected first by the Governor and then by the Common Council. When Henry's father died, he received a sizeable inheritance. His mother married Senator Ira Harris and Henry would become engaged to and then marry Harris's daughter Clara, who was his stepsister. After graduating from Albany Law School, Rathbone distinguished himself in the Union Army. He saw action at



Antietam and Fredericksburg and attained the rank of Major. He would muster out with the rank of Colonel. The Harris's were close friends of the Lincoln's and on April 14, 1865, Major Rathbone and his then fiancé Clara Harris found themselves in the box at Ford's Theatre with the Lincolns. After John Wilkes Booth shot Lincoln, Rathbone was seriously stabbed trying to stop the assassin. He recovered physically but never mentally. President Chester A. Arthur appointed Rathbone to be U.S.

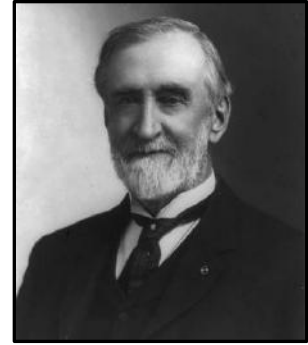


Counsel to the Province of Hanover, Germany in 1882. In Germany, Rathbone's mental health continued to deteriorate. On December 23, 1883, Rathbone attacked his two children. His wife was fatally stabbed trying to protect them. Rathbone spent the rest of his life in a mental institution and died in Germany in 1911. Rathbone's son, Henry Riggs Rathbone, would become a member of Congress from Illinois and would successfully advance the restoration of Ford's Theatre which had fallen into a serious state of repair.

THOMAS H. HUBBARD (1861) (1838-1915): Thomas Hamlin Hubbard was born December 20, 1838, in Hallowell MN, the son of the Governor. He graduated from Bowdoin College in 1857 and Albany Law School in 1861. Hubbard saw action in the Civil War as part of the 25th Maine. At the war's end he held the rank of brevet General. After the war he resumed the practice of law in New York city with Charles A. Rapallo who would be elected to the Court of Appeals and serve from 1870-1897. In 1903, after he was established as a successful lawyer and business executive, he endowed a Chair of Legal Ethics at Albany Law School, making the school one of the earliest leaders in the area of the law. In 1909 he collaborated with Judge Alton Brooks Parker and Justice David J. Brewer to establish the American Bar Association's Canon of Ethics. He also served as a Trustee of the Law School from 1906-1916. Hubbard would also become an executive for the Southern Pacific Railway. He died in New York City on May 19, 1915. Hubbard is buried in Woodlawn Cemetery in the Bronx, Sec 37, Lot 5592



REDFIELD PROCTOR (1860) (1831-1908): Redfield Proctor was born on June 1, 1831, in Proctorsville, VT. In 1851 he graduated from Dartmouth and, after getting a master's degree from there, he graduated from Albany Law School in 1860. During the Civil War he earned the rank of major with the 5th Vermont Infantry. Starting 1866, Proctor began a steady ascent through several elected offices. First was as selectman in Rutland and then he served in the Vermont Assembly. In 1874 he was elected to the Vermont Senate followed by election to the position of Lt. Governor two years later and then Governor two years after that. In 1889, he was appointed Secretary of War by President Harrison. Two years later, in 1891, Proctor became a U.S. Senator. He served in that position until his death in 1908. He is buried in South Street Cemetery, Proctor, VT.



AMASA J. PARKER, JR. (1864) (1843-1938): Amasa J. Parker, Jr. was born on May 6, 1843, in Delhi, NY. A member of the class of 1864, he became a President and member of Board of Trustees of Albany Law School from 1892-1926. He practiced law with his father, Court of Appeals Judge and Law School founder Amasa J. Parker, and J. Newton Fiero, Dean of Albany Law School and finally with his two sons, spanning a career of more than thirty years. He was a Civil War veteran, attaining the rank of Major. He reached the rank of Major General in the National Guard. He was a member of the Assembly from 1882-1884 and a State Senator from 1886-1896. In 1887, he was instrumental in the construction of the State Armory which still stands on the northeastern corner of Washington Avenue and Lark Street. He is also responsible for the bill authorizing the construction of the Hawk and Northern Boulevard Viaducts which connected the business district of Albany with its parts to the north over Sheridan Hollow. He wrote several law books and edited *Landmarks of Albany County* in 1887, a 1,200-page history of Albany County. The Parker family resided at 143 Washington Avenue. His wife died when he was forty and he raised his six children as a single parent. He was the great uncle of Erastus Corning 2nd. His sister, Mary Parker was Corning's grandmother. Parker died May 2, 1938, just four days before his ninety-fifth birthday. He is buried in Albany Rural Cemetery, Sec 54, Plot 8, along with seven other members of his family.



J. NEWTON FIERO (1847-1931): J. Newton Fiero was born in Saugerties, NY on May 23, 1847. He graduated from Union College in 1867 and read law in the Delhi office of Supreme Court Justice William Murray. He was admitted to the bar in 1869. From 1872 until 1891, he practiced law in Kingston with Reuben Bund. He then moved to Albany and started practicing with Amasa Parker, Jr., son of the founder of Albany Law School and President of the Board of Trustees. It was at this time that he started teaching at the Law School, a convenient walk from his residence at 355 State Street. In 1895, he was President of the New York State Bar Association. He was the co-author of the Code of Ethics adopted by the New York State Bar Association. He is also credited with the formation of the State Board of Law Examiners. At the Law School, he was a close friend of Alton B. Parker who was soon to become Chief Judge of the Court of Appeals. In 1909, Fiero was appointed to be the Official State Reporter and issued over sixty volumes of New



York Court decisions. His scholarship extended from the classroom to the library, as he was the author of several legal treatises, including *Principles of the Law of Torts*. Fiero served as Dean from 1895 to 1924 the longest tenure in School history. When he started, Albany Law school was nearing extinction. Under his stewardship the School was rescued and thrived. There was a marked increase in enrollment due to an inclusive enrollment policy along with a concentration on the practical aspects of New York Law. While this changed Albany Law School from a national to a regional law school, it insured its survival from increased competition. Fiero died on March 13, 1931 at age 83. He is buried in Mountain View Cemetery in Saugerties, NY.

GEORGE W. KIRCHWEY (1855-1942): George W. Kirchwey was born on July 3, 1855, in Detroit, MI. His family moved to Chicago and then to Albany in 1871. After graduating from Yale in 1879, Kirchwey read law with the firm of Stedman and Shephard in Albany and was admitted to the Bar in 1882. After practicing law in New York City for six months, he formed a partnership with his close friend James W. Eaton in Albany with offices in Suite 7 of the Museum Building on the southwest corner of State and Lodge Streets. Kirchwey became a professor at Union College and Albany Law School and became Dean of the Law School at age 34, serving from 1887-1889. He then served as Dean of Columbia Law School from 1891-1901 (where he was succeeded by later Supreme Court Justice Harlan Fiske Stone).

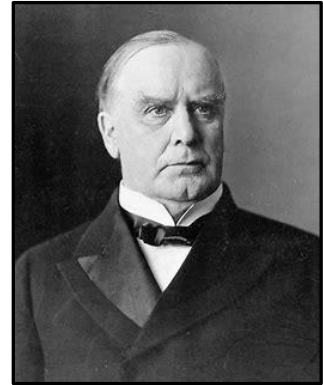


Kirchwey was one of the pioneers in the case law method of law school instruction. He was also one of the country's leading advocates of criminal justice and penal reform and served as president of the New York Society of Criminal Law and Sociology. Kirchwey was also president of the American Institute of Criminal Law and Criminology. He was the warden of Sing Sing from 1915-1916. Kirchwey was also active in the peace movement and was president of the American Peace Society. He involved himself in progressive party politics and worked with Jane Addams, founder of Hull House. His one foray into electoral politics occurred in 1912 when he ran for the Court of Appeals on the Progressive Party Line, led by Teddy Roosevelt. The Democratic ticket, led by Woodrow Wilson, swept all nine statewide offices that year. Kirchwey's daughter Freda, a graduate of Barnard College, followed in her father's footsteps of social advocacy, becoming editor and then owner of *The Nation* in the 1930's. Kirchwey died on March 3, 1942. He is buried in the Kenscio Cemetery, Valhalla, NY.

ALDEN V. CHESTER: (See "The Bench" section)

D-CADY HERRICK (1867): (See "The Bench" Section.)

WILLIAM MCKINLEY (1867) (1843-1901): William McKinley Jr., was the 25th president of the United States. He served from March 4, 1897, until he was assassinated in Buffalo, NY on September 14, 1901, six months into his second term. This made Theodore Roosevelt president and had at least one great consequence for the legal history of the nation. At the time of McKinley's death, a Supreme Court vacancy was imminent because Justice Horace Gray was in very bad health. The President was expected to nominate Alfred Hemenway, a Boston Lawyer. Instead, President Roosevelt nominated a different Boston lawyer, Oliver Wendell Holmes, Jr. McKinley's assassin was Leon Czolgosz, a 28-year-old steelworker who was inspired by a speech given by Emma Goldman, the famous anarchist. Justice was swift in those days. Czolgosz was executed less than eight weeks after his arrest. This assassination prompted the government to create the Secret Service. McKinley was the last president to serve in the Civil War. He enlisted as a private and rose to the rank of brevet Major. After graduating from Albany Law School in 1867, McKinley returned to Canton, Ohio to practice law. In 1869, he was elected prosecuting attorney for Stark County. McKinley served in Congress from 1877 to 1891. He was the 38th Governor of Ohio from 1892-1896. McKinley's first run for the presidency was engineered by Ohio political boss Mark Hanna. It was called the "front porch" campaign because McKinley conducted his campaign from that location while William Jennings Bryan, the Democratic candidate, made whistle stop trips across America. Under McKinley, the United States became an empire with foreign acquisition, such as the Philippines as a result of the Spanish-American War.

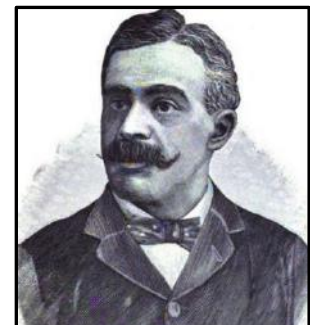


WILLIAM LAW LEARNED: Faculty member, 1870-1895. State Supreme Court Judge, 1879-1991 (See "The Bench" section).

HAROLD D. ALEXANDER (1895) (1874-1949): Harold D. Alexander was born in Albany, NY on September 12, 1874. He was Dean of Albany Law School from 1924-1945. This was a period of great transition for the Law School as it passed from the "roaring 20's" through the Great Depression. He led the School from its temporary headquarters known disparagingly as "the Factory" to its present location. Before becoming Dean, he served as Albany County District Attorney from 1914-1921. Alexander, who never married, resided at 75 Willet Street. Before becoming Dean, he was an Instructor of criminal law at the Law School. Alexander maintained a practice of law at 100 State Street. Dean Alexander died on March 8, 1949, at age 74 and is buried in Albany Rural Cemetery, Sec 104, Lot 454.

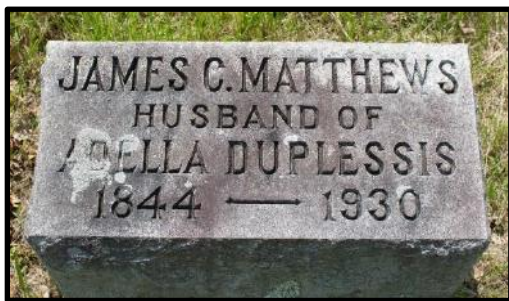


JAMES C. MATTHEWS (1870) (1844-1930): Most probably Matthews is the first black graduate of Albany Law School. Matthews was born in 1844 in New Haven, CN. He moved with his family to Albany around 1850. His parents died when he was sixteen and he was raised by Lydia Mott and Phebe Jones two anti-slavery advocates. In 1864 he graduated with honors from the Albany Academy. In those days, a Black person would be most inclined to join the Republican party, but Matthews became a Democrat because he was assisted in getting into



Albany's segregated schools by William Rice, a Democratic member of the Board of Education. Matthews started as a clerk at the Congress Hotel which was owned by Black hotelier Adam Blake who would build the famous Kenmore Hotel on Pearl Street. He then became a bookkeeper in the law office of Werner and Callahan. When his abilities became apparent to those partners, they hired him to be a law clerk before entering Albany Law School, where he graduated in 1870. Matthews became the first person of color to be admitted to the Bar in New York. In 1872, he successfully challenged the Albany School Board resulting in an order requiring the school district to de-segregate.

In 1886, Grover Cleveland appointed Matthews as Recorder of Deeds in Washington D.C. to replace Frederick Douglas. This became a political hot potato with both sides accusing the other of playing the race card in unusual ways. The Republicans claimed that no one ever considered Matthews race until President Cleveland brought it up and then the Democrats noted that Frederick Douglas was really more Black than Matthews because Douglas had been a slave. Indeed, he was



the most famous ex-slave in the world. Matthews's nomination was not approved by the Republican led Senate, ostensibly on the grounds that Matthews was not a resident of the District at the time. President Cleveland then made a recess appointment in August which did not require Senate approval because the Senate was not in session. In December 1886, Cleveland again submitted Matthew's name for confirmation. He noted in a message to Congress that for the previous four months, Matthews had been a resident of the district and had performed the duties of the job with a high degree of excellence. The Senate rejected Matthews's nomination again, by a vote of 31-17. Eight Senators were not present to vote but would have split 4-4 because they were "paired." When Matthews landed on his feet, securing the position of Recorder of Deed in New York City. Matthews practiced law in Albany for forty-two years with offices at 18 South Pearl Street. In 1895, he won election for Albany's Recorder's Court, becoming the first African American judge in New York State. In Albany, Mathews maintained residences at 334 Clinton

Avenue and then 22 Peyster Street. Matthews died in 1930 and is Buried in Albany Rural Cemetery, Sec. 28, Lot 95.

ALTON B. PARKER (1872): Served on Court of Appeals, Democratic candidate for president; (See "The Bench" section).

MYER NUSSBAUM (1877) 1855-1952): Nussbaum is probably the first Jewish student to graduate from Albany Law School. He practiced law in Albany for forty-two years, forming the partnerships of Nussbaum and Coughlin and then Newcomb, Bailey and Nussbaum with offices in the Albany Savings Bank Building on North Pearl Street. During that time, he resided at 182 Hamilton Street. Nussbaum would serve as Albany Police Court Justice and in his private practice would argue a case in the U.S. Supreme Court, *DAB v. Kirchwey* in 1916. He also served a term in the Assembly (1884-1886) and then in the State Senate (1896-1898). Nussbaum was born on March 10, 1855, and died on September 23, 1952, at age 97. He is buried in the Beth Emeth Cemetery in Glenmont, NY.



KOZU SENZABURO (1877) (1852-1897): Senzaburo was the first Asian student to attend Albany Law School. He was born on April 23, 1852, in Komoro, Nagano Prefecture, Japan. At birth, his family name was Kobayashi, but he was adopted by the Kozu family and moved to Tokyo when he was 17. In Tokyo, Senzaburo met David Murray, an American who was the Imperial Superintendent of Education in Japan. Murray convinced Senzaburo to study Western teaching methods in New York. As a result, he came to Albany. He first attended the New York State Normal School which was located on the corner of Lodge and Howard Streets in Albany and then on Willet Street opposite Washington Park. This is the predecessor to Albany State University. In 1877 he graduated from Albany Law School. In 1878, he returned to Japan to teach at the Tokyo Woman's Normal School and then became principal at the Tokyo School of Music. He is known as the originator of musical education in Japan. He died on August 18, 1897, in Taiwan.



ALINTON R. TELLE (1881) (1859-1903): Alinton Telle was born on September 30, 1859, at Luk-Fata Choctaw Nation in the Indian Territory of Oklahoma. Orphaned at age eight, he was raised in Boggy Depot, OK, by his uncle Allen Wright who was Chief of the Choctaw Nation from 1866 to 1870. Wright also had a career as a Presbyterian Minister and received a bachelor's degree from Union University in Schenectady in 1852. Wright is credited with coining the name "Oklahoma." Telle graduated from Southwestern Presbyterian University in Clarksville, TN. He received his law degree from Albany Law School in 1881. That year, the Federal Court in Fort Smith Arkansas hired him as a Choctaw interpreter. Over the next several years he practiced law in various partnerships and held leadership positions with the Choctaw Nation while also running a successful ranch near Wapanucka, Ok. He died in Atoka, Ok on March 8, 1903, at age 43, leaving a wife and two children. He is buried in the Westview Cemetery in Atoka, OK.



RUFUS W. PECKHAM, Jr.: Trustee, 1889-1892. Elected District Attorney 1869; served as Albany Corporation Counsel; elected to State Supreme Court in 1883; elected to the Court of Appeals in 1886; Justice of the U.S. Supreme Court, 1895-1909. (See “The Bench” section.)

KATHERINE G. STONEMAN (1898) (1841-1925): Kate Stoneman is the first female graduate of Albany Law School and the first licensed female attorney in New York State. She was born in Lakewood, Chautauqua County, NY in April 1841. She was the sister of Civil War general and then governor of California, General George Stoneman. Her other brother was Judge J.T. Stoneman of the Superior Court of Iowa. At West Point, General George Stoneman roomed with Stonewall Jackson. As Commander of Union Cavalry, his devastating forays into Virginia and North Carolina inspired the song, *The Night they Drove Old Dixie Down*.



Stoneman came to Albany to attend the State Normal School, now the University at Albany. After graduating in 1865, she was hired as a faculty member at the school and taught geography, drawing, penmanship and school law. She also worked as a copyist for the State Reporter at the Court of Appeals. Kate Stoneman clerked nights and weekends with Albany attorney and alumnus of Albany Law School (1853), Worthington W. Frothingham, who had offices at 69 State Street. With this experience in hand, she became the first woman to pass the New York State Bar Exam in 1885.

Kate Stoneman was a trailblazer who broke new ground and made it possible for future generations of women to pursue careers as lawyers. Yet she was reviled rather than celebrated for breaking the gender barrier and becoming the first woman to pass the bar in New York. Her application to practice law was denied because “her sex was against her,” the court said. “Before the Bar in Petticoats” a shocked Albany newspaper declared. The story began: “*A woman be a lawyer? Impossible! Monstrous! Surely there must be some mistake!*” “*We humbly advise her to have just as few women clients as possible. They are troublesome,*” the *Albany Law Journal* wrote. Stoneman helped form the Women’s Suffrage Society of Albany, became active in suffragist and temperance causes, and began studying law at night after being named executrix (*trix* for women, *tor* for men) of her great aunt’s estate. She continued to teach during the day and pored over law books on nights and weekends. After three years, she became the second woman to take the New York State bar examination (the other woman failed). She passed both writing and oral exams but was denied admission to the bar because she was a woman and there was “no precedent,” three state Supreme Court justices wrote. Stoneman lobbied the Legislature and Gov. David B. Hill,



who signed the law that removed gender qualifications from Section 56 of the Code of Civil Procedure (Hill is remembered locally for his country estate which was known as “Wolfert’s Roost.”). She continued to toil as a suffragist and lived to see New York’s women vote for the first time as an Albany poll watcher in 1918. Twelve years later, at age 57, Stoneman became the first woman to graduate from Albany Law School. In 1994, Albany Law School celebrated its first Kate Stoneman Day and in 2000 established a Kate Stoneman visiting professorship. She was inducted into the National Women’s Hall of Fame in Seneca Falls in 2009. Stoneman died on May 19, 1925, at age 84. She is buried in Albany Rural Cemetery, Lot 28, Sec. 56. She had no other family in the area. (With

thanks to Paul Grondahl's treatment of Stoneman in his history of Albany Rural Cemetery, *These Exalted Acres*, with photos by Will Waldron).

HAROLD J. HINMAN (1901) (1877-1955): Hinman was a President of the Board of Trustees and served on the Appellate Division, Third Department (See "The Bench" Section).

LEARNED HAND: (1872-1961) Hand taught at Albany Law School from 1902-1903. He served 56 years on the Second Circuit. Known as the 'Tenth Justice.' (See "The Bench" section).

JOHN BOYD THACHER II (1906): Thacher was a Mayor of the City of Albany. He provided the land for the Law School's current site. He was Judge of the Children's Court 1940-1947. (See: "The Bench" section.)

WILLIAM T. BYRNE (1904) (1876-1952): William T. Byrne was born in Florida, Montgomery County, NY on March 6, 1876, and was raised in Albany. After graduating from Albany Law School in 1904, Byrne became politically active in the Democratic party and develop a broad reputation as an accomplished orator. He eventually developed a personal and professional association with Daniel P. O'Connell and was his close lieutenant in the growth of the Albany Count Democratic Party. He served in the New York State Senate from 1923 to 1936 and in Congress from 1937 to 1952. Byrne died on January 27, 1952, at age 75 and is buried in St John's Lutheran Cemetery in Colonie, NY.



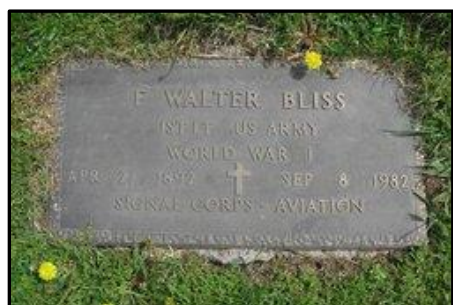
ROBERT H. JACKSON (1912) (1892-1952): Robert Houghwout Jackson is, no doubt, the most famous graduate of Albany Law School. He is the only person to hold the three top legal positions in American government, Solicitor General, Attorney General and Justice of the Supreme Court. Jackson was born on February 13, 1892, in Spring Creek, PA and raised in Frewsburg, NY. After graduating from Albany Law School in 1912, he returned to Jamestown, NY to practice law, where he served as the City's Corporation Counsel for six years. Jackson also became active in Democratic politics and in national legal organizations. He was close to Franklin Roosevelt, then governor of New York. In 1938, President Roosevelt nominated Jackson to be Solicitor General and in 1940 to be Attorney General.



In 1941, FDR nominated Jackson to the Supreme Court where he gained a reputation for incisive legal writing. Jackson served on the Court from 1941 to 1954 when he died of a heart attack at age 62. Jackson wrote the majority opinion in *West Virginia v. Barnette*, during the middle of WW II, which overturned a school regulation requiring all students to salute the flag. In *Korematsu v. United States*, in a famous dissent to the majority's opinion upholding the government's Japanese interment policy during WW II, Jackson said: "*I would [not] distort the Constitution to approve all that the military may deem expedient.*" Jackson's concurring opinion in *Youngstown Sheet & Tube Co. v. Sawyer* set forth a three-part test to evaluate the use of Presidential power that is still widely cited. In 1945, President Truman appointed Jackson to be the chief prosecutor at the Nuremberg War Crimes trials. He came under significant criticism for

accepting this appoint while still a Supreme Court Justice not only for the appearance it made but also because it left the Court with just eight justices. Jackson was a Trustee of the Law School from 1951-1955 and twice spoke at the school's commencement proceedings. Jackson died on October 9, 1954, and is buried in Maple Grove Cemetery, Frewsburg, NY. Sec. 3., Lot 232.

