



# CONNECTICUT SUPREME COURT HISTORICAL SOCIETY NEWSLETTER

First edition

## *President's Message*



April 23, 2020

At the January meeting of the Connecticut Supreme Court Society Board, members voted to have a yearly

newsletter. I promptly appointed Harry Weller to be the first editor and he promptly responded by asking me to write something. I did so in early February. In light of the current crises, however, I want to update everyone before presenting those reflections. The Board has decided to postpone the Annual Meeting scheduled for April 22 and reschedule it for October 21. Nevertheless, rest assured that the Society is alive and well. The Board will continue to operate during the crisis, albeit not in person, and I will report its doings on a regular basis.

Also, as I regretfully reported to the membership recently, Kit Collier, our Vice President from the beginning until he retired with honors at the Annual Meeting last year, died in early March. (See obituary below). We will all miss him. The memorial service will be on May 30 at the Fairfield Historical Center.

With that said, I also want to provide this brief proud history of the Society. In 2005, after considerable prodding by then Connecticut Supreme Court Justice Peter Zarella, a group of lawyers, including Chuck Howard, Tom Groark, Greg D'Auria, Jeff White, John Farley, Mike Besso, Ralph Elliot, Dan Krisch, historian Kit Collier, librarian Barbara Heck and myself obtained legislative approval, to form the Connecticut Supreme Court Historical Society.

Mike Shea and Jeff White were put in charge of programs and set up the first annual dinner in the Spring of 2006, with Akhil Amar as the speaker. Thereafter, Molly LeVan, Kathy

Calibey, and Erick Sandler arranged fall meetings discussing various historic and contemporary topics along with annual dinners featuring nationally recognized speakers. Mike Besso was put in charge of setting up a scholarly journal. At the first annual dinner, he unveiled Volume I of the Journal of the Connecticut Supreme Court Historical Society. We have continued publishing the Journal under the leadership of Sheila Huddleston and now Barbara Schellenberg and Henry Cohn. This year we will be publishing Volume XII.

A few years ago, the Supreme Court asked us to organize its annual Law Day Ceremony. I appointed Kim Knox to take charge of that program which is detailed below.

Unfortunately, this year's event had to be cancelled. The Board has also created other scholarships, the Zarella Award under the leadership of Matt Necci, and the Collier Award under the leadership of Jeff White. Funding for these comes from membership dues and major donations by several law firms.

We now have over 100 active members. Attracting new members and retaining current ones have been under the leadership of John Farley, then Dan Krisch, and now Laura Zaino and William Bevacqua. They are actively working to market membership to non-lawyers.

Connecticut has a rich and, in some ways, unique legal history but, as a small state, it's often overlooked by legal historians. That history, and especially the history of the Connecticut Supreme Court, needs to be widely publicized and discussed. We are doing that via our Journals, our meetings, our annual dinners, our Law Day Ceremony and our sponsorship of various scholarships. Our visibility with lawyers and judges is high; now we need to work on our visibility with nonlawyers.

Wes Horton



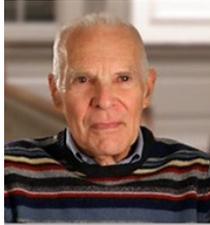


# CONNECTICUT SUPREME COURT HISTORICAL SOCIETY NEWSLETTER

First edition

## *In Memoriam*

### **CHRISTOPHER "KIT" COLLIER**



The Supreme Court Historical Society sadly notes the recent passing of one of its founding and most stalwart members, Christopher, "Kit," Collier. Kit was the Connecticut State Historian from 1984 until 2004. He was a professor of history at the University of Connecticut, the vice president of the Connecticut Supreme Court Historical Society and award-winning author. Along with his brother, James Lincoln Collier, he co-wrote several works of historical fiction. His books for adults include *Roger Sherman's Connecticut: Yankee Politics and the American Revolution*, which was nominated for a Pulitzer Prize. In 1974, Kit's children's book, *My Brother Sam Is Dead*, was awarded a Newberry Medal by the American Library Association. This prestigious medal is given annually for the most distinguished American children's book published the previous year.

Kit's research, writing and editing over a long career broadened our knowledge and understanding of the founding principles of American constitutional government. He also added light to Connecticut's role in the creation of the U.S. constitutional system, and the independent development of Connecticut's constitutional and legal order.

