
Society's History of the California Supreme Court Nears Completion

Publication of an authoritative history of the California Supreme Court, from the Gold Rush to the modern era, has long been a major item on the Society's agenda. The ambition has come a step closer to realization in recent months, as a team of authors commissioned by the Society has expanded its subject matter to include the years of the George Court, complementing research and writing fully or nearly completed on the Court's history prior to this most recent era.

Six authors, all prominent in their fields of specialization, have joined forces for this project. And in recent weeks, a prominent publisher in the academic world, the University of Nebraska Press, has contracted to bring their work into print, as a volume in the Press's series on legal history of the American West. Once all the materials are in hand and the final work of integration and editing of the volume in accord with the Press's specifications is completed, scheduled for later this year, the manuscript will be submitted for a final round of vetting by the Press and the commencement of actual production, normally a year-long process.

Editor of the volume, and contributor of one of the chapters as well, is Professor Harry N. Scheiber, a member of the School of Law faculty at UC Berkeley. "Our authors have based their research on intensive work in original sources" Scheiber states, "this being the only way in which we can do justice to a subject so important — yet not previously explored and analyzed in nearly the depth it merits — and this has made for a process that has taken long years to reach our goal." That goal, he continues, is to provide a full but accessible account of the Court's history in all its dimensions.



PROFESSOR
HARRY N. SCHEIBER

Thus the scope of each author's chapter embraces, among other topics, major doctrinal developments; the roles of the judges most influential in shaping the state's constitutional jurisprudence; and the tensions over federal versus state authority. On a large canvas, the authors seek to portray vital interactions of legal and constitutional developments with key aspects of social, cultural, and economic change in California; and they give attention to public controversies and political battles generated by the Court's decisions. Changes in judicial structures

and the reform and professionalization of court administration are themes that run through the entire history.

SIX AUTHORS ARE CONTRIBUTING THE BOOK'S SEVEN CHAPTERS, WHICH CARRY THE STORY FORWARD BY CHRONOLOGICAL PERIODS

Author of the opening chapter, on the Court's founding and its operation from 1849 to 1878, is Dr. Charles McClain, emeritus on the faculty of Boalt Hall's undergraduate Legal Studies Program at UC Berkeley. He is author of an acclaimed study, *In Search of Equality: The Chinese Struggle Against Inequality in 19th Century America* (a UC Press book that was honored with an award by the Ninth Judicial Circuit Historical Society) and articles on both federal and state constitutional law published in law reviews and historical journals. McClain earned a PhD in history from Stanford and also the JD degree from UC Hastings.



DR. CHARLES
MCCLAIN

The period from 1879 to 1910, an era that opens with the adoption of California's second (and current) state Constitution, is the subject of a chapter by Professor Gordon Bakken. Long a faculty member in the department of history at California State University at Fullerton, Bakken was on the founding board of directors of the Society. He is a leading figure in the study of California and western regional history — author or editor of sixteen books, among them *Practicing Law in Frontier California* (University of Nebraska Press) and classic works on mining law and property rights in the West. A past president of Phi Alpha Theta, the national history honor society, he has played an important role in both national and regional historical organizations devoted to teaching and research in history. Bakken



PROFESSOR
GORDON BAKKEN

holds the PhD and JD degrees from the University of Wisconsin.

Professor Lucy Salyer has written the chapter that follows, on the California Supreme Court in the Progressive era, the 1920s, and the New Deal years. An associate professor of history at the University of New Hampshire, she obtained her doctorate in UC Berkeley Law's Program in Jurisprudence and Social Policy. Her dissertation was revised to become the acclaimed book *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (University of North Carolina Press), awarded the Theodore Saloutos Book Prize for best book in immigration history in 1995. She has also won several prestigious prizes for her journal articles, and she has drawn from her research on California law to contribute to the Society's Journal a major study of judicial administrative reform.



PROFESSOR
LUCY SALYER

Dr. McClain has also written on the modern period for this volume, authoring the chapter on the Court during the period 1940 to 1964, the years of Phil Gibson's chief justiceship that inaugurated the first phase of California's "torts revolution," regulatory innovations by the Legislature, the pressures of World War II and a burst of population growth and industrialization.

Bringing the history forward to more contemporary times (1964-1986) is the chapter following, by Harry Scheiber. It chronicles the record of change during the years of the Traynor, Wright, and Bird Courts. Featured in this era were equal protection issues, the increasing role of the direct ballot in the state's law, the Court's expanded assertion of independent state grounds as a vital element of national and state federalism, death penalty issues, and a period of intensive political attacks.

Scheiber is the Riesenfeld Chair Professor of Law and the director of Berkeley Law's Institute for Legal Research, former president of the American Society for Legal History, and an elected fellow of the American Academy of Arts and Sciences. He is author or editor of fifteen books, among them *The State and Freedom of Contract* (Stanford University Press). He holds the doctorate from Cornell University, and in 1995 was awarded the D.Jur. honorary degree in law from Uppsala University, Sweden.

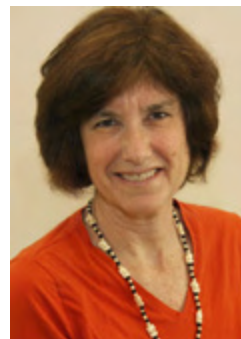
Bob Egelko, longtime legal writer for the *San Francisco Chronicle* and contributor of articles in that newspaper on the California Supreme Court, individual justices of the Court, and major issues in both national and state constitutional law, is author of a chapter exclu-

sively focused on history of the Lucas Court, 1987-1996. Egelko, a Stanford graduate, has also been a reporter for the Associated Press, and has written for the *California Journal* as well as other journals of news and commentary. The tensions between so-called judicial liberalism and judicial conservatism kept the Court at a high profile in state politics during this period; but it was also a time marked by ambitious advances in judicial administrative reforms, to which Chief Justice Malcolm M. Lucas was deeply dedicated.



BOB EGELKO

Dr. Molly Selvin, assistant dean and adjunct professor of law at Southwestern Law School, is author of the book's closing chapter, devoted to the Court during the chief justiceship of Ronald M. George. With strong encouragement from the University of Nebraska Press editors, the Society's board of directors decided last year to commission this chapter on contemporary history, advancing the project's original goal of comprehensiveness as well as authoritativeness. That the latter quality would be achieved, Professor Scheiber states, was assured when Dr. Selvin — an established professional historian who serves as associate editor of *The Journal of Legal Education* and was distinguished as a journalist on the editorial staff of the *Los Angeles Times* — agreed to take on the assignment. She is a PhD in history from UC San Diego, has twice held Fulbright fellowships, did postdoctoral work in law at Harvard Law School, and is the author or coauthor of several well-known monographs on legal history and on the California judiciary.



DR. MOLLY SELVIN

It is expected that the text will be enriched by a selection of historical illustrations, comprising photographs and other images that have been compiled by Jake Dear, Chief Supervising Attorney of the California Supreme Court who has done important research on the subject of the Court's doctrinal influence as measured by adoption of its rulings in the courts of other states.

Our members will be kept apprised of progress in this current, concluding phase of a project which, as Scheiber writes, "has taken many years of research, in its way a labor of love by the authors — and the publication of which we fully expect will fulfill the high hopes with which the Society's board launched the project." ★