F. WALTER BLISS (1915) (1892-1982): F. Walter Bliss was born in Gilboa, Schoharie County, NY on April 27, 1892. He graduated from Cornell in 1913 and from Albany Law School in 1915. After law school he opened a law practice in Middleburgh, NY but suspended it to join the Army where he served as a Lieutenant in the Air Corps during WW I. Upon returning to Middleburgh after the war, he was the attorney for the Town of Gilboa and the County where he led a six-year lawsuit against the City of New York. The issue was whether New York City was required to pay taxes for the Gilboa Reservoir, which the City owned. Bliss was successful and it has been calculated that to the present time New York City has paid over \$100 million to the localities. In 1930, Bliss was elected to the Supreme Court. In 1933, Governor Lehman appointed him the Appellate Division, Third Department at age 40, the youngest justice to hold that position. Perhaps Bliss' greatest claim to fame is when he presided over the second trial of the famous gangster Legs Diamond in the fall of 1931. Diamond had been acquitted in the Summer of 1930 on felony charges involving the same crime but a different victim. The special prosecutor got the counts severed so he would have two bites at the apple but that did not work because Diamond was acquitted in both trials. In both trials, Diamond was charged with kidnapping to extract information about a competing bootlegging operation. Diamond was represented by two local attorneys of great renown. Lead counsel was former Albany City Court Judge, Daniel H. Prior, whose son of the same name would become a State Supreme Court Judge. Assisting him was Abbott H. Jones, former Troy City Court Judge and Rensselaer County District Attorney and grandfather of E. Stewart Jones, Jr., a locally well-known trial attorney. Diamond dodged another bullet and was acquitted on all charges after the jury deliberated for less than five hours. After the acquittal, Bliss commented *"While justice may not have triumphed as yet, I doubt the man will enjoy either freedom or life much longer."* Diamond was assassinated several hours later in his rooming house located at 67 Dove Street in Albany (See trials Section). That residence is now owned by Albany's Pulitzer Prize winning novelist William Kennedy who wrote a fictional



account of Diamond's life called *Legs*. Kennedy speculates (with substantial corroboration from Dan O'Connell, the Albany County Democratic Chairman) that Diamond was killed by Albany Police Sergeant William Fitzpatrick and another Albany cop to eliminate any bootlegging competition for the O'Connell's brewing empire. Fitzpatrick would be promoted to Chief of Police shortly thereafter. Bliss died on September 8, 1982, in Cobleskill, NY. He is buried in Middleburgh Cemetery in Middleburgh, NY,

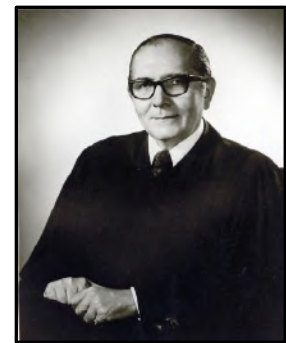
RUTH H. MINER (1920) (1893-1980): Ruth Miner was the first counsel of the Legal Aid Society (See entry under Legal Aid Society in the "Institutions" section).

FRANCIS BERGAN (1923) (1902-1998): Francis Bergan was born in Albany in 1902. After high school, he entered Albany Law School and graduated in 1923. In 1929, he was elected Albany City Court Judge. In 1932 he was elected Police Court Judge. In 1935 at age 33, he was elected to the Supreme Court. In 1946, he finally got his college degree from Siena---majoring in Spanish! In 1949, Governor Dewey appointed him to the Appellate Division and in 1960 Governor Rockefeller appointed him to be Presiding Justice. In 1963, he was elected to the Court of Appeals where he served until 1972, when he reached mandatory retirement age of 70, after forty-three years of judicial service. Francis Bergan died in 1998 and is buried in St. Agnes Cemetery in Menands, NY (Seen “The Bench” section).

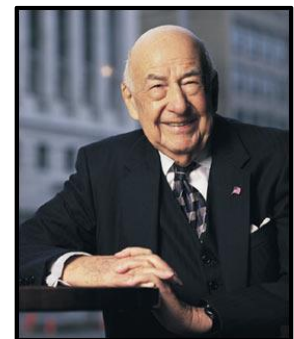


ARTHUR J HARVEY (1930): One of the pioneers of the Lega Aid Society. See entry under Legal Aid Society in the “Institutions” section.

DOMINICK L. GABRIELLI (1936) (1912-1994): Dominick Gabrielli was born in Rochester, NY on December 13, 1912. Soon after his birth his parents moved to Bath, NY. As a boy, he was known as Mike. He started his legal career shining shoes on the steps of the Steuben County Courthouse. After high school, Gabrielli studied at Clarkson and then graduated from St. Lawrence University. His next stop was Albany Law School where he graduated in 1936. Gabrielli enlisted in the Navy when WW II broke out and attained the rank of Lieutenant. After the war, he returned to Bath, NY to practice law and he served as the City’s Corporation Counsel from 1937-1953. In 1953 Gabrielli was elected District Attorney and then elected County Judge in 1954. In 1961, Gabrielli was elected to the Supreme Court. In 1967 he was appointed to the Appellate Division, Third Department and in 1969 to the Fourth Department. In 1972, Gabrielli led the judicial ticket as he, Sol Wachtler and Hugh R. Jones were all elected to the Court of Appeals. He served on the Court of Appeals until he reached the mandatory retirement age of 70 in 1982. After that, he was a Trustee of Albany Law School and President of the Board from 1984 to 1989. His memory is honored by the Law school with its sponsorship of the *Gabrielli National Family Law Moot Court Competition*. Judge Gabrielli died on March 25, 1994, and is buried in the Holy Sepulcher Cemetery in Bath, NY.



MORRIS “MARTY” SILVERMAN (1912-2006): Marty Silverman is one of Albany Law School’s greatest benefactors. He was born in 1912 in Troy, NY. As a young man he opened a gas station in Menands, NY and used his earnings from that business to pay for his tuition at New York University and Albany Law School. After law school, he enlisted in the Army as a Private and served with Patton’s Third Army during WW II, where he attained the rank of Major. During the war, he earned two Purple Hearts, a Silver Star, two Bronze Stars Battle stars and a Combat Infantry Badge. After the war he started he prosecuted Nazi war criminals before returning to the United States. There he established the National Equipment Rental Co., getting his start with surplus Army equipment. In 1984, he sold the business when it had become the largest privately held leasing company in America. With the proceeds, he



and his wife started the *Morris and Dorothy Silverman Foundation*. The foundation is most famous for its Albany Medical Center Prize which awards \$500,000 each year to a recipient who advances the science of medicine and health care in a significant way. Silverman's foundation also funded the Renaissance Corporation which greatly benefited Albany Law School, Albany Medical College, Albany College of Pharmacy and the Sage Colleges, known collectively as University Heights. Silverman loved children. He would randomly hand out to them a two-dollar bill with a label attached that had on it one of its favorite sayings: "*If it is to be, it's up to me.*" Marty Silverman died on January 26, 2006, at age 93. He is buried in the New Montefiore Cemetery in West Babylon, Suffolk County, NY.

LAWRENCE H. COOKE (1938) (1914-2000): Lawrence H. Cooke was born in Monticello, Sullivan County, NY on October 15, 1914. Cooke's father was elected Sullivan County District Attorney in 1909 and served until 1918. In 1926, to make an issue of Cook's Catholic faith, the Ku Klux Klan burned crosses during one of his election campaigns. This did not daunt Cooke or the voters; he was elected as a "three-hatter" judge; County Court, Surrogate's Court and Children's Court. He would serve in that position for the next twenty-two years. Lawrence Cooke graduated *cum laud* from Georgetown in 1935 at age 20. He graduated from Albany Law School in 1938 and returned to Monticello to begin the private practice of law. A year later he joined the Monticello Volunteer Fire Department where he served for the next 61 years. From 1947 to 1953 he was chair of the Sullivan County Legislature. In 1953, following in the footsteps of his father, Cooke was elected to County Court. In 1961 he was elected to the Supreme Court running as a cross endorsed with the Republican candidate, Louis G. Bruhn. In 1968, Governor Rockefeller appointed him to the Appellate Division, Third Department. In 1972 he ran for the Court of Appeals but was defeated in the Nixon landslide by Sol Wachtler, Hugh R. Jones and Dominick Gabrielli.



Larry Cooke, Class President
Second from left.

At this point a diversion is required to discuss the process for selecting New York's judges. New York has been electing its judges since 1821. However, for the most part these were phony elections as the political bosses controlled ballot access. In a jurisdiction dominated by one party, that boss's selection became tantamount to election. In 1967 changes in the election law allowed some judicial positions to be selected in a primary where a candidate could get her name on the ballot by the petition method. Pioneering New York City Family Court Judge, Nanette Dembitz did just that in 1972. In the June 21st Democratic primary Dembitz led the four way race with Bernard Meyer placing second, Lawrence Cooke, third and Henry Martuscello, fourth. In the general election, Dembitz again bested the other Democratic candidates, but all were beaten by the Republican candidates; Dominick L. Gabrielli. Sol Wachtler and Hugh R. Jones. Dembitz died in 1989 at age 76. The Dembitz challenge created a stir among political leaders but what would come would have them pulling their hair out. In 1974 wealthy New York trial attorney Jacob Fuchsberg threw his hat in the ring for the Court of Appeals. In the primary he outpolled both of the Democratic party's designees to secure a place on the November ballot. By November

1974, Nixon and his landslide were gone, buried in the dust bin of history alongside the Watergate Scandal. Hugh Carey led a Democratic ticket that beat incumbent Malcolm Wilson by 17 percentage points. Fuchsberg and Cooke won the two open seats on the Court of Appeals. It would be the last election of judges for New York's highest court. The political bosses had lost control of the process and the reformers took over. Three years later a constitutional amendment was passed that allowed the Governor to select judges for the highest court who were recommended by an independent screening committee.

In 1979, Governor Carey nominated Cooke to be Chief Judge *of the State of New York*. This was a new designation which made Cooke the Chief Administrator of all courts in the State. As Chief Administrator, Cooke implemented a full menu of reforms to make the courts of the State more responsive to the needs of the people. As a jurist, Cooke was a fierce protector of the right to counsel and of a free press. Judge Cooke retired in 1984 when he reached the mandatory retirement age of 70. He returned to the private practice of law and was associated with several legal organizations. Judge Cooke died on August 17, 2000 leaving behind a legacy of being one



of the most beloved Judges to ever serve the Bench, the Bar and people of the State of New York. At his funeral, Chief Judge Judith Kay summed up the humbleness with which Judge Cooke led his life. There was a gas station outside Monticello that was long frequented by Cooke and the town judge. To the owners, Cooke-- the County, Surrogate Family, Supreme and Court of Appeals Judge-- was always "Larry." The town judge was "Judge." Lawrence Cooke died on August 17, 2000 and is buried in the Rock Ridge Cemetery in Monticello, NY.

MARY ELIZABETH COX (1946) (?-?): Mary Elizabeth Cox graduated from Albany Law School in 1946. She is the first woman to serve on the faculty of Albany Law School. In 1947 she joined the faculty and taught until 1956. She was the school's first professional librarian and taught a course on legal bibliography. Later she taught courses on International Law and Unincorporated Associations.



BEVERLY CIPOLLO TOBIN (1962) (??-): Beverly Cipollo Tobin graduated from the College of New Rochelle in 1959. In 1962, she graduated from Albany Law School in a class where she was the only woman. After law school she practiced law with her father, Michael A. Cipollo, a 1938 graduate of Albany Law School, until 1971 at 4 Pine Street. From 1971-1988 she was in the counsel's office of the New York State Division for Youth. In 1988 she was elected to Albany County Family Court, becoming the first woman to be elected to a countywide judgeship in Albany County. She was reelected in 1998 and served until 2007 when she retired. During her career she also accumulated other firsts. She was the first woman to serve on the Appellate Division-Third Department's Character and Fitness Committee. She was also the first woman to serve as president of the Albany Law School National Alumni Association. She is also a member of the Albany Law School Kate Stoneman Society. Judge Tobin's husband is also a 1962 graduate of Albany Law School and was twice elected City Court Judge. Their son, Edward Jr., is Albany Law School class of 1988.



MARGRETHE R. POWERS (1963) (1922-1990): Margarethe Powers was born in New York City in 1922. She graduated from Swarthmore College in Philadelphia in 1942 and was the only woman to graduate from Albany Law School in 1963. However, it was at the top of her class. She was an editor of the *Albany Law Review*, won the great portion of the academic awards and was the first woman to graduate as valedictorian. She is also the first woman president of the Albany County Bar Association (1988). She authored *An Ombudsman in New York*, Albany Law Review, January 1963, P. 84-96. As a lawyer, she practiced in the firm of Powers, Stahl and Sommers in Albany where she was known for her advocacy of civil rights causes. Powers was also a trustee of Albany Medical College, a member of the American Civil Liberties Union, the Alumni Council of Albany Law School and the Friends Meeting of Albany. She died on August 5, 1990.



MIRIAM NETTER (1972) (- 2010): Miriam Maccoby Netter was born in Mount Vernon, NY. She graduated from Brown University, with honors, and from Albany Law School where she was a Law Review Editor. In private practice, she was a partner at Pattison, Sampson, Ginsberg and Griffin in Troy, NY, and was general counsel for Rensselaer Polytechnic Institute and Russell Sage College. She served as President of the Legal Aid Society and organized the Kate Stoneman Program at Albany Law School. Netter died on September 9, 2010.



KATHERYN D. KATZ (1970) (-2012): Katheryn D. Katz was a graduate of the University of California, Berkley. She then spent ten years raising her children before graduating from Albany Law School in 1970. After being admitted to the Bar she started practice with Albany Law School graduate Margarethe “Greta” R. Powers as Powers & Katz. They were soon joined by Madonna Stahl, another Albany Law School graduate, forming one of the first all-woman law firms in the State. The firm had a reputation for advancing the cause of civil rights. She began teaching at the law school in 1975, becoming the first permanent Kate Stoneman Chair in Law and Democracy at Albany Law School from 2007 until she retired in 2009. She taught at Albany Law School for thirty-five years. When she started teaching at the law school in 1975, she was one of only two women faculty members. Over the course of her career, Katz won numerous awards and she taught the first domestic violence law course offered at an American law school. Her efforts in this area would put Albany Law School at the forefront of addressing the legal and social issues surrounding family violence. Katz wrote widely on issues of family and constitutional law, authoring over thirty articles and book chapters on those two subjects alone. She was a member of the Governor’s Commission on Domestic Violence and the Civil Rights Committee of the New York State Bar Association. Professor Katz died on May 30, 2012.



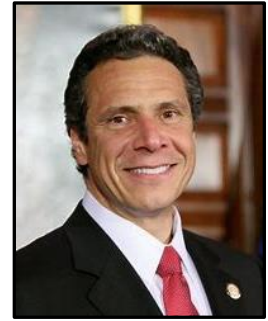
MICHAEL GARCIA (1989) (1961-): Michael Garcia was born on October 8, 1961, in Queens. He grew up in Valley Stream, Long Island. After high school, he received his undergraduate degree from SUNY Binghamton and master’s degree from Williams College. He graduated as the valedictorian of Albany Law School in 1989. From 1990-1992 he served as law clerk for Court of Appeals Judge Judith Kaye. His next stop for ten years was with the United States Attorney’s office for the Southern District of New York where he was on the legal team that successfully prosecuted the terrorists who bombed the World Trade Center in 1993. From that point, Garcia was involved in the highest profile cases involving the prosecution of al- Qaeda terrorists across the world. From 2005-2008, Garcia was the United States Attorney for the Southern District. After leaving the U.S. Attorney’s office, Garcia was a partner at Kirkland & Ellis from 2009-2016. In 2016, Garcia was nominated by Governor Cuomo to the New York Court of Appeals. He was confirmed by the Senate and took the bench in February 2016.



VITORIA GRAFFEO (1977) (): Served on the New York Court of Appeals (See “The Bench” section).

LESLIE STEIN (1981)(): Serves on the New York Court of Appeals (See “The Bench” section).

ANDREW M. CUOMO (1982) (1957-): Andrew Cuomo was born on December 6, 1957, in Queens. His father, Mario M. Cuomo, was New York's governor from 1983-1994. Cuomo graduated from Fordham in 1979 and from Albany Law School in 1982. He managed his father's first run for governor and was his closest adviser after the election. From 1984-85 Cuomo served as an assistant District Attorney in New York and briefly worked for a private law firm. In 1986 he started a non-profit "HELP," (Housing Enterprise for the Less Privileged). In 1993 Cuomo was appointed by President Clinton as an assistant secretary in the U.S. Department of Housing and Urban Affairs and then to be Secretary in 1997. In 2006, he was elected Attorney General of New York and in 2010 he was elected Governor. He has been reelected twice and his current term, which would have ended in 2022, was cut short when he resigned in 2021.



OTHER NOTABLE GRADUATES

Francis H. Anderson, '47:	Professor of Criminal Law, ALS; Purple Heart, Bronze Star WW II.
Warren M. Anderson, '40:	New York State Senate Majority Leader.
Samuel E. Aronowitz, '14:	Founding partner of O'Connell & Aronowitz,
John Mosher Bailey, 1864:	Former U.S. Congressman.
John W. Bailey, '79:	Guilderland Town Justice.
Gloria A. Ballien '57:	First woman elected to Albany Common Council.
Orion M. Barber, 1882:	Judge of the United States Court of Customs and Patent Appeals.
John Sanford Barnes, 1860:	Civil War, Navy Lt Commander; President, Naval History Society.
Brian Barnwell, '11:	New York State Assembly, 30 th District, Queens.
Parker Benjamin, 1870:	Author, <i>History of U S. Naval Academy</i> and <i>Hist. of Applied Mechanics</i> .
James K. Batchelder, 1866:	VT House, 1876-84, Speaker, 1884-86.
Jessica Bird, '95:	Two-time winner of Romance Writers of America Award, 2007-08.
Isadore Bookstein, '12:	Justice of the Supreme Court, Albany County, 1946-1965.
Alexander C. Botkin, 1866:	Lieutenant Governor of Montana.
Philip M. Boyle, '87:	New York State Senate.
M. William Bray, '13:	Lieutenant Governor of New York, 1933-1938, Pres., NYSBA, 1950
David J. Brewer, 1858:	U. S. Supreme Court Justice, 1889-1910.
Anthony J. Brindisi, '04:	Member of Congress, 2018 to date.
David M. Brockway, '75:	Chemung County Family Court Judge, 1999-Date.
Thomas W. Brown, '58:	NY State Assembly, Albany City Court Judge, Albany County Legis.
Chauncey Brownell, 1872:	President, Vermont State Senate, Secretary of State of Vermont.

Glen T. Bruening, '89:	NY Court of Claims Judge, 2011-2018.
Bernard H. Bryan, '73:	Noted Civil Rights lawyer, President NAACP, Albany Chapter.
John T. Buckley, '61:	Supreme Court, Appellate Division, First Department
William T. Byrne, '04:	U.S. Congressman, Albany, 1937-1952. NY State Senate, 1923-1936.
Kevin Cahill, '80:	New York State Assemblyman, Kingston, 1999-date.
Philip Calderone, '81	Deputy Mayor, City of Albany, CEO Albany International Airport.
Joseph A. Cannizzaro, '83:	Justice of the Supreme Court, Albany County.
Joseph L. Carrigg, '24:	U.S. Congress, PA 10 th , Harrisburg, 1953-1959.
William A. Carter, '96:	Albany City Court and County Court Judge, 2002-Date.
Gene L. Catena, '57:	Montgomery County Family Court Judge.
John B. Cassoday 1857:	Former Chief Justice of the Wisconsin Supreme Court.
Amaro Cavalcanti, 1861:	Former Justice of the Supreme Court of Brazil.
Andrew G. Ceresia, '98:	Justice of the Supreme Court, Rensselaer County.
George B. Ceresia, '68:	Justice of the Supreme Court, Administrative Judge 3 rd Dist.
Paul; E. Cheeseman, '44:	Noted trial attorney, Justice of the Supreme Court, Albany County.
William F. Christiana, '33	Columbia County and Family Court Judge.
Ronald A. Cicoria, '68:	Livingston County Court Judge for thirty years.
Christine M. Clark, '96:	Justice of the Supreme Court, Appellate Division, 3 rd Dept.
Paul A. Clyne, '85:	Albany County District Attorney.
Phillip G. Coffey, Jr., '47:	Albany Family Court Judge, 1954-1984.
W. Sterling Cole, '29:	U.S. Congress, NY, 1935-1957, Dir. Inter. Atomic Energy Agency.
Paul M. Collins, '74:	Albany County Legislator, Executive Deputy Albany Corp. Counsel.
Edwin H. Conger, 1866:	U.S. Congressman, Iowa 7 th , 1884-90, Ambassador to Mexico.
Russell Conwell, 1865:	Founder and first President of Temple University.
Charles C. Converse, 1861:	Noted composer of spirituals. Wrote <i>What a Friend we have in Jesus</i> .
James C. Cooper '46:	Schenectady County Attorney.
Barry M. Costello, 81':	Navy Admiral; Commander of Third Fleet-Pacific Ocean, 2005.
Peter G. Crummy, '81:	Colonie Town Justice, ALS Trustee, President-Nat. Alumni Assoc.
Richard Curreri, '76:	Director of Conciliation, Public Employment Relations Board.
Marvin Dana, 1888:	Author, journalist and magazine editor.
Albert J. Danaher. 1896:	Asst. NY Atty. Gen, State, Corporation Counsel City of Watervliet

Richard J. Daronco, '56:	Former United States Judge for the Southern District of New York.
Diane Davis, '91:	U.S. Bankruptcy Court Judge, Northern District of NY, 2009-date.
John T. Delaney, '29:	Albany County District Attorney, 1929-1943.
Warren C. DeLollo '48:	Watervliet City Court Judge.
David Demarest, '73:	Justice of the Supreme Court, Hamilton County.
Eugene P. Devine, '75:	Justice of the Supreme Court, Appellate Division, 3 rd Dept.
Mary Pat Donnelley, '97:	Rensselaer County District Attorney.
Mary Donohue, 83':	Lt. Gov. of New York, 1999-2006; State Supreme Court Justice.
Ryan T. Donovan, '01:	Bethlehem Town Justice.
Stephen Dougherty, '86	Syracuse City Court, Domestic Violence Part.
Rev. Kenneth J. Doyle, '78:	Chancellor, Albany Roman Catholic Diocese.
Daniel J. Dugan, Jr., '36:	First Albany County Children's Court Judge, 1923-1928.
W. Dennis Duggan, '76:	Albany Family Court Judge 1994-2014, Deputy Albany Corporation counsel; Past President, New York State Family Court Judges Association, Only judge in New York State history to be twice named Family Court Judge of the Year by the Family Court Judges Association.
E. David Duncan, '58:	Albany City Court Judge, 1987-2005.
Richard K. Eaton, '74:	Judge, U.S. Court of International Trade.
John C. Egan, Jr., '80:	Justice of the Supreme Court, Appellate Division, 3 rd Dept.
Theresa L. Egan, '86	Commissioner, New York State Department of Motor Vehicles.
Julian B. Erway, '24:	Albany County District Attorney, 1945-1953.
Robert L. Estes, '71:	Delaware County Court Judge, 1982-2002.
Ralph A. Foote, '49:	Lieutenant Governor of Vermont, 1961-1965.
Walter J. Foreman, '88:	Cohoes City Court Judge.
John F. Forner, Jr., '48:	Menands Village Court Justice & Mayor. Won 5 Battle stars in WW II.
Jason A. Frament, '00:	Scotia Village Justice.
Roger M. Fritts, '66:	Bethlehem Town Justice.
Taneka Frost, '02:	Schen. City Court Judge, 2020-date; Pres Albany Bd. of Ed., 2005-08.
Dominick J. Gabrelli, '36:	Judge, New York State Court of Appeals, 1972-1982.
Earl H. Gallup, '20:	Longest Serving Albany County Court Judge, 1923-1950.
Kim Gannon, '34:	Noted U.S. Songwriter; wrote <i>I'll be Home for Christmas</i> .
Washington Gardner, '76:	U.S. Congressman, MI, 3 rd Dist., 1899-1911.

