

THE CHIEF: RON GEORGE AT THE HELM OF CALIFORNIA'S SUPREME COURT

By Sharon Driscoll



Chief Justice of California RONALD MARC GEORGE '64 IS AT HOME IN HIS CHAMBERS AT THE SAN FRANCISCO OFFICES OF THE SUPREME COURT. It's a large, stately space but welcoming, with a cluttered desk, a comfortable sofa, and a large table—the piles of folders on it carefully removed each Wednesday for the justices' meeting at which cases are discussed. Described as a judicial scholar, a visionary manager, and an effective lobbyist for the court system, George has embraced his role as chief of the largest judiciary in the world. He puts in long hours in chambers, on the bench, in courthouses around the state, and in Sacramento, where he is frequently found meeting with the governor and members of the legislature. During his tenure as chief justice, he has overseen a massive overhaul of the state's judicial system—his aim being to “establish the judicial branch as a true third arm of government, as it should be.”

Appointed to the court by Republican Governor Pete Wilson in 1991 and elevated by him to chief justice in 1996, George has defied the expectations of conservatives and liberals alike. He has consistently cited his reliance on the rule of law, contained in the statutes and precedents of California and the constitutions of both the state and the United States, as the governing influences on his jurisprudence—not any particular ideology. Already nationally known as a leader in court administration, Chief Justice George has even more firmly secured his place in history with his recently authored decision *In re Marriage Cases*, which legalized same-sex marriage in California. Seventeen years after his initial appointment to the California Supreme Court and after more than 36 years on the bench, George has gained a reputation as a fair-minded moderate who can surprise supporters and detractors of various political views with his independence.

Chief Justice George did not aspire to a life on the bench. After graduating from Beverly Hills High in Los Angeles, he headed to Princeton University's Woodrow Wilson School of Public and International Affairs to study for a State Department career. It was while on a trip through western Africa in 1959, during which he observed the consequences of the U.S. government's hands-off approach to international affairs, that he began to question his direction.

“It didn't really comport with my career objectives,” he recalls. “I found that there were a lot of diplomats who had no contact with the local population. My motives for going to law school probably weren't the noblest. I wanted to leave my options open and have the broadest range of possibilities, and I thought a training in the law would do that.”

But the combination of his undergraduate studies in politics and diplomacy and what he describes as the brilliance of Stanford Law's constitutional faculty, particularly Gerald Gunther, proved to be the right preparation for a stellar career on the bench.

George graduated from Stanford Law School in 1964 with an offer to join the California state attorney general's office as a deputy attorney general. Very early on, one of George's criminal cases reached the U.S. Supreme Court, and he was lucky enough to stay with it.

“I had to sort of fight to keep it because I was a rather young lawyer. But they told me they were very pleased with how I handled it,” says George.

During his seven-year tenure, he went on to represent the State of California in five more arguments before the U.S. Supreme Court and about a dozen more before the California Supreme Court, including the appeal from the conviction of Sirhan Sirhan for the assassination of Senator Robert Kennedy. Then Governor Ronald Reagan took notice of the rising prosecutor's talents and appointed George to the Los Angeles Municipal Court in 1972. So it was that just a few weeks after his 32nd birthday, George began his career on the bench. He was subsequently elevated by Governor Jerry Brown to the Los Angeles Superior Court in 1977 and by Governor Deukmejian to the Courts of Appeal in 1987.

Though labeled a conservative law-and-order judge, George quickly developed a reputation for independence—particularly while presiding over the Hillside Strangler case in the early 1980s as a judge on the Los Angeles



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County Superior Court. George made the unprecedented decision to reject the Los Angeles County district attorney's request to dismiss the murder charges after the government's star witness changed his testimony. Instead, George referred the case to the state attorney general's office where it was successfully prosecuted in a two-year trial in his court.

“I handled death penalty questions. I handled Sirhan Sirhan. People look to easy signals to categorize,” he says. “But certainly the Hillside Strangler case, where I didn't rubber-stamp what either the prosecution or the defense wanted but instead exercised my own judgment, is an illustration of independence.”

That independence has, at times, been

met with opposition from conservatives in the state. Soon after his elevation to chief justice, he took up the controversial “parental consent in abortion” case, in which he and the court found that the state's constitutional right to privacy extends to girls under 18 and therefore parental consent is not necessary for abortion. Anti-abortion activists mounted a concerted effort to defeat George in his 1998 reelection bid. Despite this effort, he won handily with a 75 percent majority.

