THE HISTORY AND JUSTICES OF THE APPELLATE DIVISION, THIRD DEPARTMENT

1896 to the Present*

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* Revised April 2018.

THE HISTORY OF THE APPELLATE DIVISION, THIRD DEPARTMENT

The Appellate Divisions were established by the Constitutional Convention of 1894 and heard their first cases in January 1896. They were established to help correct two perceived deficiencies in the New York State court system. First, delays and congestion characterized the appellate load of the Court of Appeals. Second, the General Terms, which were the immediate predecessors of the Appellate Divisions, were also experiencing problems. By 1890, there were nine general terms throughout New York State. They were generating a proliferation of conflicting decisions. They were viewed as weak, ineffective and ill-equipped to handle the volume of business coming up from the lower courts. Disrespect for the General Terms was fostered by the view that they were merely inconsequential way stations on the road to the Court of Appeals. Given the broad jurisdiction that the Court of Appeals had at that time, this perception was not without merit. Even the name General Term was perceived as a meaningless expression.

The establishment of the Appellate Divisions addressed these needs. The continuance of the Appellate Divisions largely unchanged in their basic role for over a century is a good argument for the proposition that their design has met those needs well. The Convention abolished the General Terms. The State was divided into four geographic departments, the boundaries of which have continued essentially unchanged to the present, and an Appellate Division was established for each department.

The Appellate Division judgments were made final in a much larger number of cases by restricting the jurisdiction of the Court of Appeals to questions of law and eliminating its ability to review questions of fact or discretion except in capital cases. Even its jurisdiction to decide law questions was circumscribed. In civil cases, only where there was an expressed difference of view within the Supreme Court, of which the Appellate Divisions are a part, over what the law is – either by a reversal of the trial or special term or a dissent within the Appellate Division itself – was the Court of Appeals to have any jurisdiction to determine questions of law. In criminal cases, the right to appeal was made a matter of permission by individual judges of the Court of Appeals or justices of the Appellate Division.

Structurally, each Appellate Division was enhanced by giving its members fixed terms, power to control its own sessions, and appoint its own clerk. Each Appellate

Division was also to have a minimum of five justices (seven in the First Department) to insure full discussion and the correction of individual opinion by the process of reaching a consensus of opinion. The General Terms had been smaller, composed of three justices who also often doubled as trial judges. Appellate Division Justices were relieved of most duties unrelated to their appellate role.

The Appellate Division is not only an intermediate appellate court with a distinct role, but it is also a division of the Supreme Court, which is New York State's court of general original jurisdiction in law and equity. The Appellate Division Justices are appointed by the Governor from the various Supreme Court Justices. The Appellate Division has the same power as the Supreme Court, but exercises it only in its appellate role. The idea of a bifurcated Supreme Court, with separate trial and appellate functions, may harken back to the Constitution of 1821, which established Supreme Court circuit judges to hear the facts of cases in the localities; the matters were then sent back to the three-member Supreme Court for application of the law. The law and fact bifurcation between the Appellate Division and the Court of Appeals may also have germinated then. In 1846, the Court of Appeals was established to replace the unwieldy and highly political Court for the Trial of Impeachments and Errors (which included among its members the members of the New York State Senate). That original incarnation of the Court of Appeals was composed of eight members: four elected and four appointed from among the members of the Supreme Court. The General Terms were also first established in 1846. The present Supreme Court can be directly traced to the 1691 act of the colonial assembly creating the Supreme Court of Judicature.

Thus, the Appellate Divisions enjoy a history that reaches directly back to 1691 because they are a division of the Supreme Court. They are also the result of almost a century of experimentation in the structure and function of New York State's appellate courts.

Of course, no appellate structure can remain static for over a century. Although the changes can be characterized as peripheral, they have included the creation of permissive appeals in civil cases to the Court of Appeals and, in 1985, a significant statutory change that rendered the Court of Appeals essentially a certiorari court, meaning that for the most part it selects the cases that it will review (much as the United States Supreme Court does). This change has enhanced the Appellate Division role as the court

of final review in the vast majority of cases in the New York State court system. The growth of the centralized Office of Court Administration has lessened the role of the Appellate Divisions as administrative overseers of the trial courts, although the Presiding Justices are members of the Administrative Board of the Courts. On the other hand, the growth in the numbers of lawyers admitted and practicing in the State has given a sharper focus to the traditional role of the Appellate Divisions as the courts that admit attorneys to practice in New York State and which are responsible for the imposition of attorney discipline. Before the Appellate Divisions, admission and discipline were handled by the General Terms and, before them, the Supreme Court.

The Appellate Division, Third Department heard its first case on January 14, 1896. It then occupied temporary quarters in the Albany City Hall and convened in the Common Council chamber. The General Term had previously been housed in the same building. The first lawyer to receive recognition from the Court was Judge Isaac H. Maynard. He moved to dismiss the appeal of the Erie and Central New York Railway Company against Frank Welch, Carrie Welch and Amanda Welch. The appeal was from an order of the "Supreme Court, made at the Broome Special Term and entered in the office of the clerk of the county of Cortland on the 7th day of November, 1895." The order was affirmed in one of the Court's earliest reported decisions at 1 App Div 140 (January 1896). It was a per curiam decision by four justices; then Presiding Justice Parker did not sit in the case.

By that time, Judge Maynard had an infamous reputation. He had been implicated in an election scandal involving contested Senate seats from the 1891 election. At the time, he was a deputy attorney general and counsel for the Democratic side in the matter. The cases reached the Court of Appeals with the result that three of the four contested seats were awarded to the Democrats, giving them control of the Senate. Three weeks after the Court of Appeals handed down its decisions, Chief Judge Ruger died. Five days later, Governor Flower appointed Associate Judge Earl as Chief Judge and, on the same day, appointed Maynard to replace Earl as an associate judge. There was an immediate and statewide outcry of indignation for this perceived gubernatorial reward of misconduct. The Senate confirmed Maynard's appointment. A report by a special committee of the Association of the Bar of the City of New York recommended that the Legislature consider Maynard's removal. However, in January 1893, Governor Flower

reappointed Maynard and the Senate reconfirmed him. When he ran for election in 1893, however, he was defeated in a landslide by Judge Bartlett. A historian of the times states that the defeat of Judge Maynard in the election of 1893 marked the turn of the tide that was to give the Republicans 16 unbroken years of complete control of the State government.

The Court issued 14 opinions from its January 1896 term. In the first reported decision, People ex rel. French v Town (1 App Div 127 [1896]), the Court, in an opinion by Presiding Justice Parker, found that the board of street commissioners of the village of Saratoga Springs had no authority to hire an attorney to protect village property when the village board of trustees had retained an attorney whose services were available to the board of street commissioners. The Court reversed an order of the Supreme Court, made at Saratoga Special Term. The case was cited with approval by the Court of Appeals in 1972 (Cahn v Huntington, 29 NY2d 451, 454 [1972]). The other decisions concerned procedural matters, a village of Cortland ordinance controlling the sale of intoxicating liquors, a railroad condemnation proceeding (the case argued by Judge Maynard), a Delaware County case in which a wife sued the seller of liquor to her husband for resulting injuries to herself after the husband became intoxicated, an action on a promissory note given for a loan to purchase a popcorn wagon, and interpretation of a provision of a will probated in the Broome County Surrogate's Court bequeathing $1,000 to the Japan Mission, a part of the American Baptist Missionary Union. The will case, Matter of Isbell (1 App Div 158 [1896]), was later cited in the Virginia Law Review in a 1960 article titled "Voluntary Foreign Aid and American Foreign Policy: The Element of State Control" (46 Va L Rev 477, 501 n 77). The opinions authored by Justice Herrick curiously used the first person singular ("I") rather than the usual first person plural ("we").

