



THE CALIFORNIA SUPREME COURT

Historical Society

NEWSLETTER · AUTUMN/WINTER 2004

Foreshadowing Brown v. Board: The 1946 Case of Mendez v. Westminster

BY JOY C. SHAW

In 1945, a group of Orange County Latino families, led by tenant farmers Gonzalo and Felicitas Mendez, filed suit so they could send their children to nearby all-white schools in Westminster instead of the shabby, distant schools set aside for “Mexicans.” The families’ victory sparked the end of official segregation in California public schools, seven years before *Brown v. Board of Education*.

It was the “finest achievement” of Los Angeles immigration attorney David Marcus, who represented the Mendez family, said his granddaughter Anne K. McIntyre. “I heard about the case my whole life,” McIntyre said. “It was a huge thing for my grandfather.” Yet, unlike *Brown*, the most celebrated court decision of the civil rights movement, *Mendez v. Westminster* faded into obscurity, left out of children’s history books and rarely mentioned by lawyers and judges.

Mendez was not even cited in *Brown*, despite the fact that Earl Warren and Thurgood Marshall had significant ties to, and were influenced by, the Orange County decision. Marshall argued the *Brown* decision, and Warren wrote it. But today, with Latinos making up one-third of California’s thirty-four million people, a growing number of scholars and legal experts are connecting the missing dots between *Mendez* and *Brown*. “Our whole family is so appreciative of this newfound interest,” said McIntyre, who is now an attorney herself at Wood, Smith, Henning & Berman in Los Angeles.

Mendez was pushed into the shadows of history, in part by the civil rights movement’s focus on the black-white divide in the American South, legal observers say. But strategic decisions that Marcus and his clients made as end runs around racist traditions and statutes in California also fostered the case’s relative obscurity. Marcus argued that Latinos were whites and therefore could not be grouped with other races,



including African American and Asian American, that were subject to segregation laws. The case became about national-origin discrimination. While the tactics won the day, they narrowed the case’s footprint.

“Had the Westminster school district decided to appeal the Ninth Circuit decision, which went for the Mendez family, we would be celebrating the fifty-seventh anniversary of *Mendez v. Westminster*,” said Gilbert Acuna, librarian at the Los Angeles County Law Library. “It’s as simple as that.”

Mendez v. Westminster was filed on March 2, 1945, after the Mendezes were barred from registering their children in “all-white” public elementary schools in the Westminster, Garden Grove, El Mondeno and Santa Ana City school districts. A year later, United States District Judge Paul J. McCormick in Los Angeles issued a ground-breaking ruling opening all the schools to Mexican American children.

In his decision, McCormick boldly suggested that segregated schools, even if they had the same facilities as white schools, are not equal. “The equal protection of the laws pertaining to the public school system in California is not provided by furnishing in separate schools the same technical facilities, text books and courses of instruction to children of Mexican ancestry that are available to the other public school children regardless of their ancestry,” McCormick wrote in his ruling on February 18, 1946. “A paramount requisite in the American system of public education is social equality. It must be open to all children by unified school association regardless of lineage.” *Mendez v. Westminster School Dist. of Orange County*, 64 F.Supp. 544, 549 (S.D. Cal. 1946).

Law experts say McCormick was the first federal judge in the nation to find segregated schools inherently unequal. “This paragraph is unbelievable,” said

Christopher Arriola, deputy district attorney for Santa Clara County, who went to Esplanade Elementary School, built after the *Mendez* decision, in Orange County in the sixties. “He is saying separate is not equal.”

Significantly, however, McCormick did not address the constitutionality of the now-infamous 1896 United States Supreme Court case *Plessy v. Ferguson*, which upheld separate but equal facilities for different races and established racial segregation as the law of the land. Instead, McCormick, in what was probably a ploy to evade *Plessy v. Ferguson*, outlawed segregation by national origin. “What is a district court judge to do to get around *Plessy v. Ferguson*?” Arriola said. “*Plessy v. Ferguson* said you can segregate by race. It doesn’t say anything about national origin. This is my perfect case to say segregated schools based on national origin is unconstitutional. If that’s approved, that can be a next step to overturning *Plessy*.”

Marcus also conceded that facilities in segregated Mexican schools in Orange County were equal to and sometimes better than those in “white” schools – a deliberate evasion to avoid a partial ruling. “We all know that they weren’t in most cases,” Arriola said. “Why would he do that? Because he did not want some partial ruling from a district court saying separate is okay as long as these districts bring those schools up and make them equal.” He also brought in an expert witness, UCLA anthropology department chairman Ralph Deals, to testify that segregated Mexican children suffered from inferiority feelings in relation to Anglo-Saxon children. This was the first time in U.S. history that a social scientist’s testimony was used in support of a legal argument, experts said.

Marcus’ assertion that Mexican Americans are Caucasians was a way to sidestep two California statutes that provided for racially segregated schools for Native Americans and Asian Americans. California Education Code Section 8003 said, “The government board of any school district may establish separate schools for Indian children, excepting children of Indians who are wards of the United States government and children of all other Indians who are descendants of the original American Indians of the United States, and for children of Chinese, Japanese, or Mongolian parentage.” And Section 8004 said, “When separate schools are established for Indian children or children of Chinese, Japanese, or Mongolian parentage, the Indian children or children of Chinese, Japanese, or Mongolian parentage shall not be admitted into any other school.”

Marcus tiptoed around both laws. “It should be noted, as all parties agreed below, that no question of race discrimination is involved in this case, since per-

sons of Latin and Mexican extraction are members of the ‘white’ race,” Marcus wrote in his brief before the Ninth Circuit United States Court of Appeal.

Marcus, who with his Mexican American wife had four children, was well aware that Mexican Americans weren’t listed in California’s official segregation statutes, his granddaughter said. When he filed *Mendez*, he had just used that fact to win a 1944 case for a group of Mexican Americans who wanted equal use of San Bernardino city pools. “It’s a legal loophole [that Marcus] can get through to end this awful precedent [in *Plessy v. Ferguson*],” Arriola said. “That’s what Marcus put before the court, and McCormick jumped to it. It’s brilliant. Our constitution had allowed segregation of Indians, Mongolians, and Asians, but one of the things the *Mendez* case was bringing to the surface was that, if you are going to classify... that people of Mexican descent are Caucasians, as white, how can you segregate them?” said Dr. Carlos Haro, assistant director of UCLA’s Chicano Studies Research Center.

The national origin argument later became the sole basis for the Ninth Circuit decision striking down *Westminster’s* segregation as a violation of the Equal Protection Clause of the Fourteenth Amendment. “That the California law does not include the segregation of school children because of their Mexican blood,” Judge Albert Lee Stephens of the Ninth Circuit wrote in a unanimous en banc opinion dated April 14, 1947, “is definitely and affirmatively indicated, as the trial judge pointed out, by the fact that legislative action has been taken by the State of California to admit to her schools, children citizens of a foreign country, living across the border. Mexico is the only foreign country on any California boundary.” *Mendez v. Westminster School Dist. of Orange County*, 161 F.2d 774, 780 (9th Cir. 1947).