“Basically, I call them as I see them,” says George. “I came to the court and I come to each decision without any predetermined fixed point of view. I think the obligation of any judge is to make an independent decision based upon the

record of the evidence and the state of the law, and that does not result in always fulfilling predictions of outside observers.”

That adherence to the law and refusal to base decisions on public preferences recently came to the fore once again, when, on May 15, 2008, in a 4-to-3, 121-page decision authored by George, California's Supreme Court ruled that the right to marry extends to all regardless of sexual orientation. California joined Massachusetts as the second state in the country to recognize this right. But George, and the California court, went one step further than Massachusetts with its ruling by applying strict scrutiny to laws regulating sexual orientation as it does to issues of race, religion, and gender.

One of the most heavily briefed cases in the history of the California Supreme Court, with 45 amicus briefs filed by a range of organizations across the state and country, the case and the decision have been controversial. Although the opinion was hailed by many as a finely analyzed civil rights decision, some voiced their opposition to the holding and are supporting a November ballot measure to undo the decision.

"I made a conscious effort to just see where the law would take me," says George about his approach to the case. "But once I determined how I would be writing the opinion, then I could not help but be affected—just in my own attitude, not in my decision making—by the fact that this certainly was an historic event. And maybe that was brought home espe-

cially by virtue of the fact that the justices of the court who comprised the majority relied heavily upon the California Supreme Court decision in *Perez v. Sharp*."

The court's 1948 decision in *Perez v. Sharp* striking down a ban against interracial marriage was both groundbreaking and years ahead of public opinion. It took approximately 10 years for any other state to follow California's lead and 20 years for the U.S. Supreme Court to come to the same conclusion in the landmark *Loving* case.

"The *Perez* case was very controversial at that time and now it's accepted as standard reality," he says. "So there are constants in the law, but the law, of course, does need to accept current social and political realities in determining what the law requires. Past practice alone may not pro-

vide justification for discrimination."

Responding to critics of the decision, George points to the state's constitution.

"It really boiled down to a fundamental question: When is a court overreaching in its function and when is it shirking its responsibility to go forward regardless of public clamor," he says. "And that was the level of discourse we had on the court, not overly moralistic or *ad hominem* or—and I mention this because some of the opinions that other states have rendered have verged on this—homophobic."

He adds that the overwhelming feeling he has for the justices on the court is one of "pride" and that many of his fellow chief justices from around the country have contacted him to praise the way that both those joining and those dissenting from his judgment worked together.

The Right to Marry

WHEN GEOFF KORS '86 SAT DOWN WITH THE EQUALITY CALIFORNIA BOARD OF DIRECTORS FOR HIS first meeting as the group's newly appointed executive director, he made a bold prediction: Marriage for same-sex couples would be legal in the state by the end of the decade. That was seven years ago. Last May, California's Supreme Court validated his optimism with passage of the historic *In re Marriage Cases*, which declared marriage a constitutional right for everyone in the state, regardless of sexual orientation.

For Kors and the legions of activists in the lesbian, gay, bisexual, and transgender (LGBT) rights movement, the decision was the culmination of years of planning and hard work. Since 2001, Kors has overseen the development of a comprehensive strategy for at-

taining one of Equality California's primary goals: equal rights for all in marriage. The first step, says Kors, was to win over the hearts and minds of Californians. The group commissioned social psychologists to research the issue and then developed a public education campaign.

"We had to put a human face on the issue," says Kors.

"You can make a logical argument to people, but if they've grown up thinking things should be a certain way, it doesn't always work," says Toni Broaddus '99, who founded Californians for Civil Marriage in 2002 (which merged with Equality California in 2003) and is now executive director for the Equality Federation, the national alliance of all state-based LGBT equality groups. "We've found that creating public acceptance actually makes it much easier for the

courts to rule in what we think is a rational and logical way."

The Personal as the Political

On New Year's Day 2004, John Lewis '86 and his partner of now 21 years, Stuart Gaffney, made a daring New Year's resolution: Sue the State of California for fully equal marriage rights. To

get started in the movement, Lewis decided to attend Marriage Equality USA's annual "Freedom to Marry Day" rally at San Francisco City Hall on February 12, 2004. Expecting a protest, Lewis was instead greeted with the news that San Francisco's Mayor Gavin Newsom had just lifted the same-sex marriage ban.

"I called Stuart and said get

GEOFF KORS '86, TONI BROADDUS '99, JOHN LEWIS '86 AND MAYA HARRIS '92 OUTSIDE SAN FRANCISCO'S CITY HALL.



