



THE CALIFORNIA SUPREME COURT

# Historical Society

NEWSLETTER · FALL/WINTER 2012



JUDGE DAVID S. TERRY, STABBED BY A. A. HOPKINS, OF THE VIGILANCE COMMITTEE, SAN FRANCISCO, CAL.

A contemporary depiction of the 1856 struggle between David Terry (CENTER, DARK SUIT), then an Associate Justice of the California Supreme Court, and members of the San Francisco Committee of Vigilance. FULL STORY AT PAGES 2-7.

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The program was held in the Milton Marks Auditorium within the Ronald M. George State Office Complex, a part of San Francisco's historic Civic Center. Richard Rahm, the principal author of the program script (and a member of both the California Supreme Court Historical Society and the Northern District of California Historical Society) is at the podium on the right. The other narrator, District Judge James Ware, stands at the podium on the left. The speakers are (LEFT TO RIGHT) Superior Court Judge Barry Goode, District Judge Yvonne Gonzalez Rogers, Senior District Judge Thelton Henderson, District Judge William Alsup, Associate Justice Marvin Baxter, and Associate Justice Kathryn Werdegar.

PHOTOS ON PAGES 2, 3, 4 & 6 BY WILLIAM PORTER

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## CHIEF JUSTICE DAVID S. TERRY AND FEDERALISM: A LIFE AND A DOCTRINE IN THREE ACTS

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An all-star cast of seven judges informed and entertained a packed house in San Francisco with a program of dramatic readings sponsored jointly by the California Supreme Court Historical Society and the Northern District of California Historical Society. The program, entitled "CHIEF JUSTICE DAVID S. TERRY AND FEDERALISM: A LIFE AND A DOCTRINE IN THREE ACTS," was presented in the Milton Marks Auditorium within the Ronald M. George State Office Complex located in San Francisco's historic Civic Center on the evening of October 15.

David Terry served on the California Supreme Court from 1855 to 1859, two of those years as Chief Justice. He was a formidable man and is, without doubt, the most colorful, controversial, and violent figure ever to have served on the Court. The events of his turbulent life dramatically illustrate the interplay between state and federal authority in late nineteenth-century California.

The "actors" in the program included Justice Marvin Baxter and Justice Kathryn Werdegar of the California Supreme Court and Judge Barry Goode of the Contra Costa County Superior Court; the state court judges were joined by four federal court judges from the Northern District of California: Senior District Judge Thelton Henderson, and District Judges William Alsup, Yvonne Gonzalez Rogers, and James Ware.

Judge Ware was one of two narrators; his resonant voice powerfully carried the narrative forward while conveying emotions ranging from delight to dismay, depending on the events recounted. The other narrator was Richard Rahm, an attorney at the San Francisco office of the Littler law firm (and a member of both historical societies). Rahm conceived the idea for the program, conferred with UC Berkeley Professor (and Society director) Harry Scheiber about its scope and focus, wrote the script, and compiled dozens of historical images that were projected on a screen



TOP

*Judge Ware, with his resonant voice, dramatic flair, and subtle inflections, made an effective Narrator.  
SEATED ARE, LEFT TO RIGHT: Judge Goode, Judge Gonzalez Rogers, and Judge Henderson.*

BOTTOM

*Justice Werdegar, with her feather boa, gave a persuasive portrayal of Sarah Althea Hill, the cagey “ingénue” at the heart of the litigation that led to Terry’s death. Judge Alsup and Justice Baxter are an appreciative audience.*

during the readings. A small selection of these photographs and drawings is reproduced at pages 4, 5 and 7.

The other judges each played more than one role. For example, Justice Baxter took the part of Justice Terry, as well as that of William Herrin, who served as Special Counsel for the federal government in the habeas corpus proceedings held in federal court for the release of David Neagle, a U.S. Marshal who shot and killed Justice Terry in order to protect U.S. Supreme Court Justice Stephen Field from Terry's violent assault. Justice Werdegar played Sarah Althea Hill (a young woman whose lawsuit

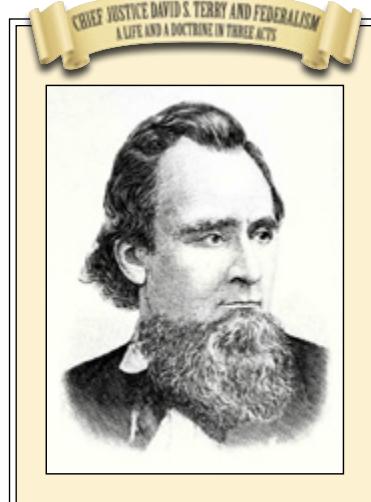
against wealthy U.S. Senator William Sharon played out in both state and federal court and became the proximate cause of David Terry's animosity toward Field and, ultimately, his death). She also took the part of U.S. Supreme Court Justice Samuel Miller, whose majority opinion upheld Circuit Judge Lorenzo Sawyer's decision in the habeas proceedings, immunizing Marshal Neagle from the State of California's effort to try him for murder. And Judge Goode played U.S. Senator David Broderick (killed by Terry in a duel), Circuit Judges Sawyer and Deady, and U.S. Navy Commander Boutwell.



All the judges displayed extraordinary dramatic talents. In several cases they made effective use of props. Justice Baxter, for example, while portraying Judge Terry, wore a beard and from time to time displayed a formidable Bowie knife. (Although similar in appearance to that which Terry customarily carried, Justice Baxter's knife was less lethal — being made of hard rubber rather than cold steel.) Judge Goode sported a floppy nineteenth-century bow tie that he had fabricated himself. And Justice Werdegar flourished a feather boa as she gave a persuasive performance as the wily "ingénue" Sarah Althea Hill.

Judge Gonzalez Rogers, while taking the part of a journalist interrogating many of the principal actors in the drama, took "notes" in a reporter's notepad. Judge Henderson donned a policeman's helmet as he delivered U.S. Marshal J.C. Franks' account of the courtroom brawl during which he and several others struggled to subdue Justice Terry and separate him from his Bowie knife. Judge Alsup needed no props to provide a convincing portrayal of General William Tecumseh Sherman, an ally of Terry in opposing the Vigilantes of 1856; his authoritative voice was sufficient to convey Sherman's soldierly discipline.

The large audience was fully engaged throughout the 90-minute performance,



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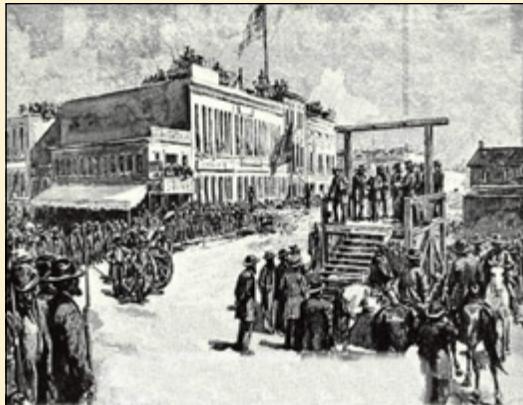
*The participants gathered in the "Green Room" before the program began. LEFT TO RIGHT: District Judge Yvonne Gonzalez Rogers, Associate Justice Kathryn Werdegar, Society board member Ray McDevitt, Associate Justice Marvin Baxter, District Judge William Alsup, Senior District Judge Thelton Henderson, Superior Court Judge Barry Goode, and District Judge James Ware.*

*Justice Baxter in character as David Terry, replete with derby, cravat and beard. The tape was deployed as a last-minute emergency measure when the adhesive furnished with the beard proved ineffective.*

