In This Issue
Farewell, Chief Justice Kimball 3
Library to Sponsor CLE 3
Riding Circuit 4
An Evening With Justice Holmes 5
Louisiana Supreme Court Portrait Collection 6
Marie Erickson’s Retirement 7
Gail Bragg 8

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PORTRAIT OF A JUSTICE

by Miriam Childs

On February 1, 2013, Justice Bernette Joshua Johnson will become the first African-American Chief Justice of the Louisiana Supreme Court.

Justice Bernette Joshua Johnson will become Chief Justice of the Louisiana Supreme Court on February 1, 2013, the first African-American to be the administrator of the state's entire legal system. Though Justice Johnson's career highlights are well known, this auspicious occasion calls for a retrospective of her life and work.

Born in Ascension Parish, Justice Johnson grew up in New Orleans. She graduated as the valedictorian from Walter L. Cohen High School in New Orleans and went on to attend Spelman College in Atlanta, Georgia on scholarship. After receiving a Bachelor of Arts degree in 1964 from Spelman, Justice Johnson attended LSU Law School.

She was one of the first African-American women to graduate from LSU’s law program, earning a J.D. in 1969. While a law student, Justice Johnson interned with the U.S. Department of Justice Civil Rights Division working on cases filed to implement the Civil Rights Act of 1964. Justice Johnson also clerked for Ernest N. “Dutch” Morial in 1969.

Community service and a calling to work towards social justice on behalf of the poor, the elderly, and the disadvantaged have been hallmarks of Justice Johnson’s career. In the 1960s, she volunteered to be a community organizer for the NAACP’s Legal Defense and Education Fund. She worked with community groups in several Southern states to disseminate information about school desegregation decisions, encouraging parents to enroll their children in newly-desegregated schools. Justice Johnson organized household workers who, with her assistance, were successful in their efforts to obtain Social Security benefits and to be paid minimum wage.

continued on page 2
After receiving her J.D., Justice Johnson became the managing attorney at the New Orleans Legal Assistance Corporation (NOLAC) from 1969-1973. While at NOLAC, she provided legal assistance to thousands of clients in underserved communities. From 1974-1977, Justice Johnson helped many rape survivors as a counselor, drawing upon her experience with handling emotionally-charged situations. Justice Johnson litigated numerous cases in federal and state district courts, as well as in Juvenile Court. Among these cases were consumer protection lawsuits involving the Truth-in-Lending statute. These suits were filed against aluminum siding salesmen who convinced mostly elderly homeowners to sign contracts for substandard work that resulted in liens on their homes. (See Sellers v. Wollman, 510 F.2d 119 (5th Cir. 1975).)

Justice Johnson served as Deputy City Attorney for the City of New Orleans from 1981-1984. During her tenure, she gained extensive experience in Civil District Court (CDC) and U.S. District Court, litigating police brutality and tort claims filed against the City. She also supervised civil service claims before the New Orleans Civil Service Commission. Justice Johnson was elected to the CDC in 1984, becoming the first woman to serve as a judge in that jurisdiction. She was re-elected in 1990 and elevated to Chief Judge in 1994.

Meanwhile, plaintiffs in Orleans Parish had a voting rights suit before the U.S. Fifth Circuit regarding the difficulty of electing an African-American justice to the Louisiana Supreme Court. This litigation, Chism v. Edwards (839 F.2d 1056 (5th Cir. 1988)) resulted in a consent decree, signed by all parties on August 21, 1992. The decree created another judgeship, from an Orleans Parish district, on the Louisiana Fourth Circuit Court of Appeal. The judge elected to this seat would be immediately assigned as an associate justice to the Louisiana Supreme Court. The first judge to hold the “Chism” seat was Justice Revis Ortique, Jr. Justice Ortique became the first African American to serve on the Louisiana Supreme Court. The first judge to hold the “Chism” seat was Justice Revis Ortique, Jr. Justice Ortique became the first African American to serve on the Louisiana Supreme Court.

A new election was held to fill the remaining term of the “Chism” seat. Justice Johnson ran for the seat and won by default after an opponent withdrew from the runoff. By order of the Louisiana Supreme Court, under its constitutional authority, Justice Johnson was appointed to the Court effective October 31, 1994. The “Chism” seat expired after Justice Johnson ran for the newly created 7th Supreme Court District and won that election in 2000. She was re-elected without opposition in 2010.