Elizabeth A. Garry '90:	Presiding Judge of the NY Appellate Division-Third Department.
Henry R. Gibson, 1865:	U.S. Congressman, 2 nd Tennessee Dist., 1895-1905.
James Gibson, '25:	Former Assoc. Judge, NY State Court of Appeals, 1969-1972.
Richard Giardino, '84:	Only Judge in NYS history to serve as a DA, County Judge and Sheriff.
Warner A. Graham, '07:	Associate Justice of the Vermont Supreme Court, 1931-1934.
David M. Grandau, '84:	Executive Director, New York State Commission on Lobbying.
Sarah Gold, '06.	Upstate NY Super Lawyer Rising Star, Lecturer at RPI, Author.
John W. Hacker, '38:	Albany Corporation Counsel.
Julian R. Hanley, '36:	Wyoming County Judge, died at age 105 in 2019, WW II Veteran.
Frank S. Harris:	Stand-in Mayor of Albany, 1943-45 while Corning served in Army.
Richard Hartunian, '86:	United States Attorney for the Northern District of New York.
James Harvey, '64:	Ontario County Court Judge for thirty years.
Michael G. Hayes, '93:	Dutchess County Surrogate.
Charles J. Herrick, '01:	Albany County District Attorney, 1924-1928.
Stephen W. Herrick, '72:	Albany County Court Judge, Albany County Public Defender.
Michael J. Hoblock, Jr., '67:	Member, New York State Assembly, Albany County Executive.
James S. Holden, '38:	Chief Judge of VT. S.C. and Judge, USDC for Dist. of Vermont.
Harold J. Hughes, '54:	Justice of the Supreme Court, Albany County.
Thomas H. Hubbard, 1861:	Brigadier General, Civil War, made fortune in Railroads.
Roger W. Hulburd, 1887:	Lieutenant Governor of Vermont, 1917-1919.
Christian F. Hummel, '81:	Federal Magistrate Judge, Northern District of New York.
Russell G. Hunt, '23:	Justice of the Sup. Ct., 1961-75; Albany County D.A. 1954-1955.
Irad S. Ingraham, '60:	New York State Supreme Court Justice, Chenango County.
Amy E. Joyce, '97:	Albany County Family Court Judge, 2020-date.
Edward S. Kampf, '24:	Federal District Judge, 1946-48; Albany Police Court Judge, 1935-45
Thomas K. Keefe, '82:	Albany City Court Judge, 2002-2016.
Paul F. Kelly, '84:	Administrative Law Judge, Social Security Administration.
Charles Kellogg, 1863:	New York State Senator, 21 st Dist., 1874-1875.
William H. Keniry, '55:	Justice of the Supreme Court, Saratoga County, 1986-2000.
Megyn Kelly, '95:	TV host, former Fox News political commentator.
Madeleine Maney Kennedy, '84:	President, Albany County Bar Assoc., Asst Albany Corp. Counsel.

Terrence L. Kindlon, '73:	Noted criminal defense atty, won Purple Heart, Bronze Star, Vietnam.
Carleton J. King, '26:	U.S. Congressman, 1961-74, Saratoga County D.A., 1950-1961.
Ames P. King, 59':	NY Court of Claims Judge, member of State Assembly.
John F. Kinney, 1881:	Monroe County Judge, 1890, founding member of the K. of C.
David B. Klingaman, '65:	Court of Claims administrator for forty years, Chief Clerk for nine.
Richard A. Kohn, '63:	Albany City Court Judge.
Barry Kramer, '68:	Schenectady Surrogate & Sup Ct., consensus All-America, NY Knicks.
Susan M. Kushner, '85:	Albany County Family Court Judge, 2014 to date.
John A. Lahtinen, '70:	Justice of the Supreme Court, Appellate Division, 3 rd Dept. 1997-2016.
Conrad H. Lang, '57:	Rensselaer County Surrogate Judge.
Evariste G. Lavigne, '24:	Albany City Court Judge, 1972-1976.
Ralph S. Leonard, '26:	Albany County Family Court Judge, 1967-1972.
Harvey M. Lifsit, '40:	NY Assembly, 1957-68, Major, 82 nd Airborne, WW II, Bronze Star.
Denise R. Lind, '85:	Senior Judge, U.S. Army Court of Appeals.
Robert E. Littlefield, '76:	United States Bankruptcy Court Judge, NDNY.
Ralph S. Leonard, '26:	Albany County Fam. Ct., 1967-76; Albany Police Court, 1961-65.
Angelo D. Lomanto, '60:	Fulton County Surrogate Judge.
William P. Lord, 1866:	Governor of Oregon, 1895-99, Chief Judge of Oregon, 1880-1894.
Moses A. Luce, 1867:	Judge, San Diego County Court, Civil War Medal of Honor.
Betty Lugo '84:	Founder of first woman owned Hispanic law firm in NYC, 1992.
Michael C. Lynch, '79:	Justice of the Supreme Court, Appellate Division, Third Dept.
Peter A. Lynch, '79:	Justice of the Supreme Court, Albany County.
Morton M. Z. Lynn, '37:	Albany City Court Judge, 1973-1985.
Richard Maguire, '89:	Cohoes City Court Judge, 2002-2016.
Robert Main, Jr. '76:	Franklin County Court Judge, 1987-Date.
Bernard J. Malone, Jr., '72:	Justice of the Supreme Court, Appellate Division, Third-Department.
James H. Manley, 1863:	Speaker, Maine House of Rep., 1901, State Senate, 1903-1904.
Michele S. Marcus, '87:	Administrative Law Judge, NY Office of Disabilities Adjudication
David O'Brien Martin, '73:	U.S. Congressman, Erie County NY, 1981-1993.
James Loren Martin, 1869:	Judge USDC, District of VT, 1906-15; U. S. Atty, 1898-1906.
Duncan S. MacAffer, 59':	Menands Village Justice.

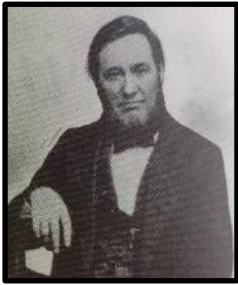
Kenneth S. MacAffer, '20:	Supreme Court Justice, Albany County, 1950-1964.
James MacAlister, '1864:	President of Drexel University, 1892-1913.
L. Michael Mackey, '81:	Justice of the Supreme Court, Albany County, 2016 to date.
Thomas J. McAvoy, '64:	USDC Judge, Northern Dist. of NY, 1986-Date; C.J. 1993-2000.
John J. McCall, '41:	Albany County Surrogate, 1964-1973
Vincent J. McArdle, Jr., '67:	Corporation Counsel, City of Albany.
James G. McAuliffe, '88:	Fulton County Family Court Judge.
William E. McCarthy, '88:	Justice of the Supreme Court, Appellate Division-Third Dept.
William F. McDermott '48:	Justice of the New York State Supreme Court, Albany.
Robert C. McEwen, '47:	U.S. Congress, Ogdensburg, 1965-81; NYS Senate, 1954-64.
George D. McHugh, '97:	U.S. Administrative Law Judge, Social Security Administration.
William McKinley, 1867:	25th President of the United States, 1897-1901.
Thomas J. McNamara '73:	New York Court of Claims Judge, 1994.
Robert J. Meyer, '81:	Albany Family Court Magistrate.
Marsha D. Michael, '02:	Bronx County Supreme Court Judge.
Frank P. Milano, '79:	NY Court of Claims Judge, 2006-Date.
William E. Miller, '38:	U.S. Congress, 1951-65; ran for VP of U.S., 1964 with Goldwater.
Ruth H. Miner, '20:	First Director of the Albany Legal Aid Society.
Thomas R. Monjeau, '82:	Albany County Legislator, Asst. New York Attorney General.
Patrick Monserate, '60	Justice of the Supreme Court, Broome County, 1990-2003.
John Morgan, 1884:	Wisconsin State Assembly, 1914; Pepin County D.A., 1886-88.
Rika Murray, '84:	Albany County Family Court Magistrate.
Eugene L. Nicandri, '65:	St. Lawrence County Court Judge.
Dalwin J. Niles, '37:	Fulton County Family Court, 1953-64; NY State Senate, 1965-72.
Howard C. Nolan, Jr., '57:	NY State Senate, 1975-94; founded Nolan & Heller, LLP.
Michael J. Norris, '05:	New York State Assembly.
Tracy North, '86:	Deputy Assistant Director of the FBI, Director of Intelligence.
Richard Northrup, Jr., '83:	Delaware County District Attorney.
John C. Nott, 1863:	Albany County Judge 1884, see Bar section.
Edward J. O'Connell, '14:	Founder, O'Connell & Aronowitz and Albany Cnty. Dem. Machine.
Kimberly O'Connor, '94:	Court of Claims Judge, Acting Justice of Supreme Court.

Edwin S. Osborne, 1860:	U.S. Congressman, 1884-90, Wilkes-Barre, PA.
Valerie A. Parlave, '90:	Special Agent in Charge, FBI, Washington, D.C. Field Office.
Richard Parsons, '71:	Former CEO of Time Warner, Citigroup and CBS.
Wheeler H. Peckham, 1852:	Prosecuted Boss Tweed and Tammany Hall corruption. 1876.
George W. Peckham, 1867:	(1845-1914) One of America's great entomologists.
Stacy L. Petit, '84:	Albany County Surrogate, 2015-date.
Frederick W. Pitkin, 1859:	2nd Governor of Colorado, 1879-1883.
Jeanine Pirro, '75:	Westchester County Judge, D.A., 1993-2005, Fox News host.
Richard M. Platkin, '93:	New York State Court of Claims, Acting Justice of the Supreme Court.
Harris M. Plaisted, 1855:	Maine A.G., U.S. Congress, governor of Maine, 1881-1883.
Jill S. Polk, '87:	Schenectady County Family Court Judge.
Daniel H. Prior, '10:	Noted trial attorney, trial counsel for Legs Diamond.
Daniel H. Prior, Jr., '43:	Justice of the Supreme Court, Albany County, 1980-1994.
Redfield Proctor, 1859:	U.S. Senator, VT, Secretary of War, 1889-1891, Gov. of VT, 1878-80.
Peter M. Pryor, '54:	Albany County's most noted Civil Rights lawyer.
George Pulver, Jr., '69:	Green County "3-Hatter" Judge; County, Surrogate & Family Courts.
John Raines, 1861:	NY Lt. Gov., Assembly, Senate, U.S. Congress, 1889-1893.
Denise M. Randall, '76:	Guilderland Town Justice, 2005-Date.
Frederick M. Reed, '50:	Vermont Attorney General, 1957-1960.
John J. Reilly, '87:	Albany City Court Judge, 2016-date.
Vincent Reilly, '57:	Schenectady County Supreme and Family Court Judge.
Susan B. Reinfurt, '90:	Watervliet City Court Judge.
Richard Rivera, '91:	Albany County Family Court Judge, 2015-date.
Edward G. Rogan, '18:	Longest serving Albany County Surrogate Judge, 1934-1957.
Llinet Beltre Rosado, '97:	First Latina émigré to sit in Bronx Family Court.
Robert S. Rose '68:	Justice of the Supreme Court, Appellate Division, 3 rd Dept.
Sol Rubenstein, '24:	Albany City Court Judge, 1939-1949.
Christina L Ryba, '01:	Justice of the Supreme Court, Albany County, 2016 to date.
Patricia Salkin, '88:	First woman Dean, Touro School of Law, Center Islip, NY.
Joshua S. Salmon, 1873:	Member of Congress, New Jersey 4 th , 1899-1902.
Keri Savona, '02:	Ulster County Family Court Judge, 2014 to date.

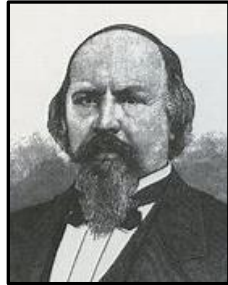
Edward N. Scheiberling, '12:	Albany Police Court Judge, 1923-1929.
Gilbert V. Schenck, '05:	Supreme Court Appellate Division, 1939-1944.
Martin Schenck, '37:	Albany County Court Judge, 1951-1972.
Harold Segal, '32:	Albany City Court Judge, 1962-1972.
Darius Shahinfar, '97:	Treasurer, City of Albany.
Percival L. Shangraw, '23:	VT Supreme Court (1958-1972), Chief Justice (1972-1974).
Kathy Sheehan, '94:	Mayor of Albany, 2014-Date.
Charles J. Siragusa, '76:	Judge, USDC, Western District of New York, 2012---Date.
Richard E. Sise, '82:	Presiding Judge, NY Court of Claims, 2000-Date.
Hiram Y. Smith, 1866:	U.S. Congressman, Iowa 7 th , 1884; D.A. Iowa 5 th ; Iowa Senate.
Milford K. Smith, '30:	Associate Justice of the Vermont Supreme Court, 1959-1976.
Edward O. Spain, '66:	Justice of the Supreme Court, Appellate Division 3 rd Dept.
P. David Soares, 99':	Albany County District Attorney, 2005 to date.
Madonna Stahl, 73':	First woman Albany City Court Judge, 1984-1997.
Ellis J. Staley, Jr. '39:	Justice of the Supreme Court, Albany County, 1966-80, P.J. App. Div.
Daniel Stewart, '88:	Federal Magistrate Judge, Northern District of New York.
Gary F. Stiglmeier, '74:	Albany City Court Judge, 2004-2019.
Katherine Suchocki, '02:	Halfmoon Town Justice, NYSBA Staff Counsel.
Mary Sutton Sweeney, '80:	Colonie Town Justice, 1994-2005.
Stephen F. Swinton, '04:	Green Island Town Justice.
Bartlett Tripp, 1867:	C.J. Dakota Territory, 1885-89, Ambassador to Austria, 1893-97.
Dean P. Taylor, '25:	U.S. Congress, NY, 1943-61.
Donald S. Taylor, '22:	Rensselaer County Supreme Court & Appellate Division, 1948-1968.
Joseph C. Teresi, '71:	Justice of the Supreme Court, Third District, 1994-2016.
John Boyd Thacher 2nd, '06:	Mayor City of Albany; Children's Court Judge, 1941-47.
Michele R. Titus, '93:	New York State Assembly, 31 st , Far Rockaway, 2002-date.
Beverly Cipollo Tobin, '62:	Albany County Family Court Judge, 1989-2002.
Edwin J. Tobin, '62:	Albany City Court Judge, 1985-1997.
Randolph Treece, '76:	Federal Magistrate Judge, Northern District of New York.
Holly A. Trexler, '97:	Albany City Court Judge, 2016 to date.
James M. Tyler, 1860:	U.S. Congress, VT 2 nd , 1877-83. VT Supreme Court, 1887-1908.

Irving G. Vann, 1865:	Mayor of Syracuse, NY Sup. Ct., NY Ct. of Appeals, 1895-1912.
Stephen Vann Ullen, '78:	Cohoes City Court Judge.
Newton B. Vanderzee, '35:	Albany County Surrogate 1906-1908.
Wheelock G. Veazey, 1860:	VT Supreme Court Justice, 1879-89, Medal of Honor recipient.
William Villas, 1860:	U. S. Senator, WI, 1891-1898. Postmaster General, 1891-1897.
Francine R. Vero, '06:	Saratoga City Court Judge, 2017 to date.
William Freeman Vilas:	U.S. Senate, WI, 1891-97; Postmaster Gen.; Sec. of Interior.
Thomas J. Vilsack, '75:	Governor. of Iowa, 1999-2007; Sec of Agriculture, 2009-17.
Mary Beth Walsh, '90:	New York State Assembly.
Lillian Wan, '00:	Bronx Family Court Judge, Court of Claims, Act. Justice of Sup. Ct.
Lovely A. Warren, '03:	Mayor of Rochester, NY, 2014-date; City Council, 2007-13.
Harriet T. Watkins, '70:	First black women to graduate from Albany Law School.
Leonard A. Weiss, '48:	Presiding Justice, Appellate Division-Third Department.
Eddie L. Williams, '04:	Newburgh City Court Judge, 2014-date.
Frank Williams, '70:	Saratoga County Court Judge and Supreme Court Judge, 1983-2010.
Frank L. Wiswall, '16:	NY Assembly & Senate; Albany County Republican Party Chair.
William E. Woolard, 1897:	Alb. Cty. Ct. Judge, 1902-08; noted Hudson River navigation lawyer.
John J. Yanas, '53:	Albany City Court Judge, President NY State Bar Association.
Henry F. Zwack, '78:	Judge, New York Court of Claims, Acting Justice Supreme Court.
Lee Zeldin, '03:	U.S. Congress, NY 1 st , 2015-date; NY State Senate, 2011-14.

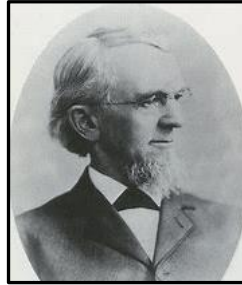
DEANS OF ALBANY LAW SCHOOL



Amos Dean
1851-1868



Isaac Edwards
1898-1879



Horace E. Smith
1879-1889



George Kirchwey
1889-1891



Lewis B. Hall
1891-1895



J. Newton Fiero
1895-1924



Harold D. Alexander
1924-1945



Andrew V. Clements
1945-1963



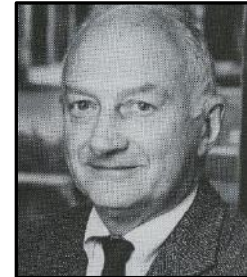
Samuel M. Hesson
1963-1975



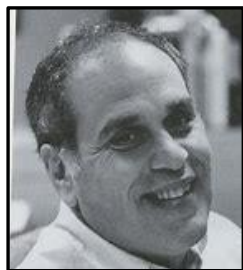
Ralph D. Semerad
1975-1977



John C. Welsh
1975, 1977-79



Richard J. Bartlett
1979-1991



Martin H. Belsky
1986-1991



John T. Baker
1991-1993



Thomas H. Sponsler
1995-2002



Thomas F. Guernsey
2002-2011



Penelope Andrews
2011-2015



Alicia Ouellette
2015---Date

ALBANY LEGAL AID SOCIETY

The Legal Aid Society of Albany was founded in 1923. It is one of the oldest legal services organizations in the United States. The first attorney for The Legal Aid Society was **Ruth Miner**, who worked part time for \$50 per month when she started. When asked why she would pursue cases where the amount in controversy was very small, she responded: "Justice is not measured by the amount of money: Justice is an idea." Ruth Miner was a graduate of Albany Academy for Girls, Wellesley College and the Class of 1920 of Albany Law School. She would remain active with the Legal Society for over four decades, but she had many more accomplishment than that. She was the confidential law assistant to Appellate Division Justice Harold Hinman from 1924-1930. She served as the Town Attorney for Bethlehem from 1926-1934 and assistant counsel to the New York Bill Drafting Commission from 1940-1942. Miner was well attuned to the hurdles that women faced in the business world. In 1918 she was denied entry into the Republican State Convention on account of her sex. She would go on to serve as a delegate to three national Republican Conventions. As some measure of the progress of women in the law, epitomized by the likes of Ruth Miner, the Attorney General permitted his women assistant attorneys general to wear trousers while Miner was associated with that office. Miner served as executive deputy secretary of state from 1943-1954. She was a Trustee of Albany Law School from 1961-1980 and was posthumously given the Kate Stoneman Award in 2014. Ruth Miner was born on December 13, 1893, and died July 14, 1980, at age 86. She is buried in Albany Rural Cemetery, Section 114. Lot 55.



The Society's next Director was the indefatigable **Arthur J Harvey**. Harvey was born in Brooklyn and graduated from Syracuse University in 1924 and Albany Law School in 1930. Harvey would often handle over 1,000 matters per year. From 1930 until his death in 1986, Harvey dedicated his legal career to ensuring that justice was available to the victims of injustice. In 1934 Harvey won nationwide attention when he successfully represented hunger



Paul Robeson thanks his attorney Arthur J. Harvey upon their court victory, 1947

marchers who were turned away at the city line by police. He was one of the first attorneys to be described as a “civil rights lawyer.” In 1947, the Albany Board of Education, acting on orders from Mayor Erastus Corning II, tried to ban singer Paul Robeson (perhaps best known for his signature song, “Old Man River”) from performing at Philip Livingston School. Robeson was a civil rights activist who was strongly anti-apartheid. He would later be blacklisted during the McCarthy era. Arthur Harvey successfully defended Roberson before Judge Isadore Bookstein. The performance was to be concert of folk songs sponsored by the Israel African Methodist Episcopal Church. In Court, the City corporation counsel argued that the City would not “*subsidize communism or have anything to do with communism.*” Judge Isadore Bookstein ruled against the City and permitted the concert to go forward with the restriction that Robeson could only sing, not speak. The City sent a stenographer to the concert to make a record of the proceeding but was frustrated when Robeson sang songs in Chinese, Hebrew, German and French.

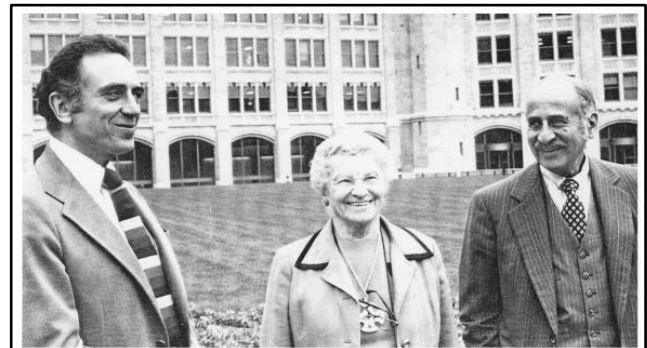
Thirty-five years later, Corning’s free speech viewpoints had evolved. In 1981, it was Mayor Corning who, in the face of fierce national criticism, permitted the Springboks, a South African rugby team associated with South Africa’s apartheid government, to play an Albany Rugby team in Bleecker Stadium.

In 1975 Harvey was given the Samuel E. Aronowitz Award for outstanding contributions to the cause of civil liberties. In 1983, Harvey was named Lawyer of the Year by the New York State Bar Association and received their Root-Stimson award for community service. Arthur Harvey was born on June 15, 1903, and died March 26, 1986, at age 83. He is buried in Memory Gardens Cemetery in Colonie, NY.

In 1966, the Legal Aid Society started to receive federal funding and the new Director **Lawrence F. Klepper** was able to hire four staff attorneys. Klepper was born in New York City but resided for the second half of his life in the Capital District. He was the executive director of the Legal Aid Society from 1966 to 1983. He maybe most famous for firing himself as Director of the LAS in 1983, as the Society faced a funding crisis under the Reagan administration budget cuts. Klepper also taught at Albany law School, the College of St. Rose, Antioch New England Graduate Center and the University at Albany. In 2004, the Congregation Beth Emeth and the Government Law Center at Albany Law School formed the Lawrence F. Klepper Legal Assistance



**Legal Aid Society 40th Anniversary Dinner,
February 8, 1963 (L-R)
Frank A. McNamee, VP; Ruth M. Miner, Director;
Andrew V. Clements, Dean, Albany Law School;
John C. Crary, President**



The Dynamic Trio: the first three directors of the Legal Aid Society in Albany, who led the organization from its inception to 1983: Lawrence Klepper became director in 1966; Ruth Miner took the helm in 1923; and Arthur Harvey served the longest, starting in 1942.