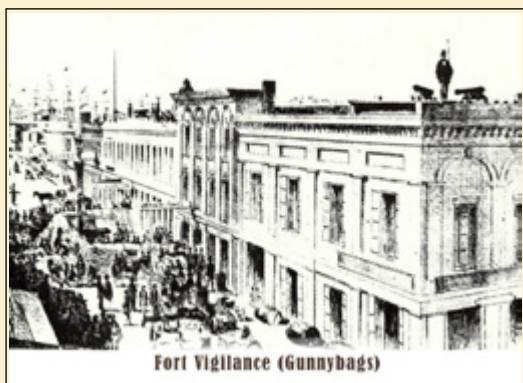
*David Terry was born in Kentucky in 1823, moved to his grandmother's plantation in Texas when he was 11, and claimed to have fought in the Texas War of Independence from Mexico when he was 13. He later served with the Texas Rangers during the war between the United States and Mexico, studied law in his uncle's office, and moved to California in 1849. He briefly tried his hand at mining but soon opened a law office in Stockton. Six years later, at the age of 33, he was elected to the California Supreme Court, running on the nativist "Know Nothing" Party ticket.*

ABOVE (DAVID TERRY PORTRAIT), FACING PAGE AND PAGE 7 IMAGES:  
A SELECTION FROM THE DOZENS OF HISTORICAL DRAWINGS AND  
PHOTOGRAPHS THAT WERE USED, IN A SLIDESHOW THROUGHOUT THE  
PROGRAM, TO ILLUSTRATE THE EVENTS AND PEOPLE IN TERRY'S LIFE.

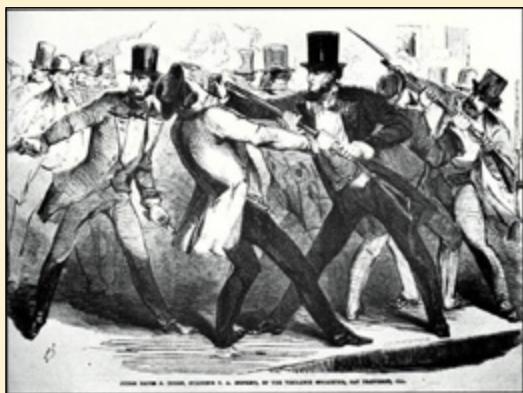
The spark that led to the formation of the 1856 Committee of Vigilance was the murder, by San Francisco Supervisor James Casey, of a crusading newspaper editor, James King. King's paper had printed a story claiming (correctly) that Casey had served time in New York's Sing Sing prison before coming to San Francisco. When King refused to print a retraction, Casey shot him to death on the street. The Vigilantes seized Casey from the jail, along with Charles Cora, a gambler who had previously killed a U.S. Marshal but whose trial had ended in a hung jury. Both men were given brief trials and then executed by hanging from the roof of the Vigilantes' headquarters at Fort Vigilance. The image to the right shows a subsequent hanging by the Vigilantes.



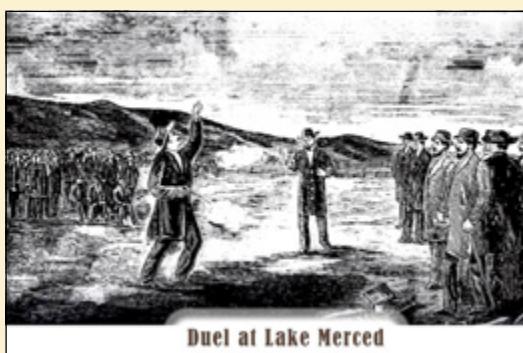
The Vigilantes called their headquarters Fort Vigilance. It was more commonly known as "Fort Gunnybags" because of the wall of sand-filled gunnysacks that was built to protect it. William Tecumseh Sherman, who was later to gain fame as a general in the Civil War, was a banker in San Francisco in 1856. He was placed in charge of the State Militia, and given the impossible task of controlling the far larger and better armed Vigilantes. Sherman described Fort Gunnybags as "a perfect citadel, with cannon above and below, a perfect arsenal of muskets within, and detention cells with steel bars. On the roof they installed a firehouse bell so they could summon their members."



Terry was opposed to the Vigilantes, aligning himself with a loosely-organized group called the "Law and Order Party." Along with others from that group, Terry became embroiled in a street battle with some Vigilantes. Here he is shown stabbing Sterling Hopkins, one of the Vigilante leaders, with the Bowie knife he customarily carried. He was arrested by the Vigilantes, imprisoned in Fort Vigilance and tried. When Hopkins miraculously recovered after emergency surgery to repair a severed artery in his neck, Terry was freed.



After the Know-Nothing Party dissolved, Terry rejoined the pro-slavery "Chivalry" wing of the California Democratic Party, which was led by U.S. Senator William Gwin, a southerner like Terry. The anti-slavery Democrats, largely from the north, were led by U.S. Senator David Broderick, originally from New York. The struggle between the factions was bitter, as the nation drifted toward civil war. In 1859, Terry challenged Broderick to a duel, ostensibly because he had refused to withdraw some remarks that Terry found offensive. Terry resigned as Chief Justice the day before the duel. After killing Broderick, he left the state, eventually serving as an officer in the Confederate Army during the Civil War.





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Judge Alsup looks with alarm at the Bowie knife flourished by Justice Baxter.  
(It was made of hard rubber, not cold steel.)

Judge Gonzalez Rogers as an inquiring reporter and Judge Henderson as U.S. Senator William Sharon. San Francisco Superior Court Judge J.F. Sullivan, after presiding at the first divorce trial, described Sharon as "a man of uncounted wealth, possessed of strong animal passions that, from excessive indulgence, had become unaccustomed to restraint."

Judge Goode portraying federal Circuit Judge Matthew Deady, who bolstered his ruling favoring Senator Sharon by observing that "the sin of incontinence in a man is compatible with the virtue of integrity, while in the case of a woman, common opinion is otherwise" — and that "other things being equal, property and position are in themselves some certain guaranty of truth in their possessor."

Justice Werdegar, with her feather boa, gave a persuasive portrayal of Sarah Althea Hill, the cagey "ingénue" at the heart of the litigation that led to Terry's death.

showing their enthusiastic appreciation by giving the judges a standing ovation.

The Society's first collaboration with the Northern District of California Historical Society was judged by all involved to have been a grand success. The foregoing account reveals that the program was entertaining. It was also informative, using events and excerpts from court decisions to illustrate the evolution of federal authority between 1850 and 1890, an evolution evident in judicial doctrine but underlain by the Civil War and the new technologies (the railroads and the telegraph) that linked California to the cities of the Eastern Seaboard.

Thanks are due to Justices Baxter and Werdegar and to Judge Goode for their outstanding performances and the time and energy that made them possible.