But while they eked out a win, Marcus’ arguments about the racial status of Mexican Americans diminished the impact that *Mendez v. Westminster* had on civil rights case law. “What’s tricky about the *Mendez* case is that it [uses] such a narrow ground to decide on the basis of California law,” said Ariela Gross, law professor at the University of Southern California. “It would be awkward to cite that law when you are trying to get rid of all segregation. What McCormick actually said is this California law allows you to segregate among the great races of mankind, but Mexicans aren’t one of them.”

There’s no question, however, that McCormick’s decision helped shape how California Governor Earl Warren and Thurgood Marshall, attorney for the National Association for the Advancement of Colored People, in New York, thought in the *Brown* case. Marshall and his colleague, Robert Carter, at the

NAACP had been looking for local school desegregation cases to build a nationwide movement since 1940, when, under Marshall's leadership, the group founded its Legal Defense and Education Fund, Inc. So when the Westminster school board filed an appeal with the Ninth Circuit, the civil rights group decided to weigh in.

In an amicus brief filed on October 2, 1946, Marshall asked the appeals court to broaden the scope of the *Mendez* case to include all minorities and to strike the "separate but equal" doctrine altogether. "Segregation on a racial basis in the public school system is a type of arbitrary and unreasonable discrimination which should be forbidden under our laws," Marshall wrote. He later used the same argument in his Supreme Court brief.

Other advocacy groups, including the American Jewish Congress, the American Civil Liberties Union, the Japanese American Citizens League, and the Los Angeles chapter of the National Lawyers Guild submitted amicus briefs in support of *Mendez*. "Whenever a group, considered as 'inferior' by the prevailing standards of a community, is segregated by official action from the socially dominant group," American Jewish Congress attorneys Will Maslow and Pauli Murray wrote on October 28, 1946, "the very fact of official segregation, whether or not equal physical facilities are being furnished to both groups, . . . is a humiliating and discriminatory denial of equality to the group considered 'inferior' and a violation of the Constitution of the U.S."

The Ninth Circuit was unwilling to go as far as the civil rights groups wanted, however. "We are not tempted by the siren who calls to us that the sometimes slow and tedious ways of democratic legislation is no longer respected in a progressive society," Stephens wrote. "For reasons presently to be stated, we are of the opinion that the segregation cases do not rule the instant case and that is reason enough for not responding to the argument that we should consider them in the light of the amicus curiae briefs." *Mendez*, 161 F.2d at 780.

The Ninth Circuit's timidity almost certainly reflected a compromise struck to reach a unanimous decision, legal experts say. "We know that in *Brown v. Board*, the chief justice really wanted a unanimous opinion because they'd think, if they go too far out on a limb, nobody would enforce that decision," Gross said. "Certainly in 1947, it's a radical argument to say any time there's segregation, that's discrimination."

But the broader desegregation argument was not lost on Warren. He became governor in January 1943 after four years as attorney general with a mixed reputation on racial issues. In 1942,

Continued on page 12

A Continuum

BY JAMES E. SHEKOYAN

This is my first newsletter column as president of the California Supreme Court Historical Society. Often, when there is a change in the leadership of an organization, the incoming officers will talk about new beginnings, suggesting that there will be substantial changes in policy and practice from the past. I can assure you that is not the case with this change of leadership. My fellow officers and I stand on the shoulders of those who have led, directed, and nurtured this Society since its beginning. Without taking anything away from those who served before him, I want to give particular credit and thanks to Kent Richland for his leadership during the past five years. He and his fellow officers have served through a period of substantial progress for the Society, both as to its programs and publications, and the development of resources to support them.

I am pleased that Kent is continuing to serve the Society as a member of the Executive Committee so that we can continue to have the benefit of his advice and wise judgment. We hope to build on that progress by continuing to support current programs and projects (e.g., oral history projects and the archiving of the papers of Justice Stanley Mosk), increasing donations to the Society to support those projects, and identifying new programs and projects to support that further the mission of the Society, that being to preserve and promote the rich history of the California Supreme Court and the entire California legal and judicial system.

I want to thank my fellow board members for electing me as president of the Society. I've been a member of the board for over ten years, and have particular memory of my first board meeting, in April, 1994. The meeting was held in San Francisco, and was preceded by a luncheon for the board members. When I arrived from my home in Fresno, I was greeted by Malcolm Lucas, then the Chief Justice. He invited me to join him at his table with four others: two Court of Appeal justices, Supreme Court Justice Stanley Mosk, and the venerable Bernie Witkin, all of whom were then members of the Board of Directors of the Society. I will confess to having felt much trepidation sitting with that group, and more than once silently asked myself, "What am I doing here?" I will say that I am still here because I have a strong belief in the necessity of preserving California's legal and judicial history and making it available to historians and scholars, as well as the general public. I look forward to working collaboratively with the officers with whom I serve – Vice President Ray McDevitt, Secretary David McFadden, and Treasurer Ophelia Basgal

Continued on page 13

Transitions

BY KENT L. RICHLAND

My last newsletter column – in which I recounted the history of the creation of California’s Courts of Appeal in recognition of their one-hundredth anniversary this year – prompted a letter from former Board of Directors member Judge William A. McKinstry of the Alameda Superior Court. Judge McKinstry reminded me that our appellate judiciary’s passage from one to two tiers was not quite as smooth as my abbreviated historical summary may have suggested.

As recounted in detail in articles by Judge McKinstry and his daughter Bridget in the CSCHS’s August and December 1998 *Newsletter* issues, from 1885 until the Courts of Appeal were established in 1904, California experimented with a controversial solution to the Supreme Court’s burgeoning caseload – the California Commission. Composed first of three and later five “persons of legal learning and personal worth” whose salaries equaled those of the justices of the Supreme Court, the Commission was authorized to “aid and assist” the Court “in the disposition of the numerous cases now pending in said court undetermined.” (1885 *Stats.*, p. 101.) This meant that, in a substantial number of cases, the commissioners reviewed the briefs and record and prepared a written opinion that was sent to the Supreme Court with a recommended disposition.

Although the Supreme Court would sometimes reject the commissioners’ recommendations, frequently the Court would simply adopt their opinions with a notation to that effect. This practice led to criticism that the commissioners were improperly exercising judicial power. (Interestingly, in 1975, a sitting Court of Appeal justice articulated a similar criticism based on what he saw as the appellate courts’ over-reliance on career staff in the preparation of opinions. [Thompson, “One Judge and No Judge Appellate Decisions,” *Cal. State Bar J.* 476 (November/December 1975)].)

After the Indiana Supreme Court held a similar commission arrangement in that state unconstitutional, a challenge was leveled against the California Commission. In *People v. Hayne*, ’83 Cal. 111, 118 (1890), the Supreme Court rejected the claim that the commissioners unconstitutionally wielded judicial powers, assuring the citizens of California that the Commission’s “reports and opinions are neither decisions nor infallible guides, but they are serviceable instrumentalities to aid us in performing our functions.” Of course, as we know, despite surviving the constitutional challenge, the Commission itself survived only until 1904, when the Courts of

Continued on page 13

A Twist, a Turn, and Here I Am

BY JIM YOPPOLO

A while ago I received an e-mail from my lifelong friend Dorothy Callaghan. The simple question – “What are you up to these days?” – resulted in my explaining how I came to be associated with the California Supreme Court Historical Society. This is what I told Dorothy.