THE JOB OF CHIEF JUSTICE OF CALIFORNIA CONCERNS much more than the thousands of cases that seek hearing before the court each year and the more than 100 cases it annually decides—it's also a huge management undertaking. The chief justice serves as chair of the Judicial Council, the constitutional entity charged with overseeing the statewide administration of justice. It is in this role that George's background in diplomacy has paid off, particularly as he has spearheaded and lobbied for an unprecedented reform of the state's judicial branch, a system that comprises more than 1,700 judges, approximately 450 commissioners, 20,000 court employees, and a budget of about \$4 billion.

Since taking on the role of chief justice, George has successfully led ef-

forts to change the state's trial courts from county-based to statewide funding, which, he says, has brought more financial stability and equalized the services and the accessibility of the courts. He and the council also lobbied for a constitutional amendment that permitted the unification of the 220 municipal and superior courts in the state into 58 superior courts, one in each county. Currently, he is leading the court system's work to transfer ownership and management of the vast majority of California's 451 courthouses from counties to the state, including a \$5 billion courthouse construction bond to support this move, now through the legislature.

After more than 36 years on the bench, the law is not just a job for George. It's a passion. In his late 60s, he

has no plans to slow down anytime soon. An avid runner, he no longer takes on marathons, but he still puts in 10-plus-hour days at the court, makes time to travel with his wife and sons, and enjoys a good book (*Team of Rivals* about President Lincoln's cabinet his current choice). Seeing no reason to give up a life he loves, he fully expects to seek reelection when his term expires in 2010.

As for a legacy, George says he doesn't have time to dwell on that.

"I think it's best left to people on the outside, to academics and journalists and others, to put things in context, historical and otherwise," he says. "Hopefully, I'll be viewed as somebody who gave his all to the opportunities provided someone fortunate enough to occupy this position." **SL**

down here, we're getting married," recalls Lewis.

Lewis and Gaffney were one of the first 10 couples married that day.

Marriages were halted within a few weeks, and those performed were invalidated by the California Supreme Court six months later. But Lewis and Gaffney fulfilled their New Year's resolution and became two of the named plaintiffs in the now historic lawsuit that overturned California's marriage ban.

Since 2004, Lewis and Gaffney have joined Kors and Broaddus in actively supporting efforts to win the freedom to marry, including lobbying the legislature, and engaging the media. They've also embraced face-to-face outreach—joining a bus tour to take the message out of the Bay Area and across America.

"We wanted to build empathy

within the public and, of course, the courts, to create a sense of common humanity, to show that this common humanity ultimately lies behind the due process and equal protection clauses of the Constitution," says Lewis.

A Legislative Push

Hand in hand with public education has been a legislative strategy. In the lead-up to the California Supreme Court decision, Equality California oversaw the passage of nearly 50 bills in the California Legislature advancing LGBT rights, including the pivotal 2003 domestic partnership legislation, which set the stage for marriage equality.

The strategy worked. On May 15, 2008, California's Supreme Court reached its decision *In re Marriage Cases*, which legalized same-sex marriage.

"The California Supreme Court is the most influential

state high court in the country," says Maya Harris '92, who, until September, was executive director of ACLU of Northern California, which was co-counsel in *In re Marriage Cases* and has partnered with Equality California on many of its legislative efforts. "The decision heralds a sea change in California history, and it will spark profound shifts in American society."

"It was so eloquently written. It renewed my faith in the rule of law," says Broaddus of the California Supreme Court's 221-page majority decision, which was written by Chief Justice Ronald Marc George '64 and supported by Justice Carlos R. Moreno '75 in a 4-to-3 vote. And several of the more than 45 amicus briefs filed from a range of organizations across the state and country came from Stanford Law faculty, including one co-signed by Kathleen M. Sullivan and Pamela S. Karlan and another

co-signed by Michael S. Wald and Richard Banks (BA/MA '87).

Lewis and Gaffney married, again, on June 17, 2008, with Lewis's former boss and mentor, and former Stanford Law Assistant Dean, U.S. District Court Senior Judge Thelton Henderson, performing the ceremony.

Looking ahead, Kors, Lewis, Broaddus, Harris, and others are focusing their energies on defeat of Proposition 8, the November ballot initiative that calls for the California Supreme Court decision to be overturned.

Meantime, Kors is, for the first time in his life, contemplating marriage: "You grow up in a culture knowing, from the time you're a little kid, that you're not going to have this thing, this key institution in society. But then, suddenly, you have it. You're fully equal. It is truly an astonishing experience."