

Bringing students closer to courts

James Otis Lecture Series attracts high schoolers

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The rationale behind starting the James Otis Lecture Series three years ago at the U.S. District Courthouse was to expose Buffalo City School District students to the operations of the court, with a focus on the Constitution.

Organizers strived to tailor the relevance of Supreme Court decisions to the interest of the students who attended. They weren't sure how the high schoolers would respond but soon learned that the time and effort they put into the program was worth it for all involved.



Greg Peterson of the Robert H. Jackson Center in Jamestown is a key figure in the lecture series, which brings high schoolers downtown to the federal courthouse to learn about Supreme Court cases that have had an impact on the Constitution.

Following last year's presentation, U.S. District Court Judge William Skretny saw TV interviews with boys and girls from Hutchinson Central Technical, Frederick Law Olmsted and Buffalo Seminary high schools. He said he could tell that the students understood the importance of everything the program covered and appreciated the opportunity to visit the Western District of New York's federal courthouse.

"They were articulate, very enthusiastic and did themselves and their schools and the whole effort we put together very proud," said Skretny, former chief judge who recently was appointed senior status. "I think we have made a dramatic impact on the students, and now the schools don't have to be persuaded to want to be part of this. They now view it as a very special opportunity, and that's what we sought to accomplish when we tried to get this program started."

Last year, the program — which commemorated Constitution Day, as well — focused on the 60th anniversary of *Brown v. Board of Education*. Students heard from civil rights activist Linda Brown and watched a rare interview with Judge John Curtin, who discussed the case and other integration cases he oversaw in Buffalo.

The third annual James Otis Lecture is scheduled Sept. 28 at the Robert H. Jackson Courthouse and will focus on *Tinker v. Des Moines*. Speakers include Mary Beth Tinker, the central figure in a landmark 1969 Supreme Court case that ruled in favor of students' rights.

Organizers said the program will examine the balance between the First Amendment allowing free speech and the responsibility of educators and students, as well as its relevance in the 21st century.

Hurwitz & Fine attorney Michael Perley, who's with the Buffalo chapter of the American Board of Trial Lawyers, said the program is designed to present a constitutional topic in a way that engages students and highlights the subject's relevance to the area.

Following the presentations, students go to the jury assembly room for lunch and break into groups for an hour-long discussion with federal, state and city court judges, law clerks and attorneys.

"We thought we could make it interesting," Skretny said, "but just being around the students and finding out their impressions of what they believe was put together for their best interest, without imposing anyone's will on them — so it gives them the opportunity to creatively dialogue about it — has really made a significant impression. It lets them know what federal court is all about and shows them the relevance of constitutional issues — the significance of freedom of speech, freedom of education and issues like that."

Greg Peterson, co-founder of the Robert H. Jackson Center in Jamestown, said it's important to personalize the name the students see as they enter the courthouse. The annual James Otis Lecture shows them that Jackson, for whom the courthouse was named, has a lasting legacy.

"Among the things we're trying to accomplish is to answer the question for the students: Who is he?" said Peterson, a partner in the Chautauqua office of Phillips Lytle. "He has an amazing personal story and amazing professional story. We all want students to have role models, and perhaps this a program that lends itself to that."

Idea sprouted from conversation

In November 2012, Perley brought up the idea to Skretny of starting a program for high schoolers studying American history, which would offer a vantage point of different aspects of the Constitution.

From the court's point of view, this type of program was tailor-made to follow the marching orders of Supreme Court Chief Justice John Roberts. Skretny said a focus of each federal district court should be community outreach programs to grow awareness of the courts.

Skretny liked Perley's suggestion and suggested they move forward by combining the efforts of the American Board of Trial Advocates and the federal court. The program would center around Constitution Day.

The James Otis Lecture series commemorates the work of a man whose argument before the Supreme Court of Judicature in the Massachusetts Bay Colony of Boston played a role in the American Revolution and the eventual formation of the Constitution, which was signed in 1787. Constitution Day was created in 1952 by Congress.

The Buffalo version of the lecture series falls under the Buffalo chapter of the ABOTA Foundation and is hosted by the Jackson Federal Courthouse.

The inaugural program in 2013 focused on *Korematsu v. the United States of America*. The case dealt with individual rights and to what extent government can limit those rights. The case was brought before the Supreme Court during the tenure of Jackson. He wrote the dissent, which Perley said most people now agree should have carried the decision in a case that centered on a Japanese internment camp.

Perley said: "From that day on, for me it's been like, 'What does the judge want to do? What does Greg want to do? And how can I help?' That's pretty much how it grew."