Contributions made by three others should also be recognized, each of whom served on the joint federal-state steering committee that over the course of four months planned all the details for the event: Society Vice President John Carigozian; Society Board member Ray McDevitt; and Don Warner, who teaches a course in California Legal History at Loyola of Los Angeles Law School. John coordinated all communications between the steering committee and the state court participants. Don, whose article on the 1856 Committee of Vigilance was, coincidentally, recently published in the 2011 edition of the Society's journal, *California Legal History* (vol. 6, pages 403–441), helped locate relevant drawings and photos at the Huntington Library. And Ray assisted in editing the draft script, publicizing the event at Bay Area law schools, arranging for a videographer to record the program, and working with the staff of the Ronald M. George State Office Complex to ensure the auditorium was set up for the rehearsal and the program itself. ★

*Sarah Althea Hill, an attractive young Southerner, was a party to two of the most notorious trials in San Francisco history, one held in state court and the other in federal court. Both involved her claim to have been secretly married to U.S. Senator William Sharon, one of the richest men in the United States. Sen. Sharon maintained that she had merely been his mistress. By the time this litigation began in 1883, Terry had returned to California, rebuilt a thriving law practice, avoided duels and rehabilitated himself politically. He was first hired as one of Sarah's lawyers and within a short time became her husband.*

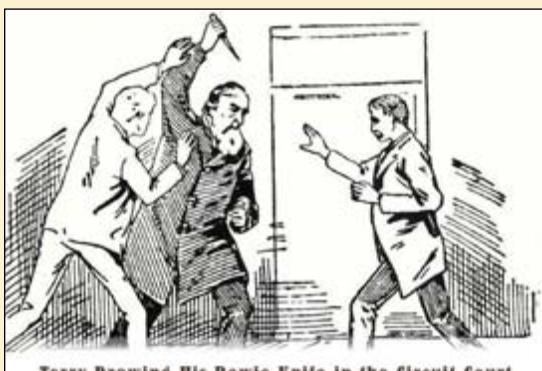
*Although Sarah initially prevailed in the state court proceedings, she fared badly in federal court. In 1888, U.S. Supreme Court Justice Stephen Field (sitting as a circuit judge) was reading the circuit court's decision, favorable to Sen. Sharon and adverse to Sarah. Sarah suddenly stood up in the courtroom and challenged Field, shouting that he had been bought and asking how much the Sharon interests had paid him. Field ordered her to sit down and, when she refused, ordered her removed from the courtroom. Terry attacked the Deputy Marshal who was trying to escort Sarah to the hallway, hitting him in the face and knocking out some of his teeth. As shown here, Terry drew his Bowie knife; it took several men to restrain and disarm him. Field then sentenced Sarah to 30 days in jail for contempt of court; he gave Terry a six month sentence.*

*After being sentenced, both Sarah and Terry issued threats against Justice Field, Sarah announcing that she would shoot him. As a result, David Neagle, a Deputy U.S. Marshal, was assigned as Field's bodyguard when he returned to California the following year as circuit judge. In August 1889, Field was traveling by train from Los Angeles to San Francisco on circuit court business. Neagle noticed that both Terry and Sarah boarded the train in the Central Valley. When the train stopped at the small town of Lathrop, passengers went to the dining room in the station. Terry assaulted Field while he was eating breakfast. Neagle then shot and killed Terry.*

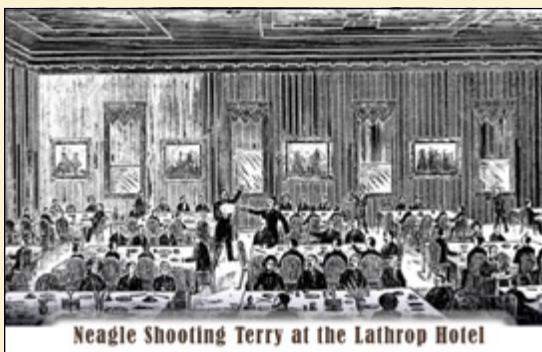
*Neagle was arrested and San Joaquin County authorities began proceedings to charge him with murder. The federal circuit court ordered him released after a habeas corpus hearing in San Francisco. In 1890 the United States Supreme Court, in a 6–2 decision, affirmed the circuit court, holding that a U.S. Marshal, acting in the course and scope of his federal duties, was immune from prosecution by a state. Justice Field (shown here in the front row, second from the right) recused himself from the case.*



Sarah Althea Hill



Terry Drawing His Bowie Knife in the Circuit Court



Neagle Shooting Terry at the Lathrop Hotel



U.S. Supreme Court 1890



**SPECIAL SESSION COMMEMORATING THE COURT'S SESQUICENTENNIAL,  
FEBRUARY 8, 2000, B.F. HASTINGS BUILDING, OLD SACRAMENTO**

LEFT TO RIGHT: Justices Ming W. Chin, Marvin R. Baxter and Stanley Mosk, reacting to a speaker at the special session.

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*In the Corridors of the Supreme Court: Historic Photographs*

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On the walls of the Supreme Court's private hallways are hundreds of framed photographs and images. In addition to 114 formal portraits — one of each justice — there are group photos of the justices (in chambers and on the bench), and photos memorializing special sessions held throughout the state. Intermixed with these are scenes from San Francisco and Los Angeles in the nineteenth and early twentieth centuries, copies of the original architectural plans for the Court's current headquarters at 350 McAllister Street in San Francisco, maps, and memorabilia. Most of these items are never seen by members of the public. In this ongoing series, we will share a representative sampling of the Court's historic hallway images and photographs. ★



**B.F. HASTINGS BUILDING, OLD SACRAMENTO, SITE OF  
CALIFORNIA SUPREME COURT 1855-57, 1859-62, 1862-69**

*On February 8, 2000, the Court held a special session in the courtroom on the second floor of this building, commemorating the Court's sesquicentennial. (For text of the proceedings, see addendum to 22 Cal.4th — Celebration of the 150th Anniversary of the Supreme Court.)*

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THE CALIFORNIA SUPREME COURT, B.F. HASTINGS BUILDING, OLD SACRAMENTO, 1858

LEFT TO RIGHT: Justice Stephen J. Field, Chief Justice David S. Terry, and Justice Joseph G. Baldwin.

The carved brackets supporting the top of the three-justice bench, above, remain evident in the expanded bench, shown in the photo below, taken nearly 150 years later.



SPECIAL SESSION COMMEMORATING THE COURT'S SESQUICENTENNIAL  
FEBRUARY 8, 2000, B.F. HASTINGS BUILDING, OLD SACRAMENTO

LEFT TO RIGHT: Justices Ming W. Chin, Marvin R. Baxter and Stanley Mosk, Chief Justice Ronald M. George,  
Justices Joyce L. Kennard, Kathryn M. Werdegar, and Janice R. Brown.

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## *Justice, Art, and Closets*

BY HON. DAVID ROTHMAN (RET.)

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*The recently completed portrait of former Chief Justice Ronald M. George.  
Judge Rothman donated the large (approximately 48 by 41 inches) oil portrait to the Court.  
It presently can be seen in the first floor public area of the Court's clerk's office in the Ronald M. George  
State Office Complex, Earl Warren Building, 350 McAllister Street, San Francisco.*

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Recently I gave a portrait to Chief Justice Tani Cantil-Sakauye. It is a painting of an old friend, former Chief Justice Ron George, whom I have known since the mid-1960s when we were in the California Attorney General's office together. Chief Justice Cantil-Sakauye liked the picture and happily assured me that the portrait of Chief Justice George would be hung someplace nice and would not disappear. The reason for this conversation about art disappearing has a history, and this is the story of my piece of that history.

In late 1962 and early 1963, I was often in the courtroom in the Old State Building in Los Angeles to watch the Court of Appeal in action, or to argue criminal appeals to the Court after I passed the bar exam and became a Deputy AG. Whenever the Supreme Court sat in Los Angeles I also went up to the courtroom to watch oral arguments before the justices of this great Court. I couldn't resist taking my yellow legal pad so I could do some drawing.