Justice Johnson’s honors and awards and her community involvement are extensive, far more than space will permit in this article. Selected highlights include: the Spirit of Excellence Award from the American Bar Association (ABA); the Margaret Brent Women Lawyers of Achievement Award from the ABA; the Distinguished Jurist Award from the Louisiana Bar Foundation; the Louis A. Martinet Legal Society President’s Award; being inducted into the LSU Hall of Fame; and the Medal of Honor presented by the Mayor of the City of New Orleans.

Justice Johnson is a Fleur-De-Lis member of the New Orleans Bar Association and is a very active member of the Louisiana State Bar Association. She has served as the President of the A.P. Tureaud Chapter of the American Inns of Court and is a member of the Louisiana State Law Institute and the National Association of Women Judges. Justice Johnson chaired the New Orleans Chapter of the Southern Christian Leadership Conference and served on the NOLAC Board of Directors. Justice Johnson has held adjunct professorships at Southern University New Orleans (1978-1992) and Tulane Law School. Spelman, her alma mater, conferred an Honorary Doctorate in Law upon Justice Johnson in 2001. She has published numerous essays and articles, and has been asked to be a guest speaker around the country and the world.

As evidenced by the outstanding accomplishments outlined above, Justice Johnson has always striven for and achieved excellence. Those who know her personally and professionally will certainly agree.
FAREWELL, CHIEF JUSTICE KIMBALL

by Miriam Childs

Chief Justice Catherine D. “Kitty” Kimball will end a stellar career on January 31, 2013, when she retires from the Louisiana judiciary. Chief Justice Kimball has the distinction of being the first woman to serve on the Louisiana Supreme Court, eventually becoming the Court’s first female Chief Justice in 2009.


Chief Justice Kimball has earned numerous honors throughout her career. A sampling of her recognitions include: being inducted into the Louisiana Political Museum and Hall of Fame in 2011; receiving the Louisiana Bar Foundation’s Distinguished Jurist Award in 2006; and becoming the first recipient of the Louisiana Champion of Juvenile Justice Award in 2010. Chief Justice Kimball has continually served on or chaired committees with influential and important work, such as the Southeast Louisiana Criminal Justice Recovery Task Force.

As a co-founder of the Sunshine Foundation, Chief Justice Kimball has benefited the lives of Louisiana’s most vulnerable residents. The foundation annually distributes copies of a book entitled You Are Sunshine, which teaches children about self-esteem, to preschoolers throughout the state. The book was written by Chief Justice Kimball’s friend and psychotherapist Shirley Porter. Additionally, Chief Justice Kimball received the 2008 Judge of the Year Award from the Louisiana CASA Association in recognition of outstanding service and commitment to CASA in Louisiana.

Saying that Chief Justice Kimball will be missed is an understatement. Her dedication to the judiciary and her outstanding service to the legal profession will be remembered for many years to come.

LIBRARY TO SPONSOR FREE CLE

by Georgia Chadwick

The Law Library of Louisiana will sponsor a free one-hour CLE on Monday, January 7, 2013 from 6 p.m. to 7 p.m. Please join us in the courtroom of the Louisiana Supreme Court for a lecture by Professor Peter Reich, Professor of Law and Sunner Scholar at Whittier Law School. Professor Reich will be in New Orleans for the 2013 annual meeting of the American Association of Law Schools. He is Director of Whittier’s Environmental Law Concentration and Mexico City Program.

His most recent publication is the scholarly introduction to the Lawbook Exchange reprint of John A. Rockwell’s A Compilation of Spanish and Mexican Law in Relation to Mines and Titles to Real Estate, originally published in 1851. The Law Library of Louisiana owns a copy of both the reprint and the 1851 edition of Rockwell’s work.

An attorney and Whig congressman from Connecticut, John A. Rockwell (1803-1861) established an innovative cross-border law practice specializing in claims involving Mexico. Bringing lawsuits over harm to foreign nationals during the Mexican political unrest of the 1840s and 1850s, Rockwell became expert in arguing Hispanic legal doctrine before international tribunals, and was co-counsel with Louisiana lawyer Judah P. Benjamin in the New Almaden, California quicksilver mine case in the U.S. federal courts. Based on his research for this litigation, Rockwell produced the first comprehensive English-language treatise on Spanish and Mexican mining and real estate law, which became widely used in the southwestern territories annexed after the Mexican War. This treatise is still cited in contemporary property disputes. Rockwell’s work was an impressive achievement and a notable contribution to comparative law, and was considered an authority at the time of its publication.