Program. Klepper was a graduate of Bronx High School of Science, New York University and New York University law School. He is a veteran of the United States Air Force and the Air National Guard, retiring with the rank of lieutenant colonel. Larry Klepper was born October 8, 1927, and died July 22, 1994, at age 66. Klepper will be remembered most for his stewardship of the Legal Aid Society during its most turbulent times and for his unbounded advocacy for small not-for-profit organizations that provided services for the poor.

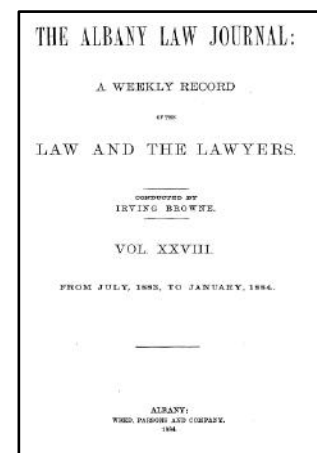
In 1974, Congress passed the Legal Services Corporation Act meant to provide equal justice under law for all Americans regardless of income. By 1978 the Legal Aid Society had eleven full time attorneys, nine paralegals and eight law student interns. It expanded with offices in Cohoes, Schenectady and Troy and North Country Legal Services opened in Canton and Plattsburgh. By 1980 the Society was known as The Legal Aid Society of Northeastern New York, and it had grown to nineteen attorneys and twenty-one staff. Under the leadership of Lillian Moy who has been the Director since the 1990's the Legal Aid Society of Northeastern New York represents people in need in sixteen upstate counties that covering one-third of the area of the State.

ALBANY LAW JOURNAL:

The Albany Law Journal started with its inaugural issue on January 8, 1870 and would publish for forty years. Isaac Grant Thompson was its founder. It was published by Weed, Parsons and Company, located at 39-41 Columbia Street. It was a huge success and at the time had the greatest circulation of any legal publication in America. It was read around the world. Thompson was born on August 30, 1879, and lived mostly in Rensselaer County. He died at age thirty-nine in Saratoga. He was admitted to the bar in 1865 and dedicated his legal career to the editing and publishing of legal periodicals including the *American Reports*, which was a digest of every decision of significance issued by the highest court of every State. The *Albany Law Journal* was unique for its times because it published a weekly edition. The Journal concentrated on more than legal news and case updates. It emphasized

the importance of legal education and work ethic of the profession. The first article in the Journal was "On the Study of Forensic Eloquence" which emphasized a work ethic this way: "*These examples [of the great orators] will teach that God has set a price on every real and noble achievement; that success in oratory, as in everything else worth succeeding in, can be purchased only by pain and labor and that those who study and would follow in their steps must give their days and nights to study.*"

The Journal was also a great defender of the legal profession when then, just as now, it was under constant attack. The Journal commented: *Nearly every trace of social and religious liberty on earth is due to lawyers.... It is high time that the vulgar notions about lawyers be done away with.*" After Thompson's death, the publication was turned over to Irving Browne, an 1857 graduate of Albany Law School (See entry on Browne under "Albany Law School," above). It would continue publication under his leadership until 1909.



NEW YORK STATE BAR ASSOCIATION

The New York State Bar Association has had a presence ‘*of practical benefit*’ in Albany since 1876. The State Bar grew out of a feeling by members of the Association of the Bar of the City of New York that a presence in Albany that represented lawyers across the state would provide a more effective way to influence the administration of law in general and the legislature in particular. The State Bar, stated in its mission statement that its goals were: “*to cultivate the science of jurisprudence; to promote reform in the law; to facilitate the administration of justice; to elevate the integrity, honor and courtesy in the legal profession; and to cherish a spirit of brotherhood among its members.*” As some evidence that it has accomplished its goals, eleven presidents of the New York State Bar Association have served on the Court of Appeals. The State Bar also counts as past members, two presidents, Grover Cleveland and Chester A. Arthur and William Howard Taft who was both President and Chief Justice of the United States.



**Governor Daniel Tompkins House
99 Washington Avenue
State Bar’s Home
1951-1968**

Its first headquarters in Albany were in the old Capitol from 1877 to 1883. When that building was razed, the Attorney General provided the Association with space in the new Capitol.



New York State Bar Association, 1-4 Elk Street.

The Bar eventually outgrew this location and in 1929 it moved to the sixth floor of the new Standard Building at 112 State Street. In 1930, the organization moved to the fifteenth floor of the National Savings Bank Building located on the southwest corner of State and Pearl Streets. In October 1951, the Bar purchased a building at 99 Washington Avenue with a storied legal history.

Located across the street from the Fort Orange Club and the Alfred E. Smith State Office Building, this elegant Federal style brick building was built in 1799.

From 1807 to 1817 it was the executive mansion of a former Justice of the State Supreme Court who was then Governor, Daniel T Tompkins. Thompkins would later serve as Vice-President under President James Monroe. This location is now a modern office tower known as One Commerce Plaza which houses state offices and one of upstate New York’s most prestigious law firms, Whiteman, Osterman and Hanna.

By 1968, the State Bar had more than 19,000 members and it had outgrown its space at 99 Washington. It then undertook an ambitious project. The Bar purchased numbers 1, 2, 3, and 4 Elk Street, just across the street for the County Courthouse and Court of Appeals. These four buildings possessed a wealth of Albany legal history. Number 1 was the former residence of Albany Mayor John Stevenson and three Governors: Enos Troop, Washington Hunt and Horatio Seymour. Number 2 Elk, built in 1827, was the residence of Governor William L. Marcy. Mount Marcy,

New York's highest peak, is named in his honor after he commissioned Albany lawyer and surveyor Verplanck Colvin to survey the Adirondacks. Marcy would later serve as Secretary of War and State. Number 3 Elk was the former residence of J.B. Plumb, president of the Bank of the Interior. Number 4 served as the residence of Franklin D. Roosevelt when he served as a State Senator from Dutchess County. In agreement with historic preservationists and the local community, the State Bar Association preserved the facades of all four buildings while incorporating modern elements which made the building functional for the Association's needs.

MEMBERS OF THE ALBANY COUNTY BAR ASSOCIATION or WHO GRADUATED FROM ALBANY LAW SCHOOL WHO SERVED AS PRESIDENT OF THE STATE BAR ASSOCIATION

1878-79	Samuel Hand	1890	Matthew Hale
1892-93	J. Newton Fiero	1894	Tracy C. Becker*
1898	Simon W. Rosendale	1909	Adalbert Moot*
1913-14	Alton B. Parker*	1938	Joseph Rosch
1950-51	B. William Bray*	1981-82	David S. Williams*
1989-90	John J. Yanas*	2002-03	Lorraine Power Tharp
2008-09	Kathryn Madigan*	2010-11	Stephen P. Younger*
2015-16	David P. Miranda*		

*Albany Law School Graduates

ALBANY COUNTY BAR ASSOCIATION

The Albany County Bar Association was formed on October 6, 1900, when Supreme Court Justice Alden Chester approved the Association's Certificate of Incorporation. Fifty-three of the most eminent members of the Albany County Bar formed the first membership roster. The Association has now grown to over 1,500 members. The hallmark of the Albany County Bar Association has been its dual dedication to advancing the profession of the law and providing services to members of the community. The Bar Association sponsors a countywide high school mock trial competition. Its members provide hundreds of hours of *pro bono* legal services. It has a Speakers Bureau to provide local civic groups with information on important legal topics. Every May 1st, in celebration of Law Day, it provides free legal clinics at multiple locations in the county. It is also active in promoting several events that raise funds for worthy causes. It has also been at the forefront of providing continuing legal education opportunities for every practice area of the law. The numerous social events it sponsors and supports each year achieves the goal of increasing the collegiality of its members.

ALBANY COUNTY BAR ASSOCIATION PAST PRESIDENTS

1900-04	William P. Rudd	1905-06	Charles J. Buchanan
1907-08	Albert Hessberg	1909-10	Arthur L. Andrews

1911-12	George Lawyer	1913-14	A. Page Smith
1915	Jacob C. E. Scott	1916	John A. Stephens
1917	Julius Illich	1918	Lewis R. Parker
1919	Alden Chester	1920	Newton B. VanDerzee
1921	J. Sheldon Frost	1922	Patrick C. Dugan
1923	Randall J. LeBoeuf	1924	Michael D. Reilly
1925	William E. Woolard	1926	William E. Fitzsimmons
1927	Edward R. Rankin	1928	John C. McManus
1929	Timothy E. Roland	1930	Henry Hirschfield
1931	Thomas F. McDermott	1932	Charles E. Brennan
1933	Robert C. Poskanzer	1934	Edward J. Halter
1935	Edward N. Scheiberling	1936	Earl H. Barkhuff
1937	Samuel E. Aronowitz	1938	Walter L. Collins
1939	Frank A. McNamee	1940	Anthony DeStefano
1941	John J. Scully	1942	James J. McGuinness
1943	M. Michael Dobris	1944	Charles Duncan
1945	Jon J. Conway	1946	Joseph J. Casey
1947	Julian B. Erway	1948	Nathan M. Medwin
1949	Robert J. Laffin	1950	Sol Rubenstein
1951	Russell G. Hunt	1952	Werner H. Pigors
1953	Joseph Yavonditte	1954	Eugene P. Devine
1955	John E. Holt-Harris	1956	C. Emory Lochner
1957	Ralph S. Leonard	1958	Harold E. Koreman
1959	Harry S. Christenson	1960	Evariste Lavigne
1961	John J. McCall	1962	James J. Drislane
1963	Thomas F. Tracy	1964	Samuel Jacobs
1965	Phillip R. Murry	1966	Jay Cox O'Brien
1967	Andrew M. Pinckney	1968	Albert Hessberg II
1969	John W. Reh fuss	1970	Richard Graham
1971	Edward J. Grogan	1972	Condon A. Lyons
1973	Thomas M. Whalen III	1974	James S. Carter
1975	Frank J. Warner	1976	Harry J. D'Agostino
1977	Abraham B. Dorseman	1978	John J. Yanas
1979	Earl H. Gallup, Jr.	1980	Earl S. Jones, Jr.
1981	Thomas E. Dolin	1982	E. David Duncan
1983	Carroll J. Mealey	1984	Thomas W. Brown
1985	Cornelius D. Murray	1986	Daniel A. Whalen
1987	Thomas W. Jeram	1988	Margarethe R. Powers
1989	Brian F. Mumford	1990	Fred B. Wander
1991	Nicholas J. Greisler	1992	John T. Mitchell
1993	Susan Carroll Picotte	1994	Robert K. Ruslander
1995	Gerard E. Maney	1996	Lorraine I Remo
1997	Daniel R. Santola	1998	Mae D'Agostino
1999	Matthew J. Kelly	2000	Madeleine Maney Kennedy
2001	Thomas P. Connolly	2002	Theresa L. Egan
2003	Michael P Friedman	2004	Cynthia S. LaFave

2005	John B. Kinum	2006	James T. Potter
2007	Hon Cathryn M Doyle	2008	Patrick J. Higgins
2009	David P. Miranda	2010	Elena DeFio Kean
2011	Glen P Doherty	2012	Robert T. Schofield
2013	Michael J. Hutter	2014	Hon. Peter G. Crummey
2015	Janet M. Silver	2016	Daniel Coffey
2017	James E. Hacker	2018	Hon Christina L Ryba
2019	Daniel J. Hurteau	2020	Michael P. McDermott

MEMBERS OF THE ALBANY COUNTY BAR ASSOCIATION WHO SERVED AS PRESIDENT OF THE STATE BAR ASSOCIATION

1878-79	Samuel Hand	1890	Matthew Hale
1892-93	J. Newton Fiero	1898	Simon W. Rosendale
1938	Joseph Rosch	1981-82	David S. Williams
1989-90	John J. Yanas	2002-03	Lorraine Power Tharp
2015-16	David P. Miranda		

NEW YORK STATE LAW REPORTING BUREAU

Perhaps the Law Reporting Bureau is the most taken-for-granted operation of the court system. However, in its infancy it was a quite revolutionary development. The now obvious need for such bureau in the Court system was succinctly stated in the preface to 1 Caines Reports vii: *“In a jurisprudence where the judgments of the past are to regulate those of the future; where that which has been, is to form the rule of that which is to be, the utility and importance of transmitting, to those who are yet to come, decisions of our days, to be acknowledged, need only be named.”*

In 1804, the Legislature authorized the appointment of a State Reporter to publish decisions of the Supreme Court of Judicature and the Court for the Trial of Impeachments and the Correction of Errors. George Caines was named the first Reporter. When the colonies started setting up courts in the 1600’s, trial transcripts were not kept, written briefs were not submitted, and written decisions were not issued. If precedent were to be followed, then it was up to the memories of the participants to furnish its recall. There was limited access to English Reports, but America’s circumstances often called for a divergence from English common law. Blackstone’s *Commentaries on the Laws of England* were not available in America until the 1770’s. The paternity of case reporting in New York can be attributed to James Kent, Chief Justice of the Supreme Court and then Chancellor. He encouraged his colleagues to issue written decisions. Kent collaborated with William Johnson, Esq., to produce Johnson’s Chancery reports. Johnson would become the second Official Reporter. In 1892, legislation created the Office of Miscellaneous Reporter to publish decisions of the lower courts. When the Appellate Division was created in 1894, the Appellate Division reports supplanted the Supreme Court Reports. Legislation in that year created the Advance Sheets. A constitutional amendment of 1925 created the State Law Reporting Bureau under the direction of a single State Reporter.

NEW YORK STATE REPORTERS

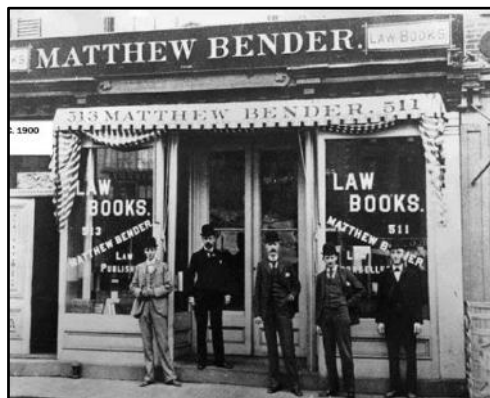
George Caines	1804-1805	William Johnson	1806-1823
Esek Cowen	1823-1828 (1)	John L. Wendell	1828-1841 (2)
Nicholas Hill	1841-1844 (3)	Hiram Denio	1845-1848 (4)
George F. Comstock	1847-1851 (5)	Henry R. Selden	1851-1854 (6)
Francis Kernan	1854-1856 (7)	Erasmus P. Smith	1857-1863
Joel Tiffany	1863-1868	Samuel Hand	1860-1871 (8)
Hiram E. Sickels	1872-1895	Edmund H. Smith	1895-1900
Edwin H. Bedell	1900-1908 (9)	Alvah S. Newcomb	1908-1909
J. Newton Fiero	1909-1931 (10)	Louis J. Rezzemini	1931-1942 (11)
Edward J. Dimock	1943-1945 (12)	Leland F. Coss	1945-1953 (13)
James F. Flavin	1953-1976	John T. Fitzpatrick	1976-1990 (14)
Frederick A. Muller	1990-1998	Charles A. Ashe	1998-1999
Gary D. Spivey	1999-Date		

- (1) Supreme Court of Judicature.
- (2) Born in Albany.
- (3) Formed Albany Law Firm of Hill Cagger and Porter.
- (4) Chief Judge, Court of Appeals.
- (5) Chief Judge, Court of Appeals.
- (6) Court of Appeals. Defended Susan B. Anthony in the famous right to vote case.
- (7) United States Senator.
- (8) Court of Appeals. Father of Judge Learned Hand.
- (9) Born in Albany, graduated Albany Law School.
- (10) Dean, Albany Law School.
- (11) Graduated from Albany High School.
- (12) U.S. District Court.
- (13) Born in Albany, graduated Albany Law School.
- (14) Born in Albany, graduated Siena, Albany Law School.

MATTHEW BENDER AND COMPANY



Albany has a history of being one of the first centers of law book and legal periodical publishing in America. It was led by the *Albany Law Journal* published for forty years by Weed, Parsons & Co. and the *American Reports* both edited by Irving Browne. The first law book publisher was William Gould located at 114 State



Street. Banks Brothers was established in 1804 and they eventually merged to form Gould & Banks. W.C. Little & Co., law book publishers, was established in 1828. However, it is Mathew Bender who has endured as the most well-known law book publisher in Albany. Matthew Bender (1845-1920) started his law book publishing career with the William Gould Law Book Publishers in Albany. In 1887 he started his own company and it lasted here until 2013 when its parent company, LexisNexis, closed the Albany operation. Matthew Bender was first located at 109 State Street. In 1887 they also had operations in the Old Museum Building located on the northwest corner of State Street and Broadway. In 1896 they moved to the Douw Building across the street. In the 1900's they had relocated to 511 Broadway. Benders published a variety of law books and practice commentaries including the New York Lawyer's Diary. Members of the Bender family were great benefactors of Albany for over 100 years. In 1896, Mathew W. Bender donated \$20,000 for the construction of Bender Hygienic Laboratory which was a pioneering medical research facility. Matthew Bender was born in 1813 in Bethlehem and died May 21, 1903, at his home at 195 Madison Avenue at age 89. He is buried in Albany Rural Cemetery, Lot 2, Sec. 80.

JOEL MUNSELL (1808-1880): Joel Munsell was not a lawyer, a judge or even primarily a law book publisher but no legal history of Albany could be written without delving into the works of Joel Munsell. Munsell was born on April 14, 1808, in Northfield MA. In 1827, at age 19, he moved to Albany and apprenticed as a wheelwright before entering the printing business. He would go on to edit and publish several newsletters, monthly magazines and the Albany Daily State Register. His ten volume series *Annals of Albany* documented the City between 1849 and 1859. Munsell died on January 15, 1880. He fathered nine children with two wives. He is buried in Albany Rural Cemetery, Section 4. Plot 47.



VIII. REGION'S LAW FIRMS SHARE A RICH HISTORY

By
Paul Grondahl
And
Hon. W. Dennis Duggan



***Samuel E. Aronowitz (Mr. Sam)
in his office at O'Connell & Aronowitz, 100 State Street, circa 1925.***

The founding law firms of the Capital region, some which pre-date Albany Law School's beginnings in 1851, share a rich history together. A unique set of traits make the firms distinct from any those in any other region. Two Albany-specific characteristics loom large for these firms over the past 150 years—their location in the capital of New York, and the generations of Albany Law graduates that have fueled and sustained their prosperity. The reasons for establishing their law firms in Albany and keeping them here are as different as the attorneys themselves. Often the founding partners were expatriates from New York City who discovered they liked Albany living. Firm-founders also planted their seeds here to avoid New York City rents and high salaries to associates, allowing a cost advantage when competing against New York City firms. With the billable hour rate roughly twice that in New York City, the Capital region's larger and smaller firms found themselves at an advantage for government work. Even today, the area's firms are considered a great legal bargain when competing for national accounts. Being familiar with the judges and lawmakers also helped Albany law firms thrive, effectively prohibiting for years large national firms from entering the market. For decades, if not still, state government work has been the most prominent single thing that makes the region unique for law firms. While firms have developed niches and a significant base of private sector clients, government work in all its manifestations—including lobbying—has long been king.

Another unique, and uncanny characteristic of the Albany region is the small size of the law firms. In fact, the area's largest law firms are far smaller than the larger firms of Binghamton, Rochester, Syracuse and Buffalo. Explanations vary on this. The absence of large corporate headquarters and big business in the region explains some of it. Smaller, boutique firms market themselves on knowing the judges, the courts and the legal system in Albany much better than outsiders, using the stigma of "smallbany" to their advantage. From their founding to their good fortune of longevity in a steady market, firms have enjoyed more than 150 years of prosperity in the region, sharing a rich history with Albany Law school. Here's a look at Albany's larger firms and some others that started here more than 75 years ago starting with Cooper Erving and Savage which may be the oldest continuously operating law firm in America.

COOPER ERVING & SAVAGE (1785)

Abraham Van Vechten (1762-1837): the original founder of Cooper Erving and Savage, was born December 5, 1762. He was the first lawyer admitted to practice in New York after the adoption of the State Constitution. This occurred in October 1785, and, as a result he was



forever known as "The Father of the New York Bar." Initially, he practiced in Johnstown, but soon came to Albany, where he rose to prominence. He also had several matters with Alexander Hamilton, Aaron Burr, Daniel Webster and the other leading lawyers of his generation. In the early part of the 19th century he partnered with Anthony Van Schaick, another prominent Dutch lawyer. He trained many young attorneys including his nephew and protégé Teunis Van Vechten who joined and later succeeded to his practice. Throughout his career he represented Stephen Van Rensselaer III, the Dutch "Patroon," who was the major landholder in upstate New York, and one of the wealthiest individuals in



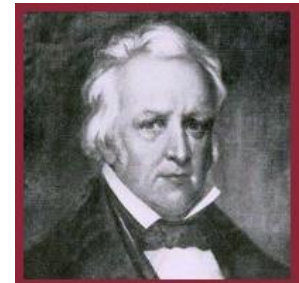
United States history. He is the founder of the Rensselaer Polytechnic Institute (RPI). Abraham Van Vechten participated in several significant cases, including the famous US Supreme Court precedent *Gibbons v. Ogden* which held that the granting of an exclusive license by a State to operate a steamboat on a river violated the interstate commerce clause of the Constitution. Van Vechten held several public offices, including State Assemblyman, State Senator, and Attorney General. He was also one of the first directors of the Bank of Albany. He died on January 6, 1837. He is buried in Albany Rural Cemetery, Sec. 36, Plot 4.

Anthony Van Schaick (1779-1822): Schaick was born in 1779 into one of the Colony's most prominent Dutch families and can trace their ancestry in New Netherlands to 1637. The Van Schaick "Half Moon" land patent included the present-day cities of Cohoes and Waterford. Van Schaick's birthplace is preserved in Cohoes and is shown here. It is located on Delaware Ave on the "Island" part of Cohoes. In this residence, General Philip Schuyler, head of the Northern Command, planned the Saratoga



campaign with General Horatio Gates and Benedict Arnold. Victory at Saratoga insured America's alliance with France and eventual victory over the British. Van Schaick graduated from Union College in 1803 and, shortly thereafter, studied the law with Abraham Van Vechten, the firm's founder. After being admitted to the bar in 1806, he formed a partnership with Van Vechten with whom he practiced until his death in 1822 at age 43. Van Schaick is buried in the Family graveyard adjoining the Manor.

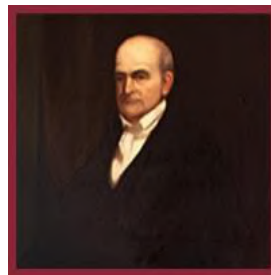
Teunis Van Vechten (1785-1859) Van Vechten was born on November 4, 1785. He graduated from Union College in 1802 and studied law with his uncle Abraham Van Vechten. After being admitted to the bar in 1806, he joined his uncle and later succeeded to his practice, representing the Van Rensselaer patroonship. He had a long and distinguished legal and civic career, spanning nearly five decades. He served as Mayor of Albany for four terms. With his wife, Catherine Cuyler Gansevoort Van Vechten, they had nine children. He was also a trustee of Albany Academy and a director of the Bank of Albany. In 1850, Van Vechten was disabled by a severe stroke and retired from the practice of law. He died on February 4, 1859. He is buried in Albany Rural Cemetery, Sec. 47, Plot 3.



