Chief Justice Tani Cantil-Sakauye and former Chief Justice Ronald M. George headlined the California Supreme Court Historical Society’s landmark celebration, on November 15, 2016, of the publication of its book, *Constitutional Governance and Judicial Power: The History of the California Supreme Court*. The 669-page volume represents the culmination of a project the Historical Society began twenty years ago, and it fulfills two laudable goals of its editor, Harry N. Scheiber, Historical Society board member and professor of law at the University of California at Berkeley: to provide a serious, authoritative history of the California Supreme Court that is also accessible enough for lay readers. The San Francisco celebration, attended by almost 100 people, took the form of a program at the Milton Marks Auditorium in the Ronald M. George State Office Complex, during which the two Chief Justices answered questions posed by Daniel Grunfeld, a former president of the Historical Society and partner at Morgan Lewis in Los Angeles, and by Molly Selvin, the Society’s vice president and a legal historian who authored one of the book chapters.

Former Chief Justice Malcolm M. Lucas would have also been part of the program but for his passing on September 28. The late Chief Justice was instrumental in the founding of the Historical Society, and it was during his time as its first chairman that the book project was launched. The program was thus dedicated to the late Chief Justice, and Jennifer King, a Los Angeles appellate attorney and the Society’s immediate past president, praised his achievements in forging majorities and restoring public confidence in the Court after voters defeated Chief Justice Rose Bird and Justices Cruz Reynoso and Joseph R. Grodin when they stood for re-election in 1986. After observing a moment of silence for the late Chief Justice, Chief Justice Cantil-Sakauye talked about her own admiration of him as someone who took on the task of healing the Court with great poise. Former Chief Justice George concurred with those observations but noted that he particularly appreciated Lucas’ sense of humor and insightfulness. He mentioned *Spiritual Psychic Science Church v. City of Azusa* as particularly exemplary in this regard. In that case, a fortune teller challenged a city law

*Richard H. Rahm practices employment law with Littler Mendelson in San Francisco.*
The evening featured a panel discussion in which former Chief Justice Ronald M. George and Chief Justice Tani Cantil-Sakauye answered questions from Daniel Grunfeld and Molly Selvin.

prohibiting commercial fortune telling. Then–Associate Justice Lucas suggested to the plaintiff’s attorney at oral argument that since his fortune-telling client must have already told him how the case would turn out, would he mind sharing that information with the Court? The attorney assured the Court his client was confident of winning. And, in fact, she won based on the statute being found unconstitutionally overbroad.

The remembrance of the late Chief Justice was followed by several questions to the Chief Justices eliciting their views on a range of topics from the history of the California Supreme Court to looming future challenges. Two themes emerged. One concerned the nature and protection of the California Supreme Court as an institution. In addressing the question of why the California Supreme Court is considered by many to be the second most influential court in the country, former Chief Justice George noted it is not just because it heads up a large state judicial system because, if that were true, states such as Illinois or New York would be as influential. While Chief Justice Cantil-Sakauye emphasized the diversity of California and the Court’s opportunity to be the first to address many ground-breaking issues, former Chief Justice George emphasized aspects of the institution of the Court itself, such as the state constitutional requirement that every decision be published (not always required of other high courts), its cultivation of a strong central staff whose work product is exceptional, and that California justices may not run on a party-affiliated ticket. However, both Chief Justices worried about the continued independence of the California judicial system, which is often under attack, its ability to anticipate and respond to change, and the effect of long-running funding cuts in reducing access to justice.

Access to justice is also tied to the theme of eliminating discrimination in such a diverse state. Both Chief Justices singled out wrongly decided cases involving discrimination when asked which cases they wish they could remove from the case books. Chief Justice Cantil-Sakauye cited to the California Supreme Court’s decision in Mackenzie v. Hare, which held that a native Californian woman surrendered her citizenship when she said “I do” in marrying a British subject. Former Chief Justice George pointed to People v. Hall as his candidate for removal; in that case the Court reversed the murder...
California’s Lost ‘Arcadia’

Constitutional Governance and Judicial Power: The History of the California Supreme Court, the Society’s newest publication and perhaps the most comprehensive account of the state high court, contains a 65-year old mystery. The mural that graced the Supreme Court’s San Francisco courtroom from 1924 to 1950 and that now adorns the volume’s cover, was removed during a renovation and has been lost ever since.

“The Commonwealth” was painted by Arthur Mathews, one of California’s most famous artists. The enormous mural, fourteen feet high and thirty-four feet long, depicted California as “a prosperous, harmonious and cultivated Arcadian state,” as Ray McDevitt noted in the CSCHS Newsletter, Spring/Summer 2011, including symbols from Greek mythology, literature, justice, commerce and nature.

A sought-after painter whose work hung in the homes of San Francisco’s elite as well as in the State Capitol rotunda, Mathews was chosen to paint a mural for the Supreme Court’s courtroom in the new state office building, then under construction in San Francisco’s Civic Center. His finished painting, for which the state apparently paid $8,000, was installed on the north wall of the new courtroom on April 10, 1924; it covered the entire wall above the justices’ bench. The following morning, Mathews wrote that he experienced his first moments of “real ‘comfort’ after eighteen months of anxiety and hard labor.”

In the early 1950s, however, the state spent $80,000 to expand and renovate the State Building. Naugahyde covered the architectural detail on the walls. The neo-classical dome and skylight were hidden by a dropped ceiling and fluorescent lighting. Mathews’ mural, deemed out of place, was rolled up and stored away. According to the records of the California Department of Public Works, “the large painted canvas mural on the north wall of the Supreme Court Room (space 441) which is in sections will be carefully removed so that the canvas is not damaged in any way. The sections will be rolled, numbered and stored in the basement of the building until received by the State.”

The Madera Tribune noted that no one knew who ordered this work and “[s]ome amazement at the redecorating job was expressed.” According to the report of the Director of Public Works, the contract for the renovations was awarded in September 1950 to Arthur W. Baum, a San Francisco general contractor.

ENDNOTES
3. People v. Hall, 4 Cal. 399 (1854).

ORDER THE HISTORY AT WWW.CSCHS.ORG