



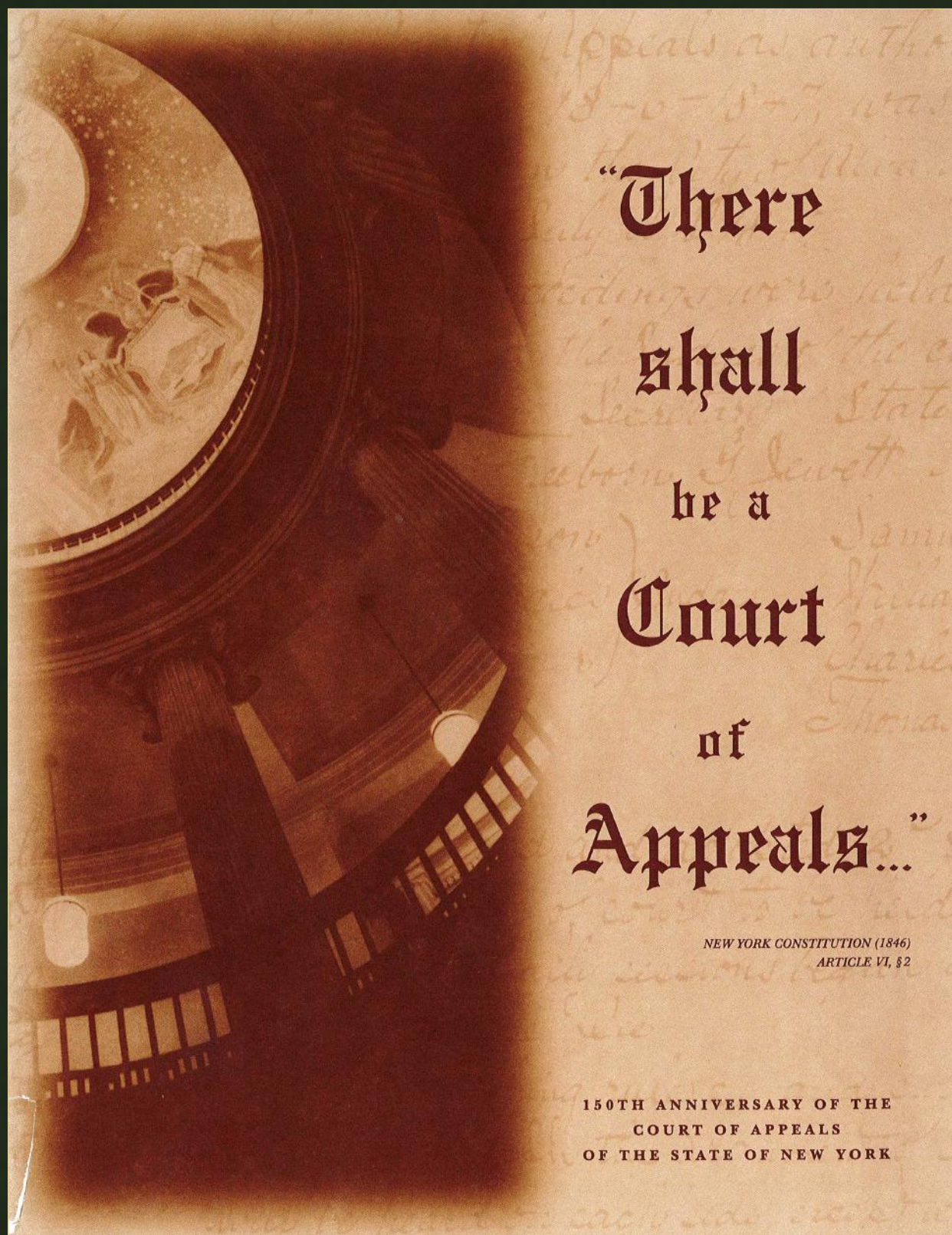
# THE STORY *of the* BIRTH *of the* HISTORICAL SOCIETY *of the* NEW YORK COURTS