The Appellate Division has grown a great deal over the past century. From the original five Justices, the Court is now authorized to number 12 Justices. The 14 cases reported in full opinions and the 29 decisions reported without opinion from the January 1896 term have grown to over 200 full opinion and memoranda decisions each month and an even greater number of unreported matters, such as motion practice decisions. The number of attorneys admitted by the Court in 1896 was 67; the number admitted in recent years has exceeded 3,000 annually (including a significant number of attorneys from

other jurisdictions who took the New York State Bar examination or who are admitted on motion, since the Third Department is responsible for admitting attorneys who neither reside nor are employed in New York State). In addition to the Justices, the listed employees of the Third Department in 1896 included the first Clerk, Joseph H. Hollands, a crier and two other attendants. Today the Court employs more than 125 men and women, who help the Court discharge its varied administrative responsibilities and assist with legal research.

The Court has also occupied different quarters over the years. The first two terms, in January and April 1896, were held in the Albany City Hall, in temporary quarters. The third term, in September 1896, was held in Saratoga Springs Town Hall. Saratoga Springs fall sessions continued for about 20 years. Sessions were no doubt held in nearby Saratoga Springs so that the Court and the Justices' families could enjoy the hotels and spring waters and combine business with pleasure. In December 1896, the Court moved to more permanent and prestigious quarters in the Albany County Building, which the county had bought from the Albany Savings Bank (which moved to a new building) primarily to house the Appellate Division. In 1916, the Court moved to quarters designed for it in the newly built Albany County Courthouse. In 1972, the Court moved to its present quarters in the Robert Abrams Building for Law and Justice of the Empire State Plaza.

Lest the above history seem intimidating, perhaps it is well to remember some remarks attributed to Monroe County Judge John D. Glynn who went on the county bench in 1888. When asked if all the books in his law library were law books, he is said to have replied, "There is law in some of those books, and some of them contain the reports of the Appellate Division." The story is also told of a young law graduate being welcomed by Judge Glynn in his office. The graduate announced to the Judge that he was a graduate of Cornell Law School. "I know it is a damnable handicap" the Judge is said to have sympathized, "but that can be overcome by perseverance and industry."

THE JUSTICES OF THE APPELLATE DIVISION, THIRD DEPARTMENT: 1896 TO PRESENT

The following lists the Justices of the Appellate Division, Third Department

chronologically by appointment.

1. Charles E. Parker, Owego, Sixth District, Presiding Justice 1896-1906
2. D. Cady Herrick, Albany, Third District, 1896-1900
3. Judson S. Landon, Schenectady, Fourth District, 1896-1899 (Court of Appeals, 1900-1901)
4. John R. Putnam, Saratoga Springs, Fourth District, 1896-1899
5. Milton H. Merwin, Utica, Fifth District, 1896-1900
6. S. Alonzo Kellogg, Plattsburgh, Fourth District, 1899-1903
7. Samuel Edwards, Hudson, Third District, 1900-1901
8. Walter Lloyd Smith, Elmira, Sixth District, 1900-1915, Presiding Justice 1907-1915
9. Emory A. Chase, Catskill, Third District, 1901-1906 (Court of Appeals 1920-1921)
10. Edgar L. Fursman, Troy, Third District, 1902
11. Alden Chester, Albany, Third District, 1902-1909
12. James W. Houghton, Saratoga Springs, Fourth District, 1903-1905, 1910-1913
13. John M. Kellogg, Ogdensburg, Fourth District, 1905-1921, Presiding Justice 1915-1921
14. Aaron V.S. Cochrane, Hudson, Third District, 1906-1911, 1915-1928, Presiding Justice 1922-1928
15. Henry B. Coman, Morrisville, Sixth District, 1907 (one day, August 2)
16. Albert H. Sewell, Walton, Sixth District, 1907-1912, 1917
17. James A. Betts, Kingston, Third District, 1911-1912
18. George F. Lyon, Binghamton, Sixth District, 1912-1919
19. Wesley O. Howard, Troy, Third District, 1913-1916
20. John Woodward, Jamestown, Eighth District, 1913-1922
21. Henry T. Kellogg, Plattsburgh, Fourth District, 1918-1926, Acting Presiding Justice 1922-1923 (Court of Appeals 1926-1934)
22. Michael H. Kiley, Cazenovia, Sixth District, 1920-1923
23. Charles C. Van Kirk, Greenwich, Fourth District, 1921-1932, Presiding Justice 1928-1932
24. Harold J. Hinman, Albany, Third District, 1922-1932
25. Gilbert D.B. Hasbrouck, Kingston, Third District, 1922-1923, 1928-1930
26. George McCann, Elmira, Sixth District, 1923-1929
27. Rowland L. Davis, Cortland, Sixth District, 1926-1931
28. Edward C. Whitmyer, Schenectady, Fourth District, 1927-1931
29. James P. Hill, Norwich, Sixth District, 1927-1948, Presiding Justice 1933-1948
30. Leon C. Rhodes, Binghamton, Sixth District, 1931-1939
31. Daniel V. McNamee, Hudson, Third District, 1932-1939
32. John C. Crapser, Massena, Fourth District, 1933-1943
33. F. Walter Bliss, Middleburgh, Third District, 1933-1944
34. Christopher J. Heffernan, Amsterdam, Fourth District, 1933-1952
35. Gilbert V. Schenck, Albany, Third District, 1939-1944
36. Sydney F. Foster, Liberty, Third District, 1939-1942, 1944-1959, Presiding Justice 1949-1959 (Court of Appeals 1960-1963)
37. O. Byron Brewster, Elizabethtown, Fourth District, 1944-1952
38. Ellsworth C. Lawrence, Malone, Fourth District, 1945-1946
39. Pierce H. Russell, Troy, Third District, 1947-1948

40. Martin W. Deyo, Binghamton, Sixth District, 1948-1951
41. William F. Santry, Oneida, Sixth District, 1949
42. Francis Bergan, Albany, Third District, 1949-1963, Presiding Justice 1960-1963 (Court of Appeals 1963-1972)
43. William H. Coon, Cortland, Sixth District, 1950-1963
44. Philip Halpern, Buffalo, Eighth District, 1952-1957
45. Daniel F. Imrie, Glens Falls, Fourth District, 1953-1955
46. Howard A. Zeller, Munnsville, Sixth District, 1954-1957
47. James Gibson, Hudson Falls, Fourth District, 1956-1969, Presiding Justice 1964-1969 (Court of Appeals 1969-1972)
48. Walter B. Reynolds, Elmira, Sixth District, 1958-1976
49. J. Clarence Herlihy, Glens Falls, Fourth District, 1958-1981, Presiding Justice 1969-1975
50. Donald S. Taylor, Troy, Third District, 1961-1968
51. Felix J. Aulisi, Amsterdam, Fourth District, 1964-1971
52. Herbert D. Hamm, Troy, Third District, 1964-1966
53. Ellis J. Staley Jr., Loudonville, Third District, 1966-1980
54. Robert O. Brink, Binghamton, Sixth District, 1966
55. Domenick L. Gabrielli, Bath, Seventh District, 1967-1968 (Court of Appeals 1972-1982)
56. Lawrence H. Cooke, Monticello, Third District, 1969-1974 (Court of Appeals 1974-1984; Chief Judge 1979-1984)
57. Louis M. Greenblott, Binghamton, Sixth District, 1969-1980
58. Michael E. Sweeney, Saratoga Springs, Fourth District, 1969-1983
59. Richard D. Simons, Rome, Fifth District, 1971-1972 (Court of Appeals 1983-1997; Acting Chief Judge 1992-1993)
60. T. Paul Kane, Cobleskill, Third District, 1972-1990
61. Robert G. Main, Malone, Fourth District, 1973-1987
62. John L. Larkin, Kingston, Third District, 1974-1979
63. Harold E. Koreman, Albany, Third District, 1975-1977, Presiding Justice 1976-1977
64. A. Franklin Mahoney, Troy, Third District, 1976-1993, Presiding Justice 1978-1991
65. Ann T. Mikoll, Buffalo, Eighth District, 1977-1999
66. John T. Casey, Troy, Third District, 1979- 1997
67. Leonard A. Weiss, Albany, Third District, 1981-1994, Presiding Justice 1992-1993
68. Paul J. Yesawich Jr., Cortland, Sixth District, 1981-1999
69. Howard A. Levine, Schenectady, Fourth District, 1982-1993 (Court of Appeals 1993-2002)
70. Norman L. Harvey, Plattsburgh, Fourth District, 1984-1993
71. Thomas E. Mercure, Fort Edward, Fourth District, 1988-2013 , Acting Presiding Justice 2011 - 2012
72. D. Bruce Crew III, Elmira, Sixth District, 1991-2007
73. Anthony V. Cardona, Albany, Third District, 1993-2011, Presiding Justice 1994-2011
74. James N. White, Fonda, Fourth District, 1993-1998
75. Karen K. Peters, Kingston, Third District, 1994-2017, Presiding Justice 2012-2017
76. Edward O. Spain, Troy, Third District, 1994-2013
77. Anthony J. Carpinello, Troy, Third District, 1996-2008

