



Happy Birthday, DCAs

BY KENT L. RICHLAND

The mission of the California Supreme Court Historical Society is much broader than is implied by its name. The Society is dedicated to the preservation and promotion of the history of California's entire judicial system. As a consequence, this is an important year for the Society – it is the centennial of the establishment of California's intermediate appellate courts. On November 8, 2004, the First, Second and Third Appellate Districts will be one hundred years old.

In the beginning – the beginning, in this instance, being 1849, the year the California Constitution was adopted – the state's only appellate court was the Supreme Court. Then comprised of a Chief Justice and two Associate Justices, the Court heard appeals from the decisions of both trial court and the alcaldes (local officials who combined the duties of mayor, police chief and judge), so long as the amount in controversy exceeded two hundred dollars.

For several years the Supreme Court's caseload remained manageable because, as Reporter of Decisions Charles A. Tuttle explained, "little attention was . . . paid to the acquisition of any other property than gold." But with the growth of mining and agriculture came a need for greater predictability in the ownership of real property, a problem made all the more complex by the fact that much property was held under Spanish and Mexican land grants, and boundaries were vaguely defined at best. As a result, in 1862, the Constitution was amended to increase the number of Associate Justices to four and to increase the jurisdictional threshold to three hundred dollars.

The burgeoning caseload led, in 1880, to the addition of two more Associate Justices, bringing the total number of justices on the Court to its present complement of seven. But at the same time, the Court was divided into two divisions composed of three justices each – thus ostensibly doubling the number of cases that could be heard – with provision for en banc hearings in the discretion of the Chief Justice or on the vote of four Associate Justices.

By 1904, with the population of California teeming at 1.4 million, even the reshuffled Supreme Court could not handle the volume of appeals. Three District Courts of Appeal were created: district one embraced the County of San Francisco and other counties generally in the center

Continued on page 11



California's Courts and Judges: From the 19th to the 21st Century

BY DONNA SCHUELE

In less than three years, the Supreme Court has experienced the passing of three justices, Stanley Mosk, Marcus Kaufman and David Eagleson. Having previously memorialized Justices Mosk and Kaufman, the California Supreme Court Historical Society pays homage to Justice Eagleson in this issue of the *Newsletter*. Rick Seitz, who served as a research attorney for Justice Eagleson, provides an admiring view of his contributions to the Court and California jurisprudence. Justice Eagleson's daughter Beth, herself a member of the bar, follows with a touching portrait linking the professional and the personal in her father's life.

This issue's focus on the Court and its members continues in two more directions. Looking back, Fran Jones and Martha Noble offer a survey of 150 years of California's chief justices, in a fascinating comparison of the nineteenth and twentieth centuries. Their article complements an exhibit on the chief justices on display through July at the Court's headquarters in San Francisco. And, spotlighting one of our more infamous chief justices, David Terry, Los Angeles Times reporter Cecilia Rasmussen entertainingly reminds us that frontier California earned its "wild west" reputation not without help from the bench and bar.

Moving forward, our current Chief Justice, Ronald M. George, and Court of Appeal Justice Patricia Bamattre-Manoukian highlight a very twenty-first-century role that the Court has undertaken – engaging in public outreach and education through annual special oral argument sessions held around the state. In 2001, the Court heard argument in Santa Ana, and in 2002 traveled to Fresno. In this issue, Chief Justice George and Justice Bamattre-Manoukian describe the Court's 2003 return to San Jose for the first time in nearly 150 years. Building on the experiences of the Santa Ana and Fresno sessions, those planning the San Jose session succeeded in involving a wide range of participants: students ranging from high school to law school, local attorneys and judges, dignitaries and others, in a variety of programs both educational and social.

This newsletter issue focuses on other aspects of California's judicial branch as well, looking both forward and back in time. Society President Kent Richland draws attention to this year's one-hundredth anniversary of the Court of

Continued on page 15

lengthy gestation period required for major improvements in the judicial branch. The process is acutely evolutionary rather than revolutionary.”

Committed to Justice additionally discusses major efforts at court improvement, including civil delay reduction, expanded judicial education, the rise of alternative dispute resolution and the courts’ efforts at improving access to justice for California’s diverse population. As Sipes noted to me, “The resulting book is admittedly a selective list of milestones that seemed most worthy of memorialization.” Sipes has chosen well, and there is much to be learned from his treatment of the issues he selected.

Yet, beyond the milestones he explicates, mysteries remain for future historians to unravel. Why did Governor Deukmejian veto the 1984 Trial Court Funding Act, delaying state funding of the trial courts for over a decade? What impact did the unseating of Chief Justice Rose Bird in 1986 have on subsequent judicial retention elections? Why did the Judicial Council and the AOC take no position on the Trial Court Delay Reduction Act of 1986, and why are they more proactive now in the legislative arena? How are we to understand the rise of problem-solving courts (also known as collaborative justice courts, therapeutic justice, etc.) for adjudicating drug cases and domestic violence cases, and what is their impact on traditional forms of adjudication?

The California courts are engaged in a large-scale transformation of their economic, political and social foundations, as well as a redefinition of their role in society. Such a change cries out for informed analysis and broader public discussion, in a continuation of the project that Sipes has begun. Judicial officers, court administrators, AOC staff, litigators and those generally interested California law, policy and history will all find much to engage them in *Committed to Justice*. For those involved in or affected by judicial administration, understanding where in the courts’ evolution they find themselves will render them more effective actors in ongoing efforts to improve access to justice. While there is little danger in this instance that those who do not know this history will be forced to repeat it, it is also true that courts change slowly, and understanding the events of 1986 is still of great relevance to understanding what is happening in judicial administration today.

Rimbaud once noted that “a poem is never finished, it is abandoned in despair.” Less dramatically, but equally impassioned, Sipes acknowledged, “The greatest disappointment [in researching this book] was the almost total absence of recorded perspectives of leaders of the judicial branch. I would hope that an effort can be made to capture the knowledge and experiences of current and former chief justices and administrative directors of the courts, and that

trained historians will be enticed to attempt a comprehensive history of this 150-year period of judicial administration.”

With the publication of *Committed to Justice*, Larry Sipes has built an excellent foundation for future historians of the California courts. He is to be commended, along with William Vickrey, the current Administrative Director of the Courts, who commissioned him to undertake this project. The question now is, who will take up Sipes’ challenge to continue this effort?

Richard Schauffler is the Director of Research Services at the National Center for State Courts in Williamsburg, Virginia. A native Californian, he previously worked at the California Administrative Office of the Courts.

LET US HEAR FROM YOU

Send suggestions for On Your Bookshelf and Member News contributions to: director@cschs.org.

Happy Birthday

Continued from page 3

of the state; district two covered Los Angeles County and those counties in the southern part of the state; and district three consisted of Sacramento County and the more northern counties. One panel of three justices sat in each district. Cases moved between the Supreme Court and the District Courts of Appeal with some fluidity, since the Supreme Court had the discretion to assign any case within its original jurisdiction to be heard in any District Court of Appeal, and by the same token could pluck for its own hearing any case pending in a District Court of Appeal.

One hundred years later, our intermediate appellate courts have matured. We now have six districts, and those districts are in turn divided into nineteen divisions. The number of appellate justices has increased from nine to one hundred five. In the vast majority of Supreme Court cases, review is granted only after a Court of Appeal has heard the appeal first. And, incidentally, under Article VI, Section 3 of the California Constitution, our intermediate appellate courts are now called simply Courts of Appeal, rather than District Courts of Appeal. Old-timers, however, still affectionately refer to them as “DCAs.”

Please join me and the other members of the Society in wishing our DCAs a happy one-hundredth!