

## 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

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## 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

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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.

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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.

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## A Continuum

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– 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](mailto:director@cschs.org), or to me directly at [jes@bmj-law.com](mailto:jes@bmj-law.com).

Here's to the continuum.

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### Tour the California Supreme Court

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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.

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