*By Hon. Helen E. Freedman, David L. Goodwin, Marilyn Marcus, and Allison Morey*







Cover of *There Shall Be A Court of Appeals...*, 1997

# “There shall be a Court of Appeals...”

NEW YORK CONSTITUTION (1846)  
ARTICLE VI, §2

150TH ANNIVERSARY OF THE  
COURT OF APPEALS  
OF THE STATE OF NEW YORK



*Much of the history of the New York State Courts lies buried in the memories of hundreds of judges and lawyers, as well as in storerooms and attics across the country. With the formation of the Historical Society we put in place a vehicle to collect and preserve the wonderful history of the New York courts for future generations.*

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*Hon. Judith S. Kaye,  
Founder*

## IT STARTED AS AN IDEA

After her appointment as Chief Judge of the New York State Court of Appeals in March 1993, Judith S. Kaye often quipped that she wondered how her predecessor Chief Judge Benjamin N. Cardozo would feel about the red shoes under his desk and the red nail polish in its drawers. No woman had ever been Chief Judge before. And having spent the better part of the previous nine years as an Associate Judge of the Court, the portrait of John Jay peering down at her as she entered the majestic Court of Appeals courtroom, Judge Kaye had already been wondering about her predecessors on New York’s highest Court.

Judge Kaye made what would seem to be a simple request: she asked for a list of all the prior Court of Appeals judges going back to the Court’s inception in 1846 from Chief Legal Reference Attorney Frances Murray. But there was a problem. Ms. Murray discovered that from the middle of the 19th century when lists of judges began to be recorded, the lists were separated by Chief and Associate Judges, but lacked a chronological breakdown with each change to the bench. Critical, fundamental information about the Court was glaringly incomplete.

This revelation marked a turning point for Judge Kaye, and it loomed large when she and her colleague on the Court of Appeals, Judge Albert M. Rosenblatt, conceived the idea of forming a historical society about New York legal history.

Judge Kaye’s interest in legal history first found root in 1990 when she was appointed as a Trustee of the William Nelson Cromwell Foundation, whose mission is the publication of books that foster knowledge about American legal history. The Cromwell Foundation and the New York Courts had a preexisting relationship; in 1985, a book by former Court of Appeals Associate Judge Francis Bergan, *The History of the New York Court of Appeals, 1847–1932*, had been published by Columbia University Press under the auspices of the Cromwell Foundation. It was on the board of the Cromwell Foundation that Judge Kaye met John D. Gordan III—a fellow Trustee, attorney, legal historian, and great-great nephew of a former Chief Judge—who would play an instrumental role in the Society’s founding.

In 1997, to commemorate the 150th anniversary of the Court of Appeals, Judge Kaye and Ms. Murray compiled, wrote, and oversaw the design of *There Shall Be a Court of Appeals...*, a publication featuring articles about the Court’s judges and judicial appointments, signature cases, and the three buildings that have housed the Court over the years: the Old Capitol; the New Capitol; and (from 1917 onward) the Old State Hall, refurbished and rededicated as Court of Appeals Hall. As part of *There Shall Be...*, Ms. Murray prepared a list of judges from 1847 onward bench by bench, building on the materials previously discovered. In addition to its newly written material, the book contained articles, documents, photographs, and other artifacts from a century and a half of court history. Resources used for the book included Court of Appeals files and documents located in the State Archives, State Library, and Albany Public Library.

*There Shall Be...* laid the groundwork. Events from 1999–2000 built upon it.





*One of Judge Kaye’s mentors when she came onto the Court was Judge Hugh Jones, who I happened to have the good fortune of being a law clerk to. When he retired, he literally threw out everything possible that had anything to do with the inner sanctum of the Court because he so treasured the confidentiality issues. What he kept were his speeches, his external writings, his robe, and they were all kept in his daughter’s farmhouse. That farmhouse burned down. It had a poignant impact on Judge Kaye. She told me, “We can’t let this happen again. We have to preserve the history of our judges.”*

Stephen P. Younger,  
Founding Trustee

## THE COLLABORATION GREW

Albert M. Rosenblatt, a court history buff and all-around Renaissance man, was appointed to the Court of Appeals bench in 1999, becoming a court history soulmate and partner with Judge Kaye in the formation of the Society. They collaborated from the outset, due to their fascination with the legal history of New York, and of its bench and bar.