Nearly three years ago, another friend and I were catching up after losing touch for some time. That friend is Donna Schuele, my co-director at the CSCHS. At the time, I had just returned to Los Angeles after spending over a year with family and friends in Ohio. In another life, my career was rooted in food and wine. I spent several years at Wally’s in West Los Angeles and had become known as “Jim Y.” in the world of food and wine. I then held the position of Culinary Expert at Bloomingdale’s and even gave radio a shot as a restaurant critic on KABC.

In the midst of all this, I started volunteering for nonprofit organizations and discovered a new niche. I became a corporate sponsor at Aid For AIDS. Within a week, they asked if I would join them as an employee in their Development department and I said yes. After a couple of years, I went back to volunteering, this time with LA Shanti. In 1998 I was named “Development Volunteer of the Year” after two years of pro bono work helping grow that organization’s annual wine auction. I found it amazing what you can learn about nonprofits when you plunge into the quagmire known simply as hard work!

Upon my return to Los Angeles, Donna learned that, besides my experience in the food and wine industry, I’d also developed an expertise in the nonprofit sector. She immediately put me to work for the CSCHS. When I first became associated with the Society, I was giving advice, cleaning up databases, organizing receptions, and coordinating mailings for the Society. Donna and I worked part-time from home offices. Things sure have changed!

When, under the guidance of Justice Elwood Lui and Kent Richland, the CSCHS was placed on the California State Bar’s fee statement as a voluntary donation, an immediate need arose for someone to tend to the daily operations of the Society. As time went on, it became clear that the most efficient way to operate the Society was to divide up areas of responsibility. Last spring, the Board of Directors voted to reorganize the management of the Society into a co-directorship.

I was appointed Director of Operations, Finance, and Administration, while

Continued on page 12

A Field Trip to the California Supreme Court

BY DEBBIE POLLAK LEVY

When I first mentioned a tour of the California Supreme Court to my English as a Second Language (ESL) classes, two students approached me and said they were already familiar with the courts – because they had watched Judge Judy in action. This was all the motivation I needed to continue planning a field trip.

I wanted to show my students the more somber courtrooms where justice is advanced, however slowly and unevenly, in our society. By sharing with them what goes on in our courthouses, I hoped they would feel more a part of American society and therefore be empowered to contribute more.

The two trips I have taken to the Supreme Court have been well worth the effort. A tour program conducted under the auspices of the Court and supported by the California Supreme Court Historical Society makes these trips as easy as possible for teachers. The Court offers group tours and also distributes teaching materials in advance. The very understandable video and the booklets sent to me meant that integrating the trip into my curriculum was not a difficult task.

Before our trip, I showed the video and gave the students a comprehension worksheet. The students were then given the booklets and made responsible for one section. The students worked in groups to summarize and discuss the material in the booklets. In this way, the preparation allowed the students to gain an understanding of the work of the Court without adding to their already large homework burden. This allowed the tour to be a real treat for the students!

Our guide for the one-hour tour was Thomas Reynolds, a lawyer and a member of the Board of Directors of the Historical Society. He explained the difference between trial and appellate courts – that trial courts are concerned with discerning fact by examining evidence and determining, usually by jury, what happened and who is responsible. The appellate courts, on the other hand, are concerned solely with examining, clarifying, and interpreting the law. No new evidence can be introduced in these courts – very different from the Chinese legal system, for one. Appellate courts are solemn places where logical, written argument rules the day.

As Reynolds spoke, much of what he said sounded like an excerpt from our writing and rhetoric classes. The tour highlighted the value of persuasive academic writing, which is just what we teach. It seemed to validate everything I had been saying all semester.

When we went into the grand courtroom, a three-judge panel of the Court of Appeal was hearing argu-



A view of the mural in the majestic domed-ceiling courtroom inside the newly renovated California Supreme Court headquarters in San Francisco.

ments. The Supreme Court shares its courtroom with the Court of Appeal for the First District. Justice Anthony Kline was questioning a lawyer, unpersuaded by her argument because the point she was countering was moot. She needed to address the stronger opposition, Justice Kline kept saying. Later he criticized her for bringing in irrelevant detail. It was right out of our texts – but spoken so well and with such authority. The students not only learned about our legal system, but also were exposed to intelligent American discourse.

Clear thinking and writing are what hold power in these courts. The writing we are teaching sets students, if they persevere, on the road to being able to persuade and prevail in our society. This message was implicit in Reynolds' comments as he told us about both the history and the modern workings of the Court. The cynics may smirk, but we left the courtroom that day feeling the glory of American justice.

The students asked thoughtful questions throughout the tour. At one point we had an interesting discussion about the ethnic makeup of the Supreme Court, currently consisting of three white justices, two Asians, one black and – the most recent addition – one Hispanic. The students were thrilled and moved by the tour, and I left wanting to spend more time working with the vocabulary we were exposed to, the history of the California court system, and forms of argument and counter-argument.

The tour was a wonderful addition to the semester – energizing for me and empowering and eye-opening for the students. I have encouraged my colleagues and others – including teachers at my son's high school – to take a field trip to the Supreme Court.

Debbie Pollak Levy is an instructor in the English as a Second Language Department at City College of San Francisco.

The California Supreme Court Historical Society is proud to support the California Supreme Court tour program. To schedule a tour, call (415)865-7597.

Preserving History: A New Role for the California Judicial Center Library

BY FRANCES M. JONES

Some day soon, an interested reader may be able to pull off the shelf a biography of the longest-serving California Supreme Court justice, Stanley Mosk (1912-2001). The reader will savor the details of Mosk's life and the times in which he lived, but will probably have little sense of the "raw material" that went into the production of the book. Nor will the reader be aware of the considerable efforts that went into preserving and organizing that material. But, without the archiving of Mosk's letters, records, photographs, and ephemera, the biographer's task would prove impossible.

The California Supreme Court Historical Society realizes that the production of history starts with its preservation, and is committed to making available to scholars and others the raw material necessary to tell the story of the state's highest court. In fulfillment of its mission to preserve the legal and judicial history of California, the Society has helped to launch the California Judicial Center Library on a new path, as an archival repository of Supreme Court justices' papers. In 2003 and 2004, the Society awarded the Judicial Center Library grants totaling \$37,500 to build the Archive, grants made possible by the generous donations of thousands of California attorneys and judges.

Designed specifically and primarily to be a repository for the personal papers, records, and other memorabilia of members of the Court, the Archives now holds papers donated by the families of Chief Justice Niles C. Searls and Justices Otto M. Kaus and Frank C. Newman, as well as Justice Stanley Mosk. Additionally, the Archive is the repository for books and other memorabilia belonging to the late Bernard E. Witkin, the foremost expert on California law.

The California Judicial Center Library is the successor to the libraries of the California Supreme Court and the Court of Appeal, First Appellate District. Library staff provides legal and other research and information services to both courts, and to the staff of the Administrative Office of the Courts. CJCL's collection numbers approximately 250,000 volumes, in San Francisco, Los Angeles, and Sacramento. The main library collection is located in the Hiram Johnson State Building, San Francisco, in a 45,000 square foot facility. In order to build the Archives, more than 6,000 square feet of the library were redesigned to provide the necessary climate control and security for the collections.