78. Victoria A. Graffeo, Guilderland, Third District, 1998-2000 (Court of Appeals 2001-2014)
79. Carl J. Mugglin, Walton, Sixth District, 1999-2007
80. Robert S. Rose, Binghamton, Sixth District, 2000-2017
81. John A. Lahtinen, Plattsburgh, Fourth District, 2000-2016
82. Anthony T. Kane, Monticello, Third District, 2002-2009
83. Bernard J. Malone Jr., Albany, Third District, 2008-2012
84. E. Michael Kavanagh, Kingston, Third District, 2008-2012
85. Leslie E. Stein, Albany, Third District, 2008-2015 (Court of Appeals 2015-)
86. William E. McCarthy, Albany, Third District, 2009-
87. Elizabeth A. Garry, Norwich, Sixth District, 2009- , Presiding Justice 2018-
88. John C. Egan Jr., Albany, Third District, 2010-
89. Michael C. Lynch, Albany, Third District, 2014-
90. Eugene P. Devine, Albany, Third District, 2014-
91. Christine M. Clark, Schenectady, Fourth District, 2014-
92. Robert C. Mulvey, Ithaca, Sixth District, 2016-
93. Sharon A.M. Aarons, Bronx, Twelfth District, 2016-
94. Phillip R. Rumsey, Cortland, Sixth District, 2017-
95. Stan L. Pritzker, Fort Edward, Fourth District, 2017-

1. ***Charles E. Parker, Owego, Sixth District, Presiding Justice 1896-1906***

Presiding Justice Parker was born at Owego in Tioga County on August 25, 1836. His father, John M. Parker, was a member of Congress and a Justice of the New York State Supreme Court. His grandfather, John C. Parker, was also a Supreme Court Justice. Presiding Justice Parker graduated from Hobart College in 1857. At the academy, he was a classmate of John D. Rockefeller. In 1902, Hobart awarded him an honorary degree of Doctor of Laws. He read law with his father, was admitted to the Bar in 1859, and after a year of practice in Elmira, returned to Owego. In 1867, he was appointed United States Commissioner for the Northern District of New York and in the same year was elected a member of the New York State Constitutional Convention. In 1871, 1879, and 1880, he was president of the village of Owego. He was elected County and Surrogate Judge of Tioga County in 1883 on the Republican ticket and served as such until 1887 when he was elected Justice of the Supreme Court. He was appointed Presiding Justice of the Appellate Division, Third Department by Governor Levi P. Morton in October 1895 and served as such until he retired by the age limit on January 1, 1907. He had been reelected a Supreme Court Justice in November 1901. Presiding Justice Parker's wife was the daughter of former judge of Tioga County Thomas Farrington, who is also listed as a former New York State Treasurer and former New York State Attorney General.

Presiding Justice Parker died March 2, 1909 at his home in Owego. Presiding Justice Parker was said to be quite eccentric in manner. He had great scorn for fashion and modish clothing, and it took considerable urging on the part of his colleagues on the bench to induce him to wear the robe of a Justice. While occupied by legal problems, he relieved his mind by dime novels of the "Nick Carter" type, having a standing order with a newsdealer to supply him with these stories as fast as they were published. He was very interested in scientific agriculture and, until shortly before his death, he owned and operated a large farm near Owego.

2. ***D. Cady Herrick, Albany, Third District, 1896-1900***

Justice D. Cady Herrick was born in the Town of Esperance in Schoharie County on April 12, 1846. His family moved to Albany when he was six years old. Though lame from infancy, he engaged in sports, taking his chances with the other boys in coasting down the steep hill on Lydius Street. He attended Albany's public schools and later graduated from Professor Anthony's Albany Classical Institute, a boarding school. He studied law with Gen. Lyman Tremain and the elder Peckham (Tremain & Peckham) at Albany, and then took a course at the Albany Law School, from which he was duly graduated in 1868. One of his classmates was the future President of the United States, William McKinley. He then was admitted to the bar in 1868 and began practicing law in Albany. Until 1870, when he hung out his own shingle, he was engaged in the offices of Hungerford & Hotaling in the further prosecution of his studies of the law. Early in his career, he became very involved in politics as a member of the Democratic Party. He first became prominent as a lawyer in his defense of the murderer Emil Lowenstein, receiving the highest praises for his eloquent appeal to the jury. Lowenstein was, however, convicted. The Judge gained a reputation which brought him clients in numbers and laid the foundation of a successful practice. Prior to his defense of Lowenstein, he had gathered only scanty returns as a lawyer. In his first year he made only $25, and in his second, $250. His income was still only modest when the Lowenstein matter came along. The senior counsel, John Nelson, one of the noted criminal lawyers of the day, fell ill, and Judge Herrick took over the conduct of the trial. A division in his party caused his defeat for District Attorney in his first bid for that office; he mounted a successful bid at the next election in 1880 and served two terms. It is reported that on the election night of his first

bid for District Attorney, he was waited on by politicians who suggested the transposition of the figures for County Clerk and District Attorney in several of the election districts, so that they would elect the Republican candidate for County Clerk and himself the Democratic candidate for District Attorney. He responded, "Gentleman, I don't want any office to which the people haven't seen fit to elect me." He opposed the scheme so stoutly that it was dropped. From 1886 to 1891, he served as Albany's corporation counsel (he resigned the District Attorney post to take the position). In 1891, he was elected Justice of the Supreme Court. He served on the General Term and then on the Appellate Division from 1896 until 1900. He resigned in 1900 to return to the trial bench, by individual preference. Justice Herrick was one of the political lieutenants of Daniel Manning, succeeding him as a member of the Democratic State Committee from Albany County, which position he resigned upon his election to the Supreme Court. Even during his years as a judge, however, he remained the recognized leader of his party. But no one ever intimated that his interest in politics colored his decisions and, on several occasions, he decided adversely to the interests of his party. He retained the office of Justice of the Supreme Court until 1904 when he resigned to become the unsuccessful candidate of his party for Governor. Thereafter, he continued in the private practice of law, with offices in Albany and New York City, with his son Charles J. Herrick, who also served as an Albany County District Attorney. He died February 21, 1926 at the age of 80. The Clerk of the Appellate Division, Third Department from 1925 to 1956, John S. Herrick, was a first cousin of Justice Herrick.