Judge Judith S. Kaye and Judge Albert M. Rosenblatt make a presentation together at a Society event, 2007

Based on this collaboration, the contours of a formal historical society began to take shape. For instance, Judge Kaye learned that Judge Hugh R. Jones had destroyed all papers referring to Court business, as is the policy of the Court of Appeals upon retirement of its Judges, while storing his personal correspondence and related papers in his daughter’s farmhouse for safekeeping. As Stephen P. Younger, a Founding Trustee, recounts in his quote, a fire ensued, destroying the remaining valuable Judge Jones history. Judge Kaye and Judge Rosenblatt had begun to discuss establishing the Society with former clerks and other interested people. The two judges appreciated that a historical society could provide a vehicle for record-preservation efforts and projects.

In 2000, Judge Kaye received an invitation from the Legal History Affinity Community of the American Association of State and Local History (AASLH), which included representatives from various state and federal courts across the country as well as the U.S. Supreme Court. Asked for a representative, Judge Kaye sent Ms. Murray, who learned about how other courts had established 501(c)(3) legal history societies or organizations, several of which were willing to provide foundational documents to help form similar institutions.



*It is a joy to have seen this grow, from a small seed, hatched at a six am breakfast of oatmeal and other treats. The conception and formation of the Society broadened an already endearing friendship between the two of us.*

Hon. Albert M. Rosenblatt,  
Co-Founder and  
President Emeritus



*We built a lasting relationship with the legal history group of AASLH which continues today and provides a network for the Society to share ideas and information with similar organizations. Through this connection, I was able to forge a friendship and strong partnership with my colleagues at the U.S. Supreme Court Historical Society. This has resulted in a remarkable series of public programs bringing Justices of the Supreme Court, and even the Chief Justice, to New York in partnered programs.*

–Marilyn Marcus, Executive Director

Judge Kaye and Judge Rosenblatt looked to Ms. Murray to prepare a petition to the New York Board of Regents for a historical society Provisional Charter, and they commissioned Mr. Younger to apply for 501(c)(3) status for the institution.

After meeting with a select group of the bench and bar in February 2001 in her New York City chambers, Judge Kaye sent a letter addressed to “Fellow New York State Court Historians” in which she thanked the participants for their soaring enthusiasm, and generated and outlined next steps. These steps included:

- Ms. Murray and Mr. Younger would work on organizational matters such as a mission statement, by-laws and confidentiality issues;
- Marge McCoy (Judge Richard D. Simons’s former clerk) would collect material on the Supreme Court Historical Society as well as those of other state courts;
- Clerks of recently retired Court of Appeals Judges could be contacted as potential sources of information about their Judges;
- A website would be developed in cooperation with New York State Reporter Gary D. Spivey—an innovative step for a quasi-government institution in 2001.



*Judge Kaye wanted some special feature to use in the wooing of those whom she intended to invite to become Trustees of the nascent Society. Websites were in their infancy in those days, and I suggested working with two very talented, computer savvy attorneys in the New York Law Reporting Bureau to create an informative, interactive website. This was one of the very first, and because technology was basic then, all data had to be scanned, OCRed, and proofread to identify all the errors inherent in the process. It was intensely laborious, but it was impressive. When she demonstrated the website to different people, the new Society looked dynamic because practically nobody else had anything like it.*

–Frances Murray, Founding Trustee



# IT BECAME A REALITY

The Board of Regents granted a five-year Provisional Charter on April 23, 2002, and a Permanent Charter was issued in 2008.<sup>1</sup> The Provisional Charter named as Charter Trustees Judith S. Kaye, Albert M. Rosenblatt, Jonathan Lippman (then Chief Administrative Judge), Stuart M. Cohen (Clerk of the Court of Appeals), Richard Bartlett (former Chief Administrative Judge and then Dean of Albany School), John D. Gordan III, Henry M. Greenberg (former clerk to Judge Kaye), Steven C. Krane (former clerk to Judge Kaye), E. Leo Milonas (former Chief Administrative Judge), and Frances Murray. Each had played prominent roles in the New York Court system and had evinced an interest in the project.