Skretny said that combining the resources of ABOTA, the Jackson Center and the courts helped organizers make significant Supreme Court decisions understandable for students.

"It's things that resonate with students, and we've made the courts and the involvement of attorneys in the process particularly relevant to students," he said. "Then to focus on someone who has roots in the Western New York community, such as Robert Jackson — who is regarded in all circles as one of the top 3 if not the best Supreme Court jurists from the standpoint of writing style and ability — and to start with a decision like the *Korematsu*, we were able to make that somewhat understood by students. We're very pleased with the program."

Last year, when the topic was *Brown v. the Board of Education*, SUNY Buffalo Law School professor Rick Su delivered the keynote address. This year's speaker is Matthew Steilen, who teaches at SUNY Buffalo Law School in the areas of constitutional law and history, legal theory and history, and theory of common law.

"What I like about this is that we've now involved the law school and hope to continue that," Perley said. "As an organization, we want to be close to the law school and close to attorneys who want to do trial work."

2015 presentation

In 1965, Tinker was among a group of Iowa students suspended for wearing black armbands to mourn those who died during the Vietnam War and who called for a Christmas truce. The American Civil Liberties Union challenged the suspensions in court, leading to the ruling that neither teachers nor students “shed their constitutional rights ... at the schoolhouse gate.”

The decision has been cited in more than 6,000 cases involving student rights. Tinker, now a registered nurse living in Washington, D.C., travels the country to promote civics education, student journalism and youth rights.

Peterson said Tinker is expected to discuss how her case is similar to West Virginia State Board of Education v. Barnette, a decision delivered by Jackson that held that the free speech clause of the First Amendment protected students from being forced to salute the American flag and say the Pledge of Allegiance in school.

“When you see them speak, you can see that these people are real and not just a name on a piece of paper,” Peterson said. “They, in fact, have been impacted by something that happened in the U.S. Supreme Court, which in turn resonates with us.”

Buffalo attorney Patrick Maloney, president of ABOTA in Buffalo, said he and others appreciate the opportunity to hear Tinker’s story.

“So although this is a history lesson, this is a living and breathing person coming in to say what was really happening, what the thought process was,” said Maloney, of the Law Office of Dempsey & Dempsey. “I think it hits on a whole different level.”

During his address, Steilen of the law school said he plans to point out that free speech comes with responsibilities. What comes to the forefront in school speech cases is that the idea behind the political speech doctrine in the First Amendment — referred to as subversive advocacy — is that it requires some type of control around the edges of the forum so that speech can do its work and advance society.

“Speech has value only if you take responsibility for it, only if you stand behind what you say,” he said. “It contrasts that with anonymous speech. ... Some of those things can be disruptive and they don’t really add value to our society.”

Students hear the term “free speech” and think that means they can say or write anything they want, according to Steilen. But while there are elements of free speech that support that view, its roots are in promoting a productive environment and opening people’s minds.

“Not just any old speech does that,” he said. “This topic is totally ripe for discussion. Students will really understand what that’s about.”

Program reaches new heights

The program brings in a variety of judges and attorneys who interact with participants, and Skretny said students are encouraged to engage in meaningful conversation and not mask their feelings.

City and state court judges and appellate judges also discuss why issues go to a certain court and how that implicates the constitutional application of the law.

“We tell them, ‘Hey, we just want to have a dialogue with you about what you thought about how the judge handled this case and how the individuals handled the case.’ Everything, I think, struck the right cord,” he said, “but in a way, it also left the door open for us to improve on it, year-to-year. And that’s what we’re in the process of doing.”

He added: “It’s an amazing undertaking. We have been able to get a very warm reception once it was understood what we were trying to accomplish, with no strings attached. The school system, ABOTA, lawyers and the courts have dedicated whatever efforts they could to make this thing work out.”

Perley said organizers already have ideas of subjects for future presentations.

“After the first one, we were walking out of the courthouse and were thrilled,” he said. “We had no idea what to expect and we thought it went very well. As we were getting off the elevator, Greg looked at me and said, ‘Next year, 60th anniversary of Brown v. Board. We’re going to do it.’ I said, ‘OK, you’re on.’ ”

ABOTA members meet with participating schools beforehand to outline the topic so teachers can integrate it into lesson plans.

Skretny said it is also important that students walk into a court building that was designed to be representative of the legal system and community, with transparency and openness in mind. It opened in 2011.

“I think coming to the courthouse is a big deal,” he said. “The conversations that follow the experience of being in a courtroom make it even more memorable.”