



PERSONALITY PROFILE

Judge Cole Honored With A Surprise Retirement Dinner

by Nicole Schultheis



(Above) Pictured with Judge Cole and his wife, the former Doris Freeland (center), are two of their daughters, Harriet (wearing hat), an editor at *Essence Magazine*, and Stephanie, a software engineer at Martin Marietta Corp. Harriet traveled by train from her home in New York to surprise her father at the dinner.

On November 10, 1990, 35 guests, including past and present law clerks and interns of Maryland Court of Appeals Associate Judge Harry A. Cole, his staff, and family members, gathered at Maryland's University Club to pay tribute to their much-loved jurist at a surprise dinner held in his honor.

On January 1, 1991, Judge Cole became 70 years old, and subject to mandatory retirement.

Former law clerk David E. Beller (1979-80), who now practices with Jordon, Coyne, Savits & Lopata, instigated the November 10 affair, and recruited the author (1980-81) and Venable, Baetjer & Howard associate Francis R. Laws (1981-82) to help plan the event. Judge Cole's

Baker, who had the crowd in stitches.

On a more serious note, Frank Laws thanked Judge Cole for the opportunities his clerkship provided, namely, the sort of job not typically available to the son of a truck driver who never went to college. Anne C. Love, of Cable, McDaniel, Bowie & Bond, and the only clerk to serve Judge Cole both on the Supreme Bench and on the Court of Appeals, remarked that one of the things that impressed her the most while clerking for Judge Cole was his devotion to his family. At the end of the evening, the author presented Judge Cole with a gold watch bearing his initials, and carrying the engraved message, "From Your Law Clerks."

Judge Cole was the product of the Baltimore City public schools and graduated in 1943 from Morgan State College. Thereafter, he enlisted in the army and served in the South Pacific and European theaters. He received his law degree from the University of Maryland and began practice in 1949, a time when blacks were not admitted to either the State or Baltimore City bar associations and it was through membership in bar associations that lawyers became judges.

A Republican, Judge Cole was an unsuccessful candidate for the House of Delegates in 1950, but the next spring he made "a strong showing" as a candidate for a Fourth District seat in the Baltimore City Council, according to a *Sun* papers account published the following year. In 1952, at age 32, Judge Cole was appointed Maryland's first black assistant attorney general, under Edward D. E. Rollins. Judge Cole also served as a justice of the peace and as substitute trial magistrate, by appointment of Governor McKeldin.

A 1953 *Sun* papers article which published short biographies of that year's political candidates described Judge Cole, among other things, as the "secretary of a sausage company" (a corporation known to all today as Parks Sausage). While Judge Cole went on to beat Democrat incumbent Bernard S. Melnicove to become Maryland's first black state senator, from then the only predominantly black district in the state, four years later he was defeated by a black democrat. He went on to be the



(Right) On November 10, 1990 a group of former and current law clerks and interns of Court of Appeals' Judge Harry A. Cole gathered at U. Md.'s University Club to pay tribute to their former boss. Pictured are: (front row, kneeling) Kevin L. Shepherd, Steven G. Hull, Stacey Hirsch, Mary Alane Downs, David E. Beller, and James Butler; (second row, seated) Daniel Guy, Nicole Schultheis, Judge Cole, and Ann C. Love; (third row, standing) Jeffrey J. Utermohle, Francis R. Laws, Robert A. Krause, Brian S. Jablon, Pamela Lewis, David J. McManus, Jr., Margaret O. Roberts, and Lisette M. Taylor.

long-time secretary, Gloria Sementa, secretly compiled the guest list, and conspired with the Judge's wife, Doris. She made sure he arrived at the University Club on time, and importantly, that he remained unaware of the real reason for being there.

"It was all going fine until we had to sign the guest book in the lobby of the building, but I rushed up and signed in for the both of us," Mrs. Cole said.

The University Club provided cozy surroundings for cocktails and hors d'oeuvres, a photo session by the fireplace, and an intimate dinner in the club's main dining room, which is normally closed on Saturdays. Dinner was followed by a few short speeches, including remarks by Judge Cole's former court clerk from his days on the Supreme Bench, the inimitable Roland

first chairman of the Maryland Advisory Committee to the United States Civil Rights Commission, a post he held for two years.

In 1967, Judge Cole was appointed by then Governor Spiro T. Agnew to the six-year-old Municipal Court, filling a vacancy created by Judge Robert I. H. Hammerman, who became a judge on the Supreme Bench of Baltimore City. The following year Cole himself became a judge on the Supreme Bench, serving there for ten years.

Judge Cole was appointed to his seat on the Court of Appeals in 1977 by acting Governor Blair Lee 3d. At the time, Judge Cole was the only black among the five nominees sent to Gov. Lee.

On the Court of Appeals, Judge Cole authored nearly 250 published opinions, including concurrences and dissents. Perhaps the most controversial opinion he wrote for the Court, drawing sharp criticism from the American Civil Liberties Union, was the decision in *Trimble v. State*, 300 Md. 387 (1984). In this case the Court held that the Constitution of the United States did not preclude imposition of the death penalty against James Russell Trimble, who was four months away from turning 18 when he murdered a young woman in Baltimore County with a baseball bat, after he and an accomplice had raped her. In speaking for the Court, Judge Cole took pains to explain they were not holding that the death penalty was constitutionally permissible for all juveniles, but this did little to assuage critics.


Trimble then returned to the trial court to seek post-conviction relief, which was ultimately denied him. Another appeal ensued. Meanwhile, the law was changed to prevent persons convicted of crimes committed while under the age of 18 from being sentenced to death.

On December 7, 1990, Trimble's conviction was affirmed by the Court of Appeals. However, Judge Cole, writing again for the Court, reviewed the trial judge's instructions relating to the procedure for imposing the death penalty and the trial court's authority to sentence, and found these instructions misleading. Since under the new law Trimble could not again be sentenced to death, a life sentence was imposed by the Court of Appeals. ■

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