*The Historical Society really brings to life this whole idea of not only this history of the courts, but the rule of law—even most importantly, this idea of justice, and making it real and concrete for each and every one of our citizens.*

Hon. Jonathan Lippman,  
Founding Trustee and  
President of the Society



The Society's Board of Trustees meet at its 2018 annual meeting

The minutes of the inaugural meeting of the Board of Trustees, held on May 22, 2002, offer insight into the Society's initial mission and guiding forces. Held in the Peck Room of the New York State Bar Association, the meeting was conducted by Judge Kaye and Judge Rosenblatt, and additional Trustees were elected.<sup>2</sup> The Society also established an ex-officio position for the New York State Archivist, originally held by Christine Ward and most recently occupied by Thomas J. Ruller.<sup>3</sup>

The Charter Trustees, the constitution, by-laws (providing no less than five and no more than twenty-five Trustees), and a collection management policy were approved and adopted, and the three-year terms of the Trustees provided for in the by-laws were staggered so that approximately one-third of three-year terms would expire each year. Officers were also elected: Albert M. Rosenblatt, President; Richard J. Bartlett, Executive Vice President; Frances Murray, Secretary; and Stephen P. Younger (who was voted in as a Trustee at the first meeting of the Charter Trustees), Treasurer. Judge Rosenblatt served as President from 2002 to 2019, when he passed the baton to Judge Lippman, Judge Kaye's successor as Chief Judge.

The Trustees also established several committees. Mr. Gordan, Judge Milonas, and Mr. Greenberg joined the officers on the Executive Committee. At this meeting, Judge Milonas, by that time retired, was appointed Chair of an Advisory Committee to oversee the Society's fund-raising and development activities. Additional committees as needed were permitted following procedures in the by-laws.

*We were birthed by the court system, no ifs ands or buts. We were for the courts, by the courts, to promote the courts and its history. That was it at the beginning.*

Henry M. Greenberg, Founding Trustee

## ARTICLE II

### PURPOSES

*The purposes of this society shall be:*

- a. *To preserve the legal history of the State of New York.*
- b. *To foster scholarly understanding and public appreciation of the courts of the State of New York and the contribution of the judicial branch of government to the State and the nation.*
- c. *To encourage research into the history and development of the courts of New York and of the Common Law, and to exchange and disseminate information.*
- d. *To issue publication in all formats.*
- e. *To gather, collect, hold, preserve, and make available to researchers appropriate collections of artifacts and other materials.*
- f. *To sponsor appropriate permanent, temporary and traveling exhibits and displays.*
- g. *To undertake appropriate programs and events.*
- h. *To place markers at appropriate historic sites, and seek to preserve and maintain those sites.*<sup>4</sup>

# A MISSION EVOLVED

With its provisional charter, the Society quickly adopted a mission to bring the bench and bar together to preserve the legal history of the State, to foster scholarly interest in the history of the courts, and to promote public understanding and appreciation of the role of the judicial branch. This mission is memorialized in the Society's Constitution. The overarching mission would be accomplished by a variety of projects, many of which have evolved in the 20 years since the establishment of the Society.



Supreme Court, various plaintiffs vs. Gansevoort Melville and Maria G. Melville (Herman Melville's brother and mother), judgment rolls, 1837, 1845. (Not reported.) [NYS series JN529, files M-52, M-81, M-259, M-262]. Image provided by Dr. James D. Folts

## Making Historical Records Publicly Accessible

Public accessibility of historical records was part of the Society's mission from the beginning, primarily through coordination with the New York State Archives. At the inaugural meeting of the Board of Trustees, Mr. Gordan made a proposal for restoration and preservation. Since the Society's offices never included facilities to restore and preserve court documents, in order to carry out this important mission of preservation and restoration, the Society has facilitated delivery of records to Court of Appeals storage facilities and to the New York State Archives. For example, since 2002, the Society has successfully supported the transfer of records held by the New York County Clerk—some dating back to the Dutch era—from unfit storage to modern facilities that can both maintain these important documents of statewide significance and make them available to the public.

Additionally, the Society partnered with State Archives to preserve and make publicly available Judge Kaye's speeches and articles, as well as documents related to the work of the New York Federal-State-Tribal Courts and Indian Nations Justice Forum. These documents that have been made available to the public highlight the importance of the judiciary in protecting the rights of citizens and collaborating with other governments to support all New Yorkers.