3. ***Judson S. Landon, Schenectady, Fourth District, 1896-1899 (Court of Appeals, 1900-1901)***

Judge Judson S. Landon was born in Salisbury in Litchfield County, Connecticut on December 16, 1832. He attended Amenia Seminary and the New York Conference Seminary, taught Latin and the sciences at the Academy at Princetown, Schenectady County, New York, and studied law for one year (1854) at the Yale Law School. He received the degree of A.M. from Union College in 1855 and that of LL.D. from Rutgers College in 1885. He was admitted to the bar in 1856. He served as Schenectady County District Attorney from 1857 to 1862; County Judge from 1865-1869; a delegate to the State Constitutional Convention of 1867 (at which Presiding Justice Parker was also a

delegate); City Attorney in 1872; and a Justice of the Supreme Court from 1874 to 1901 (elected in 1873 and reelected in 1887). While serving as a Supreme Court Justice, Judge Landon served as a member of the General Term, then on the Appellate Division, Third Department (from 1896 to 1899), and on the Second Division of the Court of Appeals (this was a court established by constitutional amendment in 1888 to help the Court of Appeals deal with its backlog; it was composed of seven Supreme Court Justices appointed by the Governor and it operated from 1889 to 1892). Judge Landon served as an associate judge of the Court of Appeals in 1900 and 1901. He was appointed by Governor Roosevelt under a law which made it possible to assign Supreme Court Justices to relieve the stress of work there. He served until the age limit barred him. He resumed private practice in 1902. In 1904, he was appointed by the Legislature as a member of the Board of Statutory Consolidation. Judge Landon was for 28 years a trustee of Union College and for 27 years a trustee of Albany Law School (he also served on the law school faculty). He was president ad interim of Union College from 1884 to 1888. He authored "The Constitutional History and Government of the United States," published by Houghton, Mifflin & Co. of Boston. He died September 7, 1905, at the age of 75.

4. ***John R. Putnam, Saratoga Springs, Fourth District, 1896-1899***

Justice John R. Putnam was born at Putnam Place, the family homestead in Saratoga Springs, New York, and was lineally descended from a John Putnam, an English Puritan who settled in Danvers, Massachusetts in 1634. Justice Putnam's grandfather, Gideon Putnam, is described as the virtual creator and originator of Saratoga Springs. Justice Putnam received an academical education in Saratoga Springs, studied law with Hon. Charles S. Lester and Hon. John C. Hulbert, was admitted to the bar, and commenced practice in 1855. In 1875, Justice Putnam entered into a partnership with William H. Eustis, later the Republican candidate for Governor of Minnesota. The partnership was conducted for about eight years under the name of Putnam & Eustis. Afterwards, Justice Putnam associated himself with John L. Henning, under the partnership name Putnam & Henning. Soon after his admission to the bar, Justice Putnam served one term of four years as Justice of the Peace and also acted for a period as one of the trustees of the village of Saratoga Springs. In the autumn of 1887, Justice Putnam received a nomination for Justice of the Supreme Court of the Fourth Judicial District by

both the Republican and Democratic judicial conventions, and was thereafter elected without opposition, his term commencing January 1, 1888, on the termination of that of Hon. Augustus Bockes. For about four years after his term of office commenced, Justice Putnam was engaged in presiding at Circuit Courts and Courts of Oyer and Terminer and Special Terms within his district. In 1891, he was appointed by Governor Hill to the General Term of the Third Department and continued in that position until the adoption of the Constitution of 1894, when he was designated by Governor Morton as one of the justices of the Appellate Division, Third Department. He served on the Appellate Division until September 1899. Justice Putnam married the daughter of an Ohio railroad magnate.

5. ***Milton H. Merwin, Utica, Fifth District, 1896-1900***

Justice Milton H. Merwin was born at Leyden in Lewis County, New York on June 16, 1832. He was descended from Miles Merwin who came from the north of England and settled near Milford, Connecticut about 1640. Justice Merwin's grandfather, James Merwin, served as a soldier in the War of 1812. Justice Merwin attended the Oneida Conference Seminary at Cazenovia, New York, and later matriculated at Hamilton College, from which he graduated in 1852, being then 20 years of age. He studied law in the office of Joseph Mullin, at Watertown, New York, who was afterwards a Justice of the Supreme Court. Judge Merwin was admitted to the bar in 1853. He studied with Mullin until 1857 (when he became a judge) and then practiced alone, having become well established with a lucrative and growing clientage. He was elected special Surrogate of Jefferson County in November 1854 and served for three years. In November 1859, he was elected Surrogate of the county and served until January 1, 1864. In 1867, he was elected as a delegate to the State Constitutional Convention (Judges Parker and Landon were also delegates). On May 21, 1874, Judge Charles H. Doolittle of Utica, a Justice of the Supreme Court of the Fifth Judicial District, lost his life by being swept overboard from an ocean steamer at sea. It was generally conceded in the district that the vacancy should be filled by someone residing in Oneida County, and Governor John A. Dix announced that he would appoint to the judgeship any lawyer whom the Republican lawyers of the county should agree upon. Although there were other candidates seeking the position (including Ward Hunt Jr., whose father was a member of

the New York State Court of Appeals from 1866 to 1869, a New York State commissioner of appeals from 1869 to 1873, and had been named to the United States Supreme Court by President Grant in December 1872), Justice Merwin from Jefferson County was nominated on the fifty-third ballot at the Republican judiciary convention in Utica in September 1874. Governor Dix appointed Justice Merwin to the position on October 17, 1874, and he took the oath of office two days later, opening his first term of the circuit term at Lowville on October 20. At the ensuing November election, he was elected over Albertus Perry, and entered upon a 14-year term of office on January 1, 1875. After his election, Justice Merwin moved to Utica and thereafter made his home there. He was reelected to a second term on the Supreme Court without opposition. On December 31, 1888, he was appointed one of the justices of the General Term and held this position until January 1, 1896, when he began his service as an associate justice of the Appellate Division, Third Department. He served as an appellate court judge until January 1, 1910, when he returned to the trial term and there continued until by age limit, and also by the expiration of his term, he retired from the bench on January 1, 1903. Thereafter, he frequently served as a referee by appointment of the courts and by request of litigating parties and he also appeared in a number of important causes as counsel. From 1904, he practiced with his son, James H., in the Utica firm of Merwin & Merwin.

6. ***S. Alonzo Kellogg, Plattsburgh, Fourth District, 1899-1903***

Justice S. Alonzo Kellogg was born in Champlain, Clinton County on May 15, 1838. He was educated at the Champlain Academy and Middlebury College, graduating from the latter in 1860. He first practiced law in Nevada (then called Utah Territory) and during his residence there (near Virginia City) he was elected in 1864 as a senator in that state's first legislature. When he returned east in 1866, he opened a law office in Plattsburgh in Clinton County. He was elected Clinton County District Attorney for one term, beginning 1876. From 1881 to 1890, he was Clinton County Judge. In 1890, he was elected to the Supreme Court for the Fourth Judicial District. He also served in 1890 as a member of the Constitutional commission appointed by Governor Hill to revise the Judiciary Act. The commission's report was influential at the 1894 Constitutional Convention, which adopted reforms creating the Appellate Division. Justice Kellogg was appointed to the Appellate Division to succeed Justice Putnam, who died in 1899. He

retired from the Supreme Court in 1903 because of ill health. He died on March 12, 1904. His son, Henry T. Kellogg, succeeded him on the Supreme Court and eventually was named to the Appellate Division and then the Court of Appeals. The Kellogg family lineage includes Elijah Kellogg of Revolutionary War (Ticonderoga) fame and is connected to the great New York State Chancellor, James Kent, and to Secretary of State Frank B. Kellogg (during the Coolidge Administration). Justice Kellogg's wife was a direct descendant of Zephania Platt, founder of Plattsburgh.

7. ***Samuel Edwards, Hudson, Third District, 1900-1901***

Justice Samuel Edwards was born in the Town of Glenville in Schenectady County on April 24, 1839. He prepared for college at academies in Schoharie and Washington counties, and in 1858 entered Union College, from which he was graduated in 1862. He studied law with S. L. Magoun in Hudson, Columbia County, and was admitted to the Bar in December 1864. He entered into a partnership with Robert E. Andrews (Andrews & Edwards). In January 1887, Governor Hill appointed him to the Supreme Court for the Third Judicial District. In November of that year he was elected to a 14-year term. He was designated to the Appellate Division, Third Department by Governor Roosevelt in April 1900 to succeed Justice Herrick. He served until his Supreme Court term expired on December 31, 1901. He died on February 16, 1912. Justice Edwards also served one day on the Appellate Division in place of Justice Herrick on April 28, 1896.