The CJCL's commitment to develop a comprehen-



Archives staff members Patrick Worrell, Pamela Williams, and Andrea Hinding peruse items from the Stanley Mosk Collection, donated by Justice Mosk's family to the California Judicial Center Library.

sive archive of Supreme Court justices' papers began in earnest in 2001 when Justice Richard M. Mosk and the Mosk family donated Justice Stanley Mosk's books; two hundred and fifty boxes of personal and professional papers; records (including those from Mosk's judicial and political campaigns); approximately two thousand photographs; and other memorabilia, including scrapbooks, albums, and awards, to the Library.

Although the Mosk family's invaluable gift gave the Archives its largest collection covering the longest span of history, it was not the first. That distinction goes to the family of Chief Justice Niles C. Searls (1825-1907), which made its gift in 1998. Prior to donating the collection, descendant Gwynne L. Searls and Thomas Brom gathered and organized law books, personal papers, and business records belonging to Chief Justice Searls and Fred Searls. The collection first resided in the family home in Nevada City; now that it has come to the Archives, pieces of the collection are on display in the Ceremonial Chambers in the Earl Warren State Court Building. The earliest records in the Archives come from the Searls Collection and date back to 1855. Some of the books in the collection date back to 1840, a decade before California gained its statehood.

As the Archive began to take shape with the Mosk and Searls gifts, it established three major goals for its development:

- Acquiring and collecting gifts of personal papers, records and other memorabilia of all current and former members of the Court;
- Preserving, organizing, and indexing the collections;
- Providing access to the collections for scholars of California history, especially its judicial and legal history, and political and social scientists.

With the generous grants from the Society, the Judicial Center Library wasted no time in working to

make the Mosk and Searls collections available to researchers. The CJCL hired consulting archivist Andrea Hinding, Professor Emeritus from the University of Minnesota and a Fellow and former President of the Society of American Archivists. Professor Hinding began visiting the archives three times a year, to review and organize the Mosk collection and provide staff training. Once Professor Hinding had trained all library staff members in basic archival processes and procedures, staff members were given the option to add archives functions to their other job assignments, and Martha Noble, Pamela Williams, and Patrick Worrell elected to do so. Working on the collections part-time, these staff members have processed and preserved more than three hundred boxes of the personal papers in the Searls and Mosk collections, and processing of the Searls papers is complete.

The goal of growing the Archive was furthered in 2002 and 2003, when gifts were received from the families of Justices Otto Kaus (1920-1996) and Frank C. Newman (1917-1996) respectively. Bernard E. Witkin served as Reporter of Decisions (1940-1949). His contributions to California legal scholarship are unparalleled, and his portrait, desk, and typewriter are among the objects given to the Archives through the generosity of Mrs. Alba Witkin.

To further the goal of providing access to the collections, the Archives is also working to produce crucial finding aids and databases covering the materials in the collections. Finding aids are descriptive tools that are produced by archives to establish control over their records. A preliminary finding aid for the Stanley Mosk Collection has been developed for use in the Archives, and the final version will be available to be published in late 2004.

Databases have been built to provide access to the contents of the speeches, publications, papers, and records in this collection. These databases are currently available in the Archives, and will be available via the Web early in 2005. Each database provides unique access to the contents of a collection. The speeches database, for example, permits a researcher to locate a speech by title, date, location, and organization or audience. Additional notes inform the researcher about newspaper clippings, programs, and correspondence related to the speech. The publications database identifies each of Justice Mosk's publications by date, title, co-author (if any), and publisher, and provides access to publications that are not indexed in standard periodical indexes. In addition, there is a database that lists the working inventory of all of his papers and records. This database identifies, by folder title and location, each of the approximately fifteen hundred folders of personal papers and business records con-



Among the accoutrements found on the desk of Bernard Witkin are his typewriter, a favored pair of glasses, and a sign that reads "Everybody is Entitled to My Opinion."

tained in the Stanley Mosk Collection.

Finding aids and databases will be available for the Otto M. Kaus and Frank C. Newman collections in 2005. Books in the Stanley Mosk and Bernard E. Witkin collections are accessible through the library's online catalog. Currently, this catalog is delivered via court informational networks; a Web-accessible version will be launched in early 2005.

Archives collections provide invaluable records of and insight into the work of the justices of the California Supreme Court and their opinions that have "helped shape our world, the society in which they lived, and the forces that touched them." (Hon. Malcolm Lucas, "Message from the Chief Justice, 1994 *California Supreme Court Historical Society Yearbook* v.) The Society's mission to preserve the Court's history has been advanced by establishment of the Archives at the California Judicial Center Library, and its generous and timely financial support are deeply appreciated, especially in this era of shrinking public resources.

Frances M. Jones (JD, MA) is Director of Library Services at the California Judicial Center Library. The Archives actively solicits additional gifts, both archival and financial, for future expansion and development.

LET US HEAR FROM YOU

Send Member News contributions and suggestions for On Your Bookshelf to: director@cscs.org, (818)781-6009 (fax), or CSCHS, 6946 Van Nuys Blvd. Ste. 202, Van Nuys, CA 91405.

*Creating Order and
Constructing Racial Distinctions:
Law and Politics in Frontier California*

BY SUSAN WESTERBERG PRAGER

Taming the Elephant: Politics, Government, and Law in Pioneer California (UC Press, 2003; also published as vol. 81, no. 3/4 of *California History*), edited by Richard Orsi and John Burns, with assistance from Marlene Smith-Baranzini, is the California Historical Society's fourth and final volume in its *California History Sesquicentennial Series*. I recently had the opportunity to discuss this path-breaking anthology with retired CSU-Hayward professor Dick Orsi, who conceived of the project while the editor of the *California History* series.

The book's separately authored nine chapters, each a freestanding essay, are filled with over ninety illustrations drawn from photos, paintings, handbills, newspapers, and political cartoons, many of which have not been published previously. One of this volume's attractions is the highly readable nature of so many of the essays, making it easy for people with crowded lives to dip into our California history. Start at any chapter, without feeling that you have missed some foundational prelude.

Two themes, sometimes interrelated, pervade much of the book. In the telling of vibrant, memorable stories, many of the essays make concrete the enormous task of creating order – of establishing institutions that today we take for granted as essential. Indeed the achievements of the period are quite remarkable. The other overarching theme present in many of the essays is, as Stephen Becker, CHS's Executive Director, and Dick Orsi explain in the preface, "the importance and legacy of ethnic and cultural diversity as a major dimension of the state's history." In the introductory essay, co-editor and former State Archivist John Burns drives home the present value of understanding both our racialized history and the development of institutions and order: "with greater knowledge of California's political and governmental legacy, society might gain a needed, more comprehensive understanding of contemporary California's public environment."