Ebenezer Baldwin (1790-1837) Baldwin was born on May 20, 1790 in New Haven Connecticut. His maternal grandfather was Roger Sherman, one of our great founding fathers. Sherman is the only founder father to have signed our four founding documents, the organization of the Continental Association, the Declaration of Independence, the Articles of Confederation, and the Constitution. He graduated from Yale in 1808 and attended Litchfield Law School, the nation's oldest proprietary law school. He was admitted to the Connecticut Bar in 1811 and the New York Bar in 1813 after studying law with Hermanus Bleecker. He then came to Albany and was admitted to the New York bar in 1813. He became a partner at Cooper Erving & Savage in 1820. During his career he served as the Albany County Surrogate, Albany City Recorder and as a Master in the Chancery Court. In addition, he was the Military Aide to Governor DeWitt Clinton and held the

rank of Colonel. Baldwin's health started to fail, and he retired from the practice of law in 1828 and returned to Connecticut. Baldwin's brother, Roger, was one of the attorneys to defend the slaves in the famous *Amistad* case. Ebenezer Baldwin died on January 26, 1837, at the age of 47. He is buried in the Grove Street Cemetery in New Haven, CT, Plot 30 Maple Ave. West.

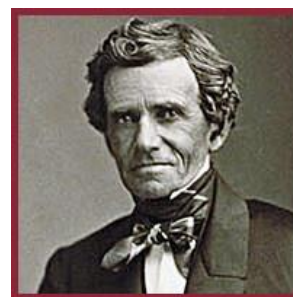
Daniel Cady (1773-1859): Cady was born on April 29, 1773, in Canaan, Columbia County. He studied at Albany Law School and was admitted to the bar in 1795, starting his law practice in Florida, Fulton County, NY. He started his career in politics as a Johnstown Village Trustee and then became Town Supervisor. He was a member of the New York State Assembly from 1808-1813 and then District Attorney in the Fifth District. In 1815 he was elected to Congress. He was one of the leading lawyers of his generation, having cases with Aaron Burr, Thomas Emmett and the firm's founder Abraham Van Vechten. He argued many important cases, including the landmark



case *People v. Godfrey* in 1819. In 1843, Daniel Cady joined the firm as a partner of Teunis Van Vechten. He left in 1847 to become a New York State Supreme Court Judge serving until 1855. In 1849 he was an ex-officio Judge of the Court of Appeals. He trained two of his son's-in-law, Samuel Wilkeson and Duncan McMartin, who were also members of the firm. He retired from the practice of law in 1855. His most significant contribution to American law is as the father of one of the County's pioneering suffragists, Elizabeth Cady Stanton. Cady died on October 31, 1859, and is buried Johnstown

Cemetery.

Samuel Wilkeson, Jr. (1817-1889): Wilkeson was born on May 9, 1817. He was educated at Williams and Union College. He was trained by his father-in-law, Judge Daniel Cady, another firm partner, and was a partner himself from 1843-1846. Wilkeson's first love was journalism. He purchased the *Albany Evening Journal* newspaper and, later, wrote famous reports on the Battle of Gettysburg for the *New York Times*. That paper would eventually be owned by Thurlow Weed and William "Billie" Barnes and become the organ of the Republican party which Weed helped form. Wilkeson's son, Lt. Brayard Wilkeson, led a famous



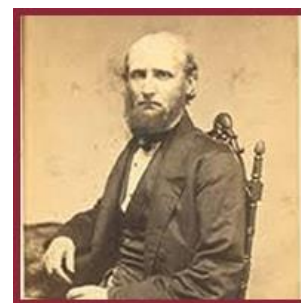
charge at Gettysburg. Left in a farmhouse after having his leg destroyed by a cannon ball, Bayard amputated his own leg but died soon thereafter. The Wilkesons are mentioned in Ken Burns' documentary on the Civil War. Wilkeson wrote the following words at the conclusion of his article concerning the end of the battle: "Oh, you dead who at Gettysburg have baptized with your blood a second birth of Freedom in America, how you are to be envied." Some that have suggested that these words inspired Lincoln's words at the end of the Gettysburg address: "... that we here highly resolve that these dead shall not have died in vain; that his nation shall have a new birth of freedom; and that this government of the people, by the people, and for the people, shall not perish from the earth." In his later years Wilkeson went west and became heavily involved in the development of the Northern Pacific Railroad. He is considered the father of Tacoma, Washington. Samuel

Wilkeson's portrait by photographer Mathew Brady is on view at the Smithsonian. He died on December 2, 1889, and is buried in the family plot, Sec. K, Forrest Lawn Cemetery, Buffalo, NY.

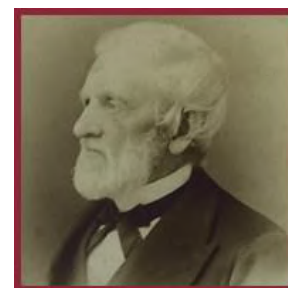
Duncan McMartin (1817-1894): McMartin was born on February 24, 1817, in Fulton County New York and married Margaret Cady, Elizabeth Cady Stanton's sister, and daughter of founding partner Daniel Cady. He was initially trained by Judge Cady and then attended Harvard Law School. He practiced in Albany with Teunis Van Vechten and Judge Cady. He was a partner of the firm from 1846-1852. At the time of the Civil War, McMartin joined the Union army as a colonel leading the 153rd NY Regiment. After the war he moved to Iowa and became one of the largest and most successful landowners in that State. He died on July 6, 1894, in Gundy County, Iowa. He is buried in Woodland Cemetery in Des Moines, Iowa, Block 17, Plot 23.



Paul Fenimore Cooper (1824-1895): Cooper was born on February 3, 1824, in Manhattan. Cooper was raised in France for his first 10 years. When he returned to America, he studied at Hobart College and Harvard Law School. After studying law at Harvard, he joined the firm in 1850 with Duncan McMartin and Charles M. Jenkins as partners. McMartin left in 1854. He was a firm partner from 1850 to 1895. He is the son of the famous author, James Fenimore Cooper. Cooper had a home in Cooperstown, but when in Albany he lived with his family in the historical Albany Academy building. With Jenkins, he represented the Stephen Van Rensselaer estate. Cooper's grandfather, William Cooper, is the founder of Cooperstown. The patriarch of the Cooper family was an Otsego County Court Judge and a member of Congress. Cooper died on April 21, 1895, at age 71. He is buried in Christ Churchyard in Cooperstown, NY.



Charles Mulford Jenkins(1810-1900): Jenkins was born on April 30, 1810. He was a partner from 1850 to the mid 1890's. When he died in January 1900, at age 89, Jenkins was the oldest practicing lawyer in Albany. Jenkins joined the firm in 1850 as a partner of Teunis Van Vechten and Duncan McMartin. Shortly thereafter, Van Vechten retired due to illness and Paul Fenimore Cooper joined the firm. McMartin left in 1854, and the firm became known as Jenkins & Cooper and remained so for the next three decades. Jenkins's principal client was Stephen Van Rensselaer IV and the Van Rensselaer estate. Stephen Van Rensselaer III died in 1839. During the 1840's, the tenants of his lands, prompted by his heirs' effort to collect rents, fought an armed rebellion (known as the Anti-Rent Wars) to eliminate all vestiges of feudalism from Upstate New York. As a result, the type of lease that tied the tenant farmers to the land was made unlawful by the 1846 New York Constitution. Nonetheless, legal battles followed over back rent and Jenkins and Cooper represented the rent claimants. The State, on behalf of the tenants, challenged the validity of the manorial titles. In 1853, Charles M Jenkins, achieved a victory on behalf of the Van Rensselaers in the significant Court of Appeals decision, *People v. Van Rensselaer*, 9 N.Y. 291 (1853), where Court held land titles devolving from the Dutch crown were valid and enforceable.



Jenkins died on January 18, 1900, and is buried in the Trinity Church Cemetery in Rensselaerville, NY

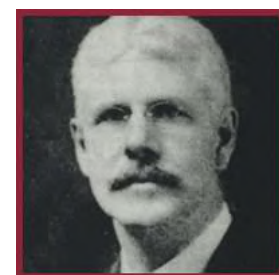
James F. Tracey (1854-1925): Tracey was a partner of the firm from 1882 to 1925. Tracey was born on May 30, 1854, in Albany. He graduated from Georgetown University in 1874. After graduating from Albany Law School, he was admitted to the Bar in 1875. He was the firm's first partner of Irish descent, mirroring the large growth in Albany of this immigrant population since the mid-nineteenth century. Like James Fenimore Cooper, Tracey trained with noted Albany lawyer Marcus T. Hun. In 1882, he partnered with James Fenimore Cooper and Cooper's father, Paul Fenimore Cooper. The firm became known as Tracey & Cooper. Tracey was an expert in corporate law. He served as the examiner of corporations for the New York Secretary of State and taught corporate law for many years at Albany Law School. In 1902, President Roosevelt named Tracey as a justice of the Supreme Court of the Philippines. He served there until 1905, when he resumed his law practice with the firm and was actively involved in Democratic politics. Judge Tracey died in 1925 at the age of 71.



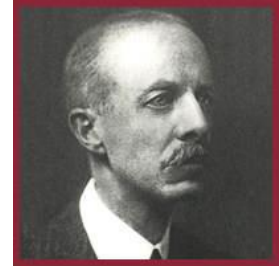
James Fenimore Cooper (1858-1938): Cooper was born on June 15, 1858. He was the son of Paul Fenimore Cooper, a partner in the firm, and grandson of the famous author James Fenimore Cooper. He was a partner of the firm from 1882 to 1938. Cooper trained in the law with the noted Albany lawyer Marcus T. Hun and was admitted to the bar in 1882. He then joined his father in the firm Jenkins & Cooper. After his father's death in 1895, the firm became known successively as Tracey, Cooper & Rathbone; Tracey, Cooper and Townsend; Tracey, Cooper & Savage. In 1925 the firm became Cooper Erving & Savage by which it is known today. James Fenimore Cooper was a member of the firm for 56 years. He died on May 5, 1938, at age 79. He is buried in Christ Churchyard in Cooperstown, NY.



Albert Rathbone (1868-1943): Rathbone was a partner of the firm from 1893 to 1899. Rathbone was born in Albany in 1868 and graduated from Williams College and Albany Law School. He joined the firm in 1893 which then became known as Tracey, Cooper & Rathbone. Like Tracey, Rathbone was an expert in corporate law and finance. In 1899 he left the firm to relocate to New York City. In 1901 he became a partner in Joline, Larkin & Rathbone, and in the booming decade before World War I, helped organize and reorganize many major US corporations, including several railroads. After the war he was named by Woodrow Wilson as the Assistant Secretary of the US Treasury. In 1920, he returned to his law practice at his old firm, which shortly thereafter became Rathbone, Perry Kelley and Drye with Rathbone as the senior partner. Under his leadership the firm became one of the most prestigious in the country. Rathbone died on August 20, 1943, at the age of 75. He is buried in the family plot in Albany Rural Cemetery, Sec. 54, Plot 9.



Frederick Townsend II (1871-1949): Townsend was a partner of the firm from 1899 to 1920. Townsend was born in 1871, a descendant of one of Albany's oldest families. He attended Albany Boys Academy, Harvard College and Harvard Law School. After law school, Townsend returned to Albany and entered the firm, then known as Tracey, Cooper & Rathbone. In 1899, after Rathbone went to New York City, Townsend became a partner and the firm became Tracey, Cooper & Townsend. Townsend's forte was banking. During his law career he was a trustee and attorney for the Albany Savings Bank. He then became its president and served in that capacity until he retired in 1941. He was also served as vice-president of State Bank of Albany, Treasurer of the Van Rensselaer Land Company, president of the Albany Home for Children trustee of Albany Medical College and Dudley Observatory. He died on December 4, 1949, at age 78. He is buried in Albany Rural Cemetery, Sec. 45, Plot 4.



Barclay Jermain "Jerry" Savage(1882-1952) was born on December 24, 1882, in Newburgh, New York. He graduated from Williams College and received his law degree from New York Law School. In 1910, he entered the firm then known as Tracey, Cooper & Townsend. In 1914, he left to serve in World War I. When he returned, he became a firm partner. When Townsend left to become president of Albany Savings Bank, the firm became known as Tracey, Cooper & Savage. He was a firm partner from 1918 to 1952. When James Tracey died in 1925, and William Van Rensselaer Erving joined the firm, it became known as Cooper Erving & Savage by which it is known to the present day. Savage specialized in corporate law, estate and tax law and was an authority on banking law. In 1941, he was named as chairman of the board of First Trust Company and remained so until his death. He was also a senior vice president of Albany Savings Bank. Both banks were firm clients. Savage died on June 17, 1952, at age 69. He is buried in Albany Rural Cemetery, Sec 45, Plot 34.



William Van Rensselaer Erving(1871-1940): Erving was a partner in the firm from 1925 to 1940. Erving was born on August 15, 1871, in New York City, a descendant of the Van Rensselaer patroons. He was educated at private schools in New York City after which he received his law degree from Albany Law School. He relocated to Albany and became involved in Republican politics led by the Barnes machine. In 1920, he ran for Albany mayor in a highly contentious race and lost to the Democrat William S. Hackett. This ushered in the O'Connell-Corning Democratic machine which controlled Albany politics until 1983. Ironically, it would be another firm partner, Thomas M. Whalen III, who would become Mayor after Corning, who would reform city government. Erving became a partner of the firm in 1925 and the firm became known as Cooper Erving & Savage and remains so to the present. His expertise was in corporate and trusts and estate law. For 35 years Erving was a trustee and secretary of Albany Savings Bank, a major firm client. He managed the William P. Van Rensselaer Estate Corporation, which was organized to handle the Van Rensselaer family holdings. Erving died on August 27, 1940, at age 68. He is buried in Greenwood Union Cemetery, in the Town of Rye, Westchester County, NY. Sec. B, Lot 182, Grave 9.



Edward S. Rooney (1905-1970): Rooney was a firm partner from 1929 until his death in 1970. He was born in Albany in 1905 and graduated from Manhattan College and Harvard Law School. He joined the firm in 1929 and was senior partner from 1952 to 1970. Rooney was counsel for the State Banking Association and, at age 38, he became the youngest president of the First Trust Company Bank. He held that position for 24 years until the bank merged with Bankers Trust Company of New York, at the time the nation's second largest bank. He then became a director of Bankers Trust. Rooney was also a trustee of Albany Savings Bank and director of The United Traction Company. Rooney died in 1970 at age 64. He is buried in St. Agnes Cemetery, Menands, NY.



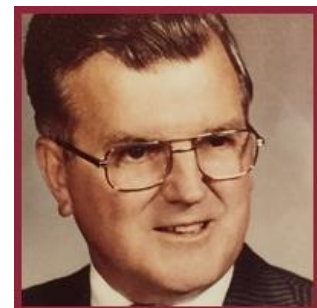
Eugene P. Devine (1912-1974): Devine was a firm partner from 1947 until his death in 1974. Born in 1912, he attended Niagara University and graduated from Albany Law School in 1940. He then joined Cooper Erving & Savage and in 1947 became the third partner of Irish descent, following James Tracey and Edward Rooney. As with many prior partners, he was involved in Albany politics. He was a confidant of the legendary Democratic boss, Dan O'Connell and was elected Albany County Treasurer in 1956 serving in that position for several terms. He also was the chairman of the Albany Housing Authority. In addition, he was a director of Hedrick Brewing Company, known



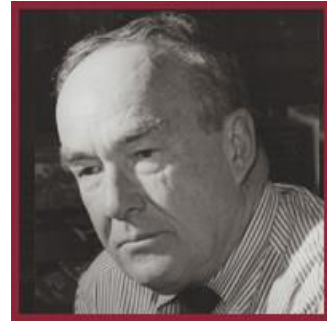
Judge Pennock	Eugene Devine	Dan O'Connell	Erastus Corning
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most famously for being owned by Dan O'Connell. Devine was a director of First Trust Company and trustee of Albany Savings Bank. His son, Eugene "Gus" Devine, was a firm partner from 1981 to 1985 and served as a New York Supreme Court Judge on the Third Department Appellate Division. Devine died of lung cancer on October 21, 1974, at age 61. He is buried in St. Agnes Cemetery in Menands, NY in Sec. 39 Lot 137c grave 1.

Harry S. Christenson (1916-1980): Christenson was a firm partner from 1952 until his death in 1980. He attended Manhattan College, graduated from Albany Law School and was admitted to the bar in 1939 at age 23. He entered private practice, which he left to serve as an Army captain in World War II. At the end of the war he returned to private practice and in 1952 he joined Cooper Erving as a partner. Christenson served as an Albany City Court Judge from 1956 to 1958 and was a member of the Albany City Planning Board. Judge Christenson was a director of First Trust Company and trustee of Albany Savings Bank and was also very active in the community. He served on several charitable boards, including St. Peter's Hospital, Bender Laboratory, Christian Brothers Academy and LaSalle School. He died in 1980 at age 64.



Thomas M. Whalen III (1934-2002) Whalen was born on January 6, 1934. He was a firm partner from 1964 to 1988. He was educated at Manhattan College and Albany Law School. He was a protégé of partner Eugene Devine who connected him with legendary Democratic party leader Dan O’Connell. In 1969, with the help of Devine, Whalen was elected as an Albany City Court Judge where he served until 1975. In 1981, he was selected by Albany Mayor Erastus Corning to be his successor. In that year, Whalen was elected as President of the Albany Common Council and became mayor on Corning’s death in 1983. He served for three terms as Mayor and is recognized for having reformed and modernized Albany’s government and instilled a new civic pride in its citizens. Albany was named an All-America City on his watch. Upon his retirement as mayor he returned to the private practice of law. At the end of his term, he was nominated by Senator Moynihan to Federal District Court, but he withdrew when his nomination was held up in the politics of the confirmation process. Whalen was the second partner of Cooper Erving and Savage to serve as Albany mayor. Teunis Van Vechten was a four-term mayor in early 19th Century. Whalen died on March 4, 2002, at age 68 in a one-car automobile accident. He is buried in St. Agnes Cemetery in Menands, New York.

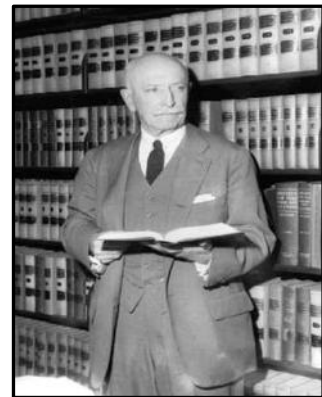


McNAMEE LOCHNER TITUS & WILLIAMS (1863)



“The Colonel”

When you walk into the downtown Albany law offices of McNamee Lochner Titus & Williams, founded in 1863, you immediately see the portrait of founder **Frank Angelo McNamee (1892-1972)** in his army uniform. McNamee is one of the most fascinating lawyers to ever practice in Albany County. McNamee was a veteran of both World Wars and a recipient of the Distinguished Service Cross with silver star. He was born on December 17, 1892, and educated at Albany Academy (1911), Williams College (1915) and Harvard Law School (1921). Before he could



Frank A. McNamee

complete his studies at Harvard, he was called to active duty as a member of the Army Cavalry Reserve, which fought Pancho Villa on the Mexican border before World War I. He then fought in the European Theater where he stayed for the duration of the war, rising to the rank of captain. When the war was over, Colonel McNamee returned to Harvard Law School where he graduated in 1921. After being admitted to the Bar he went to work for the firm, which was then titled Visscher, Whalen, Loucks & Murphy. In 1931 it became Whalen, McNamee, Creble & Nichols with offices at 75 State Street

McNamee reentered military service in 1943. The Colonel's World War II service with the Office of Strategic Studies (OSS), the precursor of the CIA, is a story in itself. He served with the OSS's research arm charged with the task of assessing the efficacy of the Allied bombing campaign in Europe. OSS issued a controversial report signed by Frank McNamee and others of national and even international stature, including John Kenneth Galbraith (Harvard economist, Ambassador to India) and Walter Rostow (later, JFK's National Security advisor) which called into question the effectiveness of the allied bombing campaign. In 1928, McNamee married a wealthy widow, Mary Stuart. She died ten years later and then Colonel McNamee married Ellen Parker, the daughter of the president of Albany Felt Company (now Albany International). His marriage to Ellen Parker came with a seat on Albany Felt Company's board. Upon the death of Robert Whalen, he took his mentor's seat on the Board of Albany Savings Bank. He is buried in Albany Rural Cemetery with Mary on one side of him and Ellen on the other. Robert Whalen was one of the brightest stars in their firmament and he argued several cases before the U.S. Supreme Court, representing the New York Central railroad and large utilities, before famous justices Oliver Wendell Holmes, Louis Brandeis and William Howard Taft. His community involvement was also extensive. He was a trustee of Albany Academy, Albany Hospital for the Incurables, Albany Medical College, Trinity Institute and the Legal Aid Society.



Robert E. Whalen (center) with Appellate Division Justice Gilbert Schenck (left) and Supreme Court Francis Bergan (right) c. 1938

Not all the firm's famous cases involved courts as high as the U.S. Supreme Court. An example was to be found in 1967 when partner Earl H. Gallup, Jr. defended Democratic Mayor Erastus Corning II of Albany when he was arrested for DWI in the Town of Colonie. Presiding in the court for Corning's arraignment on the early morning of October 29, 1967, was Justice Harry D'Agostino, later Town Republican Chair. Corning was found asleep at the wheel of his car which was found running and parked partly on Albany Shaker Road by Trooper A.F. Crary of Troop G. There was much speculation as to where Corning was going to or coming from as the parking-spot he chose was not on any route that would get him home which is where he claimed he was heading when he left the event he had attended. Earlier that evening, Corning had attended the Page One Ball of the Newspaper Guild at the Thruway House on Washington Avenue Extension.

When Corning's blood test results came back at .08 BAC, Times Union reporter Francis "Doc" Rivett commented that he was surprised that they found any blood in the test based on his observations of Corning that evening. Nevertheless, Earl Gallup managed to get the charges against Mayor Corning dismissed, even though there was much speculation that the New York State Police Lab had engineered the results. There is no evidence that this occurred, but State Police bias might be inferred from the fact that Trooper Crary was shortly thereafter transferred to Malone, NY, near the Canadian border. Earl Gallup's father had been the County Court Judge from 1923 to 1959 and was a close friend of Dan O'Connell's. There was some speculation that this long-standing relationship coupled with Earl Jr.'s successful defense of the Mayor might lead to a prominent judgeship for Gallup. Alas, such was not to be.

The blueprint that was laid for the firm by Robert Whalen was cemented by Colonel Frank

A. McNamee, when he joined the firm in 1921. Leonard A. Weiss (ALS '48 Class of 1948), was a special counsel at McNamee-Lochner where he was known as “the magician” because he worked magic in his role as a judicial hearing officer for the New York State Supreme Court. A former Presiding Justice of the New York State Appellate Division, Third department. Weiss joined the firm in 1994 but knew its notable lawyers and the firm’s rich history during his long career as a lawyer, judge and Democratic Party-political leader in Albany. Of the more than 33 attorneys at the firm, 18 are Albany Law School graduates. “When I was a young lawyer starting out, I met Mr. Whalen and the Colonel, who was short of stature and very militaristic in his demeanor,” Weiss recalled. “Mr. Whalen was very dignified. They were society lawyers who developed the practice through their connections to the heads of Albany banks and insurance firms. People of means and pillars of the community gravitated to them because they had a great reputation and stature in Albany.” In the 1920’s, McNamee practiced law at 126 State Street and resided at 690 Madison Avenue. He died on March 19, 1972, at age 79 and is buried in Albany Rural Cemetery, Sec 116, Plot 26. Robert E. Whalen was born on July 29, 1874, and died on August 12, 1951, at age 77. He is also buried in Albany Rural Cemetery, Sec. 114, Lot 115.