*There was a lot of thought given to making sure that we memorialized history in real time for those who were history makers through oral history.*

Henry M. Greenberg,  
Founding Trustee



## Developing an Oral History Archive

Also on the minds of the founders at the inaugural meeting was the creation of an oral history archive, to capture the personal recollections of judges and other legal luminaries and provide future generations firsthand insight into how cases are argued and decided. To date, the Society's Oral History Project includes nearly 30 interviews, with participants such as four of the five recently sitting NYS Chief Judges as well as other historically significant appellate judges and attorneys. In addition, the Society works to uncover and preserve important oral arguments recorded over the years before the high court as well as showcase other interesting conversations with the legal community.

## Scholarly Publications

The Society's first calendar and newsletter were published in 2003. Each January, the Society produces a graphical calendar based on vignettes from New York's legal history. Twenty calendars have been published, featuring themes such as Lady Justice, courthouses, and the Constitution, including a special lookback in 2023.

Along with the calendar, the Society has published articles on legal history since 2003. What began as a humble newsletter has grown into the highly-regarded scholarly journal *Judicial Notice*, containing articles from professional and amateur historians alike. To date, the Society has published 17 issues.<sup>5</sup>



Left: The cover of the Society's special 20th anniversary *Judicial Notice* Lookback. Right: The cover of the Society's special 20th anniversary calendar



*I've always believed that history, although intrinsically interesting, is always useful for reminding us of lessons from the past, mistakes that were made in the past, but also the triumphs of the past. I've also found that when investigating the history of the law, there is far more similarity from 200 years ago or 100 years ago with today than one might expect. Human nature really doesn't change that much. The day-to-day problems that confront the courts might change, but the basic insights about how we interact with each other as a society are constants throughout history and they're processed through the court system.*

Dean Troy A. McKenzie,  
Society Trustee



## Reaching the Public

The Society made its formal public debut on April 22, 2003, when it sponsored its inaugural program at the New York City Bar Association. The event featured New York's role in framing the United States Constitution—a theme that has continued through many Society programs. In the 20 years since, the Society has hosted over 70 public programs including themes related to minorities and the law, celebrating the State's courthouses, and the arts.

The Society's program partnerships have also grown to feature a variety of series. One of the first partnerships was with the Supreme Court Historical Society for *Nominated from New York: The Empire State's Contributions to the Supreme Court Bench*, which currently features five programs. This partnership brings Supreme Court Justices to New York to discuss their New Yorker predecessors, such as Chief Justice John G. Roberts, Jr. in conversation about Charles Evans Hughes.

The Society's other two mainstay programs come from partnerships with the law firms Proskauer Rose LLP and Skadden Arps Slate Meagher and Flom LLP. Proskauer Rose sponsors the *Stephen R. Kaye Memorial Program Series*, which looks back on important historical moments in New York's legal past in honor of its former partner. It currently includes eight programs. Skadden Arps sponsors the *Judith S. Kaye Program Series: Conversations on Women and the Law* in honor of their former of counsel to look at the ways women have changed the law in the State. This series currently has three programs.

Another series is geared towards the lawyers and judges of the future. *Young Lawyers Series: Cocktails & Commentary* focuses on topics that appeal to students and lawyers just beginning their careers, offering these future leaders of the bar an opportunity to learn about New York's rich legal history while networking with their peers and longstanding Society members.



*One of the first calls I received as the newly appointed Executive Director was from Roy Reardon, Trustee, and revered head of litigation at Simpson Thacher. Roy proposed a breakfast meeting to “get to know each other” and proceeded to teach me everything there was to know about non-profit fundraising in the NY legal community. This was all new to me, and Roy held my hand through the process—his reach was broad! Thus began a run of galas from 2007- 2020 when COVID shut us down. It became a “must go to” event (as he would say) bringing the bench and bar together at the New York Public Library. It was his know-how, position in the legal community, and kindness to a novice Executive Director that made our fundraising a success.*

Marilyn Marcus,  
Executive Director



Former Chief Judge Janet DiFiore speaks at a Society gala, 2019

### Bringing Together the Bench and Bar at the Annual Gala

In 2006,<sup>6</sup> Marilyn Marcus was hired as Executive Director,<sup>7</sup> a position she still holds today. Starting in 2007, Roy L. Reardon, prominent head of litigation at Simpson Thacher & Bartlett LLP, helped to establish a significant fundraising arm of the Society, independent of the court system, to conduct needed fundraising. Together, they developed the most important of these fundraising activities: the Society’s annual gala. This fundraiser brings together all facets of the New York bench and bar. The annual event has traditionally served to highlight the good works of the Society and the legal community, and supports a significant portion of the Society’s projects.