His contributions to the Historical Society have been immeasurable. His valued presence and insights will be missed.



## *The Historical Society Awards Its First Annual*

### *Christopher Collier Prize*

To honor Kit's memory, the Connecticut Supreme Court Historical Society has awarded the first annual Christopher Collier Prize to Scott Douglas Gerber, Professor of Law at Ohio Northern University. The prize of \$1,000 is awarded to historians, legal scholars, political scientists or others who, in Kit's tradition, have contributed an important work or works to advance the study of American legal and constitutional history that has Connecticut connections. Professor Gerber satisfies all of these criteria.

Over a long career, Prof. Collier's research, writing and teaching has broadened knowledge of the founding of American constitutional government. He also focused on Connecticut's role in the creation of the U.S. constitutional system, and the development of Connecticut's own constitutional and legal order.



In addition to his duties at Ohio Northern since 2001, Prof. Gerber is an associated scholar at Brown University's Political Theory Project. He earned a Ph. D. and J.D., at the University of Virginia, and practiced law at Bingham, Dana & Gould in Boston. He's also a member of the Massachusetts, Colorado and Virginia bars, as well as the United States Supreme Court bar.

Over the years Prof. Gerber emerged as a pre-eminent scholar and legal journalist having authored numerous journal articles and newspaper opinion pieces. He's also authored five scholarly books on the United States Supreme Court and American constitutional



## CONNECTICUT SUPREME COURT HISTORICAL SOCIETY NEWSLETTER

First edition

history. Among the books he's published are, *First Principles: The Jurisprudence of Clarence Thomas* (in an expanded edition in 2002), and two books on the constitutional significance of the Declaration of Independence. As a hobby, he's also penned several novels including a murder mystery entitled, *The Art of Law*.

Professor Gerber's scholarship is linked to the Historical Society's missions because he includes specific references to Connecticut's contributions to the history of U.S. legal development. An early essay, advised by Professor Collier himself, illuminated the absence of a role for Connecticut's Roger Sherman in the development of the federal Bill of Rights, despite documentary evidence suggesting otherwise. A journal article analyzes the initially heavy, but subsequently waning influence of Connecticut's Puritan church on our state's legal institutions. A chapter in his book *A Distinct Judicial Power* (published by Oxford University Press in 2011) examines Connecticut's place in the state-by-state development of an independent American judiciary.

Prof. Gerber was "delighted when I learned in early January that I won the award. I remember thinking: what a wonderful way to start the new year! The award is particularly meaningful to me because I think highly of Professor Collier's work and I grew up in Connecticut."

Of his interest in constitutional history, Prof. Gerber reminds us that, "New England, as you know, is rich in constitutional history. My father taught for years at Clark University in Worcester and one of his colleagues was George Athan Billias, an eminent constitutional historian of early America. Knowing him, as well and for as long as I did, helped shape my research and writing interests."

When asked whether such historical introspection remains relevant, Prof. Gerber stated, "George Santayana famously said that

'Those who cannot remember the past are condemned to repeat it.' I agree with that sentiment. But I also find researching and writing about American constitutional history to be a lot of fun."

Prof. Gerber's has displayed an intense commitment to scholarship in his aforementioned contributions to American constitutional history and Connecticut's role in that larger story. His writing emulates the quality of legal work modeled by Professor Christopher Collier and is well suited for this honor. To him, "The Christopher Collier Prize is delicious frosting on the wonderful cake that I find American constitutional history to be." The Connecticut Supreme Court Historical Society is proud to award the 2020 Collier prize to Professor Scott Douglas Gerber.



"All in favor of changing our name to the Justice League?"

Used with permission



# CONNECTICUT SUPREME COURT HISTORICAL SOCIETY NEWSLETTER

First edition

## *A Peak Into the Programming Committee*

Every year the Connecticut Supreme Court Historical Society sponsors a number of events, including an annual dinner meeting and a less formal fall meeting. The centerpiece of each event is a talk or panel discussion from a variety of legal scholars, historians, journalists, judges, members of the bar and others who are knowledgeable about Connecticut's Supreme Court; the state's courts, judiciary, legal education, and important cases. For the annual meeting we often present a speaker with national perspective. The Society encourages the public, particularly students from the state's law schools, colleges, and schools, to attend. A number of law firms "purchase" a table and often invite associates or their clients to attend.

