

*Leadership for Justice:
California's Chief Justices
from the 19th to the 20th Century*

BY FRANCES M. JONES & MARTHA R. NOBLE

"Leadership For Justice," an exhibit including photographs and biographies of each of California's chief justices, is available for viewing through July 31, 2004, in the Archives Room on the first floor of the Earl Warren Building, the Supreme Court's headquarters at 350 McAllister Street, San Francisco. This article draws on research conducted in preparation for the exhibit.

The leadership, scholarship and service of California's chief justices have established an honorable tradition and guided the development of California law and jurisprudence for more than 150 years. Twenty-six men and one woman have served as Chief Justice of California since the adoption of the Constitution of 1849. Of different times and places, they have in common the honor of high office, the privilege of service and the mantle of leadership through good times and difficult times.

CHIEF JUSTICES OF
THE NINETEENTH CENTURY

Fifteen of California's twenty-seven chief justices were elected or appointed during the first fifty years of statehood. Their terms of service were generally brief, averaging slightly more than three years each. Chief Justices Murray, Wallace and Morrison served for terms of more than five years. The shortest term of service, two months, was that of Chief Justice Sprague, in January and February 1872; and Chief Justice Lyons served only three months in 1852. Five chief justices (Hastings, Sanderson, Currey, Sawyer and Rhodes) each served for two years.

The two-year terms were not by choice: instead they were mandated by constitutional provision or legislative act. Chief Justice Hastings was appointed for a term of two years by the Legislature of 1850. Constitutional amendments ratified in 1863 increased from three to five the number of justices of the Supreme Court and provided for a special judicial election held in October that year. The five new members of the court were classified by lot, with one leaving office every two years, resulting in terms of two, four, six, eight and ten years. The justice with the shortest term left to serve was designated Chief Justice. As a result, Sanderson, Currey, Sawyer, Rhodes and Shafter succeeded to the office of Chief Justice every two years. (Justice Shafter resigned in 1867 because of failing health.)

With his term spanning the centuries, Chief Justice Beatty served far longer than any of those who preceded him: twenty-five years, including eleven years (1889-1900) in the nineteenth century.

Reflecting the frontier status of the Golden State, none of the nineteenth-century chief justices was a California native. Five were born in New York, three in Kentucky, two in Vermont, and one each in Connecticut, Illinois, Missouri, Ohio and Pennsylvania. Their legal education also reflected the times: thirteen studied law in practitioners' offices and only two attended law school. Chief Justice Morrison, elected after the adoption of the Constitution of 1879, attended Harvard. Chief Justice Sanderson attended law school in New York. Collectively they were admitted to practice in at least ten state jurisdictions other than California: four in New York, three in Indiana, two in Iowa, and one each in Illinois, Kentucky, Missouri, Nevada, Ohio, Texas and Wisconsin.

The average age when beginning their service as chief justice was forty-four years old. Chief Justice Murray was the youngest, at twenty-six. Chief Justice Searls was the eldest, at sixty-one. All held prior elective or appointed public office, and five had military service in other jurisdictions.

Ten of the fifteen had prior service as associate justices of the California Supreme Court. Two chief justices also held important collateral positions with regard to the court. Chief Justice Cope served as Reporter of Decisions, for volumes 63 through 72 of California Reports, after his retirement from the court. Until his appointment as chief justice in 1887, Chief Justice Searls served as a commissioner for the court under legislation enacted in 1885. He then resumed this post in 1894.

Two served as chief justices in other jurisdictions: Chief Justice Hastings in Iowa and Chief Justice Beatty in Nevada. And Chief Justice Field was appointed to the United States Supreme Court by President Lincoln, serving from 1863 to 1897.

CHIEF JUSTICES OF
THE TWENTIETH CENTURY

The next one hundred years saw the appointment of twelve chief justices, eleven men and one woman. In the absence of constitutional and legislative impediments to longer service, twentieth-century chief justices held office for an average of seven years, more than double the average length of time served in the nineteenth century. Four chief justices appointed during the century (Chief Justices Waste, Gibson, Bird and Lucas) served more than seven years, and they were preceded by Chief Justice Beatty, who served fourteen

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of his twenty-five years in the twentieth century. The longest tenure of the twentieth century was that of Chief Justice Gibson, who served for twenty-four years, three months. The shortest tenure was that of Chief Justice Sullivan, who served five months in 1914-1915.

Reflecting the longer life spans of the twentieth-century, these chief justices were on average more than a decade older than their counterparts in the nineteenth-century. Their average age at the beginning of their service as chief justice was fifty-six. Chief Justice Bird was the youngest, appointed at age forty; and Chief Justice Shaw was the oldest, appointed at age seventy-six.

The twentieth century also saw the appointment of the first California native, Chief Justice Sullivan, in 1914. He was followed by five additional native Californians: Chief Justices Angellotti, Waste, Wright, Lucas and George. Seven of the twelve graduated from California law schools, including three from Hastings College of the Law; two from Boalt Hall School of Law at the University of California, Berkeley; and one each from Stanford Law School and the University of Southern California Law School. They were admitted to practice in at least five other state jurisdictions (Illinois, Indiana, Missouri, Nevada and Wisconsin) and to practice in the federal courts.

Similar to the nineteenth-century experience, nine of these twelve served as associate justices of the California Supreme Court prior to their appointments as chief justice, and all held prior elective or appointed public offices.

Two chief justices' terms have spanned the centuries. Chief Justice Beatty, the longest-serving chief justice, held office from 1889-1914. Chief Justice George, whose term began in May 1996, is the first to serve in the twenty-first century.

The authority and responsibilities of the Chief Justice of California are mentioned only twice in the Constitution of 1849. The expansion of the responsibility held by contemporary chief justices is evident, in part, from the constitutional and statutory references to their duties and authority, now noted more than 120 times in the Constitution, statutes and court rules of the state.

Each and all of the chief justices have contributed to the establishment of justice and the rule of law in California. Each and all of them have broken new ground while maintaining the tradition of leadership, scholarship and service. To California's future, they have given a solid, strong foundation for the protection of democracy and the preservation of justice.

Sources for this article include:

J. Edward Johnson, *History of the Supreme Court Justices of California* (1963).

Orrin Kip McMurray, "An Historical Sketch of the Supreme Court of California," in *Historical and Contemporary Review of Bench and Bar in California* (1926).

Melvin L. Urofsky, *The Supreme Court Justices: A Biographical Dictionary* (1994).

Who's Who in American Law (1977-1978).

www.courtinfo.ca.gov

A reference table listing the dates of birth, death and years of service of all of California's chief justices will be posted on the Society's website, at www.cschs.org, which is currently under construction.

Frances M. Jones (JD, MA) is Director of Library Services at the California Judicial Center Library. Martha R. Noble (MLIS) is Assistant to the Director. The California Judicial Center Library, located in the Hiram Johnson State Building, San Francisco, serves the California Supreme Court; the California Court of Appeal, First Appellate District; and the Administrative Office of the Courts. The authors gratefully acknowledge the research contributions of Christina C. Banker, Robert S. Malesko, Judith S. Mitchell and Linda F. Sharp.