8. ***Walter Lloyd Smith, Elmira, Sixth District, 1900-1915, Presiding Justice 1907-1915***

Presiding Justice Walter Lloyd Smith was born in Elmira, Chemung County on April 18, 1856, and was the son of Supreme Court Justice H. Boardman Smith. He was educated in the Elmira public schools and graduated from Princeton University in 1877. He then studied law in his father's law office and was admitted to practice in 1879. Upon his father's resignation from the bench in 1888, Presiding Justice Smith was appointed by Governor Hill to fill the vacancy. At that time, he was the youngest lawyer ever to have been appointed to that office. In 1899, he was designated an associate justice in the Fourth Department, where he served until his designation as an associate justice of the Third Department in 1901. He was appointed the Third Department's second Presiding

Justice in 1907 and served as such until 1915. He was then designated an associate justice of the First Department by Governor Whitman, and he served on that court until his retirement to enter private practice in 1925. He died in Bermuda on April 18, 1928. His judicial service spanned 37 years.

9. ***Emory A. Chase, Catskill, Third District, 1901-1906 (Court of Appeals 1920-1921)***

Judge Emory A. Chase, born August 31, 1854 in Greene County, was elected a Supreme Court Justice for the Third Judicial District in November 1896 (reelected in 1910). He served on the Appellate Division, Third Department for a five-year term, January 8, 1901 to 1906. He was appointed to the Court of Appeals, effective January 9, 1906, by the Governor, under a certificate of need from the Court of Appeals (as authorized by 1899 constitutional amendment). While serving as an additional temporary judge, he also served as a member of the Court for the Trial of Impeachments after the Assembly impeached Governor Sulzer on several charges of misconduct in August 1913. The lead counsel for the Governor was former Appellate Division Justice D. Cady Herrick. He was elected to the Court of Appeals in November 1920 and continued his service there until his death on June 25, 1921.

10. ***Edgar L. Fursman, Troy, Third District, 1902***

Justice Edgar L. Fursman was born in Charlton, Saratoga County on August 5, 1838. He was educated at the Schuylerville and Greenwich Academies, the New York Conference Seminary at Charlotteville and at Fort Edward Collegiate Institute. He studied law with Hon. A.D.Wait at Fort Edward (Washington County) and was admitted to the Bar in 1857. After practicing at Schuylerville (Saratoga County) for a time, he moved to Troy in 1866 and formed a partnership with Judge James Forsyth. In 1870, he became a member of the firm of Smith, Fursman & Cowen, which continued in existence for 20 years. He was elected County Judge of Rensselaer County in 1882 and was reelected in 1888. In 1889, he was elected a Justice of the Supreme Court, Third Judicial District, and during the years 1897 to 1900, he sat on the criminal bench in New York City. Effective January 1902, Governor Odell designated him to the Appellate Division, Third Department. He resigned in November 1902 and thereafter engaged in the private

practice of law. He died April 2, 1910. He served as colonel in the New York State National Guard and for three years was Judge Advocate on General Carr's staff. He was a descendant of William Fursman, a member of an old family of Oxfordshire, England, who emigrated to America in 1760. William Fursman joined the patriot army during the Revolutionary War and was killed at the battle of White Plains. Justice Fursman was an accomplished trial lawyer.

11. ***Alden Chester, Albany, Third District, 1902-1909***

Justice Alden Chester was born at Westford in Otsego County on September 4, 1848. He was educated in the local schools and at Westford Literary Institute. He taught at the Institute and became a store clerk in his native village. At the age of 18, he was a telegraph operator on the Albany and Susquehanna Railroad. He was also the editor of a newspaper in Otsego County and then, for a time, an insurance clerk in Boston. He then took up the study of law at Columbia University Law School, from which he graduated in 1871. He was also admitted to the Bar in 1871 in New York City. He began practicing in Albany with a cousin, Andrew S. Draper, until 1887. Draper later became president of the University of Illinois and the first Commissioner of Education of the State of New York. From 1876 to 1882, Hon. William S. Paddock was also a member of the firm, under the name Paddock, Draper & Chester. From 1887 until 1895, he practiced alone. In 1895, he was elected to the Third Judicial District Supreme Court; he was reelected in 1909 at the end of his first 14-year term. He was designated to the Appellate Division by Governor Odell and served from 1902 to 1909. (He also served one day in 1913 in place of Justice John M. Kellogg.) Although he was the senior associate justice in 1909 and would normally have continued on the Appellate Division and had good prospect of being appointed Presiding Justice, he returned to the trial bench at the behest of Governor Hughes to help clear an unusual backlog of cases; he worked so assiduously at this task that he became ill and had to sojourn in Europe for several months to completely recover. He retired from the bench at the end of 1918, having reached 70 years of age. In addition to his judicial career, Justice Chester served as deputy clerk of the New York State Assembly from 1874 to 1876; as a member of the Board of Public Instruction of Albany from 1881 to 1884 (and as its president in 1884); as an assistant United States Attorney for the Northern District of New York from 1882 to 1885; and as an assistant corporation

counsel of the City of Albany from 1894 to 1895. He also served as president of the Albany Medical College, a trustee of the Albany College of Pharmacy, a governor of Union University, and a special lecturer on the federal judicial system at Albany Law School. He was president of the American Bar Association in 1919. He could trace his ancestry back to English settlers in the early to mid 1600s on both his maternal and paternal sides. On his mother's side, he was descended from Elder William Brewster, who came to America on the Mayflower. Both of his grandfathers were Revolutionary War soldiers and his maternal grandfather was at the battle of Bunker Hill. Justice Chester died February 12, 1934. Among the cases he handled on the trial bench were the "Ice Trust," "Coal Trust," and "Beef Trust" cases, which attracted much attention throughout the country. He also presided over a large number of murder trials, prominent among which was that of the three Van Wormer brothers at Hudson for killing their uncle, Peter A. Hallenbeck, on Christmas Eve 1901, and which resulted in the conviction of all three of murder in the first degree and their subsequent execution. Justice Chester was the author/editor of two noteworthy multivolume works: "The Legal and Judicial History of New York," published by the National Americana Society, New York, 1911 (2 volumes), and "Courts and Lawyers of New York: A History," published by the American Historical Society, New York and Chicago, 1925 (4 volumes).

12. ***James W. Houghton, Saratoga Springs, Fourth District, 1903-1905, 1910-1913***

Justice James W. Houghton was born in Corinth, Saratoga County on September 1, 1856. He graduated from Canandaigua Academy (Ontario County) in 1876 and then studied law (with H.L. Comstock and E.W. Gardner). He was admitted to practice in 1879 in Rochester. He thereafter practiced in Saratoga Springs. In 1888, he was elected Saratoga County Judge and reelected in 1894. He resigned in 1899 to accept an appointment from Governor Roosevelt to fill a vacancy on the Supreme Court; he was elected to the post the following year. He was designated to the Appellate Division in September 1903. He served on the appellate court until his death on February 14, 1913, following an operation in Boston for appendicitis. He also served on the Third Department for one month in 1901 (November to December). His service for the Third Department was interrupted by service in the First Department from l905 to l910.

13. ***John M. Kellogg, Ogdensburg, Fourth District, 1905-1921, Presiding Justice 1915-1921***

Presiding Justice John M. Kellogg served as Presiding Justice from 1915 to 1921. He was born in Taylor, Cortland County in 1851. His father, Stephen Kellogg, was a lawyer admitted to the Bar in 1853. He received his early education in the Cincinnatus Academy (in Cortland County) and Cazenovia Seminary. He studied at Cornell University, studied law with his father in Cincinnatus, and then graduated from Albany Law School in 1873, the same year he was admitted to the Bar. In 1874, he began practicing law in Ogdensburg with Stillman Foote. He was appointed a County Judge in St. Lawrence County by Governor Cornell in January 1882 to succeed Leslie W. Russell who became Attorney General. He also held the offices of recorder of Ogdensburg (elected in 1881) and judge of the Court of Claims (1899 to 1902) prior to becoming a Supreme Court Justice. He was appointed a Supreme Court Justice of the Fourth Judicial District by Governor Odell on October 16 1902, was elected to the post the following year, and reelected in 1917. He was designated an associate justice of the Third Department in November 1905 by Governor Higgins. He left the bench on December 31, 1921, having reached the retirement age of 70. He died at his home in Ogdensburg in St. Lawrence County on January 16, 1925. Some years prior to his retirement, some of the judges in New York County proposed that the retirement age for justices be changed from 70 to 75. His resolute opposition, and his stated willingness to make a public statement in opposition, defeated the movement.