**TOP RIGHT:**  
*The initial drawing of the Gibson Court as reproduced in the May 1, 1963 edition of the Daily Journal. The original of the drawing, done while David Rothman was a young Deputy Attorney General, was given to the Court and subsequently lost.*

**CENTER RIGHT:**  
*The second version of the drawing, prepared at the request of Associate Justice Marshall McComb.  
It is preserved at Southwestern Law School, to which it was donated by Justice McComb's family after his death.*

**BOTTOM ROW:**  
*Preliminary sketches of (LEFT TO RIGHT) Justices Mathew D. Tobriner, Marshall F. McComb, Roger J. Traynor and Chief Justice Phil S. Gibson for the composite drawing of the Gibson Court. The sketches were drawn in the courtroom on a legal-size pad turned sideways; the ruled lines, running vertically, can still be seen.*

IMAGES PAGES 10-12  
COURTESY DAVID ROTHMAN

In April of 1963, I finished a large drawing of the Court in session and I gave the framed original to Chief Justice Phil Gibson. The *Daily Journal* heard about the drawing, took a photograph and published it in the May 1, 1963 edition of the paper, along with a photograph of the Supreme Court justices sitting around the conference table in the Chief's chambers.

Several days after I gave the drawing to the Court, one of the court clerks in Los Angeles told me that Justice McComb wanted to see me. Justice McComb spent most of his time in LA, and we saw him in the elevator frequently. He was an imposing person, and, in spite of his silence on the bench (seemingly paying no attention to argument) and his "concise" opinions, he was a friendly guy. He told me how much he liked the drawing of his colleagues, and, laughing, said the drawing *really* captured them. He asked if I would do another drawing of the justices on the bench for him and that he would



pay me for my efforts. My wife and I think it was about \$100, which I used to buy a really nice tweed sport coat that lasted into the 1980s, known in my house as both the “McComb Coat” and the “Coat of many colors.” The drawing for Justice McComb was a smaller version of the original, showing only the justices without the big bench, curtain and flags.

In July of 1963 I borrowed the original drawing back from the Court to enter it in the annual art exhibit at the State Bar Convention in San Francisco. The Chief wrote me on August 13, 1963, “The members of our Court will be happy to have you enter the drawing” and wished me luck. After the Convention ended (the drawing got a second place award) I returned the drawing to the Court.

Forty years later I decided to find out what happened to the drawing so I could take a picture of it. The only thing I had was a very aged copy from the *Daily Journal* article of May 1, 1963. I called Fritz Ohlrich, then Clerk of the Supreme Court, to see if he could find the drawing, possibly stashed away in a courthouse closet or dungeon. He called back a few weeks later: “No luck.”

I eventually located the other drawing I had done for Justice McComb. It is at Southwestern Law School in Los Angeles, in a room devoted to Justice McComb’s papers and memorabilia, donated by the McComb family.

When my wife and I recently moved from Los Angeles to Berkeley I found some of the sketches of the seven justices that I made while watching the Court in action so many years ago.

Until recently, I continued to believe that the original drawing would eventually surface. But then I saw the article in the California Supreme Court Historical Society Newsletter [Spring-Summer 2011] about the fate of *The Commonwealth*, a gigantic mural (12 by 35 feet) by Arthur Mathews that was hung above the bench in the Supreme Court’s courtroom in San Francisco for many years. The painting was taken down in the 1950s when the courtroom was remodeled, rolled up, stored away, and (as it turned out) lost. Even Barbara George, Chair of the Art Committee of the San Francisco Civic Center Complex, could not find it after searching every possible location. Although I have given up all hope, I like to think that my drawing rests in peace with *The Commonwealth*. ★



Preliminary sketches of (LEFT TO RIGHT) Justices B. Rey Schauer, Raymond E. Peters, and Paul Peek.

**D**avid Rothman is a man of many accomplishments. After graduating from the University of Chicago Law School, he worked for four years as a Deputy Attorney General in the Los Angeles Office of California Attorney General Stanley Mosk (who also attended the University of Chicago Law School). He then spent nine years in private practice in Beverly Hills. Governor Jerry Brown appointed him to the Los Angeles Municipal Court in 1976 and to the Superior Court in 1980. He retired from the bench in 1996, and served as a dispute resolution neutral until 2005. Since the mid-1980s he has devoted years to teaching judges and writing about judicial ethics and conduct. He wrote three editions (1989, 1999 and 2005) of the *California Judicial Conduct Handbook*. The California Judges Foundation calls the book “the undisputed treatise on judicial

ethics.” The Foundation provides a free copy of the book to every judge in California; Judge Rothman has received no financial benefit for the 30 years of writing and updating this classic work of practical scholarship. Since 1995 Rothman has served on the California Supreme Court’s Advisory Committee on the Code of Judicial Ethics.

Throughout all those years Rothman maintained his love for art. And, when the demands of a career in law allowed, he pursued his passion for drawing and painting. He had loved drawing as a child and it came easily to him. As a student at Hollywood High School, he dreamed of becoming a commercial artist. Throughout college and law school he kept sketching. He produced a series of “humorous drawings” of law school professors

*Continued on page 13*

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## *California Reports, Volume One: The Backstory to a Constitutional First*

BY RAMONA MARTINEZ\*

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The ubiquitous availability of California Supreme Court decisions is taken for granted today. Practitioners and researchers from anywhere can access decisions online through several paid subscription databases and freely from the Court's website and other sources like FindLaw and Justia. Printed sources also are available of course: the official bound volumes of final opinions and the softcover "advance sheets," both now published by Lexis-Nexis, as well as reporter series publications by West and the Daily Appellate Reports printed in the *Los Angeles Daily Journal*. But what if you were a California pioneer? What if you had arrived in California during the Gold Rush era and the California Supreme Court was just deciding its first cases? Print would have been your only option and obtaining a print copy would not have been a simple matter. Three different men held the position of State Printer (the person responsible for printing the volumes containing the decisions of the California Supreme Court) before any volume was actually produced. Two of these men believed they held the position of State Printer at the same time, and both produced a version of volume one of the California

Reports. It was not until 1872 when Sumner Whitney and A.L. Bancroft & Co. joined to reprint the California Reports from the beginning that the entire series of California Supreme Court cases was produced by one publisher.

I first discovered that there was more than one edition of the first volume of the California Reports when a professor asked me to find the Report on Civil and Common Law, which appears in the appendix to that volume. The report was prepared by the Senate Judiciary Committee in February 1850 in response to a petition that John Dwinelle and other practicing members of the Bar of San Francisco had presented to the Legislature recommending that the English common law be adopted in California, rather than a civil law system. The volume we had on the shelf in our main reading room did not contain an appendix. I asked a colleague at the Stanford Law School library if she would look for the report in their set of California Reports. When I received the report, I saw from the title page that it had come from a different edition of the California Reports, and that we were not simply missing some pages in ours. Later, I discovered that we had another set of early California Reports volumes in storage. When I looked at the first volume of that set, I

*Continued on page 14*

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\*Reference and Interlibrary Loan Librarian, University of California, Berkeley, School of Law.

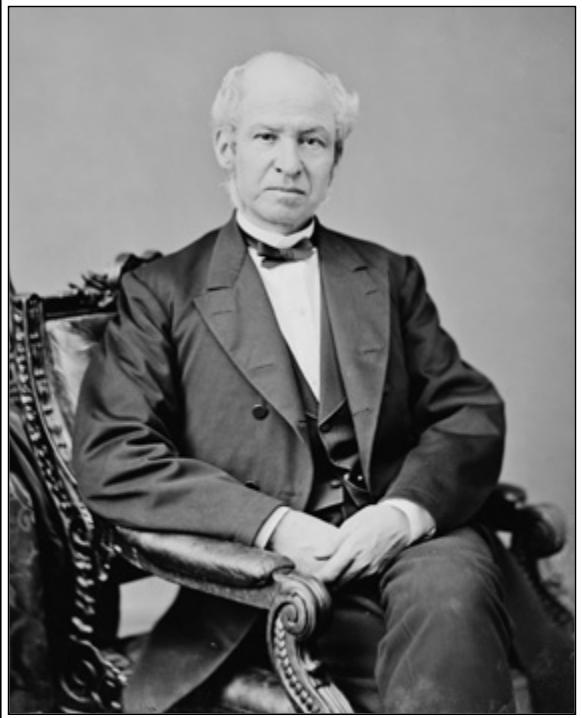
**DAVID ROTHMAN, continued from page 12**

compiled in a book titled "The Glass Menagerie" — a dig at the glass-walled, modernist law school building designed by Eero Saarinen. (Whether the faculty found the drawings as humorous as the students did is open to question.)