Map of the State of New York, 1829. Lionel Pincus and Princess Firyal Map Division: Maps of New York City and State, The New York Public Library

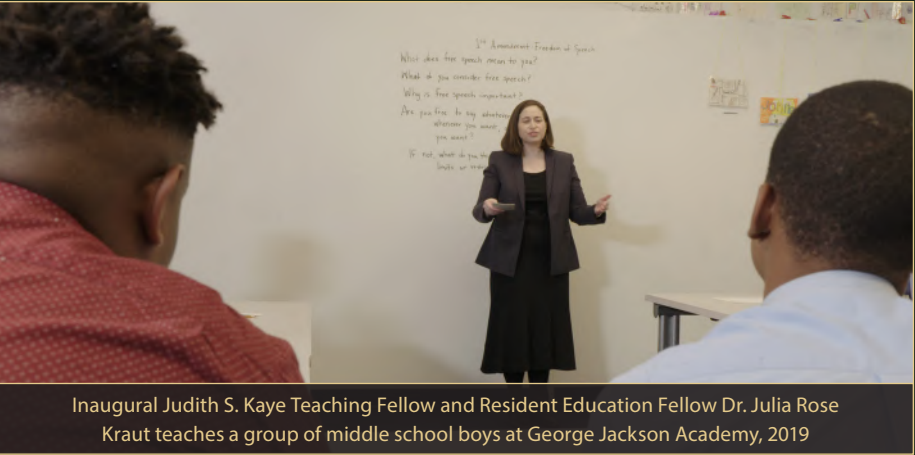
### Celebrating Local Legal History

Though the Society began with the idea to preserve the history of the Court of Appeals, preservation of all levels of court history is vital. From that idea, the County Legal History Project developed to emphasize the importance of local histories. Since starting this project in 2014, the Society expanded its connection to a variety of counties to work with local attorneys and judges to truly serve as a statewide organization. There are now nearly 20 histories completed out of 62 counties, with many more in the works.



*The students got so interested in constitutional law... I’ve never in my life had students say, “Can we look at the Constitution again?” And they wanted to because they really wanted to understand how both sides were using the Constitution to make an argument for different reasons.*

Laura Hymson,  
Dean of Academic Affairs,  
Social Studies Faculty,  
BHSEC Queens



Inaugural Judith S. Kaye Teaching Fellow and Resident Education Fellow Dr. Julia Rose Kraut teaches a group of middle school boys at George Jackson Academy, 2019

### Empowering Students

In 2010, the Society embarked on a new project: educating students about the judicial system and the importance of state courts and empowering students to become informed citizens. Civics education generally is often overlooked in general curriculum, and the role of the courts is mentioned hardly at all. The Society seeks to fill that gap, providing valuable skills to over 3,000 students and teachers since the project’s inception.

The Society’s longest standing education partner has been Bard College, particularly Bard High School Early College (BHSEC) and Bard College Institute for Writing and Thinking (IWT). With BHSEC, the Society began to create lesson plans on various aspects of law, justice, and the role of the courts. Since the initial partnership on a weeklong workshop, the Society has continued to collaborate with BHSEC using important NYS cases as primary source documents.

Building on this success, the Society then embarked on a new educational project with BHSEC: bringing educators into classrooms to teach semester-long courses in our Judith S. Kaye Teaching Fellowship. The six fellows have taught on topics like civil rights, immigration, privacy, and discrimination.

Through a grant from the New York Community Trust, the Society took the lessons learned through this long partnership to develop a toolkit for teachers across the state, focusing on the American Revolution; the constitution; the three branches of government; civil rights and reconstruction; federalism; voting rights and civic participation; due process; and free speech, press, and assembly.

This toolkit is a resource for teachers and a strong accompaniment to the Society’s partnership with IWT for teacher workshops. These workshops reach underserved schools across the State and provide educators with the tools to teach court-related materials. So far, eight workshops have been offered, providing strategies to teach the role of the courts to over 100 teachers, primarily in upstate regions.

Over the years, the Society has also partnered with a variety of community colleges across the State for the Garfinkel Essay Scholarship. Because community colleges serve as a gateway to citizenship and higher education for large numbers of first-generation and minority students, the Garfinkel Scholarship has provided enrichment that many would not otherwise receive. Since its inception in 2008, the Society has reached over 700 students from more than 30 community colleges on topics that include voting, jury service, privacy, and LGBTQ rights.