14. ***Aaron V.S. Cochrane, Hudson, Third District, 1906-1911, 1915-1928, Presiding Justice 1922-1928***

Presiding Justice Aaron V. S. (Van Schaick) Cochrane was born on a farm in Coxsackie, Greene County on March 14, 1858. He received his preliminary education at Claverack College and at the Hudson River Institute in Claverack, Columbia County, and graduated from Yale University in 1879. He moved to Hudson in Columbia County in 1879 and began studying law in the offices of Andrews and Edwards. He was admitted to the Bar in September 1881 and began practicing law in Hudson; in 1890, he began a partnership with William Brownell. He served as Police Court judge in Hudson (1887 to

1888) and then as District Attorney of Columbia County (1889 to 1892). He served in Congress from 1897 to 1901, representing the 19th Congressional District, comprising the counties of Columbia and Rensselaer. He was elected to the Third Judicial District Supreme Court in 1901 and reelected in 1915. He served a five-year term on the Appellate Division, Third Department (January 1906 to January 1911) and then returned to his Supreme Court post. In November 1915, he returned to the Appellate Division. He was appointed Presiding Justice by Governor Miller in January 1922 and served as such until his resignation on January 18, 1928. He died on September 7, 1943, in his 86th year.

15. ***Henry B. Coman, Morrisville, Sixth District, 1907 (one day, August 2)***

Justice Henry B. Coman served on the Appellate Division for one day, August 2, 1907, in the place of absent Justice Cochrane. His designation to the Court was revoked August 7, 1907. He was born in Morrisville, Madison County on December 8, 1858. He was educated at Morrisville Union School and Cazenovia Seminary. He read law with Henry Barclay and was admitted to practice in May 1880. For 10 years thereafter, he was clerk of the Surrogate's Court. In 1890, he began practicing law in Madison County. He served as a deputy Attorney General from 1889 to 1902. In 1905, he served as counsel to the Assembly judiciary committee during its investigation of charges against Warren B. Hooker, a Justice of the Supreme Court. Justice Coman himself later became a Supreme Court Justice. He died on January 10, 1912 in Oneida, Madison County, from typhoid fever.

16. ***Albert H. Sewell, Walton, Sixth District, 1907-1912, 1917***

Justice Albert H. Sewell was born at Hamden, Delaware County on October 30, 1847. He graduated from Walton Academy in 1867. He was a student at Union College from 1867 to 1868 and graduated from Cornell University in 1871 with a B.S. degree. He graduated from Albany Law School in 1873 and was admitted to practice the same year. He began his law practice at Sidney Center. In 1878, he was a member of the Assembly from Delaware County. From 1889 to 1899, he was County Judge and Surrogate of Delaware County. In August 1899, Governor Roosevelt appointed him to fill a vacancy

on the Supreme Court for the Sixth Judicial District, and he was elected in November of the same year. During the years 1900 to 1901, he served on the Appellate Division, Second Department; he was reelected in 1913. He served on the Third Department from 1907 to 1912 and for all of 1917. He retired at the end of 1917 due to the 70-year constitutional age limit. He then served as an Official Referee until March 1924. He died on July 13, 1924 at his home in Walton, Delaware County. An only brother, Commodore William E. Sewell, served for a time as Governor-General of the Island of Guam in the Pacific.

17. ***James A. Betts, Kingston, Third District, 1911-1912***

Justice James A. Betts was a native of Broadalbin in Fulton County; he was born on March 18, 1853. He was educated in the public schools and at the Albany Normal School. He moved to Kingston in Ulster County in 1875 to act as principal of Public School No. 11. After teaching for a few years, he took up the study of law with the firm of Schoonmaker & Linson. He was admitted to the Bar in November 1880. He served as Secretary of the State Civil Service Commission in 1883. Beginning in 1885, he was elected four times to the Kingston Board of Education. In 1890, he was elected clerk of the Ulster County Board of Supervisors and in 1892 was elected Ulster County Surrogate. In 1898, he was elected a Supreme Court Justice for the Third Judicial District over his opponent, Hon. Alphonso T. Clearwater. He did not run for reelection after serving his 14-year term. Rather, he returned to the practice of law. He served on the Appellate Division for the last two years of his Supreme Court term. Justice Betts was a personal friend of William Jennings Bryan and often entertained him at his home. Justice Betts died on May 6, 1928.

18. ***George F. Lyon, Binghamton, Sixth District, 1912-1919***

Justice George F. Lyon was born in Barker, Broome County on July 13, 1849. He graduated from Binghamton Academy in 1867 and then attended Hamilton College from 1898 to 1872, graduating with an A.B. degree. Following his admittance to the Bar in 1875, he joined the firm of Chapman & Martin, with whom he had studied law. The firm became Chapman & Lyon when Judge Martin was appointed to the Supreme Court in

1877; Judge Martin later served on the Court of Appeals. Mr. Chapman, who also served as Solicitor General of the United States, died in 1890. Thereafter, Justice Lyon practiced alone. He was a member of the Constitutional Convention in 1894. In 1895, he was elected to the Supreme Court and reelected in 1909. He retired from the Supreme Court in 1919 when he was 70. He thereafter served as an Official Referee. Justice Lyon served on the Appellate Division from March 1912 until he retired. He also served from January to March 1903 on the Court.

19. ***Wesley O. Howard, Troy, Third District, 1913-1916***

Justice Wesley O. Howard was born in Troy on September 11, 1863. At an early age, because of the death of both of his parents, he moved to his grandfather's mountain farm in the town of Grafton in Rensselaer County and he attended the district school there. He attended the Lansingburgh Academy and afterwards taught school in order to obtain means to further pursue his studies. He studied law in the office of Robertson, Foster & Kelly in Troy and afterwards in the office of W.W. Morrill, when he was admitted to the Bar. At the age of 21, he was elected Justice of the Peace of the Town of Grafton. In 1894, he was attorney for the Rensselaer County Board of Supervisors. In 1896, he was elected Rensselaer County District Attorney, and was reelected in 1899. In the fall of 1902, he was elected to the Third Judicial District Supreme Court, succeeding Justice Fursman, whose term had expired. He served on the Appellate Division for four years, beginning in 1913. After his re-election to the Supreme Court in 1916, he voluntarily returned to the trial bench at the end of the year. In 1920, he was a potential gubernatorial nominee of the Republican Party. He retired from the bench in 1925. He died on May 11, 1933 from injuries.

20. ***John Woodward, Jamestown, Eighth District, 1913-1922***

Justice John M. Woodward was born on August 19, 1959 at Charlotte Center in Chautauqua County. During his youth, Justice Woodward's family lived in Michigan and then Kansas. His father died in Kansas in 1870. He was educated at the Fredonia State Normal School in 1878 and commenced the study of law with the Fredonia firm, Morris & Lambert. He graduated from New York University Law School in 1881. He began

practice in Jamestown in 1881 with William Sessions. He was Jamestown's first city attorney from 1886 to 1889, member of the Chautauqua County Board of Supervisors from 1887 to 1892, and Chautauqua County District Attorney from 1892 to the end of 1895. He was appointed to the Supreme Court in January 1896 by Governor Morton to fill a vacancy. He was elected to a full term that year and reelected in 1910. He served on the Appellate Division, Second Department from 1898 to 1913, and on the Third Department from 1913 until February 1, 1922. He resigned from the bench to resume the practice of law. He died on June 1, 1923 in Atlantic City. The Woodwards lived in Massachusetts in Colonial and Revolutionary times and Justice Woodward's great-grandfather was a soldier in the Revolutionary War, serving in a Massachusetts regiment. On his mother's side, Justice Woodward was a lineal descendant of the Cotton Mather family. Justice Woodward's grandfather served in the New York State Assembly in 1835, representing Chautauqua County. Justice Woodward's wife was the daughter of a Supreme Court Justice, Hon. George Barker.