His drawings done as a young Deputy Attorney General, reproduced on pages 11 and 12, speak for themselves. He began taking formal drawing classes in the 1970s and has studied portrait oil painting since the 1980s with noted Los Angeles artist Stephan Douglas. Although he concentrates on portraits, he also paints landscapes, with some watercolors of flowers in the Sierra. Recently, Gallery 6020 in Los Angeles presented 20 of his paintings at a one-man show. The paintings exhibited included a group of portraits illustrating Judge

Rothman's values as well as his skill. Titled "Zeal for Good," they featured portraits of civil rights leader and Congressman John Lewis, Judge Harry Pregerson of the United States Court of Appeals for the Ninth Circuit, a Bedouin-Israeli lawyer and women's rights activist, and a yoga instructor and spiritual leader.

An article about Judge Rothman in the *Los Angeles Daily Journal* concludes he "looks back fondly on his legal career, but he's glad he never gave up on his artistic side." Judging from his splendid portrait of former Chief Justice Ronald M. George, reproduced on page 10, all Californians can be glad that he pursued his passion for art. Let us hope that this fine piece will avoid the fate of some other works of art entrusted to the California Supreme Court during the last century. ★



*Eugene Casserly, elected to the position of State Printer by the Legislature, challenged the validity of his predecessor's appointment by the Governor.*

PHOTO COURTESY WIKIPEDIA

noticed that it was yet another edition — one that also contained the report I had been looking for. This paper will attempt to explain the reasons for the existence of three different editions of volume one of the California Reports.

In the late 1840s and early 1850s, California was faced with an exploding population and a lack of both physical and governmental infrastructure. A brand new government was trying to establish law and order in a political entity that had never gone through any period of U.S. territorial government. In contrast to other states admitted to the Union in the same era,<sup>1</sup> the fledgling state of California had no chance to establish legislative or judicial structures or to “try on” its new form of government as a territory of the United States as opposed to being a part of Mexico, occupied by the American military. Rather, circumstances forced a hasty organization of governmental structures, much of which took shape even before Congress approved California’s admission as a state on September 9, 1850.

General Bennett C. Riley, the last military governor of California, received no guidance from the federal government for more than a year after the Treaty of Guadalupe Hidalgo had ended the war with Mexico in May 1848. Ultimately he concluded that a constitution was necessary to bring some order to the affairs

of the old “Alta California” and, in June 1849, called a constitutional convention. California voters ratified the Constitution on November 13, 1849. At the same time, the first governor and members of the first state Legislature were elected; the Legislature appointed the first judges to the Supreme Court the following month. Displaying an understanding of the importance of preserving history and the records of the state, the first law passed by the California Legislature created the “Public Archives” and the second created the office of the “State Printer,” whose duty it would be to print the laws, legislative documents, and the cases decided by the state Supreme Court.<sup>2</sup> Thus began the saga of legal publishing in California.

The law creating the position of State Printer provided that the printer would be “elected by, and under the entire control of the Legislature.” (Stats. 1850, ch. 2, § 1.) On January 10, 1850 the Legislature elected Henry Robinson as State Printer “for the term of two years, and until his successor shall have been duly elected and qualified.” (Sen. Journal, 1849, p. 83.) Robinson held the position for a mere four months, resigning in May 1850, 12 days after the first legislative session ended. The law setting the procedure for filling vacancies in offices during the recess of the Legislature provided: “Vacancies that may happen in offices, the appointment of which is invested in the Governor and Senate, or in the Legislature, shall be filled by the Governor during the recess of the Legislature, by granting commissions that shall expire at the end of the next session.” (Stats. 1850, ch. 85, § 44.) Upon Robinson’s resignation, the Governor appointed Jonas Winchester. “General” Winchester, as his family called him, was enthusiastic about his opportunity to serve as State Printer. His papers, held by the California State Archives, contain letters to his wife, Susan, explaining how lucrative the state printing business could be. In August 1849, he wrote “there is not a better or more profitable business in this country than printing” and the following month he reported that “the prospects of a large profit are better and better every day.” However, by September of 1850 his enthusiasm had waned and he complained to Susan that he “had bills against the State for over \$36,000 . . . not a dollar have we yet received for all our heavy outlay.” In January 1851, Winchester presented a report to the Legislature reviewing the work done and the expenses incurred. He said “instead of the immense fortune which it has been thought the State Printer has accumulated from the proceeds of the public work, he has not yet realized a sufficient amount from the Treasury to meet the obligations already incurred.” (Sen. Journal, 1851, p. 873.) Nevertheless, the Printing Committee recommended reducing the State Printer’s compensation and the Legislature passed a law on March 28, 1851 cutting the rate of pay by forty percent. (Stats. 1851, ch. 36.) Winchester resigned

his position that same day in a letter addressed to Governor McDougal, stating “[w]hen my earnings will not pay the wages of honest labor, I should be dishonest not to abandon the business.” The Governor then appointed James Devoe to replace Winchester, even though the Legislature was still in session. A few weeks later, on May 1, 1851 (the last day of the legislative session), the Legislature elected Eugene Casserly to the post by a vote of 21 to 13 over Devoe, who was also a candidate. The very next day, however, James Devoe resigned and, the Legislature now being in recess, the Governor promptly appointed George Fitch to replace him. (The selection of Fitch may have been influenced by his newspaper’s editorial support for the Democratic Party ticket — including Governor McDougal — at the preceding election.) In the brief interval between Devoe’s appointment and the election of Casserly, the Legislature revised the procedure for recess appointments. The law, as amended, provided that such appointments would thereafter expire “whenever the Governor and Senate or the Legislature shall appoint a person or persons to fill said offices.” (Stats. 1851, ch. 104, § 41.) The limitation on the duration of recess appointments was a response by the Legislature to the continuing struggle between it and the Governor over the scope of gubernatorial appointment powers.

