

Debating the Independence of the Judiciary

by Philip Carrizosa

With the growing involvement of politics in judicial elections nationally, the California Supreme Court Historical Society presented a panel entitled “*Perspectives on Judicial Elections: Then and Now*” to examine the historical and political development of judicial elections in California.

The panel included five prominent individuals with vast experience in judicial elections:



Hon. Roger Warren

Under Judge Warren’s guidance, each panelist provided his personal perspective on the development of judicial elections in California and eventually debated whether judicial elections should be reformed. Judge Warren, a past president and chief executive officer of the National Center for State Courts, distributed copies of his paper, “State Judicial Elections – The Politicization of America’s Courts,” presented an overview of the increased role of politics in judicial elections across the nation and the effect on judges on their decisionmaking.

Prof. Friedman, a prize-winning legal historian, provided a fascinating history of the development of judicial elections in the United States and how the trend began toward merit selection in several states. *Continued on page 4*

- Judge Roger Warren, the scholar-in-residence at the Administrative Office of the Courts and a judge for 20 years who acted as moderator.
- Professor Martin Shapiro of the University of California at Berkeley’s Boalt Hall School of Law.
- Professor Lawrence Friedman of Stanford Law School.
- Professor Joseph R. Grodin of Hastings College of the Law, who served as an associate justice on the California Supreme Court from 1982 to 1987.
- Judge Terry B. Friedman of the Superior Court of Los Angeles County, who was elected to the bench after eight years in the state Assembly.



Prof. Lawrence Friedman

2007 Student Writing Competition Winners Announced



First-place winner Mirit Eyal-Cohen (center) is congratulated by Chief Justice Ronald George (second from left), Associate Justice Kathryn Mickle Werdegard (left), Society President Ray McDevitt, and Board Member Selma Moidel Smith, who proposed and organized the competition – at the Society Reception, State Bar Annual Meeting, September 27, 2007. (Photo: Howard Watkins)

The California Supreme Court Historical Society is pleased to announce the winners of its first student writing competition. The three judges were unanimous in all of their choices.

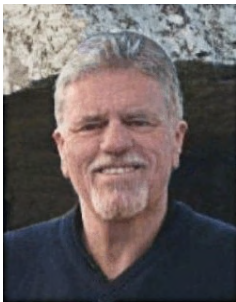
First place was won by Mirit Eyal-Cohen of the UCLA School of Law, for “Preventive Tax Policy: Chief Justice Roger J. Traynor’s Tax Philosophy.” She receives a prize of \$2,500, and publication in the 2008 edition of the Society’s journal, *California Legal History*. She is an SJD Candidate (Doctor of Juridical Sciences, a second J.D. for prospective scholars).

Second place was awarded to Amber A. Trumbull, a J.D. student at New York University School of Law, for “Mosk and Capital Punishment in California: A Liberal Approach to the Death Penalty.”



Amber Trumbull

The third place winner is Patrick K. Brown, an M.A. student in History at California State University, Fullerton, for “The Rise and Fall of Rose Bird: A Career Killed by The Death Penalty.”



Patrick K. Brown

The three distinguished judges, all of whom are American legal historians and lawyers, were: Stuart Banner, Professor of Law, UCLA School of Law; Laura Kalman, Professor of History, UC Santa Barbara; and Reuel Schiller, Professor of Law, UC Hastings College of the Law.

The purpose of the competition is to advance the mission of the Society by promoting research and writing on the California Supreme Court and the state’s legal history. The competition was open to law students and to graduate students in history, political science, government, and related fields.

Society President Ray McDevitt expresses the Society’s appreciation to the judges for their expertise and dedication in evaluating the submissions, and to Board Member Selma Moidel Smith for proposing and organizing the competition. The winning papers are available on the Society’s website, www.cschs.org/02_history/02_g.html.

Society Reception

State Bar Annual Meeting

September 27, 2007
Anaheim
Convention Center

Photos: Howard Watkins



Society President
Ray McDevitt



Chief Justice Ronald George (left) with Immediate Past President James Shekoyan and wife, Anna Shekoyan.



Chief Justice Ronald George congratulates writing competition winner, Mirit Eyal-Cohen.



Prof. and former Associate Justice Joseph Grodin (left), with Board Member Eric Joss and wife, Karen Joss.



Society Board Members (l. to r.) – Hon. James Marchiano, Programs and Publications Committee Chair John Burns, and Vice President David McFadden.



Mirit Eyal-Cohen and Board Member Gordon Bakken, Editor of the Society's journal, *California Legal History*.



Prof. Martin Shapiro

Prof. Grodin, the author of a book “In Pursuit of Justice” about the role of an appellate justice, disagreed with Shapiro at least in part. He said his views have evolved since he wrote his book and he now understands why voters would agree with Shapiro’s views. But he maintained that citizens should not cast their votes based on a judge’s decisions in particular cases but rather on their good-faith adherence to the law.



Hon. Terry Friedman

Panel Program – *from page 1*

Prof. Shapiro, who specializes on the intersection between the law and politics, offered a different perspective, saying he did not have a problem with politics playing a role in judicial elections. Prof. Shapiro, who voted against then-Justice Grodin’s retention in 1986 not because he did not respect Grodin as a person or his intellect but because he disagreed with what he considered to be Grodin’s political leanings, took a very populist view of judicial elections, contending that voters should consider a judge’s decisions at election time.



Hon. Joseph Grodin

Judge Friedman, who was elected to the bench in 1994 after a hotly contested, high-expenditure campaign, said he understood the voters’ desire for accountability. But he questioned whether the involvement of politics opens the door for votes to be cast based on a judge’s single decision and groups with special interests will use the opportunity to gain the election of judges viewed as favorable to their interests.

The frank exchange of views, presented in a historical and political context, proved to be stimulating and engaging for attendees who posed questions to panelists even after the session was completed.

Photos: Howard Watkins