

Judge Cole dies at age 78

**Legal pioneer
was first black on
state's highest court**

By ERIC SIEGEL

SUN STAFF

Retired Judge Harry A. Cole, the first black to serve on Maryland's highest court and the first elected to the state Senate, died yesterday at Church Home in Baltimore of complications from pneumonia. He was 78.

Judge Cole made history in 1954 when he became the first black to win a state Senate seat and again in 1977 when he was the first black named to the Court of Appeals, where he served until his retirement in 1991.

Among his most notable accomplishments during his 14-year tenure on the court were writing the unanimous opinion that upheld the right of the state to fund abortions for poor women and his lone dissent in a decision upholding Maryland's method of local funding of public schools.

His death after a yearlong illness brought tributes from both political and judicial leaders.

"He was a remarkable man — one of the great heroes of 20th-century Maryland political history," Baltimore Mayor Kurt L. Schmoke said in a statement last night. "He was a true path-breaker and, a man all Marylanders could admire."

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Judge Harry A. Cole

Judge Cole, legal and political pioneer, dies at age 78

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Retired Chief Judge Robert C. Murphy, who served with Judge Cole on the Court of Appeals, called the death of his colleague "a great loss."

Judge Murphy said he was a "good dissenter — he liked to dissent." He said the jurist had a particular interest in the rights of prisoners and the "constitutional protections afforded all citizens."

Retired Judge Solomon Baylor,

who served with Judge Cole in the Baltimore court system in the 1970s, said he had a "brilliant legal mind."

Judge Baylor said Judge Cole's historic appointment to the state's highest court was important, not just to blacks but to everyone.

"It changed the theory that the highest bench was just for certain types of people," he said.

"He was the most qualified, so the people got the best," Judge

Baylor added.

The son of a tailor and one of five children, Judge Cole was born in Washington on New Year's Day in 1921. His father died when he was an infant, and his mother moved the family to Baltimore, where she had grown up.

All his schooling — from grade school through law school — was done in the city. He graduated from Douglass High School in 1939 and from then-Morgan State College in 1943, with highest honors.

He spent the last two years of World War II in the Army, serving in Europe and the Pacific. After the war, he returned to Baltimore to attend the University of Maryland School of Law, graduating in 1949.

Four years later, Judge Cole was hired as an assistant state attorney general, the first black lawyer to work in the office that provides legal advice to state agencies.

But it was in 1954 that he made

an irrevocable mark on the state's political landscape when he successfully challenged the Northwest Baltimore machine of the late James H. "Jack" Pollack.

A Republican, Judge Cole had run unsuccessfully for the House of Delegates in 1950 and for the City Council in 1951. But this time, he succeeded in knocking off Mr. Pollack's candidate, incumbent state Sen. Bernard S. Melnicove, by 37 votes in a bitterly contested election.

That made Judge Cole Maryland's first black state senator — and helped encourage a generation of politicians.

"He was a leader for black folks," former Baltimore Mayor Clarence H. Du Burns said yesterday.

In an interview three years ago, Victorine Q. Adams, a former city councilwoman and state legislator, put the significance of Judge Cole's victory into perspective.

"Harry Cole opened the floodgates because his victory proved we could do it," Mrs. Adams said.

To Judge Cole, his victory symbolized a triumph of reason over race.

"For years, whenever a qualified candidate of color has campaigned against his ticket, [Mr. Pollack] has attempted to promote the idea that the candidate runs on the basis of race rather than one of qualifications to serve," he said at the time.

Though he had forever altered the political landscape, Judge Cole would serve only one term. In 1958, he lost by 2,000 votes to a Pollack ticket; a year later, he lost in a bid for the City Council.

But it turned out that Judge Cole's public role was just beginning. That same year, he became the first chairman of the Maryland Advisory Committee to the U.S. Civil Rights Commission.

He maintained a private legal practice and in 1967 was appointed by then-Gov. Spiro Agnew to a seat on the old city Municipal Court. A year later, he was appointed by Mr. Agnew to the Supreme Bench, now known as the Circuit Court, the city's principal trial court.

It was during his 10-year tenure on city courts that he demonstrated the interest in prisoners' rights that left an impression on his fellow jurists. Demonstrating his evenhandedness and his commitment to constitutional principles, he once dismissed charges against two demonstrators protesting integration, saying they had the right to rally no matter what their cause.

He was named to the state's highest court by acting Gov. Blair Lee III in 1977 — one of five nominees recommended by the state bar association.

Judge Cole's swearing-in followed the commemoration of the 200th anniversary of the Court of Appeals — and the significance was not lost on him. "The fact that this appointment comes after 200 years could be an indictment itself" of the state's judicial system, he said.

In an interview at the time of his appointment, Judge Cole said: "Anyone can look at me and know who I am — a black judge. But I believe I have been fair and impartial as a judge, having full recognition of prejudice but not getting enmeshed in it."

In 1981, he wrote the court's unanimous opinion that said Maryland could use state funds to pay for abortions for poor women. In the opinion, he said that the law providing medical services for the poor was "clearly designed to permit indigent persons to receive the advantages of whatever health care may be presently accepted as appropriate in the medical community."

Two years later, weighing in on an issue that had been part of a national debate for more than a decade, he was the lone dissenter as the seven-member court upheld the state's method of financing public school education through local taxes.

"Under the present system, the state manifestly does not provide sufficient funds to jurisdictions throughout the state to ensure basic equal educational opportunity," he wrote.

Judge Cole had an extensive collection of music that ranged from Count Basie to Frank Sinatra.

He also loved to dance, said his wife of 41 years, the former Doris Freeland.

"He thought everyone ought to be able to dance," she said. "We would often dance the night away."

In retirement, he used his legal skills as head of a commission that recommended revisions in the Baltimore City charter.

In addition to his wife, he is survived by three daughters, Susan Cole Hill of Los Angeles, Harriette Cole Chinsee of New York and Stephanie Cole Hill of Baltimore; a sister, Dr. Pearl Cole Brackett of Baltimore; and two grandchildren.

Funeral arrangements are incomplete.