21. ***Henry T. Kellogg, Plattsburgh, Fourth District, 1918-1926, Acting Presiding Justice 1922-1923 (Court of Appeals 1926-1934)***

Judge Henry T. Kellogg was born in 1869. He graduated from Harvard Law School in 1892. In 1893, he entered into a law partnership in Plattsburgh with Charles E. Johnson. He was elected County Judge of Clinton County in 1902. The next year he was appointed by the Governor to succeed his father, S. Alonzo Kellogg (then serving on the Appellate Division, Third Department), to the Supreme Court for the Fourth Judicial District. Justice S. Alonzo Kellogg had retired because of ill health. He was elected to the Supreme Court seat in 1903 and was reelected in 1917. Judge Kellogg was designated to the Appellate Division, Third Department in January 1918, and continued there until his election to the Court of Appeals in 1926, the year that Judge Cardozo became Chief Judge. Judge Kellogg was acting Presiding Justice of the Appellate Division from September 1922 to May 1923, in place of Presiding Justice Van Kirk. He resigned from the Court of Appeals in the spring of 1934 because of ill health. He died at his home in Valcour, near Plattsburgh, at the age of 73 in September 1942.

22. ***Michael H. Kiley, Cazenovia, Sixth District, 1920-1923***

Justice Michael H. Kiley was born in Horicon, Warren County on August 28, 1861. His parents had emigrated from Ireland just three years before, in 1858. He attended Warrensburg Academy at Warrensburg and then the Yates Union Free School at Chittenango in Madison County. Justice Kiley had gone to Chittenango in the fall of 1880; that fall he worked for his board in the family of Dr. John R. Eaton; in the spring, he worked on the farm of Charles Peck in Manlius, Onondaga County. He entered the Cazenovia Seminary in the fall of 1881 and graduated in June 1883. After studying law with D.W. Cameron, he was admitted to practice on April 26, 1886, in Utica. After admission, he practiced with Mr. Cameron until 1891 (Cameron & Kiley) and thereafter alone. In 1887, he was elected a Justice of the Peace. In 1888, Justice Kiley was defeated in a school board election, apparently because the election focused on his nationality and religious belief. He was elected Madison County District Attorney in 1895 and reelected twice, in 1898 and 1901. He then was the elected County Judge and Surrogate of Madison County for seven years. He was then elected a Supreme Court Justice for the Sixth Judicial District for a term to expire at the end of 1926. He served on the Appellate Division from the beginning of 1920 until his death on May 19, 1923, at the age of 61.

23. ***Charles C. Van Kirk, Greenwich, Fourth District, 1921-1932, Presiding Justice 1928-1932***

Presiding Justice Charles C. Van Kirk was born on September 21, 1862 in Greenwich, Washington County. He graduated from Colgate University in 1884 (then called Madison University). From 1884 to 1886, he taught in the Boys' Academy in Troy, and then began the study of law. He was admitted to the Bar in 1888. He then practiced law for eight years in Greenwich as a member of the firm of Gibson & Van Kirk. He then practiced for one year in Port Henry, Essex County, as a partner of Frank Rowe, and then, until his election to the Supreme Court, as a member of the firm of Patterson, Bulkley & Van Kirk in Albany. He began a long elected career on the Fourth Judicial District Supreme Court January 1, 1906; he retired at the end of 1932. He began his Appellate Division service in January 1921 and served as Presiding Justice from January 1928 until he retired. He died in Greenwich on April 18, 1937.

24. ***Harold J. Hinman, Albany, Third District, 1922-1932***

Justice Harold J. Hinman was born in Albany on February 22, 1877. He attended the public schools and graduated from Albany High School in 1895. He graduated from Union College in 1899 and from Albany Law School in 1901, the same year he was admitted to the Bar. After admittance, he practiced law with the firm Bender & Hinman; in 1912 it became Arnold, Bender & Hinman. From 1910 to 1915, Justice Hinman was an Assemblyman from Albany. In 1914 and 1915, he was majority leader. In 1915, he was a delegate to the Constitutional Convention. That same year, he accepted an appointment as a deputy Attorney General; he served in such capacity until the beginning of 1919. In 1918, Justice Hinman was a candidate for Attorney General but withdrew from the candidacy to successfully run for a seat on the Supreme Court, Third Judicial District. In January 1922, he was designated to the Appellate Division by Governor Smith, and served on the Court for almost 11 years. He died at the age of 77 in 1955. He served on the Albany Law School Board of Trustees for over 35 years and as president of the board for 25 of those years.

25. ***Gilbert D.B. Hasbrouck, Kingston, Third District, 1922-1923, 1928-1930***

Justice Gilbert D.B. Hasbrouck was born at Port Ewen, Town of Esopus, in Ulster County on February 19, 1860. He attended the public schools, the New Paltz Academy, and then Rutgers College, graduating from the latter in 1880. He studied law with W.S. Kenyon in Kingston and attended Columbia Law School during 1881 and 1882. He obtained a Master's degree from Rutgers in 1883. He was admitted to the Bar on May 28, 1882, and at once entered the office of County Judge A.T. Clearwater, where he remained until the beginning of October 1883. He began his law practice in Rondout, Ulster County. In 1894, he formed a partnership with Walter N. Gill in Kingston and, in 1899, with Russell S. Johnson in New York City, which continued until December 21, 1904. He was elected Assemblyman in 1883 and in 1885. He was corporation counsel of Kingston from 1887 to 1894. In 1895, he served as second deputy Attorney General; he served as first deputy Attorney General from 1896 to 1899. He had been a candidate for the Republican nomination for Attorney General in 1893. His opponents were John Woodward of Chautauqua (who would later serve on the Appellate Division) and Theodore E. Hancock of Syracuse. The race was close and Justice Hasbrouck threw his

support to Hancock, who won the nomination and election and later rewarded Justice Hasbrouck with his position as deputy Attorney General. Effective January 1, 1902, Governor Odell appointed him a judge of the Court of Claims; he was promoted to Presiding Judge on December 1, 1903. On December 16, 1904, he was appointed to the Supreme Court for the Third Judicial District to fill the vacancy that occurred when Justice Herrick resigned to run for Governor. During his service on the trial bench, he maintained his chambers in Albany, commuting almost daily between Kingston and Albany, because there were two trial and special term justices resident in Kingston and none in Albany. He was unable to secure the nomination for Supreme Court for the 1905 election. He returned to his law practice. In 1912, he won the nomination and election for a seat on the Supreme Court. He served on the Appellate Division, Third Department from September 12, 1922 to November 24, 1923, when he resigned and returned to the trial bench. He was reelected to the Supreme Court in 1926. On January 18, 1928, Governor Smith again appointed him to the Appellate Division, where he remained until his retirement at the end of 1930. In 1927, he was chairman of the sesquicentennial celebration of the organization of state government at Kingston. Justice Hasbrouck was of Huguenot descent. One of his ancestors, Jean Hasbrouck, fled from Calais, France in 1666 to escape religious persecution and settled in New Paltz as one of that community's patentees. The Hasbrouck family had a long history of public service in Ulster County prior to Justice Hasbrouck's birth; three Hasbroucks were Congressmen. The judge was an avid fisherman. He died on June 5, 1942.