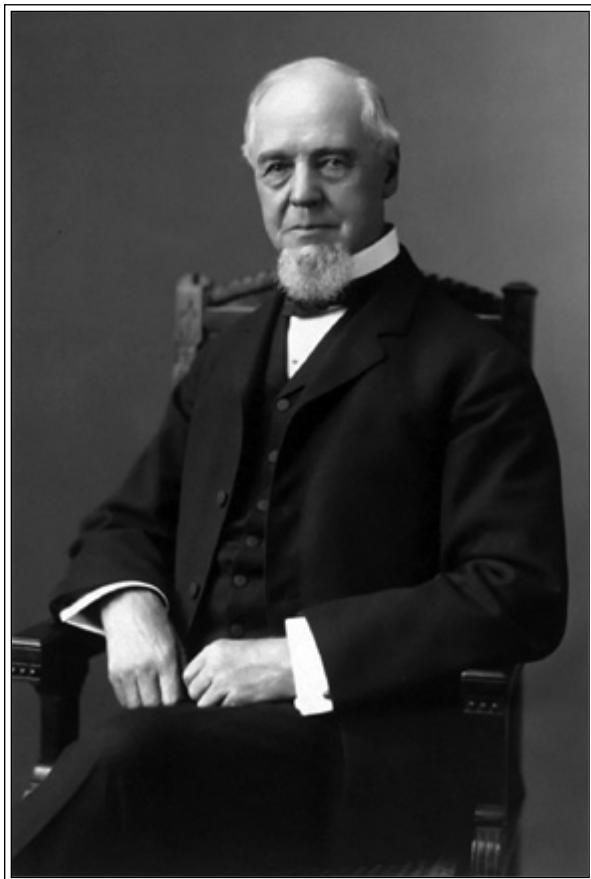
Governor McDougal’s appointment of James Devoe, the Legislature’s subsequent election of Eugene Casserly, Devoe’s resignation and the Governor’s appointment of George Fitch created a controversy over who rightfully held the position. Resolution of the controversy turned on the question of legislative versus executive power. And the answer to that question required interpretation of several provisions of the new state Constitution and the law establishing the office of the State Printer as well as the law relating to recess appointments.

Eugene Casserly brought suit against George Fitch, asking the court to declare that he, by virtue of his election by the Legislature, was legally entitled to the office of State Printer. Fitch prevailed in the trial court and Casserly appealed directly to the Supreme Court, there being no intermediate appellate court at that time. The dispute between Casserly and Fitch was decided in the October 1851 session of the California Supreme Court and the opinion was printed in the very volume that is the subject of this article. (*The People ex rel. Casserly v. Fitch* (1851) 1 Cal. 519).

Casserly’s argument began with the foundational principle established by article XI, section 6 of the state Constitution that “officers shall be elected by the people or appointed by the Legislature.” He asserted: (1) The law creating the office of the State Printer made clear that the position was to be under the control of the Legislature. (2) Because the printer is elected by the Legislature, the power to fill vacancies in office naturally belongs to

the Legislature as well, unless some law explicitly provides to the contrary. (3) There is no such countervailing law — the Governor is given only a limited, contingent power to fill vacancies that occur while the Legislature is not in session. (4) Because the Legislature was in session when “General” Winchester resigned, the appointment of Devoe was void. Casserly acknowledged that the Governor’s later appointment of Fitch, made the day after the Legislature’s term had ended, was made while the Legislature was not in session. He maintained, however, that there was no vacancy in the office needing to be filled at that time, the position having been filled through the Legislature’s valid election of Casserly the preceding day.

Fitch, in response, relied on a narrow reading of the law relating to recess appointments. He maintained that the law applied only to appointments made during a recess and was silent about appointments made while the Legislature was still in session. Fitch asserted that there was no other law addressing that situation and, as a result, another constitutional provision came into



*George Fitch, appointed State Printer by Governor McDougal, prevailed in the trial court but lost in the California Supreme Court.*

PHOTO COURTESY THE BANCROFT LIBRARY

play. Specifically Fitch pointed to article V, section 8, which provided: "When any office shall become vacant, and no mode is prescribed by the Constitution and laws to fill the same, the Governor shall have power to fill such vacancy . . . ."

The Court agreed with Mr. Casserly. It held that "the power to appoint to an office carries, by implication, the power to fill a vacancy in such, and all necessary authority to carry out the original power and prevent its becoming inoperative." Hence there was no absence of a law providing the mode of filling vacancies while the Legislature was in session and the "backstop" authority given to the Governor in article V, section 8 of the Constitution was not relevant. "We are of the opinion that, on the resignation of Winchester, the power of filling the vacancy reverted to the Legislature; that the appointment of Devoe and subsequently of [Fitch] was irregular and void; and that [Casserly] was properly elected, and entitled to exercise the rights and duties of the office." Fitch was thereupon "ousted and excluded" from the office of State Printer. (1 Cal. 519 at p. 536.)

During the period of uncertainty in the State Printer's office, two different editions of the first volume of the California Reports were produced. The first was printed in 1851 and listed Eugene Casserly as State Printer. The publisher was the San Francisco firm of Marvin & Hitchcock. The appendix included presentations of the following:

- ◆ The Alcalde System of California (pp. 559-579)
- ◆ The Mexican Appellate Court (pp. 579-582)
- ◆ San Francisco and its Provisional Government (pp. 583-587); and
- ◆ Report on Civil and Common Law (pp. 588-604)

The second edition of volume one was produced in 1853 and listed both Fitch and Devoe as State Printers, employing the same pagination as the first edition. To distinguish itself from that earlier edition, and attract customers, this version included, in addition to the same four matters in the 1851 edition's appendix, four more documents in a further appendix as follows:

- ◆ The Laws of Miners and Mining Companies (pp. 659-667)
- ◆ Sketches from the History of California (pp. 668-676);
- ◆ The Mexican Conquest of California (pp. 677-679); and
- ◆ Land Titles in California (pp. 680-682)

The 1872 edition produced by Bancroft and Whitney included "notes and references to subsequent cases" but did not include any appendix.

Returning to the Report on Civil and Common Law — the original subject of my research assignment —

contemporary researchers will not easily find the document using today's online legal research tools. Entering the citation "1 Cal. 588" in Westlaw retrieves the opinion in *People v. Fitch*, the last case reported in volume one of California Reports. The result is the same in Lexis, except that an explanatory note appears saying that page 588 does not exist. No result will appear in Loislaw because its coverage of California cases does not begin until 1899. Findlaw's coverage does not begin until 1934. Fortunately, searching Google Books *will* yield good results, and obviate the need for seeking interlibrary loans of these extremely rare volumes. Copies of both the 1851 Casserly edition of volume one, and of the 1853 Fitch and Devoe edition of that volume, were scanned by the Google Books project.

Although the underlying dispute between Casserly and Fitch and the resulting three different editions of the first volume of the California Reports may be of interest only to a few law librarians, Mr. Casserly's case brought before the California Supreme Court the issue of the allocation of powers between the executive and legislative branches with regard to appointments during a vacancy in an office. The Court confirmed the Constitution's intent that the legislative branch is predominantly responsible for appointments to executive branch offices not elected by the people and that the power to appoint an officer implies the power to fill a vacancy during that officer's term. *People v. Fitch* was cited with approval several times later in the nineteenth century. And it remains good law. Most recently, the case was cited in *Marine Forests Society v. California Coastal Commission* (2005) 36 Cal.4th 1, in which the Court observed, at page 33, "Very early decisions of this court confirmed both the primacy of the Legislature's constitutional role in determining how and by whom executive officers should be appointed, and the very limited nature of the role that the state Constitution granted to the Governor with regard to this function. See, e.g., *People v. Fitch* (1851) 1 Cal. 519, 536." ★

#### END NOTES

1. Florida, after 14 years as a territory, was admitted to the Union on March 3, 1845; Texas, after 9 years as a Republic, was annexed on December 29, 1845; Iowa, after 8 years as a territory, was admitted to the Union on December 28, 1846; Wisconsin, after 12 years as a territory, was admitted to the Union on May 26, 1848; Minnesota, after 9 years as a territory, was admitted to the Union on May 11, 1858; and Oregon, after 11 years as a territory, was admitted to the Union February on 14, 1859.

2. See Statutes 1850, chapter 2 ("An Act to create the office of State Printer, and define his duties"). The duties of the State Printer were clarified in Statutes 1850, chapter 26 ("An Act defining the duties of State Printer, and fixing his compensation").