While Rockwell shared the indecisiveness of many Whigs over the sectional divisions ultimately leading to the Civil War, his steps to create a language of international legal communication set a precedent for today’s globalized practice.

The lecture is free and open to the public. For more information, please email Georgia Chadwick - gchadwick@lasc.org.
As a continuation of the Louisiana Supreme Court’s bicentennial commemoration, on October 18, 2012, the Court heard oral arguments in Natchitoches, one of its historic venues.

Court began promptly at 9:30 a.m. at the Magale Recital Hall on Northwestern State University’s campus. The justices heard four cases, and the sessions were streamed live on Northwestern’s website, www.nsula.edu. Justice Jeffrey P. Victory delivered opening remarks to an audience of high school and university students, faculty, and the public. The event was part of the Court’s ongoing effort to educate and inform students and the general public about its work.

Louisiana’s first state constitution in 1812 didn’t provide much detail about the structure of the judiciary, stating simply that judiciary power would be vested in a supreme court and inferior courts. The constitution also set up two court districts, the Eastern District at New Orleans and the Western District at Opelousas. Additionally, the constitution granted the Legislature the power to change the seat of the Western District every five years. In February 1813 the Judiciary Act provided the procedural and structural details not handled in the constitution. From the beginning, it was anticipated that the supreme court would convene in more than one location, a practice that came to be known as “riding the circuit.”

Riding the circuit enabled judges to provide access to justice to residents statewide. The Court traveled around the state to go to the people because long distance travel wasn’t possible, or was extremely difficult, for most individuals. At different times and through various enactments, the Legislature included Alexandria, Baton Rouge, Monroe, Shreveport, and Natchitoches as locations on the Supreme Court circuit. Act 82 of 1866 set the Supreme Court circuit as: New Orleans from the first Monday of November until the end of June; Monroe commencing the second Monday of July; Natchitoches the second Monday in August; and Opelousas the first Monday of September. Appeals from the parishes of Rapides, Natchitoches, DeSoto, Sabine, Bossier, Caddo, and Winn were to be heard in Natchitoches.

Act 82 also stipulated that a quorum of the justices was required to appear in Natchitoches. In 1866, Chief Justice William Hyman, Justice Zenon Labauve, and Justice James Taliaferro met in Natchitoches. In 1867, the same three justices plus Justice John Ilsley were present. The minute book for 1868 indicates that the justices didn’t hold sessions in Natchitoches, possibly because there was a new constitution that year, and a new Court was appointed. In 1869 Chief Justice John Ludeling and Justices James Taliaferro, Rufus Howell, William Wyly, and William Howe convened in Natchitoches. Act 45 of 1870 set the circuit locations as New Orleans, Monroe, and Opelousas, meaning that Natchitoches was no longer on the circuit. Act 69 of 1894 stated that sessions of Court would be held in New Orleans from November through June, with no other sites mentioned. This act ended the practice of riding circuit.

The decisions from Natchitoches are published in volumes 18-21 of Reports of Cases Argued and Determined in the Supreme Court of Louisiana and in the Superior Court of the Territory of Louisiana [1809-1896] (Reference KFL 45 .A2 1907). The exact location the justices held court is unknown. The first courthouse in Natchitoches was destroyed by fire in the late 1850s and hadn’t been rebuilt by the time the Court met there.

President of Northwestern Dr. Randall J. Webb expressed delight in having the court sit in Natchitoches again, explaining that the university places “a high priority on civic engagement.” Dr. Webb went on to say that it was “especially appropriate for the Court to choose Natchitoches, the oldest settlement in the Louisiana Purchase territory, as the site of a session that will allow our students and the outlying community the opportunity to witness the state’s highest court in action.” This event marked the first time the Court convened at Northwestern since 1986. The Louisiana Supreme Court will turn 200 years old on March 1, 2013.
Boston's Social Law Library, America's oldest law library, hosted "An Evening with Justice Holmes," an adaptation of Professor Baier's play "Father Chief Justice" on Friday, November 9, 2012, in the John Adams Courthouse, Pemberton Square. Baier directed four members of the Massachusetts Supreme Judicial Court, who joined him on the stage: Justice Robert Cordy (who played Holmes), Justice Margot Botsford (Fanny Holmes), Justice Francis Spina (Justice Brandeis), and Justice Ralph Gants (Chief Justice Edward Douglass White.) The theater was packed with proper Bostonians. What follows are selected introductory remarks by Robert J. Brink, Executive Director of the Social Law Library: “So why a Boston performance for a play who's main protagonist is a U.S. Supreme Court Chief Justice from Louisiana? The reason is Chief Justice White had a special relationship with one of Boston's legal icons, Oliver Wendell Holmes, who is a central character in the play. They fought as enemies in the Civil War, yet served as true friends on the U.S. Supreme Court. Mr. Justice Holmes said that ‘Life is action and passion.’ Paul [Baier]certainly fits that description. Swept up by his passion, there was not turning back. We decided to focus on one act of the play, which takes place in Holmes's Washington, D.C. townhouse on September 17th, which is both Constitution Day and the anniversary of the Civil War Battle of Antietam. Hence the title of tonight’s presentation, ‘An Evening with Justice Holmes.”