*One of the things that the Society is working on has been the Lemmon Slave Case. That's a great case dealing with how efforts were made during a very bad time in American history to deal with the problem of slavery. We're very honored to be part of helping to do this podcast and then get it out to younger people so they can understand how important equality, freedom, and all the good efforts that were made 150 years ago to make the United States a better country.*

Robert J. Giuffra, Jr.,  
Chair of the Board of the Society



Students at work on a research project for the Society's Saturday program for Harlem students, 2020

### Reaching Beyond the State: Website, Social Media & Other Outreach

Before the Society formally came into being, it had a website. It was imperative to Judge Kaye, Jude Rosenblatt, and the Founding Trustees for the Society to reach out to the legal community and highlight the history of New York's courts. Since that time, the website has grown into a virtual library to house all of the Society's projects, from student/teacher resources to public events, publications like *Judicial Notice* and the annual calendar, County Legal History essays, oral history interviews and transcripts. The website also features a wealth of biographies, courthouse images and histories, as well as the special section Legal History by Era, which was compiled and written by Ms. Murray and features attorneys and judges, cases, courts, and documents all organized chronologically.

Relatedly, to further connect with the Society's members and the general public, the student and teacher resources are easily accessible on the website, and the Society has produced a growing substantial library of videos and podcasts and joined a variety of social media platforms, with active Facebook, Twitter, Instagram, YouTube, and LinkedIn accounts reaching numbers in the tens of thousands with its unique content.

As the Society builds new programs and partnerships, all of the future content will continue to be housed on the website, which has always served as a vital resource.

## CONCLUSION

*My greatest pleasure as Executive Director is the privilege to work with such an extraordinary group who find time in busy lives to stop and consider our legal history and its importance.*

Marilyn Marcus, Executive Director

Now celebrating its 20th anniversary, the Society continues to flourish. While the Society is blessed with the continuing service of some of its original Trustees, the current Board of Trustees is more diverse and eager to further the Society's mission; meanwhile, the Society's full-time staff, Ms. Marcus, Allison Morey, Jill Shukin, and Daniel O. Sierra, ensure that the Society's reach remains boundless.

*Just look at us now. Judith would be smiling.*

Hon. Albert M. Rosenblatt, Co-Founder and President Emeritus



Judge Judith S. Kaye and Judge Albert M. Rosenblatt on his last day as a Judge of the Court of Appeals. Collection of the Court of Appeals



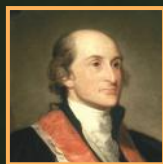
## Endnotes

1. In 2013, a further amendment to the Permanent Charter shortened the original name of The Historical Society of the Courts of the State of New York to The Historical Society of the New York Courts.
2. The following Trustees were elected: Barbara Brinkley (community activist and descendant of Chancellor Kent), Andrew L. Kaufman, M. Catherine Richardson (former NYSBA President), and Stephen P. Younger (also former NYSBA President) as Trustees. Mr. Gordan and Judge Bartlett then moved to authorize Judge Rosenblatt to contact Leon Silverman (Trustee of the US Supreme Court Historical Society), Norman Goodman (New York County Clerk) and Christine Ward (acting Director of the New York State Archives) to invite them to become Trustees.
3. A second ex-officio position was approved in 2022: the Albert M. Rosenblatt Legal History Scholar, with Judge Rosenblatt holding the inaugural position.
4. The Constitution of the Historical Society of the Courts of the State of New York, ARTICLE II Purposes.
5. Mr. Greenberg served as Editor-in-Chief from 2003-2016 (issues 1-11), and Justice Freedman has served as Editor-in-Chief since 2017 to present (issue 12 on).
6. Sue Nadel, on loan from the Judicial Institute, served as the administrator until the hiring of an Executive Director.
7. There is currently a staff of four, including Executive Director; Allison Morey, Deputy Director; Daniel O. Sierra, Technology & Outreach Director; and Jill Shukin, Administrator.



H.H. Richardson Courtroom in Court of Appeals Hall. Collection of the Court of Appeals





# HISTORICAL SOCIETY *of the* NEW YORK COURTS

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