Kenneth Creble (1893-1974): Creble was born on December 25, 1893, in Feura Bush on the family farm. He graduated from Albany High School in 1912, Union College in 1916 and Albany Law School in 1920. He joined the firm in 1924. During WW I, Creble served in the 309th Ambulance Corps and the United States Military mission which supervised the humane treatment of war prisoners. At age 47, he lived at 47 Lenox Avenue in Albany with his wife Ruth and two daughters and, according to census records, a maid, Betty Kennedy. Creble died in October 1974 at age 81. He is buried in the Jerusalem Cemetery in Feura Bush, NY Lot 414, Grave 10. Creble Road runs between Rt. 9W and Route 32 in the Town of Bethlehem.



C. Emory Lochner (1904-1976): Lochner was born in Albany on August 11, 1904. His elementary education took place at School 16 which was located on the corner of Allen Street and Hudson Avenue in Albany’s Pine Hills. He graduated from Albany Academy in 1921, Williams College in 1925 and Albany Law School in 1928. Lochner was a founder of the Albany Junior Chamber of Commerce and a Director of the Travelers Aid Society. He died on August 3, 1976, at age 71. He is buried in Albany Rural Cemetery, Sec 29, Plot 46.

John R. Titus (1908-1981): Titus was born on August 27, 1908, in Albany. He was a longtime partner of the firm. He was admitted to the Bar in 1933. As a young man in 1940, he resided with his wife and his son at 632 Providence Street in Albany. He died on April 1, 1981, and is buried at Albany Rural Cemetery, Sec 16, Plot 18.

David Sterling Williams (1917-2008): Williams was born on June 13, 1917, in Albany, NY. He graduated from Albany Academy in 1935, Colgate University in 1939 and Albany Law School in 1946. Williams left Albany Law School in 1941 to join the Army where he served as an intelligence officer in the European Theater. He was discharged in 1945 with the rank of Major. After graduating from Albany Law School in 1946 he joined the firm of Whalen, McNamee, Creble and Nichols in that year, making partner in 1950. He was a member of the Board of Directors of Child's Hospital, the Albany Guardian Society and the Mohawk-Hudson Community Foundation and a trustee of Albany Law School. He served as New York State Bar Association president from 1981-1982. Williams died November 12, 2008, at age 91. He is buried in Albany Rural Cemetery, Sec. 42, Plot 6.



David S. Williams
November 1980

E. STEWART JONES LAW FIRM (1894)

The E. Stewart Jones law firm celebrated its 125th birthday in 2019.



Abbott H. Jones

Although for most of its history it was self-described as a boutique law firm, specializing in plaintiff's personal injury litigation and criminal defense, the *Jones Firm* was possibly the most recognizable name of any firm in upstate New York. Founded by Abbott Jones in 1894, the firm was passed on to E. Stewart Jones, Sr. (ALS Class of 1935), and then to E. Stewart Jones, Jr. (ALS Class of 1966). Stu Jr, for many years was the chair of Albany Law School's Board of Trustees. The Jones firm is practically a household name in the Capital region, in large part



Stu Jones, Sr. & Jr.

from the high-profile cases it has litigated. No case was more high profile than Abbot Jones's defense of Legs Diamond in the fall of 1931, with co-counsel Daniel F. Prior of Albany. Diamond was charged with kidnapping a rival bootlegger. He was acquitted after just five hours of jury deliberations. It was noted in the paper that one hour of that time was spent at dinner. After a night of celebrating his acquittal, Diamond returned in a taxi to his 67 Dove Street flat where he was gunned down in his bed. The gunmen were never found, and the crime remains unsolved to this day (See Trials section).

As famous as the Legs Diamond acquittal was for Stu Jones, Sr., the acquittal won by Stu Jones Jr., in May 2014 for Joseph Bruno, the Republican leader of New York State Senate who faced corruption charges, was deserving of equal fame. Stu Jones Jr.'s brother, W. Farley Jones (Albany Law School 1982), who graduated from Princeton University, also practiced in the firm until his retirement.

Founder Abbott Jones was born in 1876. He never went to college or law school but studied the law on his own as a clerk in a law office and ultimately gained admission to the Bar. He

developed an extensive private practice, went on to serve as City Court Judge in Troy and was ultimately elected to the position of Rensselaer County District Attorney. Abbott Jones died in 1939 and is buried in St. Peter's Cemetery in Troy. After the patriarch's death, his son, E. Stewart Jones, Sr., partnered with Arthur L. Rosen. "He made the bullets, and I shot them," Jones Sr. once said of Rosen. Jones, Sr. was born on March 1, 1912, and died on April 17, 2001, at age 89. He is buried in Albany Rural Cemetery Sec 125, Plot 2.

"Stu" Jones Jr. joined the firm in 1970 after spending three years in the Rensselaer County District Attorney's Office. "It was a great training ground," Jones said of his time as an ADA. I was prosecuting highly-visible murder cases three years out of law school." Things didn't get quieter when he joined his dad's firm, where he "learned from the master." Jones is a 1963 graduate of Williams College.

"In 1974 I was 32 years old and my father who, at 60 years of age, was tired of the pressure of expectations and miracles in the courtroom told me it was time to sink or swim," said Jones. "So virtually all our cases, civil and criminal, became my responsibility. I was extremely lucky. it was an opportunity few lawyers have. I had exceptional role models, great instruction, genes and my father's name." For three generations the Jones have kept their firm as a boutique. "It's more manageable this way," Jones said, noting they have five attorneys and 20 people for support. "Our type of firm and our way of practicing may be time limited given how paper intensive, discovery driven and time burdensome the litigation process has become regardless of the complexity, simplicity or stakes of the case.

In January 2015, the firm merged with Hacker Murphy, LLP a prominent eleven-member firm based in Albany and became *E. Stewart Jones Hacker Murphy*. The new firm was then able to expand into commercial and property tax litigation. With this added concentration of legal skills, the firm was representation of sinking of the Lake George persons lost their now employees in three offices litigants in all Courts throughout James Hacker is a Hamilton College graduate of Albany



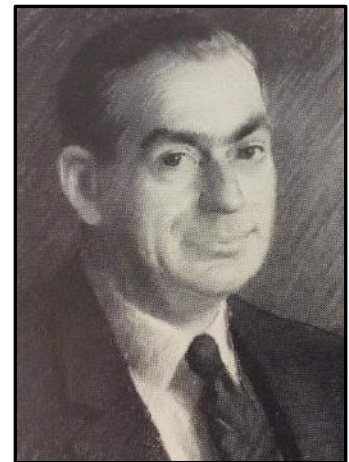
James Hacker E. Stuart Jones, Jr. David Murphy

involved in the victims of the Ethan Allen on where forty-seven lives. The firm eighteen attorneys and represents State and Federal New York State. 1981 graduate of and a 1984 Law School

where he chairs the Board of Trustees. He has also served as President of the Albany County Bar Association and the Capital District Trial Lawyers Association. David Murphy graduated from Georgetown in 1971 and Albany Law School in 1975 where he was the winner of the Senior Trial Competition. His practice concentrates in property tax litigation.

HINMAN STRAUB PIGORS AND MANNING (1902)

HAROLD J. HINMAN (1877-1955): Harold J. Hinman was born on February 22, 1877, in Albany, NY. He graduated from Albany High School, Union College, and Albany Law School in 1901. After being admitted to the Bar, Hinman started practicing law with Randall J. LeBoeuf who would go on to serve on the State Supreme Court. His first office, shown in the picture below was on lower state street. It was heated by a wood stove. It is said that Hinman's dedication to his practice can be measured by the fact that he kept a canoe in the building so he could get to and from work during the times that Broadway and lower State Street were swamped by the frequent spring floods that occurred before the Sacandaga Dam and Reservoir were built in 1928. In 1902 Hinman formed a law practice, Bender & Hinman, becoming in 1912 Arnold, Bender & Hinman with offices at 109 State Street. In 1910, at age 33, he was elected to the Assembly as a Republican. This was a year in which all nine statewide offices were won by Democrats. He served in that body until 1916 and over his six-year tenure, he served as chair of the Judiciary Committee, Minority Leader and Majority Leader. In 1915, as majority leader, Hinman proposed that the Legislature meet year-round except for July and August for one week each month. He argued that his proposal would allow for greater deliberation on important legislation and eliminate the end of session rush when hundreds of bills are passed in the dead of night. Hinman also argued that his plan *"would make it possible to get men of greater capacity to except legislative office because they would not be compelled to give four or five months of continuous service to the neglect of their own business affairs,"* as the New York Times described it. From 1915 to 1918 he was a Deputy Attorney General. In 1918 he was elected to the State Supreme Court and appointed by



J. Vanderbilt Straub



Harold Hinman (L) guiding young associate Roland Ford (R), c. 1908

Governor Nathan L. Miller to the Appellate Division

in 1922. Hinman served on the bench until 1932 but remained as a referee until 1940. One of his most significant contributions to the law was his dissent in the 1922 case of *Beardsley v. Kilmer*, involving the question of whether it was tortious conduct for a person to engage in lawful conduct with the malicious motive to hurt another. Hinman in dissent said that such a proposition would allow *"a man who is wealthy enough and malicious enough to shut the door of opportunity to the object of his*

hatred by rivaling him in business, with no other aim in view than his destruction." Hinman's dissent would become the law of New York when his rationale was adopted by the Court of Appeals in 1932 in *Al Raschid v. News Syndicate Co.*, to recognize the cause of action of *prima*

facie tort. Harold J. Hinman's contributions to Albany Law School insured the institutions survival. He was a member of the Board of Trustees from 1919-1955, serving twenty-five years as president. As President of the Board, Hinman is most responsible for the construction of the current Albany Law School on New Scotland Avenue that we know today. Hinman, along with Dean Harold Alexander, also successfully shepherded the School through the Great Depression. Hinman also served as a trustee of Union College and President of the Albany Board of Education. Hinman died at his residence at 292 State Street on February 21, 1955, after a long illness. He was 77. He is buried in Albany Rural Cemetery, Sec. 127, Plot 102.

During the height of the Great Depression, Harold J. Hinman, a proven optimist, joined with his son-in-law **J. Vanderbilt Straub** to launch Hinman Straub in 1932. Straub was born on July 12, 1907. He graduated from Union College and Albany Law School and was admitted to the Bar in 1929. He was a long-time trustee and President of the Board of Albany Law School. When Dean Clements became ill, Straub filled in as acting Dean from 1962-64. Straub died at age 84 on August 6, 1991. He is buried in Albany Rural Cemetery in Sec. 127, Plot 102. His wife, Mildred Hinman Straub, died six days later.

Albert A. Manning was born on November 19, 1918, in Marathon, NY. He graduated from Albany Academy in 1935, Yale in 1939 and Albany Law School in 1946. During WW II he served in the Navy on aircraft carriers and mustered out as a Lt. Commander. After practicing with the firm of Illch and Poskanzer from 1946-1949 he joined with Hinman, Straub and Pigors and became a named partner. Manning died on May 15, 2004, at age 85. He is buried in Albany Rural Cemetery, Sec. 115, Plot 38.



Albert A. Manning



Werner H. Pigors

Werner H. Pigors was the Republican candidate for the New York State Assembly from Albany County in 1942. He resided with his family at 42 Hawthorne Street in Albany during that period. He was president of the Albany County Bar Association in 1953 and an adjunct professor at Albany Law School for several years. The firm's close association with Albany Law School coupled with leadership in the local bar did not end with the founders. Three principals, Jim Potter (ALS class of 80), Janet Silver (ALS class of 03) and Elena DeFio Kean (ALS class of 92), have served the legal community as Presidents of the Albany County Bar Association.

In its early years, the Firm's major practice was representing banks, defending insurance companies and serving clients with trusts and estates issues. The Firm grew slowly, building on its strengths, and by 1972 had eight lawyers. As state government grew—both in size and complexity—in the 1970s, the Firm's leadership led by **John J. Lynch** (ALS class of 61), Joseph Boochever and Stephen M. Cleary (ALS class of 70) recognized that clients needed assistance negotiating the complexities of government. This began the genesis and foundation of the Firm as it exists today. Many Firm members have also gone on to serve in prominent private sector positions. Examples include former Hinman partner, Christopher Booth (ALS class of 86) who has served as the long time President of Excellus Health Plan, the largest health insurer in Upstate New York and Jim Clyne is President and CEO of LeadingAge New York, the state's largest not-for-profit long-term care association. Former partner, Paul M. Collins, was a long time county

legislator and later counsel to the New York State Board of Elections, where he became one of the leading election lawyers in the State.

The early 1970's also resulted in the Firm representing and establishing public sector unions. After the prisoner uprising at the Attica Correctional Facility in 1971, the Firm was retained by the New York State Police Benevolent Association to represent state troopers who were the subject of grand jury proceedings conducted by specially appointed Assistant Attorney Generals. Bernard "Bud" Malone (ALS class of 72), later justice of the Supreme Court, Appellate Division, John Lynch and Donald DeAngelis (ALS class of 60) were the Hinman Team that successfully defended the troopers. Also, during that period, the Firm was approached by groups of school principals and formed the School Administrators Association of New York State, now a 7,000-member organization. The Firm was instrumental in securing tenure rights for school administrators, participating in groundbreaking litigation and performing collective bargaining for units across New York State. In addition to being on the leading edge of public policy issues in the Legislature and administrative agencies which continues today, the Firm established significant precedents in the New York Court of Appeals in a series of cases defining the limits of Executive orders issued by the Governor, State Agencies authority to broadly regulate, and the Comptroller's constitutional limits to oversee private entities.

Bartley "BJ" Costello (ALS class of 72), former Chair of Litigation and Firm member for nearly 50 years, prevailed in the Court of Appeals in *Rapp v. Carey*, 44 N.Y.2d 157 (1978) when he was an associate. This case defined the limits of Executive power and from this case the New York State Organization of Management/Confidential Employees was formed, a client that the Firm still represents. In 1987 the Court decided *Boreali v. Axelrod*, 71 NY2d 1, setting limits on agency action that are still cited over 30 years later. In 1996, *Blue Cross v. McCall* 89 N.Y.2d 160 (1996) restricted the Comptroller's Authority. Finally, in 2018 Dave Luntz (ALS Class of 88)



successfully represented several health care providers in challenging executive compensation limitations imposed by Executive Order ("E.O. 38") (*LeadingAge N.Y., Inc. v. Shah*, 32 NY3d 249). These cases continue to be leading precedents today. Leadership passed from J. Vanderbilt Straub to John Lynch, who became President and Managing Partner in 1976. Lynch introduced many innovations during his more than 30 years as President, including a pension and profit-sharing plan that exceeds the industry standard and reflects the value the Firm has always placed on its employees. Upon Lynch's retirement in 2007, leadership passed to a committee of shareholders who elected Sean Doolan (ALS class of 87) as President. Doolan began at the Firm while a student at Siena College and never left, like so many long-term staff and lawyers. The Firm's leadership has also diversified with half of the current shareholders being female.

AINSWORTH SULLIVAN TRACY AND KNAUF (1908)

When Elisabeth Dumas (ALS Class of 1981) and Margaret Comard Lynch (ALS Class of 1982, partners at Ainsworth Sullivan, were first hired at the firm fresh out of Albany Law School, there were so few women doing litigation in Albany firms that their presence initially created confusion at depositions. “The other lawyers handed me their cards because they assumed I was the stenographer,” Lynch recalled. “The biggest concern the other lawyers had when I started was how I would get along with my secretary, since we were both women.” Dumas and that secretary, Peggy Jubic, now a certified paralegal, remained a strong team since the first day Dumas was hired in 1981. By the time Dumas and Lynch broke the gender barrier, the firm had been around for more than 70 years.



**Charles B. Sullivan
&
Danforth E. Sullivan**

The firm was established in 1908 when **Danforth E. Ainsworth** and **Charles B. Sullivan** joined forces and established their practice at 75 state street in downtown Albany. Ainsworth was born on November 29, 1848, in Clayton, Jefferson County, NY. After graduating from Union College, he read law with Henry L. Howe in Oswego. In 1885 he was elected to the New York State Assembly from Oswego where he served for many years and, as chairman of the Ways and Means Committee in the New York State Assembly, he was instrumental in obtaining funding for the completion of the New York State Capitol and a strong advocate for deepening the Hudson River navigation channel. He also served as president of the Albany Board of Education and was a deputy Attorney General. Ainsworth died on October 26, 1927, at age 78 and is buried in Woodlawn Cemetery, Sandy Creek, Oswego, NY, Plot N1. He is buried next to his wife, Annie Pamela Porter Ainsworth who died six months earlier, on April 14, 1927, at age 77. The Ainsworths married in 1874 in Waterloo, Iowa.

In 1923 the firm was known as Ainsworth Sullivan Wheat and Archibald. Sullivan was a much younger man, an attorney whose legal skills complemented Ainsworth’s political savvy. “Charlie Sullivan used to say that nothing succeeds like success, and we got a lot of work because we were good,” recalled **Robert Ruslander** (ALS Class of 1957), president of his class at Albany Law, who joined Ainsworth Sullivan in 1959. Ruslander died in September 2019 at age 91. When Ruslander started at the firm, Sullivan had lost his sight and yet still came into the office every day and practiced law with visual aid devices. “I had the office next to Charlie and he used me as a sounding board and was a grand gentleman,” Ruslander said. Sullivan was born on a farm in Livonia, NY on August 13, 1881. He graduated from Hamilton College in 1905 and Albany Law School in 1907. He married Gloria Randall in 1910 and they resided at 74 South Allen Street in Albany. Sullivan died on April 7, 1975, at age 93. He is buried in Albany Rural Cemetery, Sec. 104, Plot 80.

As with many of Albany's storied law firms, the partners of AST&K had a strong association with the military. **Thomas F. Tracy** and **John E. Knauf** both joined the firm after service in World War II and went on to become named partners. Tracy was wounded in the D-Day invasion and was the recipient of the Silver Star and Purple Heart. Tracy was a graduate of Cathedral Academy and was named an All-Albany football player. He graduated from St. Michael's College in Vermont and Albany Law School. Tracy retired in 1990 and died on June 30, 1994, at age 80. He is buried in St. Agnes Cemetery in Menands. Knauf was drafted and served as a private during WW II and mustered out as a Lieutenant. He was a graduate of Albany Academy, Union University and Albany Law School (1939). He died on February 7, 1996, at age 81. **Frank J. Warner Jr.** served in the Army Air Corps in the Pacific Theatre where Bruce Sullivan was also serving in the Navy. Bob Ruslander was an MP during the Korean War and was later stationed in Germany. The firm, now disbanded, included former Presiding Justice Anthony V. Cardona of the New York State Appellate Division, Third department; and New York State Supreme Court Justice Joseph C. Teresi. While at AST&K, Teresi served for twenty years as an assistant Public Defender and Cardona served for many years as a Law Guardian in Family Court.

THUILLEZ FORD GOLD BUTLER & YOUNG (1908)

Roland Ford (ALS Class of 1907) almost did not make it to Albany Law School and his family's four-generation connection to the institution almost never came to be. Ford had to work hard to convince an overly protective mother that he would be fine if he left behind his job as a school teacher in the tiny farming community of Little Falls in the Mohawk River Valley near Utica to venture to the metropolis of Albany to attend law school. Generations of Albany Law graduates are thankful that he managed to prevail over his mother's objections as Ford went on to found Thuillez Ford Gold Butler & Young, one of the longest-tenured firms in Albany, and he earned a reputation as a giant in the law school's annals of memorable professors. Ford taught torts and evidence from 1921 through the late 1950s and remained on Albany Law's faculty until his death in 1970. he also authored the four-volume treatise, *Ford on Evidence*, the definitive text in the field between 1935 and 1960 and



Roland Ford '07



Young attorneys, Harold Hinman (left) and Roland Ford (right) prepare cases in their lower State Street office

often cited by New York's courts. Ford also coauthored with Dean Andrew Clements the standard New York jury charges before the creation of the Committee on Pattern Jury instructions. Shortly after graduating from Albany Law School, he entered a partnership with attorney Harold Hinman. Their small firm focused on commercial and real estate law, and they rented office space on lower State Street in downtown Albany. Along with their

law books, they found two items indispensable to their practice: a wood-burning stove to heat the space in winter and a canoe, which they paddled to and from their office during perennial spring flooding of the Hudson River. After the Great Sacandaga reservoir was built in 1928, ending springtime inundations of downtown, the canoe was packed away. Hinman left the firm in 1919 when he was elected on the republican line as a State Supreme Court Justice. He served on the Appellate Division until 1932, when he returned to private practice and formed the firm of Hinman Straub.

Thomas Ford (ALS Class of 1947) joined his father's firm and managed to overcome the loss of sight in one eye. Despite his disability, he had convinced the army to allow him to enlist and served in World War II. After the war, he joined a large law school class of veterans who studied on a 12-month schedule. He treasured a get-well letter written by legal legend Benjamin Cardozo after Ford's blinding injury in the 1930s when Cardozo served on the U.S. Supreme Court. The great jurist wrote that with hard work Thomas Ford might one day become a great lawyer like Ford's father. The young man fulfilled Cardozo's prediction by becoming a co-editor of *Ford on Evidence*, teaching trial practice at Albany Law School and befriending Neil Hesson Jr. '37, brother of Albany Law School dean Samuel Hesson. Neil Hesson joined the firm and tried cases from the 1940s through the 1970s, when it was known as Hesson, Ford.

Dale Thuillez '72, a member of the Albany Law School Board of Trustees, left behind his studies in physics at Rensselaer Polytechnic institute and changed his career path by enrolling at Albany Law School in 1969. Upon graduation, he joined a firm the Ford family had shaped and soon developed his own strong practice in litigation, particularly insurance defense work, as well as personal injury and product liability cases. Thuillez had a central role in the successful three-year litigation on behalf of New York State against large tobacco corporations that ended in 2001 and resulted in a large financial award for the State, while also being credited with helping to save as many as 90,000 lives annually from the ill effects of tobacco smoke. Upon graduating from Albany Law, Donald P. Ford Jr. (ALS Class of 1976) joined the firm his grandfather founded and focused his work on insurance defense, medical malpractice insurance coverage and personal injury litigation. It's worth noting that he met his future wife, Mary Frances Ford (ALS Class of 1976), while attending Albany Law School. Their daughter, Daisy Ford (ALS Class of 2006), co-valedictorian of her class, followed in her parent's footsteps. She served as a law clerk for Judge Susan Reid of the New York State Court of appeals.

"They're a brilliant family of lawyers for four generations now," Thuillez said of the firm. "We've purposely remained a small firm, with seven lawyers currently." Thuillez called the firm's late partner, **Barry A. Gold** (ALS Class of 1971), who died in 2002, "one of the most beloved attorneys I've ever known. I'm continually reminded of how well-known he was and how deeply people cared about him." Gold's memory lives on at his alma mater. His wife, Sherry Gold, contributed \$1 million in 2006 to establish the Health Law Clinical Program endowment fund in the law Clinic & Justice Center. The funds support representation of low-income clients with cancer or other chronic medical conditions and provides training on legal rights for clients, advocates, health care staff, physicians and law and medical students. Their son, Benjamin Gold (ALS Class of 2006), works for the Legal Aid Society in New York City. Thuillez Ford disbanded in late 2019.