Justice Robert Cordy, who knows a thing or two about Holmes and is a student of the history of the SJC, immediately signed on as Holmes. To me, Justice Francis Spina looks like Brandeis. When I called, he said that it would be a 'hoot' and that he actually shared a birthday with Brandeis. Justice Ralph Gants seemed game for this kind of thing, and, he, too, signed on without a second thought. He has the gravitas to be Chief Justice White. Justice Margo Botsford signed on to play Fanny Holmes, perhaps because her role has a few wifely zingers directed at the sage of the Supreme Court, the Yankee from Olympus. Finally, I also want to thank Georgia Chadwick of the Louisiana Supreme Court for sending roses (which you will soon see) along with the best wishes of that esteemed Court for a wonderful performance. So now let’s turn the lights down and visit Professor Jesse in his office.”

“I can’t thank you enough for bringing the show, and all of your energy, to our town,” said Justice Cordy in a post-production note to Professor Baier, whose nationally acclaimed play is in its fifteenth year of production. The Boston production was supported by a Louisiana Bar Foundation Community Partnership Grant awarded to the Supreme Court of Louisiana Historical Society. Other sponsors included the Social Law Library, the U.S. Supreme Court Historical Society, the Massachusetts Supreme Judicial Court Historical Society, and the Flasher Judicial Institute, with funding by the William M. Wood Foundation, Bank of America Trustee. The Boston premiere of “Father Chief Justice” follows performances at the Library of Congress and the Louisiana Supreme Court.
The Louisiana Supreme Court Portrait Collection

by Tara Lombardi

The Louisiana Supreme Court has a long history of collecting and displaying portraits of justices, esteemed jurists and other distinguished members of bench and bar, which began before the Court even had its own courthouse. A 1901 photograph of the LASC’s courtroom at the Cabildo reveals the first known look at the court’s portrait collection. The picture shows a full wall of over thirty portraits and several busts, most of which we still have today. Because of the room’s small size and an entire wall of windows, the portraits were arranged in a cluttered gallery style.

When the Court moved into its new courthouse at 400 Royal Street in 1910, there was plenty of wall space for hanging portraits, and the portrait collection continued to grow. Yet, the move to the modern 301 Loyola building in 1958 caused problems for the portrait collection since the walls were made of granite, and blank wall space was scarce. Rather than place all of the 100-plus paintings in the basement, the Court decided that the chief justice portraits would hang in the law library, and ordered that the rest be placed on loan with the law schools of Louisiana State University, Tulane University and Loyola University New Orleans, “to be displayed for the benefit of the students and other interested persons.” The Kemper and Leila Williams Fund, which would later become the Historic New Orleans Collection, received three portraits, and four others went to the Louisiana State Bar Association.

When the Court moved back into its current home at 400 Royal Street, it once again had an abundance of open wall space, and some of the paintings have returned. We now have one hundred and twenty portraits and busts from the Louisiana Supreme Court Portrait Collection in our building, including some new ones, the latest being that of Chief Justice Alfred D. Land, who are hanging side by side along the second floor hallway, were all Louisiana Supreme Court associate justices from 1858-1865, 1921-1941 and 1903-1917, respectively. Additionally, Associate Justice F. Edouard Simon served on our court from 1840-1846, and over 100 years later, his great-grandson James D. Simon served as associate justice from 1955-1960. Another interesting fact about the Simons (pronounced ce-MON) was that three more of their family members also became Louisiana judges.

Out of the 160-plus paintings and busts that the Louisiana Supreme Court has acquired since 1887, the 120 at 400 Royal Street have new placards with the portrait/bust subjects’ names, dates of service to the court, state or country, birth and death dates, and other interesting facts about their lives. A new finding guide is also in the works. Please visit the Court if you’d like to view our collection. If you have any questions, please contact Tara Lombardi at tlombardi@lasc.org or at 504-310-2404.