The annual meeting and fall program are organized by a small committee of the board. United States District Judge Michael Shea was the first chair of the program committee was responsible for Professor Amar's speaking at the first and fifteenth annual meetings. Attorney Jeffry White followed Judge Shea as chair and inspired the Society to invite Jeff Benedict to speak about his book, *The Little Pink House*, the New London eminent domain case that was taken up by the United States Supreme Court. The present co-chairs of the program committee are Kathryn Caliby, Molly LeVan, and Erick Sandler.

The first annual meeting was held in 2006, when Yale Law School Professor Akhil Amar addressed the Society at the New Haven Lawn Club. Professor Amar, a constitutional scholar and a gifted speaker, was asked to address the Society again at the annual meeting in 2019. Over the years, annual meeting speakers have



included, among others, former Solicitor General Seth Waxman, the late Judith Kay former Chief Judge of the State of New York, and journalist Linda Greenhouse. Columbia Law School Professor Philip Hamburger spoke about the *Symsbury* case and the limits of consent. Author and journalist Todd Brewster talked about his book *Lincoln's Gamble*. Sharon Ann Murphy, professor of history at Providence College, addressed insurance fraud in the nineteenth century. Professors Judith Resnick and Dennis Curtis, recipients of the 2014 Order of Coif Book Award, presented a lecture and slide show about their book, *Representing Justice*.



The fall meeting is held in late October or early November in venues such as UConn and Quinnipiac law schools, the old Supreme Court chambers in the Capitol, the Appellate Court, the Hartford Club, and the New Britain Museum of American Art. One snowy fall evening, the Society met in the Supreme Court Courtroom to examine the art and architecture of that space. In 2013, the Society met in the courtroom of the Appellate Court to learn about the history of that court and how its current home evolved from what was commercial space on Hartford's "Insurance Row."

The fall program is somewhat informal and lends itself to panel discussions exploring a broad range of topics. The panels have included discussions on first women to serve as Connecticut Supreme Court term clerks for our Supreme Court justices and a thirty-year retrospective on *Cologne v. Westfarms Associates*, touching on the free speech issues arising in that case. In 2017, the Society and the



# CONNECTICUT SUPREME COURT HISTORICAL SOCIETY NEWSLETTER

First edition

UConn chapter of Balsa joined forces to present a panel paying tribute to Justice Robert Glass, the first African-American justice of our Supreme Court.



Members of the judiciary have also added to the fall meetings by presenting interesting Connecticut issues they have personally explored. The Hon. Henry Cohn, spoke about Connecticut's first constitution; and the Hon. Jon Blue, discussed his book *The Case of the Piglet's Paternity*. In the fall of 2018, Jenette Zaragoza De Leon, addressed the importance of a translator at the *Amistad* trial. Her talk was complemented by a video, *The Amistad*, produced by students of Bristow Middle School. Justice Maria Kahn of our Supreme Court then rounded out the discussion with information about the present-day scope of interpreter services provided by the Judicial Branch.

The committee is indebted to Mike Widener, rare book librarian at Yale Law School, for recommending several speakers, including Paul DeForest Hicks, who spoke about his book *The Litchfield Law School*. Over the years, a number of the state's larger law firms have provided financial support for the Society's meetings and several have offered the services of their marketing departments to print programs and name tags. This is of great assistance to the program committee.

In keeping with the 100th anniversary of the ratification of the 19th amendment to the United States Constitution, Allison K. Lange, Ph.D., assistant professor of history at Wentworth Institute of Technology was to discuss "Images in the Fight for Women's Votes," how Americans have used images to define power and gender roles. Due to the state of emergency caused by the coronavirus

outbreak, however, the annual meeting has been postponed until October 21, 2020.



## *Historical Society's Law Day Celebration*

Although the Corona pandemic has caused cancellation this year, the Historical Society has taken the lead in the Supreme Court's annual Law Day Celebration. In addition to keynote



speakers, the committee has sponsored essay and art competitions for local high school students on

various important legal principles.