SCHEIBERLING ROGAN AND MANEY (1912)

Scheiberling, Rogan & Maney, is the oldest law firm in Albany County operating under its original name and that can trace a continuous blood-line from its founder to today's principals. In its current iteration, it was formed in 1958 by attorneys Edward N. Scheiberling, Edward G. Rogan, and Stephen A. Maney. However, its creation can be traced back September 12, 1912, when Edward Scheiberling hung out his shingle at 95 State Street, known as the Knickerbocker Building. Madeleine Maney Kennedy one of the firm's partners today, still has her great-Uncle's shingle. After a stint as a solo practitioner, Scheiberling formed a partnership with his cousin John M. Schneider who was raised in the South end on Teunis Street. The 1922 City Directory lists Scheiberling, Rogan and Schneider having offices at 95 State Street.

Edward N. Scheiberling could lay claim to being the most famous lawyer born and bred in Albany County. In his heyday, as National Commander of the American Legion, he was an advisor to presidents, cabinet secretaries, senators, congressman and governors. On July 18, 1945, he had a private audience with Pope Pius XII. He advanced the interests of Veterans to a greater extent than almost any other person of his era. Scheiberling was born on December 2, 1888, in Albany. He lived with his family on Jefferson Street, in an area now occupied by the Empire State Plaza, and not far from his lifelong friend and future partner Edward Rogan. He graduated from Albany Law School in 1912 where he was the president of his class. That year's student body included a student named Robert H. Jackson who would go on to become a Justice of the United States Supreme Court and who would remain a lifelong friend of Scheiberling. After engaging in the solo practice of law for a time, Scheiberling formed a partnership with his cousin, John M. Schneider in 1934. John's daughter, Jane Schneider (ALS '71) served as an assistant Attorney General.



Scheiberling with Presidents Roosevelt and Truman, Gen. Eisenhower and Gov. Dewey

In 1923, Scheiberling was elected to the Albany City Court and served until 1929. In 1935, he served as President of the Albany County Bar Association. During WW I, Scheiberling served in the 312th Infantry Division which was made up largely of volunteers from the Capital District. He saw action in the Meuse-Argonne offensives. He was honorably discharged from the Army on June 2, 1919, with the rank of Captain. In 1944 and 1945, during the height of WW II, Scheiberling served as National Commander of the American Legion. This was at a time when over sixteen million Americans had served in the armed forces of the United States. *The Times Union* reported that upon his return from the National Convention that elected him, his train was greeted by 20,000

people. He was now the leader of what the paper described as “one of the most powerful organizations in the world.” Scheiberling was a strong advocate of military preparedness. Speaking at a Navy Day ceremony in Albany he recalled how the allied nations demilitarized after WW I and were then unprepared for WW II. *“If eternal vigilance is the price of freedom, then preparedness is the price of security,”* Scheiberling told the audience as reported by the New York Times. Scheiberling was also a fierce advocate for veterans regardless of their backgrounds. In January 1946, in the face of the rabid anti-Japanese feeling in America, as National Commander he ordered the Hood, Oregon Legion Post to restore the names of fifteen Japanese-American servicemen who had been removed from the rolls. He also supported an international peace-keeping force and urged veterans to sit at the peace-making tables to avoid the broken promises of the past. He also pressed for jobs and benefits for returning servicemen. Scheiberling organized the first American Legion Post in Albany in 1919 and later served as State Legion Commander in 1935.

There is no story more fascinating than that of Scheiberling and Parker F. Dunn. Dunn is one of three Albany residents to have won the Congressional Medal of honor; the other two being Henry Johnson in WW I and Peter Dalessandro in WW II. Dunn was born in North Albany in 1890 and lived with his aunt and uncle, Mary and George Mimney at 111 South Hawk Street from age 18 months because he was effectively an orphan. His mother was dead, and his father, an Albany Police Officer, felt he could not care for an infant. When WW I broke out, Dunn tried to enlist three times but was turned down because of his eyesight. He was finally drafted in 1916 at age 26. In France he served under Captain Edward Scheiberling as a PFC. He was killed on October 23, 1918, attempting to deliver a message of critical importance through the Argonne Forrest. He would win the Congressional Medal of Honor for the bravery shown in trying to carry out his orders. 26,000 Americans died during this offensive and 96,000 were wounded. The Dunn Memorial Bridge crossing the Hudson River is named after him. Before he died (three weeks before the War ended) Dunn gave a nuncupative (oral) will to Scheiberling. After the war was over, Dunn’s will was admitted to probate upon the testimony given by Scheiberling to his future law partner, Surrogate Judge Edward G. Rogan. After several years, Dunn’s Medal of Honor came into the possession of the Law Firm who deposited it with the Albany Institute of History and Art. Scheiberling died on September 10, 1967, at age 79. At the time of his death, he lived at 117 Euclid Avenue. He is buried in Our Lady Help of Christians Cemetery in Glenmont, NY.

Edward G. Rogan was born June 16, 1896, in New York City. He graduated from Christian Brothers Academy and then Albany Law School in 1918. He was appointed to the position of Police Court Judge in 1929 by Mayor John Boyd Thacher and served until 1933. In 1933 he was appointed Surrogate Judge by Governor Herbert F. Lehman to succeed Judge Gilbert V. Schenck when Schenck was elected to the Supreme Court. Rogan, who was elected three times after his appointment, holds the distinction of being the longest serving Surrogate in the County’s history (1933-1957) a position that dates to 1691.



An interesting piece of family lore is told by past Albany County Bar Association President Mandy Maney, Rogan’s granddaughter on her mother’s side. Sometime in 1931, Judge Rogan and his wife Margaret were dining one evening at the Kenmore Hotel’s Rainbow Room with

Margaret's sisters Anna Shafer and Ida Shafer Pauly. Ida was the mother of CBA graduate General John William Pauly who became the commander of all allied air forces in Europe in the 1950's. During the Korean war he flew 55-night combat missions over North Korea. After the dinner, the ladies repaired to women's room which was off the upper balcony that circled the dining area and dance floor of the Rainbow Room. Judge Rogan went to retrieve their coats. When the women exited the rest room, they gazed down to see Legs Diamond showing off his gun to the future Judge Rogan. Diamond would not have a chance to defend himself with that gun because he was gunned down as he slept in his boarding house room at 67 Dove Street in the early morning hours of December 18, 1931, just a few hours after he was acquitted on kidnapping charges by a Rensselaer County Court jury. Rogan would gain some fame in 1939 when he admitted to probate the will of Frederick Greene, the former State Superintendent of Public Works. The will is, perhaps, the shortest on record—19 words "*I, Frederick Stuart Greene, will to my wife, Grace Clapp Greene, the best woman on earth, everything I have.*" Rogan died on January 16, 1961, at age 64 after a long illness. At the time of his death he resided at 10 Croswell Street. He is buried at St. Agnes Cemetery in Menands.

After the deaths of Scheiberling and Rogan, the blood line continued through **Stephen A. Maney**, the youngest partner. Maney was the nephew of Edward N. Scheiberling and the son-in-law of Edward G. Rogan. Joining the firm during the period that it operated under the leadership of Stephen Maney were his daughter **Madeleine Maney Kennedy** (ALS '84 and past President of the Albany County Bar Association) and his nephew **Kevin P. Maney** (ALS '81) who both continue as the managing partners today. Also practicing with the firm for several years were two other nephews of Steve Maney; **John Maney**, (ALS '87) who was an assistant Albany County District



Attorney for several years and **Gerard E. Maney** who was Albany County Family Court Judge from 1992 to 2019.



**County Commander
Steve Maney (left),
1962**

Stephen A. Maney was born in Geneva, Ontario County on July 23, 1927. When he was young his family moved to Albany County where he graduated from Cathedral Academy Elementary School and then Christian Brothers Academy in 1945. He graduated from Siena College in 1949 and Albany Law School in 1952. He was admitted to the Bar in 1953. During WW II Maney served in the U.S. Navy aboard the destroyer *Witek*. When he returned from the war, he was able to join the Edward Scheiberling Post 225 of the American Legion that was named after his uncle who organized the Post in 1919. Maney would later serve as Post Commander. He was Albany County Commander from 1962-1963. Stephen Maney died on August 15, 1993, at age 66. At the time of his death he resided at 178 Terrace Avenue in Albany. He is buried in St. Agnes Cemetery.

D'AGOSTINO, HOBLOCK, FLANNERY & JERAM (1913)

Justice Isadore Bookstein (ALS Class of 1912) started this firm a year after graduating from Albany Law School. Since that time, partners and associates have come and gone, careful never to grow beyond 14 lawyers. "At our largest time, every lawyer was from Albany Law School," noted partner **Harry D'Agostino** (ALS Class of 1955), who joined the firm after law school. **Merton Zubres** joined the firm in 1937. Bookstein's sons, Stanley and Edward came on board as well. Edward became a lecturer in labor law at Albany Law School. Other partners joining the firm included **Kyran Flannery** (ALS Class of 1969), **William Hoblock** (ALS Class of 1960) and **Thomas Jeram** (ALS Class of 1960). Albany Law School's Board of Trustees established a three-year scholarship to entering students in honor of Judge Bookstein, a lecturer at the law school and a former member of the Board of Trustees. He was admitted to the bar in 1912 and formed a partnership with Daniel J. Dugan. He then served as an assistant District Attorney from 1920-1921. He left the District Attorney's office to take an appointment by Governor Nathan Miler at age 30 to fill a vacancy in County Court. However he was defeated in the next election in the Democratic resurgence led by the O'Connell machine. In 1930, at age 39, he was the Republican nominee for Attorney General. The Republican ticket was swamped by Franklin Delano Roosevelt running for governor on the Democratic line, but Bookstein was the leading Republican vote getter. In 1946, he was appointed to the Supreme Court by Governor Dewey to fill a vacancy and was elected that year to a full 14 year term beating former Albany Mayor John Boyd Thacher II as part of a Dewey landslide. The vacancy was created by the death of Albanian Gilbert W. Schenck.



Judge Isadore Bookstein

Bookstein was well known as one of the area's top trial attorneys and was also the Republican Party County Chair. In one of his more famous decisions, a group called "The Free Thinkers" claimed that the phrase "under God" which was inserted into the Pledge of Allegiance by Congress in 1953, violated their free exercise right in the First Amendment. Bookstein denied the claim. In 1947, Bookstein overruled a Corning ordered policy of the School Board that prohibited controversial singer Paul Robeson from performing a concert at an Albany School. Many thought Robeson was a communist. Bookstein ruled that he could sing but not speak. Bookstein reached age 70 in 1956 but served for four more years with certifications. Bookstein married Edith Friedman in 1913 and they had two children. They lived at 863 Myrtle Avenue and his law offices were at 50 State Street. Judge Bookstein died on May 8, 1973, at age 82.

MAYNARD O'CONNOR SMITH & CATALINOTTO (1919)

Another firm with a long presence in Albany and a strong connection to Albany Law School is Maynard, O'Connor, Smith & Catalanotto. The firm was formed in 1919 by **William C. Maynard, Daniel Naylor, Jr.** and **Hubbell Robinson**. Though it has gone through eleven name iterations, it has continued its founding core of Maynard, O'Connor and Smith for almost 100 years. The firm started in Schenectady as Naylor, Robinson and Maynard. **Naylor** was born in Guilderland on January 2, 1860. He graduated from Union College in 1884 and read law with Alonzo P. Strong. Naylor was admitted to the Bar in 1886. He served as Schenectady County District Attorney from 1890-1896 and from 1904 to 1905 he was the City of Schenectady Corporation Counsel. From 1912-1917 he was the Schenectady County Court Judge. Naylor died on November 17, 1939, at age 79. **Hubbell Robinson** was born in Albany on September 14, 1874. He graduated from Union College in 1897 and Albany Law School in 1899 and was admitted to the bar in that year. He died on July 4, 1944, and is buried in Vale Cemetery in Schenectady, NY. **William C. Maynard** was born in Hartford, NY on September 21, 1883. He graduated from Wesleyan University in Middletown, VT. He graduated from Albany Law School and was admitted to the Bar in 1909. The America Bar Association's 1921 Directory of Lawyers lists the firm's clients as General Electric, American Locomotive, and the Union National Bank. As noted, Maynard is the 1919 founding partner. Smith joined the firm in 1928 and O'Connor joined in 1946. For several years, Mae D'Agostino, now a Federal District Court Judge in the Northern District of New York, was a named partner. Their wide-ranging general practice has drawn business and individual clients across upstate and eastern New York for 100 years.



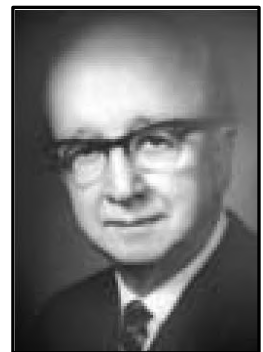
Daniel
Naylor, Jr.

CARTER CONBOY CASE BLACKMORE MALONEY & LAIRD (1920)

With nothing more than a handshake, J. Stanley Carter and M. James Conboy (ALS Class of 1919) became partners in 1920 and set up their practice in rented space above Calkins Drug Store on Remsen Street in Cohoes. It was a humble beginning for a firm that grew into one of Albany's largest and became known formally as Carter, Conboy, Case, Blackmore, Maloney & Laird, with 28 lawyers and nearly two dozen active areas of practice. Beginning with the founder, the connection to Albany Law School has remained strong, as twenty of the firm's current attorneys were graduates of that school. Carter didn't attend law school in an era when it was



J. Stanley Carter



James Conboy

not uncommon for a lawyer to apprentice and then to read for the law. It was Carter, a solo practitioner for several years, who represented the United Traction Co. during the trolley company's bitter labor strike that lasted a year in Albany and neighboring cities and his success

with labor and employment litigation laid the foundation for future success. Carter and Conboy opened an Albany office in 1927 and kept their Cohoes office open until 1975, two years after Carter died. They moved to expanded office space in Corporate Woods, a suburban office park, in 1992. The founders' sons, James S. Carter and James M. Conboy, continued to build the practice with a strong reputation for its representation of insurance companies.

"We're known as trial lawyers who are not afraid to litigate," said James M. Conboy, who joined the firm in 1958 and, at 81, continued to visit the law office most days to confer with young attorneys and to read legal periodicals. "It's great to have the continuity that Mr. Conboy provides and it's wonderful to see him share his insight and wisdom with our young lawyers," said Michael J. Murphy (ALS Class of 1982), director, chief operations officer and chairman of the firm's executive committee. "My parents pushed me to go into the law and I'm happy they did," said Conboy. But there will be no third-generation lawyers among the founders' families. Conboy's five children and nine grandchildren have shown no interest in becoming lawyers, nor have Carter's four daughters. "My dad told me that outstanding preparation of the law is paramount," Conboy said. "he also told me to remain calm and never lose your cool in the courtroom. sometimes, though, it's necessary to blow off a little steam at a trial," Conboy said with a sly grin. **James Chilton Blackmore** was born in Buffalo, NY on February 18, 1943, and was raised in Pelham, NY. He graduated from Colgate University in 1965 and Albany Law School in 1968. For the next 50 years he practiced law at Carter Conboy. He died on May 24, 2018, at his home on Nantucket. Carter Conboy dissolved in 2019.

O'CONNELL & ARONOWITZ (1925)

Although they occupied opposite ends of the political spectrum, Albany Law School Classmates **Edward J. O'Connell** and **Samuel E. Aronowitz** (Both Class of 1914) formed a law firm in 1925. O'Connell & Aronowitz has grown into one of the area's largest, with more than 40 lawyers in Albany, Latham and Saratoga covering a wide range of practice areas. Before joining in practice with Aronowitz, O'Connell struggled for several years on his own and as an associate with Neile F. Towner. Towner represented the municipal gas company and O'Connell's work for that client brought him recognition in local legal circles. However, more fame came as the guardian of the minor heirs of Anthony N. Brady in a will contest in Surrogate's Court. Brady was the owner of the Municipal Gaslight Company and when he died he was one of the 100 wealthiest people in America.

Aronowitz was an influential member of the Republican Party and a veteran of World War I. He served as State Commander of the American Legion. His early legal efforts were as an advocate for veterans with disabilities. He also led the Jewish Community Council and was described by one observer as "the leading Jewish figure in Albany." One can measure the legal ability of Sam Aronowitz by considering that the *Albany Times Union* was engaged in a decades long battle with the O'Connell machine. Yet, the *Times Union* chose Aronowitz to be its attorney-



*Samuel E. Aronowitz
(Mr. Sam) in the firm's office at
100 State Street, circa 1925*

--disregarding that he was the partner of one of the founders of that machine. Ed O'Connell was a staunch Democrat who served as County Attorney and Chairman of the Albany County Democratic Committee. At that time, in the 1930's, the Democratic Party in Albany County was run by the triumvirate of Ed O'Connell, his older brother Dan and Erastus Corning's father, Edwin Corning. Edwin Corning died in 1934 at age 50. Ed O'Connell died of a heart attack on June 6, 1939 at his residence at 107 Manning Boulevard. He was 51. At the time of his death, he had been the Albany County Democratic Chairman since 1920. As some measure of the political machine that he ran with his brother Dan, and Edwin Corning, Albany County, in the November 1938 election, ran up a 20,000 vote plurality for Governor Herbert Lehman. Albany was the only upstate county that Lehman carried. When Ed O'Connell died, the Times Union described his funeral as being the largest Albany had ever seen. O'Connell is buried in Cavalry Cemetery, Glenmont, NY, Sec 10, Lot 96.



The Triumvirate		
Erastus Corning	Ed O'Connell	Dan O'Connell

It might seem like an unusual combination because of their politics, but they got along famously and were very close," said senior partner Cornelius D. Murray, who is known as Neil and who joined the firm in 1970 as its ninth attorney. He recalled that when he was an eager young associate who came into the office at 8 o'clock on Saturday morning, Aronowitz would already be there. "He always wore a three-piece suit, and he was an old-school attorney," Murray said, "He liked to reminisce and he told me a story about Franklin Delano Roosevelt, when he was governor, coming to the office." Samuel Ettelson Aronowitz, who was affectionately known as Mr. Sam at the firm, died on September 20, 1973, in a car crash. He was 83. He is buried in Beth Emeth Cemetery, Loudonville, NY. The New York Times article describing his death noted that he was a founder of WPTR radio station and the Albany Inter-Racial Council as well as being a former president of the State College of Teachers in Albany. Sam Aronowitz's legal career spanned sixty years. When he started, brass spittoons were placed beside the desks in the firm's law library and its all-male roster of attorneys practiced in double breasted three-piece suits, with time kept on gold pocket watches. When he finished, the law was on the dawn of the computer revolution.

O'Connell and Aronowitz provided the proving ground for several lawyers who went on to have distinguished careers on the bench. **Gilbert Schenck** was a close friend of Ed O'Connell and was his teammate on the Union College football team. Schenck, a decorated World War I veteran, would serve as Albany Corporation Counsel and then on the Appellate Division-Third Department of State Supreme Court. His son **Martin Schenck** would follow in his father's footsteps to O'Connell & Aronowitz and then to the bench as County Court Judge. O'Connell and Aronowitz also became home to two of the areas most outstanding trial attorneys, Stephen R. Coffee and Michael P. McDermott (See Trials Section).

WHITEMAN OSTERMAN & HANNA (1975)



John Hanna, Michael Whiteman, Melvin Osterman and Joel Hodes, c. 1998.

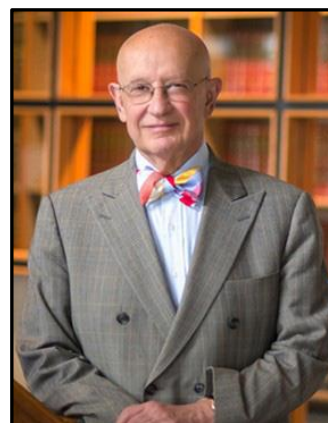
Whiteman Osterman and Hanna is a relative newcomer in the pantheon of Albany law firms at just 45 years of age. But its creation by three lawyers who graduated from Harvard, Columbia and Cornell and who started out in private practice in Boston and New York City, is one of the most interesting stories. *WOH* is the Albany area's largest law firm by a wide margin with eighty attorneys and sixty-seven office staff covering twenty-eight practice areas. Currently, twenty-six of its attorneys are Albany Law School grads as are twelve of its thirty-six partners. However, the firm was not so well established at its beginning. The founding partners recalled their fears at the prospect of leaving good positions with state government under the administrations of Governors Nelson Rockefeller and Malcolm Wilson (1959-1974) and going out on their own in 1975. "We had no business at all when we started," said John Hanna who was Deputy Commissioner and General Counsel at the Department of Environmental Conservation at the time. "I stayed on the job with the State for six months after we had the handshakes to go into private practice because I had three kids and a mortgage, and the prospect of no income was terrifying. "I remember sitting on an orange crate at a card table when we started," recalled Michael Whiteman who had been counsel to Governor Rockefeller and Governor Wilson and was 37 when the firm started. Hanna and the late Melvin H. Osterman, who had no experience running a business, were told they should get a \$100,000 line of credit from a bank so they could pay their employees in a timely manner. At their meeting with the banking executive, Hanna said they wanted \$200,000. "Why'd you ask for \$200,000," a startled Whiteman asked his partner in the elevator after the meeting with the banker. "I said I was starting to get cold feet about the whole thing and want to be able to draw a paycheck if I needed it," Hanna said.

Many do not know this, but there is a fourth founding partner who started six months prior to John Hanna. Joel Hodes was present at the creation of the firm and started its health care practice. Why isn't his name on the masthead? As he explained to *The Business Review* in 2011,

they were attempting to create a New York City type law firm and that required a branded masthead that did not change with the times. Hodes, age 27 when the firm was formed, was ten years younger than the other founders and they settled on their brand name, *Whiteman Osterman & Hanna*, and they stuck with it. “In New York City, once the brand is established, it remains. It’s not like firms here that will add and subtract names all the time,” Hodes said to the *Business Review*. Part of the success of the firm is the product of their business model; a democratic atmosphere that is encouraged by a five-member executive committee and a low partner to associate ratio. Currently, 12 of 36 partners graduated from Albany Law School and 26 of the firm’s 75 attorneys are Albany Law School Grads.

Another catalyst for *WOH*’s success has been the firm’s commitment to the families of their partners, associates and staff. This commitment had its origins in the firm’s formation. In 1974, the Rockefeller-Wilson Administration was on its way out and the four founders were about to become unemployed. With no clients, starting a law firm was a roll of the dice. “We met at L’Auberge for three hours and couldn’t decide where to base the firm, but Mel said if we stayed in Albany nobody had to move their families. That’s why we’re here,” Hanna told the *Times Union* in 2005. The firm designed its policies to recognize that successful and productive attorneys perform at the highest levels when they know that their work will not adversely affect their families. The *Women’s Forum* is one example of this commitment. Created in 1999, it was designed to promote the role of business and professional women in the Capital Region. *WOH* also has a long-standing commitment to public and community service. In 2006 it was recognized for its *pro bono* work on a civil rights case that lasted thirteen years. Partner Michael Whiteman has been recognized by a consortium of Albany Law School, the Albany County Bar Association and the Legal Aid Society for his work in providing equal access to justice. Senior Counsel John Dunne was also widely recognized for his public service.

Michael Whiteman graduated from Harvard College in 1959 and Harvard Law School in 1962. He was admitted to the Bar in 1964. At Whiteman Osterman & Hanna, he serves as the head of the Firm’s Energy and Telecommunications Practice Group. Whiteman regularly represents a variety of clients, including energy and telecommunications companies, before the New York State Public Service Commission and other State regulatory agencies on a wide range of regulatory, rate, siting and government contract and procurement issues. He also has an active practice in corporate organization and transactions and in business, professional and governmental ethics and responsibility. Prior to founding Whiteman Osterman & Hanna, Whiteman served as counsel to Governor Nelson A. Rockefeller and Governor Malcolm Wilson from 1971 to 1974.