On the subject of creating order, the editors begin with the formidable consequences of the influx of gold seekers. Burns supplies important context for the transition from Mexican Alta California to statehood, including California's first constitutional convention. Next, Roger McGrath's essay focuses not only on the criminal activity which pervaded gold rush era northern California, but also the varied reactions to lawlessness, many of which were extralegal and horrifically violent themselves. In "A Violent Birth: Disorder,

Crime, and Law Enforcement, 1849-1890," McGrath puts faces on familiar names like Joaquin Murieta and Black Bart, and introduces us to the complexities of some of the responses to criminality, from the vigilance committees to the idea of the private prison. In the next chapter, "The Courts, the Legal Profession, and the Development of Law in Early California," Gordon Bakken argues that many in the legal profession saw vigilante justice as supportive of the formal legal system.

Later, in "Officialdom': California State Government, 1849-1879," Judson Grenier brings both detail and perspective to what Orsi emphasized to me has been a summarily mischaracterized aspect of our history. Orsi is particularly excited that Grenier has filled an important gap in our historical understanding of the early accomplishments, not only of governors and legislators, but also of the early commissions.

The fact that *Taming the Elephant* has integrated its other theme, that of race, so well and in so many of the essays exemplifies something of a sea change taking place in our historical literature. Over a period of many years now, there has been excellent historical work focused on specific populations defined by race. However, the lessons of these historians have yet to become embedded in our common knowledge.

Most of us who grew up in California were unfamiliar with the history of racial violence and racial discrimination in our state. Taught a romanticized view of the missions as fourth graders, we were ignorant of the brutal, inhumane treatment of California Indians in the missions, and unaware of the government-sponsored raiding parties which killed Indians during the years immediately following statehood. Our views were shaped by the sanitization or denial of our Spanish-speaking history. We celebrated the contributions of the Chinese in building the railroad through the treacherous Sierras, unaware of California's role in driving forward legal measures to rid the state of the Chinese after that work was completed and the state experienced hard economic times. We were superior about the fact that California was not the South and labored under the illusion that there was no history of discrimination here. Even pervasive knowledge of the Japanese "relocation" after Pearl Harbor was quickly rationalized, and California's Progressive-Era Alien Land Laws which targeted the Japanese were a forgotten, even unknown, matter.

If this was your "history," as it was mine, Shirley Ann Wilson Moore's chapter, "'We Feel the Want of Protection': The Politics of Law and Race in California, 1848-1878," is must reading. For *Taming the Elephant*, Professor Moore crafted a relatively short but quite wide-ranging treatment of the reality of

California history on the issue of race. A few examples from her article may give you some sense of what we missed. More than half of mission-born Indians did not live beyond age five. At Mission Santa Cruz, converts survived an average of only eight and a half years after their conversion. In 1852, a California heavily influenced by the presence of Southerners enacted a Fugitive Slave Act, mandating the return of runaway slaves to their masters, and an estimated five hundred to six hundred slaves worked the gold sites.

To expand on other actions Moore mentions, it was in 1860 that California enacted its first school segregation law, specifically prohibiting “Negroes, Mongolians, and Indians” from attending public schools. An 1850 law originally prohibiting a “black or mulatto person, or Indian” from testifying in criminal cases in favor of or against a white person was extended to the Chinese by a California Supreme Court majority eager, in my view, to draw a firm race line privileging only whites, even when the result was legally sanctioned violence. In short, there is ample evidence that law played a powerful role in constructing discrimination in nineteenth-century California. Yet, on a more positive note, Moore’s essay does remind us that there were serious efforts, as early as the 1850s, to combat the discriminatory frameworks, with, for example, African Americans acting early in the 1850s to attempt to lay claim to our democratic values.

Joshua Paddison, who together with Teena Stern served as Illustration Editor for *Taming the Elephant*, additionally wrote “Capturing California,” using a series of color images to document basic elements of order and distress, as well as the racial tensions that persisted and indeed characterized post-statehood California. The historical context that Paddison supplies for each of his chosen paintings, photographs, and illustrations clearly influences how the art affects us. My favorite, Theodore Wores’ exquisite 1881 painting, “New Year’s Day in San Francisco’s Chinatown,” portrays a scene of tranquility and beauty. Yet Paddison introduces the painting with a chronicle of the “formidable anti-Asiatic sentiments” in 1870s California, including the formation of “dozens of anti-coolie clubs” around the state. The anti-Chinese frenzy culminated in the California Constitution of 1879’s prohibition on corporate or government employment for “any Chinese or Mongolian” and intense California pressure on the federal government to enact what would be the nation’s first anti-immigration law, the Chinese Exclusion Act of 1882.

Donna Schuele’s contribution, “None Could Deny the Eloquence of This Lady’: Women, Law, and Government in California, 1850-1890,” artfully connects some seemingly disparate events in California’s

first forty years, reminding us that women were a subject of contention in the two constitutional conventions that mark either side of the period covered by this book. Of the 1849 Convention’s decision to follow the civil law in granting married women property rights, she asks the interesting question: was the purpose of the Constitution’s guarantee of separate property to married women “to protect women or to empower them,” pointing out that the delegates who gathered in Monterey in the fall of 1849 disagreed on this point. The goal of married woman’s property rights was subsequently thwarted so that: “By 1870, the marital property system, intended as a reform, actually rendered California wives worse off than their eastern sisters. . . . and blatantly violated the state’s constitution.”

Schuele deftly moves from this reality to the California women’s rights movement, pointing out that efforts in California were more broadly based than those in many other states which targeted voting rights. As a result, her story of women’s rights in Gilded Age California is one of brief moments of triumph amidst twenty years of agitation and defeat. Although reformers did achieve some occupational rights for women, their successes in securing political and property rights were virtually non-existent. Schuele concludes: “Perhaps the most satisfying explanation lies in the varying power of these proposals to threaten the social order.”

Edward Lyman’s “The Beginnings of Anglo-American Local Government in California” is filled with fascinating detail and insight regarding the need for local action in the context of growth and change, and more. Contrary to the image of a world of gold seekers out only for themselves, Lyman’s essay reveals a picture of people organizing for the common good early in the 1850s – from the El Dorado County requirement that men devote four days a year to road repair work, to Sacramento’s extraordinary struggle to protect the city from the natural flood plains of the American and Sacramento Rivers, to the early efforts to pay doctors to attend to the indigent ill. These acts stood in puzzling contrast to the initial failure to establish public schools in the new state. Much of this remarkable chapter reflects path-breaking original work.

Robert Chandler’s “An Uncertain Influence: The Role of the Federal Government in California, 1846-1880” forms a powerful concluding chapter, characterized by considerable detail (much of it not in the popular consciousness) and a level of fairness that deserves

our respect and attention. Chandler, Wells Fargo Bank's longstanding researcher for historical services, includes an excellent short discussion of the disputes over the validity of the Mexican land grants, the costs of the litigation, and the ways the prolonged uncertainty delayed agricultural development. He also discusses the impact of the Civil War, particularly federal concern about the state's loyalty to the Union, which was manifested in actions like the first use of Alcatraz as a prison to confine leading secessionists and the stationing of troops in southern California where pro-southern sentiments were strong.