The programs have explored topics such as the separation of powers doctrine, the rights afforded by *Miranda v. Arizona*, and a keynote lecture on the "*Magna Carta: Symbol of Freedom Under Law*"

This year's essay award recipient is Christopher D'Inezo, an AP U.S. Government and Politics student at West Haven High School. His essay is entitled, *Obstacles to Voting and Some Possible Solutions* was selected among several excellent entries and can be found on page 7 infra.

The art award recipient is Jenna Henk from Norwich Free Academy. You can admire her entry on page 8 infra.

In past years, award winners also have had the opportunity to mingle with many Connecticut Legal luminaries. A student who participated in the program summed it up as follows, "It was a very good day, particularly for those who are



# CONNECTICUT SUPREME COURT HISTORICAL SOCIETY NEWSLETTER

First edition

interested in being lawyers. It also gives us all more insight into . . . what lawyers do.”

Past Law Day programs boast an impressive history. In 2015, Keynote speaker Dr. Jonathan M Elukin, reminded those gathered that “it is crucial to understand that Magna Carta is really part of a much longer struggle to establish the principles of the rule of law and individual liberty, and by doing so we find a salutary reminder that we should not be complacent. We need to be ready to defend those hard-won right so as not to betray the evolving legacy of the Magna Carta.”



Chief Justice Chase T. Rogers also recognized the Society for its contributions to the Law Day Programming.

In 2016, then Connecticut Chief Justice Chase T. Rogers and Associate Justices, Hon. Peter T. Zarella and Hon. Richard A. Robinson re-enacted the Supreme Court argument re-enactment in the case of *State v. Castelli*, 92 Conn. 58 (1917). Justice Gregory T. D’Auria, then Connecticut’s Solicitor General, and Attorney Brendon P. Levesque of Horton, Shields & Knox, argued for the State and the Defendant, respectively.

In her closing remarks, Chief Justice Rogers said, in part, "The mock argument in *State v. Castelli*

recognized Justice Wheeler’s contributions to the rights of criminal defendants almost 50 years before Miranda...We are fortunate that our future includes citizens as you [students] who are committed to the rule of law and our courts as bedrocks of democracy."



## *Thanks for a Job Well Done*

At the upcoming Fall Meeting, both Molly LeVan and Kathy Calibey are retiring from the Historical Society Board.

It’s hard to imagine how the Society would have been so successful over the most of its history without their tireless efforts as co-chairs of the Program Committee, Molly since 2006 and Kathy since 2008.

Over the years they, along with Jeff White and, since 2016, Erick Sandler, were responsible for putting on the annual meetings each spring and a speaking program each autumn. Every program was entertaining and educational.

Equally important as Molly’s and Kathy’s ability to organize outstanding programs has been their ability to present them flawlessly. There were no missed deadlines, no unresolvable problems with scheduling or venues, nothing but smoothly run, informative and well-received programs. The Society’s Board will miss you, Molly and Kathy. We are forever in your debt. Thanks.





# CONNECTICUT SUPREME COURT HISTORICAL SOCIETY NEWSLETTER

First edition

## *Prize winning entries*

### *Obstacles to Voting and Some Possible Solutions*

By Christopher D'Inezo

President John F. Kennedy once said, “the ignorance of one voter in a democracy impairs the security of all” (Kennedy). Despite the rights of voters in the United States being protected by the Fifteenth, Nineteenth, Twenty-Fourth, and Twenty-Sixth Amendments, many obstacles to voting remain today. For example, 34 states require voter registration before Election Day, national, state, and local elections are mostly held on a workday, many college students cannot use school ID as proof of residency, and many of the homeless population remains unable to utilize same-day voter registration due to an inability to prove residency (“Legal”).