We also have a few portraits of family members who served on our court. A father and his two sons, Thomas T., John R. and Alfred D. Land, are hanging side by side along the second floor hallway, were all Louisiana Supreme Court associates justices from 1858-1865, 1921-1941 and 1903-1917, respectively. Additionally, Associate Justice F. Edouard Simon served on our court from 1840-1846, and over 100 years later, his great-grandson James D. Simon served as associate justice from 1955-1960. Another interesting fact about the Simons (pronounced ce-MON) was that three more of their family members also became Louisiana judges.

Catherine Kimball, making hers the 20th chief justice painting to hang in the Louisiana Supreme Court Museum on the first floor (3 are photos). The rest of the building’s hallways and alcoves on floors one through four feature 47 of our court’s associate justices, Clerks of Court, governors, American Bar Association presidents, state Attorneys General, historians, professors of law, soldiers, legislators, district attorneys, district judges, famous orators and celebrated advocates.

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Marie Erickson is retiring as the Head of Public Services. For almost 22 years, Marie has been the face of the library, greeting patrons who come in and assisting others via phone and email.

Marie grew up in Baton Rouge, where her parents were instructors at LSU. After graduating from St. John’s College in Annapolis, MD, she continued up the East Coast, spending a few years in Boston. Following a year teaching seventh grade English, Marie concluded she needed to find a different career path. She drove a cab for a while, which must have been a challenge since Boston drivers are even worse than New Orleans drivers. Her first library job was working with serials in the technical services department at the MIT library. Librarianship was a better fit, so Marie headed back to LSU, where she obtained her MLIS.

She continued in technical services as the serials/acquisitions librarian at Loyola Law School in New Orleans. She went to law school “because it was on sale,” i.e., there was tuition remission. Inasmuch as she was also working full time, Marie notes that she had to carefully manage her time. If she missed the slot to wash her hair, it had to wait until that slot rolled around again.

Another Loyola Law School enticed Marie to move to Los Angeles for over six years, but her love of all things New Orleans brought her back in 1991. Over the years, Marie has seen many transitions and changes in librarianship and the practice of law. She attended law school before any sort of online legal research was available. As soon it was, the Law Library of Louisiana started performing Westlaw and Lexis searches for a fee. In the 1990s, when computer-assisted legal research was new, unfamiliar, and expensive for lawyers, Marie did dozens of searches a week for $4.50/minute. Now that attorneys have more resources on their desktops, she does only a few searches per week.

The research skills that Marie learned early on, using books and resources that aren’t online, is where law librarians are most important today. Legislative history research, old versions of Louisiana Codes and statutes, Planiol, and other early commentators are not online. Marie notes that the difficult research questions are where law librarians have a chance to shine and provide attorneys with hard-to-find answers.

Marie has been a member of the irreverent krewe du Vieux for many years as one of the Pizza Sluts, who are part of the Seeds of Decline. She enjoys marching in one of the few Carnival parades that still stumble-through-er-parades through the French Quarter and Faubourg Marigny. On Mardi Gras day, the Société de Saint Anne walks past her house. Marie and George are on the porch, toasting with mimosas. Marie has always had a loyal following at the Law Library, who will miss her. We all wish her well on retirement and whatever new adventures await!

*Catherine Lemann, formerly Associate Director of the Law Library of Louisiana, worked with Marie for many years. Catherine is now the Circuit Librarian at the U.S. Fourth Circuit Court of Appeals, based in Richmond, VA.
INTRODUCING GAIL BRAGG!

by Jennifer Creevy

The Law Library is pleased to welcome a new employee to our ranks. Gail Bragg started recently as Administrative Assistant to the Director of the Law Library. Gail comes to us from Dublin, located in middle Georgia, but before Hurricane Katrina she lived in New Orleans for 12 years.

Born and raised in Florida, Gail provided administrative support for various companies in Florida and Georgia. She moved to New Orleans and worked in the healthcare and legal industries until Hurricane Katrina destroyed her Lakeview home. She then moved to Dublin and worked for the One-Georgia Authority, until the siren song of New Orleans called her back.

Gail has a daughter and son-in-law in New Orleans, with whom she is very close. She has a Bichon Frise named Zen, likes to listen to jazz, and enjoys gardening. Prior to Katrina, she grew up to 100 orchids, but since moving back she is only growing 6 (right now!).

Everyone please welcome Gail as a new Law Library and Supreme Court employee. We expect she will keep the library running smoothly for years to come!