## 2012 STUDENT WRITING COMPETITION WINNERS ANNOUNCED

*First-place winner Catherine Davidson (SECOND FROM LEFT) is congratulated by Chief Justice Tani Cantil-Sakauye (LEFT), Associate Justice Kathryn Mickle Werdegar (CENTER), Society President Dan Grunfeld (RIGHT), and Board Member Selma Moidel Smith, who initiated and conducted the competition — at the California Supreme Court, San Francisco, October 16, 2012.*

PHOTO BY WILLIAM A. PORTER

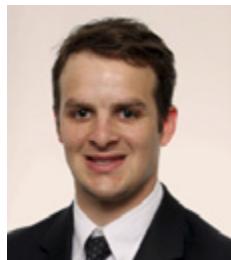
(PUBLISHED IN THE SAN FRANCISCO AND LOS ANGELES EDITIONS OF THE DAILY JOURNAL ON NOVEMBER 30, 2012)

The California Supreme Court Historical Society is pleased to announce the winners of its 2012 Student Writing Competition.

For the first time, students from a single school, UC Hastings College of the Law (San Francisco), have won all three places in the competition, notwithstanding entries from as far south as Los Angeles and as far east as Chicago. Also for the first time, all three winning papers will be published as part of a "Student Symposium" on legal history in California in the 2012 volume of the Society's annual journal, *California Legal History*.

First place was won by Catherine Davidson for "All the Other Daisys: Roger Traynor, Recrimination, and the Demise of At-Fault Divorce" (Professor: Reuel Schiller). She receives a prize of \$2,500.

Second place was awarded to Jeremy Zeitlin for "What's Sunday All About? The Rise and Fall of California's Sunday Closing Law" (Professor: Joseph Grodin).

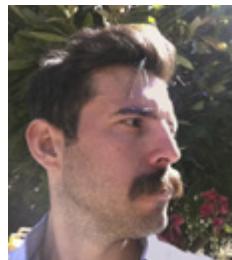


Second-place winner  
Jeremy Zeitlin

The third place winner is David Willhoite for "The Story of the California Agricultural Labor Relations Act: How Cesar Chavez Won the Best Labor Law in the Country and Lost the Union" (Professor: Reuel Schiller).

The three distinguished judges, all of whom are American legal historians, were: Charles J. McClain, UC Berkeley School of Law; Robert F. Williams, Rutgers-Camden Law School; and Victoria Saker Woeste, American Bar Foundation.

The competition was open to law students and to graduate students in history, political science, government, and related fields. Student papers may address any aspect of California legal history, ranging from the decisions and justices of the Supreme Court itself to local events of legal and historical importance, at any time from 1846 to the present. The winning papers are available on the Society's website, [www.cschs.org](http://www.cschs.org) (at "History of the California Courts").



Third-place winner  
David Willhoite

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*Ave Atque Vale:*  
**Fritz Ohlrich Retires as Clerk/Administrator of the Court**

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*Attorneys scheduled to present oral argument to the Court greatly appreciated the informal “tutorials” that Fritz provided in the courtroom before the justices entered. The avuncular Ohlrich enjoyed this part of the job as well: “I tried to put them at their ease,” he recalls, “I wanted them to be relaxed and be able to make their best argument.”*

PHOTOS COURTESY OF THE CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS

Frederick (“Fritz”) Ohlrich retired as Clerk/Administrator of the California Supreme Court in June 2012. Chief Justice Tani Cantil-Sakauye offered high praise: “Fritz Ohlrich has served as an esteemed and distinguished Clerk/Administrator of the Supreme Court for the past 12 years and has been an invaluable advisor and friend to me during my tenure as Chief Justice.” Former Chief Justice Ronald M. George concurred, observing that “his exceptional demeanor truly made it a pleasure for justices and staff to work with him, as it was for the attorneys who received his helpful briefings before making their oral arguments before the Court.”

The Clerk/Administrator is the Court’s chief executive officer and is responsible for planning, organizing, and directing the management of the Office of the Clerk and all non-judicial administrative support activities for the Court. Fritz himself summarizes the matter in

these terms: “In my view the primary job of the Clerk is to make certain the Supreme Court and its entire staff have the resources necessary so the Court can perform its function in a timely, efficient, and accurate manner, thus ensuring the highest level of public confidence in the institution.” This entails broad programmatic responsibility for budget, personnel, and purchasing decisions. It also requires the Clerk/Administrator to serve as the Court’s liaison with the Administrative Office of the Courts, the Reporter of Decisions, the California Highway Patrol (which provides security), and the State employees in charge of operations and maintenance of the Ronald M. George State Office Complex in San Francisco and the courtrooms that the Court routinely uses in Los Angeles and Sacramento.

But it also requires close attention to seemingly mundane details. Fritz was invited to apply for the Clerk/

Administrator position by Chief Justice George in late 1999, while he was the administrator of the Los Angeles Municipal Court. He recalls sitting in on oral argument when the Court was next in Los Angeles, in order to get a sense of the justices as individuals. There was an electric light in the ceiling of the auditorium that kept flickering during the arguments. Later, when Fritz was being interviewed for the position, one of the justices asked: "Mr. Ohlrich, what would you do if you were given the job of Clerk of the Court?" Fritz replied "Well, the first thing I'd do is fix that darn light bulb!" He was offered the job.



*Chief Justice Tani Cantil-Sakauye offers high praise to Fritz Ohlrich at his retirement party.*

invigorating and challenging career opportunity." In addition, the move to San Francisco allowed him to trade his one-and-one-half hour commute for a 15 minute trip from a townhouse in the City. And there was the reality of the L.A. Municipal Court's imminent disappearance — as a consequence of trial court unification. As one of the Municipal Court judges said of Fritz's departure, "My, what an elegant lifeboat you've chosen." Fritz began service as the 25th Clerk of the Court in January 2000.

Asked about significant changes in how the Office of the Clerk operated during his management, Fritz pointed first to implementation of "Case Information" technology that provides online case docket information for all pending cases, updated hourly. Additionally, the system allows users to register for automatic notifications of all important case actions. "This single improvement meant that law firms and litigants did not have to call the Court on Wednesday afternoon to determine whether review had been granted or denied during the morning petition conference. This eliminated hundreds of weekly telephone inquiries and was perhaps the most important step in streamlining the Clerk's operation and improving the service the Court provides. In the *Marriage Cases* and the Prop 8 Case, tens of thousands of individuals were registered for, and received, automated Case Information notifications." (Fritz encourages CSCHS members

not familiar with this service to register at: <http://appellatecases.courtinfo.ca.gov/email.cfm?dist=0>)

The *Marriage Cases*, the Prop 8 Cases and other high-profile cases presented the Court with unique logistic challenges. One of Fritz's most satisfying accomplishments is the contribution the Clerk's Office made to the Court's response to the demands of those cases. Fritz observes: "The Court provided unprecedented access to the public while handling these high-profile cases without distraction. In addition to the case dockets being available online (and automatic notice of Court actions being provided instantaneously to many thousands), the Court posted the briefs and televised the oral arguments. And once the Court filed its decisions, the Reporter of Decisions immediately posted the opinions online."

The greatest challenges Fritz faced were directly related to continually diminishing fiscal resources. Fritz points out that the Court's funding has been reduced each of the past three years and that in the two preceding years it was static, despite rising costs. For more than three consecutive years the entire Court staff (attorneys and clerk's office personnel) have endured a "temporary" salary reduction of 4.6 percent. In addition, in 2010 the clerk's office in Los Angeles was closed, three deputy clerks laid off, and their work transferred to San Francisco, to be handled by existing staff. Fritz was clear: "Making certain the Court's work continued to be timely and accurately processed in this fiscal environment was the most significant challenge I faced."