A look into the character of Michael Whiteman is provided by Albany County native Joseph E. Persico in his book *The Imperial Rockefeller, a Biography of Nelson A. Rockefeller*. Persico served for eleven years as Rockefeller’s chief speech writer, and he was present at the events he relates. Of all the policies advanced by Nelson Rockefeller, the most disastrous was the “Rockefeller Drug Laws” which provided for life in prison without parole for “pushers,” regardless of drug-weight or the age of the seller. He came up with this idea after he sent William Fine, the CEO of Bonwit Teller, to Japan for a weekend to study why Japan had such low drug crime. Fine came back and reported that Japan put pushers in prison for life. That was all the study that Rockefeller needed.

It came to Whiteman, at age 33, to lead the pushback on this misguided piece of legislation against one of the most powerful persons in America. Unfortunately for Whiteman, Rockefeller was accustomed to confusing disagreement with disloyalty. In a private meeting with Rockefeller, Whiteman told him that if he doubted his loyalty then he would resign. Rockefeller was disarmed by Whiteman's frankness and things were patched-up, but the decision had been made and people like Nelson Rockefeller do not change their minds. In the legislature, the sharpest edges of the bill were shaved down but, by any measure, it remained one of the harshest pieces of penal legislation ever passed in America. Assemblyman Arthur Eve called it a "ghetto genocide bill," which turned out to be only a modest exaggeration as the bill put a generation of young black men in prison for another generation. Twenty-five years later, opposition to the Rockefeller drug law would bring P. David Soares into office as Albany County's first black District Attorney. Had Nelson Rockefeller listened to the wisdom of his young counsel much suffering and many taxpayer dollars could have been saved over those many years.

He has been a resident of downtown Albany with his wife Margery for more than 50 years., Mr. Whiteman is a former chair of the boards of Capital Roots, f/k/a Capital District Community Gardens, Albany Pro Musica, the region's leading choral group, WMHT Educational Telecommunications and the Albany Academy for Girls. He is a former member of the board of the Albany Symphony, the Albany Institute of History and Art and the Historic Albany Foundation. Whiteman also served as an adjunct professor at Albany Law School. Whiteman still works full time at the firm and walks to work each day.

Melvin Osterman was born in Manhattan, the son of a Court of Claims Judge. He graduated from Cornell University in 1955 and Cornell Law School in 1957. After law school, he clerked for Justice Charles D. Breitel, later the Chief Judge of New York, before going into private practice in New York City as an associate at White & Case. His own specialties were labor and employment law, education law and municipal bonds. As a young labor lawyer, Osterman joined Gov. Nelson A. Rockefeller's legal staff in 1962. After three years as an assistant counsel in the governor's office, he became counsel to the Governor's Committee on Employee Relations, known as the Taylor Committee after its chairman, George W. Taylor. The committee drafted the 1967 law, popularly known as the *Taylor Law*, which gave public employees collective bargaining rights. He then organized the Governor's Office of Employee Relations and was its Director from 1968 to 1972. In that period, the state's employees were assigned bargaining units that negotiated the first collective agreements with the state government. After leaving government service, Osterman was an instructor at the Cornell University School of Industrial and Labor Relations, the Empire State College and the Graduate School of Public Affairs of the University at Albany. He was the chair of Whiteman Osterman & Hanna's Labor and Employment Group, editor of *Public Sector Labor & Employment Law Book*, and author of the Labor Law Chapter of the *New York Lawyers Desk Book*, both published by the New York State Bar Association. He was a member of the Executive Committee of the New York State Bar Association's Labor and Employment Section and co-chair of its Public Sector Book Committee. Osterman was a member of the American, New York State, Albany and Saratoga County Bar Associations and the Association of the Bar of the City of New York. He was a member of the Executive Committee of the Labor and Employment Law Section of the State Bar and served as chair of several of its committees. He was admitted to the Bars of the Supreme Court



of the United States, New York State, the Second Circuit Court of Appeals and the U.S. District Court for the Eastern, Southern, and Northern Districts of New York. An avid gardener, Melvin Osterman died tragically at his home on August 14, 2005, at age 70 when he was repeatedly stung by an insect as he watered his garden.

John Hanna, Jr. was born in New York City in 1934 graduated from Princeton in 1956 and Harvard Law School in 1959. After graduation, he practiced law in New York City and Boston before coming to Albany to work in state government. He practiced environmental and commercial law as an advisor and advocate. He also served as an international and domestic arbitrator and mediator. Mr. Hanna is a former Assistant U.S. Attorney (SDNY); former Deputy Commissioner and General Counsel of the New York State Department of Environmental Conservation; and former Counsel to the Office of Employee Relations in the New York State Governor's Office. He was active in the New York State Bar Association, where he held numerous positions in the International and Environmental Sections. He taught international environmental law in the L.L.M. program at John Marshall Law School (Chicago), and was a member of the World Trade Council, Advisory Council. He was also an Advisory Council member of The Institute For Transnational Arbitration (Dallas), a Member of the Distinguished Panel of Neutrals, New York Chapter, The Institute of Dispute Prevention & Resolution, a Member of the London Court of International Arbitration, Federal Arbitration, Inc., and served on the Town of Chatham Planning Board. Additionally, Hanna was a former Trustee of the Olanna Partnership and former Chair of the New York State Archives Partnership Trust. If you asked John Hanna what his greatest accomplishment was no doubt he would say his family, consisting of his wife Jane, three children, their spouses, and their nine grandchildren. This family cohered around Wendover, the old farmstead in Old Chatham where John and moved in 1972 and began over 40 years of restoration work. John Hanna died on December 25, 2019.



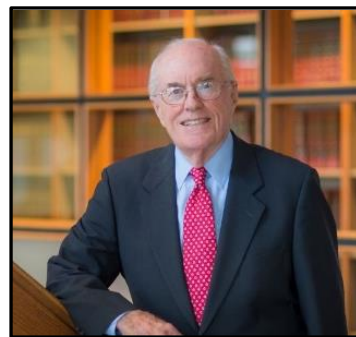
Joel Hodes graduated from Cornell University in 1968 and Columbia Law School in 1971. He was the senior member of the firm's Health Care Practice Group. He was engaged in private practice with a prominent New York City firm until 1972 when he was appointed Assistant Director of Employee Relations of the State of New York. He served in that position until 1975, when he joined in the formation of Whiteman Osterman & Hanna. Hodes founded the firm's Health Care Practice Group in 1978 and retired from the firm in 2018. He is a member of the Association of the Bar of the City of New York and served on its Committee on State Legislation from 1983 to 1986; the New York State Bar Association, serving currently on its Committees on Health Care Systems Design, E-Health and Information Systems and Health Care Providers, and previously as a member of the Executive Committee of NYSBA's Labor Law Section; the American Bar Association and its Health Law Section; the American Academy of Hospital Attorneys; the American Society of Law, Medicine and Ethics; the American Health Lawyers Association; the Federal Bar Council, of which he served as a Trustee from 1994 to 1998; and the Medical Group Management Association. Hodes has also served as a Trustee and Vice-chair of the Board of Trustees of The



Sage Colleges, as a trustee and President of Capital Repertory Theatre, and the Historic Albany Foundation. Hodes retired from the firm in 2018 to continue the practice of health law as the sole principal of his firm, The Hodes Law Firm PLLC.

WOH has been and continues to be home to some of the most distinguished members of the Capital District Bar, none more so than John R. Dunne, Howard A. Levine and Bernard J. “Bud” Malone.

John Dunne, a graduate of Georgetown University and Yale Law School, served in the New York State Senate from 1966 to 1989 and from 1990-1993 he was the U.S. Assistant Attorney General for Civil Rights where he was at the forefront of advancing voting rights in America. He is a Gold Medal Award winner from the New York State Bar Association, its highest award. While serving in the Senate, he was the chair of the Senate Corrections Committee and was involved in the negotiations to end the famous Attica Prison uprising in 1971. At the height of the riots, at the request of the prisoners, Dunne entered the prison with Tom Wicker of the New York Times and Assemblyman Arthur Eve. The prisoners trusted Dunne for his independence and specifically asked for him to be a negotiator. Governor Nelson would ignore the advice of Dunne and ordered the State Police to retake the prison by force. That disastrous decision resulted in the deaths of ten correctional officers and civilian employees and 33 inmates. Only one officer death was attributed to the inmates. It stands as the deadliest prison riot in U.S. history. The State would eventually settle law suits with family members of the dead inmates for \$12 million and \$12 million was also paid to the families of the slain prison inmates. This would be the second time that Nelson Rockefeller would ignore the advice of a lawyer would work for Whiteman Ostermann and Hanna. Near that time, Rockefeller ignored the warnings of Michael Whiteman about the disastrous consequences that could flow from the “Rockefeller Drug Laws.” Both Dunne and Whiteman turned out to be right and Rockefeller was wrong. Dunne truly fit into the category of vanishing breed. He was a legislator whose word was his bond, a lawyer whose integrity was never questioned, and a person beloved by all who knew him. Dunne died on November 1, 2020, at age 90.



Howard A. Levine, a graduate of Yale University and Yale Law School, has a resumé that is an ascending ladder of dedication to public service and the law. In sequence he was the Schenectady County District Attorney, Schenectady County Family Court Judge, Schenectady County Supreme Court Justice, Justice of the Appellate Division-Third Department and Associate Judge of the New York Court of Appeals. After his retirement from the Court of Appeals in 2003, Judge Levine was named the Robert H. Jackson Distinguished Professor of Law at Albany Law School.



Bernard J. “Bud” Malone, a native of Glens Falls, graduated from Niagara University and Albany Law School (’72). He served in the Army from 1965-1969 and is a decorated Vietnam war veteran. He served as an assistant Albany County District Attorney and for fifteen years as an assistant United States Attorney for the Northern District of New York where he was recognized for handling the most complex civil and criminal cases in the district, including a five-month death penalty case. After leaving the U.S. Attorney’s office, Malone was elected to the New York State Supreme Court where he served for fourteen years.



For seven of those years he served on the Appellate Division in both the First and Third Departments. As some measure of Justice Malone’s judicial impartiality, he was appointed by a Republican Governor to fill a vacancy in Supreme Court and by a Democratic Governor to fill a position on the Appellate Division.



Whiteman Osterman & Hanna Executive Committee, 2020
John Henry, Kevin Quinn, Terresa Bakner, Robert Schofield and Norma Meacham

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X. RESOURCES

Locating sources for a project such as this can at first be daunting and then overwhelming. Where to start? When you consider that Henry Hudson anchored the Half Moon off what would eventually be the foot of State Street and Broadway in Albany in 1609, you realize that painting a picture of the legal history of Albany County will require a large canvas. To get started, it is helpful to have general histories of the city and county that cover your topic and Albany is fortunate to be treated in several works over the last two hundred years. It is also helpful that Albany has City Directories and Newspapers going back to 1810. This gets you started and from there it is a matter of following the crumbs. One fact or reference leads you to the next which, most likely, will bring you back around to where you started and then you are off in another direction.

Most of the sources used are set forth in the bibliography and will not be repeated here. Below are listed the resources that led to or provided those sources for this project. The lengthy web site addresses are not included here because they are all easily found with a simple Google search and then a click on relevant links. Listed below were the organizations and resources I found most useful.

Albany County Hall of Records, 95 Tivoli Street, Albany, NY 12207, 518-436-3663. The Albany County Hall of Records is the official repository of the historical records filed with the Albany County Clerk and is a joint operation with the City of Albany. The Hall of Records web site itemizes its extensive holdings. It includes court records, census records back to 1790, cemetery records, jailers' blotters and booking ledgers, maps and surveys and numerous other records.

Albany County History Collaborative. The Albany County History Collaborative is a coalition of the eleven chartered Albany County Historical Societies. The coalition includes The Albany County Historical Association, Bethlehem Historical Association, Berne Historical Society, Clarksville Historical Society, Historical Society of the Town of Colonie, Guilderland Historical Society, Know Historical Society, New Scotland Historical Association, Ravena-Coeymans Historical Society, Spindle City Historic Society, and the Watervliet Historical Society.

The Albany County Historical Society's administrative offices are in the famous King's Place on the corner of North Swan Street and Livingston Avenue (formerly Lumber Street). Their collections are in the **Ten Broeck Mansion** (built in 1798) on the corner of Livingston Avenue and Ten Broeck Street. Ten Broeck Street runs North and South from Clinton Avenue to Livingston Avenue and the East side is populated with the row house mansions built by the lumber barons whose fortunes were made just a few hundred yards away, where the Erie Canal entered the Hudson River.

Two other colonial Albany mansions of historical significance also sit on the ridge that runs North and South and overlook the Hudson River. The **Schuyler Mansion** was the home of General Phillip Schuyler who was the head of the Northern Department of the Continental Army during the Revolutionary War. General "Gentleman Johnny" Burgoyne, the British commander was on house arrest at the mansion after being defeated at Saratoga. Alexander Hamilton married Schuyler's daughter in the mansion living room.

The **Cherry Hill** mansion sits to the south of the Schuyler mansion at Pearl Street and Fourth Avenue. It was built in 1787 for Philip and Maria Van Rensselaer. Its extensive collections contain over 70,000 items of art, furnishings, books, documents, clothing, and photographs.

Albany County NYGenWeb. This site contains many links to historical resources covering the genealogy and history of Albany County. It also contains contact information for all county, city, town, and village historians in Albany County.

Albany Institute of History and Art, 125 Washington Avenue, Albany, New York, 518-463-4478. While the Albany Institute is famous for its collection of the Hudson River School of landscape paintings and its mummy, it also houses a large collection of colonial era portraits and historical objects that document the history of the upper Hudson valley region. The museum's collections also include over 85,000 photographs, 300 maps and thousands of manuscripts.

Albany Public Library, 161 Washington Avenue, Albany, NY, 12210, 518-427-4300. The Albany Public Library has specific resources that are invaluable to historical research of the Capital District. First, there is the "Local History Room" which is dedicated to the history of the area and is the repository of the Pruyn Collection and many historical references that can be found nowhere else. For example, the collection includes Albany City Directories from 1810 to the present and proceedings of the Albany Common Council dating back to 1866. There is also a clipping files collection from the local newspapers, which is indexed, dating back to the 19th century. Though not indexed, the Library possesses a microfilm collection of fifteen Albany Newspapers dating back to 1813.

Albany Rural Cemetery, Cemetery Avenue, Albany, NY 12204, 518-463-7017. Albany Rural Cemetery's 467 acres are the resting ground of those who made Albany History. Founded in 1841 as part of the great rural cemetery movement in the United States, Albany Rural provided a pastoral setting for weekend getaways at a time before the great city parks were not yet developed. It is the final resting place of over 135,000 people including most of Albany County's historically significant persons. Albany historian Paul Grondahl has called it "an epic city of the dead." Its website, albanyruralcemetery.org provides a searchable database to discover the background of Albany County's most historic personages.

Center for Applied Historical Research, University at Albany. This website, contains a link to several sources relating to Albany County History, including the following:

Albany Public Library holdings include both the history of the city and genealogical information.

The Berne Public Library local history collection contains monographs on the history of the area, the Town of Berne and Albany and Schenectady Counties. The archives include cemetery records, family histories and genealogies of local families.

The Berne Historical Project was recently awarded a 2004 Certificate of Commendation from the Upstate History Alliance for its community history website.

The Bethlehem Public Library emphasizes the history of the town of Bethlehem and Albany County. The collections of both local history and genealogy are quite comprehensive. City Directories for area communities are also located in the collection.

The Cohoes Public Library Local History Collection includes manuscripts and holdings of historical materials pertaining to Cohoes and the surrounding area including Troy.

The Guilderland Public Library possesses materials on the history and genealogy of Guilderland, Albany County, and Schenectady County. The newspapers include the Altamont Enterprise, the Turnpike Record, and the Helderberg Sun.

The Voorheesville Public Library's local history collection includes materials relating to the history of Voorheesville, the town of New Scotland and Albany County.

The Watervliet Public Library contains materials on Watervliet, Troy and Albany County. The focus of the collection is the city of Watervliet and includes city directories and town histories.

The Westerlo Public Library's local history collection contains information on the villages of Westerlo, South Westerlo, Greenville and the surrounding areas.

The William K. Sanford Library contains materials about the Town of Colonie, villages within the town and Albany County.

Colonial Albany Social History Project. This site is maintained by community historian, Stefan Bielinski. It contains a significant list of original source material for Albany County History, most available in digital format.

eBay: If one enters a name and “press photo” into eBay’s search box it will result in hundreds of photos that have been secured from the archives of the *Knickerbocker News* and the *Times Union* newspapers. Most of these photographs can be purchased for \$10 to \$20. All photos come with the identities of the person depicted and the date that the photo was taken.

Find-a-Grave: Find-a-Grave has a searchable database of what it describes as the world’s largest gravesite collection. A successful search will result in the date of birth, date of death and burial location of the searched person along with ancestors and descendants. It will also usually include a photograph of the deceased and the deceased’s gravesite.

The Friends of Albany History. The Friends of Albany History is a group of local bloggers who tell the stories of Albany, NY from the first Dutchman until today. Many of their blog posts appear on Facebook in [Friends of Albany History](#). AlbanyGroup Archive is their photo archive on Flickr. There are over 24,000 digital images and more are added all the time. The images are keyword searchable and arranged in Albums by subject (libraries, steamships, City Hall), decade (you can search the 1880s or the 1960s) and neighborhoods (search Pine Hills or Arbor Hill). Their Facebook Group is, Albany the Way It Was.

FultonHistory.com. The master of this web page is Tom Tryniski. He is the retired director of the IT Department at Davis-Standard paper Plant in Fulton, NY. Since 1999, he has digitized over 50 million pages of historic newspapers and other material dating back to the early 1800's. For an interesting profile of Tryniski, Google "Columbia Journalism Review and Tryniski."

Getty Images: Getty Images has an enormous collection of old photographs which are available for purchase.

Google Books. Google Books was a project by Google to scan the libraries of major universities. Though over the years it has run into copyright disputes and other legal challenges, it still contains over 25 million works that can be word searched.

Library of Congress. The Library of Congress is the largest library in the world. Much of its collection of millions of books, recordings, photographs, maps and manuscripts are available to remote digital searches.

National Archives. The National Archives has an easily searchable interface that provides entry into the voluminous records of the United States government.

New York State Archives, Cultural Center, Empire Center, Albany, NY, archref@nysed.gov, 518-474-8955. The New York State Archives is part of the Office of Cultural Education within the New York State Department of Education. It is the official repository of New York State records, such as Legislative Bill and Veto Jackets. It also contains a large searchable digital collection.

New York State Library, Cultural Education Center, 222 Madison Avenue, Albany, NY, 12230, 518-474-5355. The New York State Library was founded in 1818 and is this state's equivalent if the Library of Congress. It has a massive digital collection which includes New York Census records, indexes to State documents, Laws of the State of New York, Native American materials, histories of the New York State Constitutional Conventions, the New York State Redbook, New York State History relating to counties, cities, towns and villages.

New Netherland Research Center. The NRC operates in conjunction with the New York State Library and the New Netherland Institute. Since 1974 the Center has been translating Dutch language documents from New York's Dutch colonial period. For example, it has translated the first ordinances passed to govern New Netherlands between 1647 and 1658 and the Fort Orange Records, 1656-1660, which include the first governing documents of Albany when under Dutch rule.

New York Times: The New York Times has a searchable, digital database back to 1856. There are also several other sites that provide searchable data basis for multiple newspapers and periodicals. The New York Times site is especially helpful when looking for the obituaries of famous people.

Photographs: Portrait photography began in 1839 with the invention of the Daguerreotype process. This involved capturing a positive image on a silver-surfaced plate that had been fumed with iodine vapor. This image could not be reproduced and required sitting still for several

minutes. Photography would quickly evolve with the introduction by the 1850's of new chemicals and the ability to make a reproducible negative on a glass plate. In 1884, George Eastman would introduce a process where the image could be captured on a filmed paper. In 1901, the Kodak Brownie was introduced, allowing for the mass-marketing of photography. So, as a practical matter, photographs of famous or wealthier people are widely available for anyone living after about 1850. Prior to that, you had to be wealthy enough to commission a painted portrait.

By 1900, photographic technology permitted the reproduction of photographs on printing presses running at full speed. It was around this time that photographs first started appearing in newspapers, replacing woodcuts. In 1921, the ability to send photos by wire was developed but not widely used until around 1935 when the Associated Press could afford systems that transferred photographs electronically at reasonable speeds and with good quality.

A Google image search will uncover photographs of most historical figures who were adults after 1850. Most of these photographs are now in the public domain. As noted above, before that time, a person would have needed sufficient wealth to commission an artist to do an oil painting. Two web sites, **Getty Images** and **Vintage Photos** contain photographs of well-known people down to the level of local officials that can be purchased for modest amounts. A good place to start a search for photos of famous people is eBay.

PoliticalGraveYard.com. This site specializes in U.S Political personages and is searchable by name, place, time, office, and other parameters. Its database contains over 300,000 persons.

Project Gutenberg. Project Gutenberg is a library of over 60,000 free eBooks which can be downloaded or read online. Its content is made up of books whose copyright has expired.

Times Union. The *Times Union* newspaper has archives that go back to 1986, including obituaries, and articles can be purchased by subscription or, for a modest sum, individually.

United States Newspaper Archives. (1736-2017) <https://newspaperarchive.com/us/>. New York State Historic Newspapers <http://nyshistoricnewspapers.org/>.

Wikipedia's List of Online Newspaper Archives.

https://en.wikipedia.org/wiki/Wikipedia:List_of_online_newspaper_archives, This site covers the world and indicates whether it is a free or requires a subscription.

XI. ABOUT THE AUTHOR



W. Dennis Duggan graduated from Cardinal McCloskey Highschool in Albany, NY in 1967, the University of Notre Dame in 1971 and Albany Law School in 1976. After law school, he clerked for the Albany County Judge and served as an assistant Corporation Counsel for the City of Albany for over 12 years, with three years in the position of Executive Deputy Corporation Counsel. Duggan also maintained a private law practice and was counsel to the Albany Local Development Corporation and the Department of Economic Development. Duggan was nominated by Governor Mario M. Cuomo to fill a vacancy in Albany County Family Court in 1993 and was then twice elected to that position. During that service, he was also designated by the Chief Administrative Judge of New York State as an Acting Justice of the Supreme Court. Judge Duggan retired from the Bench in 2014.



While a judge, Duggan served as a Trustee of the National Council of Juvenile and Family Court Judges and is a Past-President of the New York State Family Court Judges Association. He is also a Past Director of the American Judges Association and the American Judicature Society. Judge Duggan is a founding Board Member of the New York Chapter of the Association of Family and Conciliation Courts and a past President.

In 2007, and again in 2011, Judge Duggan was named “Family Court Judge of the Year” by the New York State Family Court Judges Association. He is the only two-time recipient of this award in the history of the New York State Family Courts. Within the New York State Judiciary, Judge Duggan has served on the Judicial Institute Committee, the Family Court Advisory and Rules Committee and the Family Law Curriculum Development Committee.

He has been a frequent lecturer at International, National and State judicial and legal programs. He has instructed at the National Judicial College and taught on-line courses in Family Law at the University of Nevada’s Master’s Degree Program for Judicial Management and University of Nevada Law School. Judge Duggan is widely published and wrote over 125 articles on legal history and the law for the Albany County Bar Association Newsletter.

Judge Duggan was born on the Seneca Indian Reservation in Salamanca, New York and is a former journeyman structural Ironworker.