In the immediate aftermath of the war, Chandler recounts, opportunities for African Americans in California improved. However, when the Democratic Party resurged in 1867, the state legislature failed to ratify the Fourteenth Amendment and "gleefully disapproved of and rejected the Fifteenth Amendment granting black suffrage." In describing the interplay of anti-negro and anti-Chinese sentiments, Chandler also discusses the ways federal action blunted some of the measures aimed at the Chinese. Finally, Chandler describes the first stirrings of federal environmental regulatory power as a federal judge acted to control the impact of hydraulic mining on rivers and farmland.

In short, *Taming the Elephant* has a great deal to offer. One of the editors' goals was to encourage our further reading and many of the authors provide rich footnotes to guide us. I urged Dick Orsi to share with us his favorite books on nineteenth-century California history, and he offered two: Sucheng Chan, *This Bittersweet Soil: The Chinese in California Agriculture* (UC Press, 1989), which he regards as a superb work of fact-based history, and Gerald Nash's classic, *State Government and Economic Development: A History of Administrative Policies in California, 1849-1933* (Institute for Governmental Studies, University of California, 1964). Yet, much as Orsi admires these and many other works, with a twinkle in his voice he prefaced his recommendations with this tantalizing idea: "The best books on California history are yet to be written."

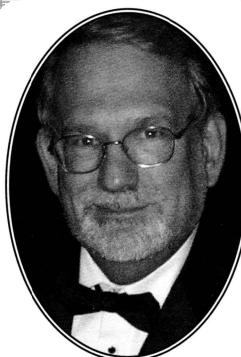
Susan Westerberg Prager is a professor of law and former dean at UCLA's School of Law and a member of the CSCHS Board of Directors. She teaches and writes in the area of California legal history.

Taming the Elephant is provided as a 2004 benefit of membership at the Judicial level and higher. If you have not yet received your copy, or you would like to upgrade your membership in order to receive a copy, please contact the CSCHS office.



DIANE YU reports that she received an honorary Doctor of Laws, Honoris Causa, from the City University of New York in May 2004. Yu is the Chief of Staff and Deputy to the President of New York University and is the highest ranking woman and person of color in the university administration. She also serves as Chair of the American Bar Association's Commission on Women in the Profession. As an out-of-state member of the Society, Yu writes, "My husband Michael and I do miss California friends and weather, but are enjoying our lives here nonetheless. Great cultural benefits are everywhere."

MAGDALENA REYES BORDEAUX was featured on the cover of the September 2004 issue of *Los Angeles Lawyer* magazine, in which she authored an article explaining how bankruptcy attorneys can assist debtors who are victims of identity theft expunge a fraudulent bankruptcy from the public record.

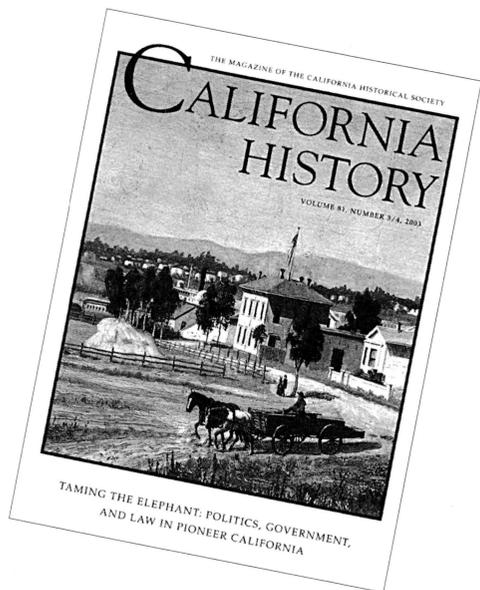
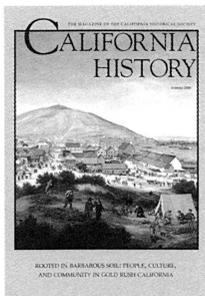
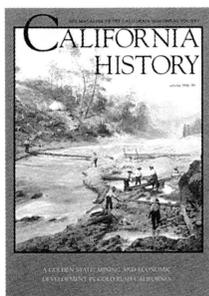
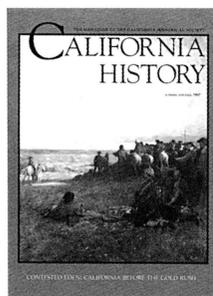


In January 2004, NORMAN PINE was honored by the Consumer Attorneys of Los Angeles as that organization's Appellate Lawyer of the Year for 2003.

Congratulations to the members of the CSCHS Board of Directors and Advisory Board who have been named as Superlawyers for 2004! Named in the area of appellate practice are VICKI DEGOFF, ELWOOD LUI, KENT RICHLAND, and DOUG YOUNG. Named in the area of business litigation practice are JOHN DONOVAN, MAGGIE LEVY, and KEVIN O'CONNELL. ERIC JOSS was named in the area of labor and employment law. Also listed were MEL GOLDMAN and TOM ROSCH. The Superlawyers listing can be accessed at www.superlawyers.com.

For members of the **California Supreme Court Historical Society**
from the CALIFORNIA HISTORICAL SOCIETY

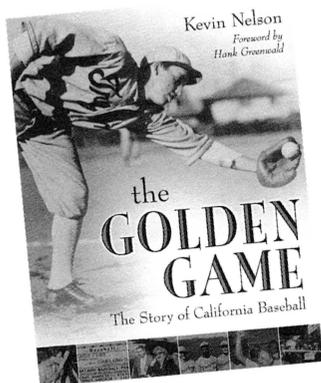
the publication of a full set of book-length volumes of *California History* celebrating the California Sesquicentennial, and featuring volume four, *Taming the Elephant: Politics, Government and Law in Pioneer California*.



BEGINNING LEFT:

1) *Contested Eden: California Before the Gold Rush*; 2) *Rooted in Barbarous Soil: People, Culture and Community in Gold Rush California*; 3) *A Golden State: Mining and Economic Development in Gold Rush California*; 4) *Taming the Elephant: Politics, Government and Law in Pioneer California*.

Discover the Dynamic History of the Great State of California!



ALSO, the new bestselling book from California Historical Society Press: *The Golden Game: The Story of California Baseball* by Kevin Nelson. This wonderful history of the game in the Golden State has garnered rave reviews from newspapers throughout California, on National Public Radio, and in the national edition of *Sports Illustrated*!

Museum Store: 415.357.1860 Call for prices and shipping.

CALIFORNIA HISTORICAL SOCIETY • 678 Mission Street, San Francisco, CA 94105-4014
415.357.1848 • Fax: 415.357.1850 • info@calhist.org • www.californiahistoricalsociety.org



Foreshadowing *Brown v. Board*

Continued from page 3

he supported the internment of Japanese Americans in war camps – a decision he said he “deeply regretted” later in his life.

By the time McCormick ruled in February 1946, many Americans had begun questioning the disparity between the ideals of equality and democracy that Americans trumpeted during wartime and the nation’s practices at home. “There had been a lot of discussion and raised awareness of American values of democracy,” Gross said. “We didn’t want to be like the Germans and separate people arbitrarily by groups. A lot of the rhetoric in the case was that this kind of segregation [in Orange County public schools] creates that feeling.”