His biggest frustration? "The lack of sufficient financial and staff resources to implement electronic filing and related technological improvements now standard practice in the federal courts."

With his retirement in June, Fritz concludes a distinguished career in law enforcement (nine years as a Deputy Sheriff of Ventura County) and court administration. It has been a career during which he earned a Masters degree in judicial administration from California Lutheran University, became a graduate fellow of the National Center for State Courts, and served two terms as an advisory member of the Judicial Council of California. And he has been an energetic, personable, and effective member of the California Supreme Court Historical Society board of directors for many years.

In a 2010 article about Fritz the *Los Angeles Times* called him the "Supreme Court's historian, the keeper of its records, and its biggest fan." Fritz will no doubt enjoy the opportunities provided by his retirement to travel with Mary Holland, his companion for the past nine years, and to spend time with his three young grandchildren: Aiden (four); Madelyn (three); and Sebastian (not quite one). But he will always be the Court's "biggest fan." ★

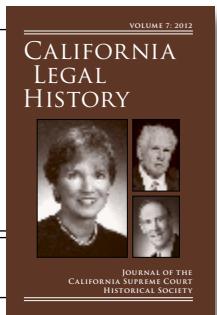
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# CALIFORNIA LEGAL HISTORY

## VOLUME 7, 2012

JOURNAL OF THE CALIFORNIA SUPREME COURT HISTORICAL SOCIETY

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HON. NORMAN EPSTEIN, Presiding Justice of the California Court of Appeal, Second District, Division 4, was honored earlier this year by the Beverly Hills Bar Association, which presented him its Ronald M. George Award for Judicial Excellence. Congratulating Justice Epstein on receiving the award, Beverly Hills Bar Association President Lawrence Jacobson remarked, "In his over 35 years of service on the Bench, Presiding Justice Norm Epstein has produced a large body of erudite opinions which have significantly shaped California law. As a lecturer at the Judicial College for over 25 years, he has also helped train an entire generation of trial judges." Mr. Jacobson also observed that Justice Epstein has influenced an entire generation of trial lawyers as a co-author of Witkin's *California Criminal Law, 3rd Edition*, and as a long-time author of the Rutter Group's *Civil Trials and Evidence*.

Justice Epstein was appointed to the Los Angeles Municipal Court by Governor Reagan, to the Los Angeles Superior Court by Governor Edmund G. Brown, Jr., to the Court of Appeal by Governor Deukmejian, and to his present position by Governor Schwarzenegger. Previously, he served as a California Deputy Attorney General and as Chief Counsel to the California State University system.



ELIZABETH CABRASER, chair of the personal injury practice group at Lieff Cabraser, LLP, recently led a successful negotiation of federal class-action litigation arising out of the 2010 BP oil spill in the Gulf of Mexico. The settlement, reached in 2012, resolved more than 20,000 individual claims within two years from the day the oil spill began.



Cabraser also received two notable honors during 2011. She was elected to membership in the American Academy of Arts and Sciences. Founded in 1780, the Academy's purpose is "to cultivate every art and science which may tend to advance the interest, honor, dignity, and happiness of a free, independent, and virtuous people." Many accomplished leaders from academia, the social sciences (including the study and practice of law), business, public affairs, the humanities, and the arts have been elected to membership in the Academy.

In August 2011, Cabraser also received the Margaret Brent Women Lawyers of Achievement Award, established by the American Bar Association Commission on Women in the Profession. The award recognizes and celebrates the accomplishments of women lawyers who have excelled in their field and have paved the way to success for other women attorneys.

*Continued on page 22*

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\*Please note that issues prior to 2006 were published as *California Supreme Court Historical Society Yearbook*. (4 vols., 1994 to 1998-1999.)

DALE MINAMI, founding partner of Minami & Tamaki, LLP, in San Francisco, was recently honored by the San Francisco Planning and Urban Research Association (SPUR), the venerable Bay Area regional public policy “think tank.” Minami received the 2011 Silver SPUR award, which recognizes individuals “whose achievements have made the San Francisco Bay Area a better place to live and work.”

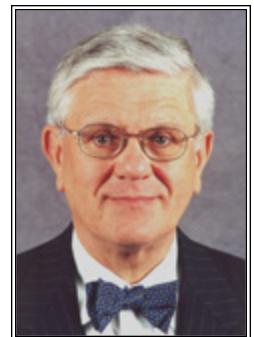


In announcing the award, SPUR noted Minami’s long-standing commitment to advancing the civil rights of Asia Pacific Americans and other minorities. Particular mention was made of his co-founding of both the Asian Law Caucus (the first community-interest law firm in the nation serving Asia Pacific Americans) and the Asian American Bar Association of the Greater Bay Area, a first of its kind in the nation. The award also recognized Minami’s involvement in significant litigation advancing civil rights. Prominent among those is the landmark case of *Korematsu v. United States*, a federal lawsuit leading to the reversal in 1983 of Fred Korematsu’s 40-year-old conviction for refusal to obey exclusion orders aimed at Japanese Americans during World War II.

HON. RONALD ROBIE, Associate Justice of the California Court of Appeal for the Third District, recently received notable honors in recognition of his achievements in two distinct (but, in California, interwoven) fields: law and water supply.

The California Judicial Council last fall named Justice Robie a recipient of its highest honor for state jurists: the Ronald M. George Award for Judicial Excellence. The

Council recognized Justice Robie for his many contributions to the statewide administration of justice, including his having chaired, during 2011, both the California Commission on Access to Justice and the California Supreme Court’s Committee on Judicial Ethics Advisory Opinions. The Council also acknowledged his leadership in judicial education, as evidenced by his service on the board of directors of the National Center for State Courts. Justice Robie has long been personally active in legal education, having taught courses in water law for many years as an adjunct professor at the University of Pacific McGeorge School of Law.



In the Fall of 2011, the California Water Commission unanimously voted to rename the massive Thermalito pumping plant at Oroville to commemorate Justice Robie’s distinguished service in water quality and water supply. Henceforth the facility, a key component of the State Water Project, will be known as the Ronald Robie Thermalito Pumping and Generating Plant. Arthur Saracino, Chair of the Commission, said “Justice Robie has had a profound and beneficial impact on the development and protection of our State’s water resources and continues to be a leading voice for balancing environmental and water supply needs.”

Prior to assuming his duties on the bench, Justice Robie was appointed to the State Water Resources Control Board, a statewide regulatory body with jurisdiction over water rights and water quality, in 1969. He served on the Board until 1975, when he was appointed Director of the California Department of Water Resources. DWR operates the State Water Project — the largest state water and power system in the United States. ★

*“A lawyer without history or literature is a mechanic, a mere working mason; if he possesses some knowledge of these, he may venture to call himself an architect.”*

— SIR WALTER SCOTT, GUY MANNERING (1815)

### ★ ★ ★ LET US HEAR FROM YOU ★ ★ ★

*Send contributions for MEMBER News as well as suggestions for articles and book reviews to the editor,  
Ray McDevitt, at rayemcdevitt@gmail.com*

### A NOTE FROM THE EDITORS

*The name of the photographer identified in the credits on pages 14-16 of the Spring-Summer 2012 issue of the Newsletter was misspelled. The correct spelling is “Dick Corten.”*

*We regret the error, which has been corrected in the on-line version of the Newsletter.*

## MEMBERSHIP DONORS OCTOBER 1, 2011 – SEPTEMBER 30, 2012

*We print here the names of benefactors who have generously made donations  
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