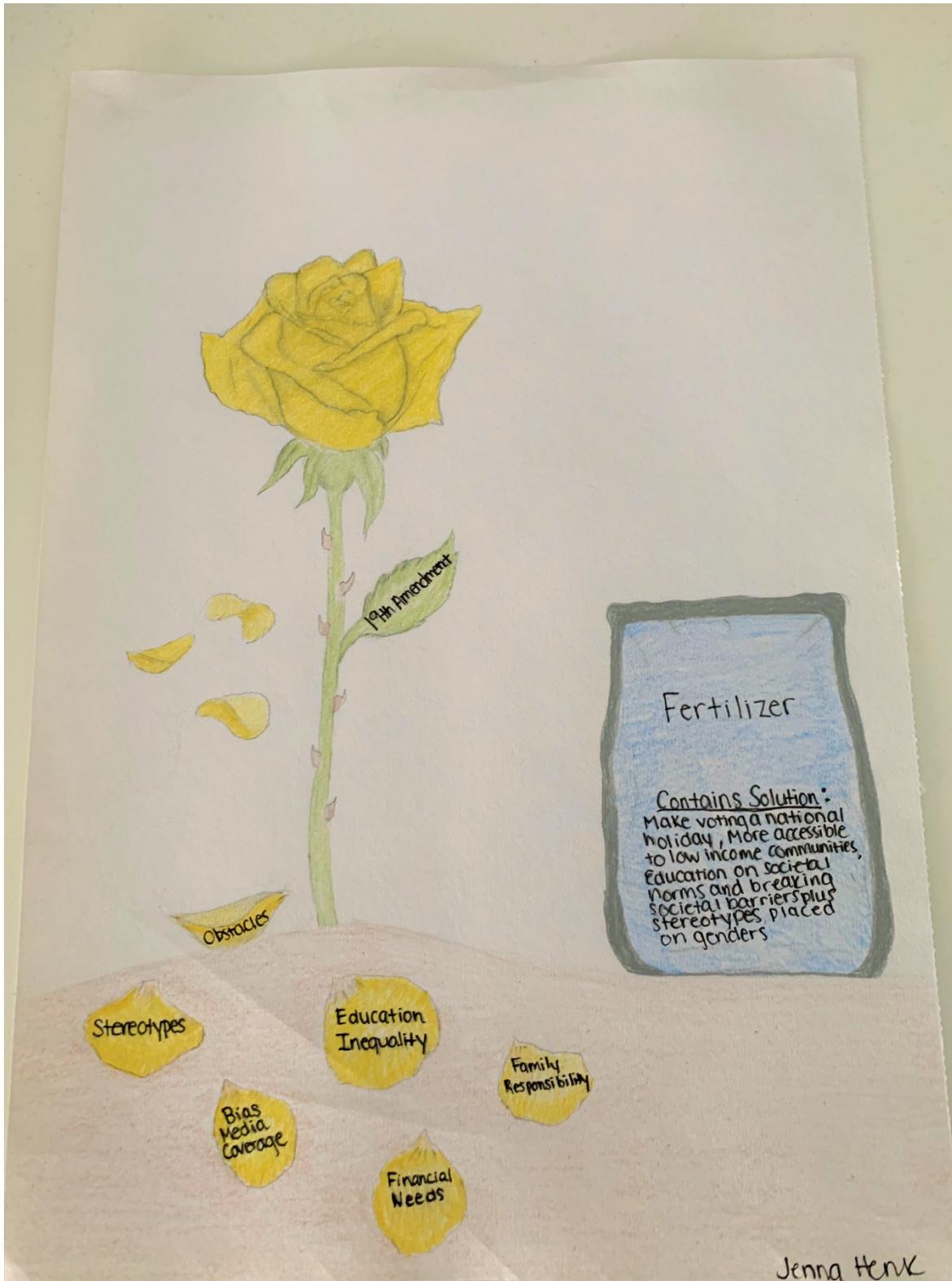
To tackle these obstacles, the best strategy involves looking towards countries with high voter turnout. Compared to the United States’ 55.7% voter turnout in the 2018 midterm elections, 87.2% of Belgium’s voters participated in their 2014 national election (Hutt). Compulsory voting proves the most notable difference between voting policies in the United States and Belgium. As the result of an 1893 law, Belgium requires voting of all people aged twenty-one and older. Those who do not vote face a penalty of €10 (\$11.15), which increases for each election missed (Timsit). In addition to compulsory voting, Belgium also encourages voting for all by holding elections on Sundays, sending voting cards (that specify how to vote) two weeks prior to election days, and allowing automatic registration at the polls (“Voting”).

By implementing compulsory voting, a culture that encourages voting, and legislation that lessens voter requirements, the United States can surmount remaining voting obstacles.



# CONNECTICUT SUPREME COURT HISTORICAL SOCIETY NEWSLETTER

First edition



Jenna Henk