As a media-savvy governor, Warren must have been aware of the debate surrounding the *Mendez* case, which made headlines in major newspapers throughout the state. As a lawyer, he closely followed McCormick’s February 1946 decision, legal experts now say. His close ally, California Attorney General Robert Kenney, submitted an amicus brief to the Ninth Circuit, chastising the Westminster school board’s practice of segregation.

Almost immediately after McCormick’s decision, Warren worked to repeal California’s two segregation statutes. The legislative repeal, known as the Anderson Bill, was sent to the state Assembly in January 1947 and approved by lawmakers in June 1947, less than two months after the appellate court upheld the *Mendez* ruling.

Although *Mendez* was not formally cited in *Brown*, it nevertheless had a far-reaching effect on the case. David Marcus turned down an invitation from Marshall to participate in the *Brown* case because of his solo practice in Los Angeles, his granddaughter said. But he sent the NAACP all his files, she said.

Orange County Superior Court Judge Frederick Aguirre said Warren’s opinion in *Brown* closely mirrored many key passages in McCormick’s *Mendez* decision. Both rulings hold that children’s education is hampered by segregation, that segregated facilities are necessarily unequal, and that children must have equal opportunity in education.

But the lasting legacy of *Mendez v. Westminster* is not just its impact on *Brown v. Board of Education*. It illustrates how a group of socially conscious lawyers, judges, and politicians could band together to overturn bad law and bring about social justice, legal experts said.

Observers speculate, however, on whether, with some adjustments, *Mendez* could have been the vehicle to abolish de jure segregation nationwide seven

years before *Brown* put it away for good. “The question always is, would this have been the opportunity for the court to overturn *Plessy*?” Arriola said. “Earl Warren wasn’t in the [U.S. Supreme] Court yet, so maybe not. Maybe it’s a bit too soon. But the bottom line is we will never know.”

Joy C. Shaw is a staff writer for the Los Angeles Daily Journal. This article appeared in the Daily Journal on May 11, 2004, and is reprinted with permission.

KOCE, Orange County’s PBS station, has produced an award-winning documentary on the Mendez case, entitled Mendez v. Westminster: For All the Children/Para Todos Los Ninos, by Sandra Robbie. To order a copy of the documentary, available in VHS or DVD format, contact KOCE at www.koce.org or (888) 246-4585. The cost for either format is \$19.95, plus \$6.45 for shipping.

The CSCHS thanks Anne McIntyre for providing the photograph of her grandfather, David Marcus, for use with this article.

A Twist, a Turn

Continued from page 4

Donna became Director of Programs and Publications. This arrangement has allowed Donna to use her skills as a lawyer, scholar, and editor, while I focus on the daily operations of the CSCHS and make use of my background in executive management and nonprofits. Because I was already in the thick of it, we’ve had a smooth transition. Donna will tell you that the reorganization has allowed her to sleep at night once again. Now I am the one waking up at 2:00 a.m., wondering if every “i” has been dotted and “t” crossed!

The Society has received over fifteen thousand donations via the fee statement. The addition of these funds has allowed the CSCHS to grow from a small group that banded together in 1989 into an organization that has become the largest court-based historical society in the United States. Without the CSCHS, much of the history of California’s legal and judicial systems would be lost to future generations. As a non-profit professional, I well understand the limits of government and the private sector to preserve and promote this history, and I am proud to be a part of the Society’s crucial mission.

So now my days of getting calls from *Bon Appetit* for food and wine pairings have been replaced with calls from lawyers, judges, and the public inquiring about the CSCHS. And I love it!

BECOME A CSCHS
Email us at director@cschs.org

Transitions

Continued from page 4

Appeal were established. And as an ironic coda to the dispute over the nature of their role, each and every one of the commissioners was appointed a justice of the new intermediate appellate court.

.

A much more tranquil transition recently has taken place among the leadership of the California Supreme Court Historical Society: the Board has elected as my successor long-time Board member Jim Shekoyan; it has also chosen Ray McDevitt as Vice President, Ophelia Basgal as Treasurer, and David McFadden as Secretary. These new officers have demonstrated their commitment to the Society's goals of preserving and educating the public about the history of the California judicial system, and I look forward to what I know will be great accomplishments by them as they lead the Society into the future.

I have been honored to serve as President of the Society for the past five years, a time when the Society has grown far beyond anyone's expectations and has accomplished more than in any comparable period of its existence. I wish I could take credit for these successes, but I can't. That belongs entirely to other people with whom I was incredibly fortunate to work: Chief Justice Ron George, who has been the Society's most avid supporter; my predecessor, Elwood Lui, whose continuing efforts on behalf of the Society even following his presidency have had the greatest impact on the Society since its founding; the amazingly talented and unflaggingly supportive group of officers with whom I have served – Vice Presidents John Brinsley and Judge John Wiley, Treasurer Maggie Levy, and Secretary Vicki DeGoff; and the many other members of the Board who have been so generous with their time and efforts.

Finally, and most important, the two individuals who are most responsible for the recent remarkable achievements of the Society are our co-directors Donna Schuele and Jim Yoppolo. Combining creativity, conscientiousness, and raw brain power, Donna and Jim are the heart and soul of the California Supreme Court Historical Society, the indispensable ingredients in the Society's unprecedented success.

A Continuum

Continued from page 3

– our very dedicated and extremely supportive co-directors: Donna Schuele (Programs and Publications) and Jim Yoppolo (Finance, Operations, and Administration), the members of our newly-created Advisory Board, and all of you, our members, in furthering the mission and goals of the Society.

None of us has an exclusive on how best to accomplish that. I invite each and every one of you to become an active participant in the work of the Society. Talk about the Society within your firms and organizations. Encourage others to get better acquainted with the work of the Society and, hopefully, to get involved. If you are a member of the California bar, remind your colleagues that the Society is listed on the state bar fee statement as an optional donation. All of the programs, publications, and other activities of the Society could not occur without your continuing financial support, for which we thank you. We hope that the people responsible for contribution decisions within your respective firms and organizations will include the Society on their lists and in their budgets.

Again, to Kent and all the others who have served the Society over the years in one way or another, I say thank you. I welcome and encourage your comments and suggestions for making a very good and important organization even better. You may send comments to the directors at director@cschs.org, or to me directly at jes@bmj-law.com.

Here's to the continuum.

Tour the California Supreme Court

Your docent will guide you through the Earl Warren Building, a National Historical Landmark, and the architecturally acclaimed Hiram W. Johnson State Office Building, located in San Francisco's Civic Center Historic District. View historic documents such as a copy of the state's 1849 constitutional debates, rare photographs, and an extensive collection of contemporary California artworks. Educational materials about the court and its operations are available to prepare for the visit.

The California Supreme Court is located in San Francisco's Civic Center at 350 McAllister Street, between Polk and Larkin Streets.

TO SCHEDULE A TOUR, call (415)865-7597

MEMBER TODAY
or call us at (818)781-6008

Playing Justice Heydenfeldt

BY PETER L. REICH

“So who’s right, the upstream miner or the downstream miner?” Hands shoot up. “I think the upstream miner because he got to the water first,” says the first student I pick. “But the downstream miner owned land on the river and the upstream one didn’t, so the downstream miner wins according to the rule,” says another. “Maybe the rule is wrong,” ventures a third.

This colloquy on the prior appropriation doctrine in western water law is typical of a law school property or natural resources course. But for the last five years I have posed these questions and received these answers in the fourth-grade class of Valley Beth Shalom Day School in Encino. Dressed in a black “judicial” robe, a billowing cotton shirt, and a mid-nineteenth-century ribbon tie, and using my best tidewater southern accent, I recreate the figure of California Supreme Court Justice Solomon Heydenfeldt, who served on the Court from 1852 through 1857. The children attend my living history impersonation during the Gold Rush unit of their California history course, and learn about frontier California’s legal battles over water and religious freedom via the Socratic method.

Heydenfeldt is best known for his opinion in *Irwin v. Phillips*, 5 Cal. 140 (1855), which established the “first in time, first in right” principle by which water could be appropriated in this state. This doctrine came to be widely adopted in the nineteenth-century Far West. In only five years on the California high court, Heydenfeldt authored more than four hundred and fifty opinions, including influential decisions on land, mining, and water rights.

One of the first two Jews on the court (the other was Henry Lyons, who served from 1849 to 1852), Heydenfeldt was a Charleston, South Carolina, native; active in Democratic Party politics; a noted philanthropist; a pioneering leader of the kindergarten movement; and often a spokesman for the San Francisco Jewish community during the Gold Rush era. Perhaps his most oft-quoted opinion is *Robinson v. Pioche*, 5 Cal. 460 (1855), a personal injury case in which the plaintiff had fallen into an uncovered hole, where he stated, “A drunken man is as much entitled to a safe street, as a sober one, and much more in need of it.” Heydenfeldt later returned to private practice and, on



Peter Reich as Justice Solomon Heydenfeldt in his living history presentation of Gold Rush water law.

behalf of a Sacramento merchant, argued this state’s earliest successful challenge to a Sunday closing law, in *Ex Parte Newman*, 9 Cal. 502 (1852).

As a law professor, I have taught water law to students for years. But I have been amazed that fourth graders are so quick to grasp the relationship between priority in water rights, economic development, and the environment: “Sure this helped miners, but didn’t it also wreck streams?” they always ask. This usually leads into a discussion of hydraulic mining, a practice which was facilitated by the prior appropriation doctrine.

My experience playing Justice Heydenfeldt has shown me that legal education is too important to be limited to prospective lawyers. All citizens, from childhood on, should learn about the historical evolution of legal problem-solving, and about the importance of the courts in accommodating competing societal interests. As Justice Heydenfeldt wrote in *Irwin v. Phillips*, “[c]ourts are bound to take notice of the political and social condition of the country, which they judicially rule.” Just like miners and merchants in frontier California, we still use the courts to resolve conflicts over natural resources, religious values, and numerous other issues. Everyone should understand and participate in the legal process by which we settle the most vital questions of the day.

Peter L. Reich, J.D. (Boalt Hall), Ph.D. (UCLA), is Professor of Law at Whittier Law School, where he teaches courses on real property, environmental law, and natural resources. He also regularly teaches American legal history and Latin American law at the University of California, Irvine. His two sons are graduates of Valley Beth Shalom Day School.



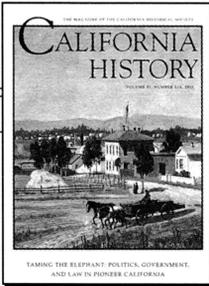


THE CALIFORNIA SUPREME COURT
Historical Society

FINANCIAL REPORT
FOR FISCAL YEAR ENDING JUNE 30, 2004

These figures reflect monies collected and paid out for the fiscal year of July 1, 2003 through June 30, 2004. The Board of Directors approved funding for various programs during FY 2004-2005 with that funding being paid out in FY 2004-2005. The next annual report, published in our Autumn / Winter 2005 Newsletter, will reflect those transactions.

INCOME	
Membership Dues	211,428.11
Bequests	4,099.92
Other Income	4,486.09
<i>Total</i>	\$220,014.12
EXPENSES	
Personnel	89,845.14
Publications	5,338.79
Postage & Mailings	6,142.00
Donations – Programs Funded	37,500.00
Events	4,706.25
Travel	5,462.01
Office Related	19,256.39
Staff Education	1,500.00
Professional Services	5,423.55
Database Management	4,161.50
Meetings	4,280.91
Interns	966.70
Promotions	2,538.06
<i>Total</i>	\$211,300.63



As a benefit of membership for 2004, members at the Judicial level* and higher will receive *Taming the Elephant: Politics, Government, and Law in Pioneer California*, the California Historical Society's fourth volume in its California Sesquicentennial Series.

2004 MEMBERSHIP FORM

Please denote your membership level and make checks payable to CSCHS and include your contact information below.

- | | | | |
|---------------------------------------|------------------|--|----------------|
| <input type="checkbox"/> Benefactor | \$2500 & above | <input type="checkbox"/> Grantor *** | \$250 to \$499 |
| <input type="checkbox"/> Founder **** | \$1000 to \$2499 | <input type="checkbox"/> Sustaining ** | \$100 to \$249 |
| <input type="checkbox"/> Steward | \$750 to \$999 | <input type="checkbox"/> Judicial * | \$50 to \$99 |
| <input type="checkbox"/> Sponsor | \$500 to \$749 | <input type="checkbox"/> Associate † | Below \$50 |

Name		Professional Affiliation	
Address		City	
State	Zip	Phone	Fax
Email			

Please return this form along with your membership contribution to:

The California Supreme Court Historical Society
6946 Van Nuys Blvd. Ste. 202
Van Nuys, CA 91405

Phone (818)781-6008 Fax (818)781-6009
director@cschs.org

**** Recommended minimum level for firms with fifty or more attorneys.

*** Recommended minimum level for firms with ten or fewer attorneys.

** Recommended minimum level for attorneys in private practice.

* Recommended minimum level for public sector professionals, judiciary, educators and libraries.

† Associate level benefits limited to electronic mail version of CSCHS Newsletter

Hon. Ronald M. George

Chair

James E. Shekoyan

President

Ray E. McDevitt

Vice President

David L. McFadden

Secretary

Ophelia B. Basgal

Treasurer

Donna Schuele

Director of Programs

& Publications

Jim Yoppolo

Director of Operations,

Finance & Administration



THE CALIFORNIA SUPREME COURT

Historical Society

TABLE OF CONTENTS

Foreshadowing Brown v. Board

Joy C. Shaw I

A Continuum

James E. Shekoyan 3

Transitions

Kent L. Richland 4

A Twist, a Turn, and Here I Am

Jim Yoppolo 4

A Field Trip

Debbie Pollak Levy 5

Preserving History

Frances M. Jones 6

Law and Politics in Frontier California

Susan Westerberg Prager 8

Member News

. 10

Playing Heydenfeldt

Peter L. Reich 14

2004 Financial Report

. 15

CSCHS
6946 Van Nuys Blvd. Ste. 202
Van Nuys, CA 91405
Phone (818)781-6008
Fax (818)781-6009
director@cschs.org

NONPROFIT ORG
U.S. POSTAGE
PAID
PERMIT NO: 65
CANOGA PARK, CA