26. ***George McCann, Elmira, Sixth District, 1923-1929***

Justice George McCann was born in Elmira, Chemung County on June 23, 1864. He attended the public schools and the Elmira Free Academy. He received both his undergraduate (1886) and law degrees (1888) from Cornell University. He was admitted to the Bar in 1888 at Syracuse. He began practicing in Elmira with Rockwell, McDowell & McCann. From 1894 to 1902, he was a member of the Elmira Board of Education; for two years he held the title of president of the Board. From 1903 to 1914, he was County Judge and Surrogate of Chemung County. He was elected a Supreme Court Justice in 1913. He was designated to the Appellate Division in 1923 (to succeed Justice Kiley) and served on the Court for six years. Justice McCann's father was a prominent Chemung County farmer. Justice McCann died in 1933. Justice McCann was very involved in Elmira civic affairs.

27. ***Rowland L. Davis, Cortland, Sixth District, 1926-1931***

Justice Rowland L. Davis was born in Dryden, Tompkins County. He attended the district school near McLean and graduated from the Cortland Normal School in 1896. The next year, he graduated from Cornell Law School. He was also admitted to the Bar in 1897. From 1897 to 1902, Justice Davis practiced law in Cortland with Bronson & Davis and from 1902 until 1915 with Davis & Lusk. In March 1899, he was elected a police justice of the Village of Cortland, and when the village first became a city, he was elected first city judge in 1903. Justice Davis was appointed to the Supreme Court by Governor Whitman on August 3, 1915 to fill a vacancy. That same year, he was elected to the post; he was reelected in 1929. In January 1921, Justice Davis was designated to the Appellate Division, Fourth Department by Governor Miller for a five-year term. Governor Smith transferred Justice Davis to the Third Department in November 1926. In March 1931, Gov. Roosevelt assigned him to the Second Department. His designation to the Appellate Division was revoked at his own request in March 1939. For the next two years he held Child Terms in the Sixth Judicial District. He retired to Cortland on March 31, 1941. He died on February 2, 1954, at the age of 82.

28. ***Edward C. Whitmyer, Schenectady, Fourth District, 1927-1931***

Justice Edward C. Whitmyer was born May 5, 1861 in Schenectady. He was educated in the public schools and then at the Preparatory School of Union Classical Institute (the high school), from which he graduated in 1877. He then attended Union College, graduating in 1882. He then moved to Canton, St. Lawrence County, to be employed as an instructor of Latin and Greek at the Canton Union School. While in Canton, he was a law student in the law office of Supreme Court Justice Leslie W. Russell. He was admitted to the Bar in 1887 and took up practice in his home town of Schenectady. In 1894, he was a delegate to the Constitutional Convention. From 1903 to 1909, he was Schenectady County Surrogate. From 1909 to 1912, he was County Judge. He was elected to the Supreme Court for the Fourth Judicial District in 1912 and was reelected 14 years later. On January 27, 1927, Governor Smith named him to the Appellate Division. He retired at the end of 1931 after reaching the age of 70. He died on May 20, 1933.

29. ***James P. Hill, Norwich, Sixth District, 1927-1948, Presiding Justice 1933-1948***

Presiding Justice James P. Hill served as Presiding Justice of the Third Department from January 1, 1933 to the end of 1948, 16 years spanning most of the Great Depression and all of World War II. He was born in the town of German in Chenango County on April 7, 1878. His early education was in the local public schools and at Cincinnatus Academy in Cortland County. He studied law in the law office of Bixby and Brown in Norwich, Chenango County, and was admitted to the Bar on November 1, 1901. Shortly thereafter he opened his own law office. In the fall of 1907, he was elected Chenango County District Attorney and served until the beginning of 1914, having been reelected in 1910. He was elected Chenango County Judge and Surrogate in 1913 and held that office until the beginning of 1924, having been reelected in 1919. In the fall of 1923, he was elected a Justice of the Supreme Court of the Sixth Judicial District; he was reelected in 1937. He remained on the Supreme Court until the date of his retirement, December 31, 1948. Governor Smith designated him an associate justice on December 13, 1927. Governor Lehman appointed him Presiding Justice, effective January 1, 1933. In the fall of 1936, he was an unsuccessful Court of Appeals candidate. He was a delegate to the 1938 Constitutional Convention.

30. ***Leon C. Rhodes, Binghamton, Sixth District, 1931-1939***

Justice Leon C. Rhodes was born in Guilford, Chenango County. He was educated in the local schools. After being admitted to the Bar in 1903, he served as a confidential law clerk to Supreme Court Justice Nathan L. Miller, who later became Governor. When Justice Miller was designated to the Appellate Division (First Department), Justice Rhodes continued as clerk and formed a new partnership in Cortland. He returned to Binghamton in 1910 and continued the practice of law. In 1921, he was appointed Corporation Counsel and, on December 23 (his birthday), he was appointed to the Supreme Court, Sixth Judicial District by Governor Miller to succeed Justice Tuthill. He was elected for a full term in 1922. Governor Roosevelt designated him to the Appellate Division nine years later. He continued on the Court until May 1939. He had been reelected to the Supreme Court in 1937. He died at his home in Binghamton at the age of 61 on April 27, 1939.

31. ***Daniel V. McNamee, Hudson, Third District, 1932-1939***

Justice Daniel V. McNamee was born October 13, 1874 in Chatham, Columbia County. He studied in the local public schools in Philmont, Columbia County through eighth grade. At the age of 14, he went to work in the Philmont Aken Knitting Mills, running a jackwinder. He worked from before sunrise until after sunset six days a week and in the evenings studied Latin with the local parish priest. He also played horn in the local band to earn money. He earned and saved enough to attend Claverack College and graduate in 1894. He was a teacher in the public schools from 1894 to 1896. From this employment he earned and saved enough to attend Yale Law School, from which he graduated in 1898. He was hired by a New York City law firm but shortly thereafter entered the practice of law at Philmont and then moved to Hudson in 1901. He was County Judge of Columbia County from 1913 to 1919. Governor Smith named him manager of the State Training School for Girls in 1926, a post he held until 1929, when Governor Roosevelt appointed him to the Supreme Court. He was elected to the court that same year and was appointed to the Appellate Division in 1932 and reappointed by Governor Lehman effective January 1, 1937. He died on May 31, 1939, while still a member of the appellate court. Justice McNamee was compiler and editor of a book entitled, "Columbia County in the World War," containing 1,400 biographies and 1,000 portraits of soldiers, sailors, marines and nurses of the county who served in World War I.

32. ***John C. Crapser, Massena, Fourth District, 1933-1943***

Justice John C. Crapser was born September 8, 1873 in Winthrop, St. Lawrence County. Later the family moved to a large dwelling on Crapser's Island in the Town of Waddington of the same county, which island was continuously occupied by family members until flooded by the St. Lawrence Seaway. He was educated in the common schools, later attended Potsdam State Normal School, after which he pursued the study of law at the University of Michigan and graduated in 1896. Then he studied law with Congressman A.X. Parker in Potsdam. He was admitted to the Bar by the Third Department in November 1897. He opened a law office in Hogansburg, Franklin County, but shortly relocated to the larger Massena in St. Lawrence County. He served as supervisor of Massena and then assistant District Attorney in St. Lawrence County and then as elected St. Lawrence County District Attorney. He was elected St. Lawrence County Judge in 1914 and reelected once. In 1921, he was elected to the Supreme Court

for the Fourth Judicial District. He was appointed to the Appellate Division, effective January 1, 1933, and served on the appellate court until he retired in 1943 at age 70. He returned to private practice in Massena with his son under the firm name Crapser & Crapser. He died on February 14, 1956.

33. ***F. Walter Bliss, Middleburgh, Third District, 1933-1944***

Justice F. Walter Bliss was born in Gilboa, Schoharie County on April 27, 1892. His father was a merchant and county clerk. He graduated from Poughkeepsie High School in 1908 and from Cornell University in 1913. In 1915, he graduated from Albany Law School. He began practicing in Middleburgh, Schoharie County in 1916. Shortly thereafter, he enlisted in the Army for service during World War I. He served as a first lieutenant in the Army Signal Corps. After the war, he returned to his Middleburgh practice. In 1922, he began six years of service as Schoharie County Attorney. He gained prominence when he successfully represented the Town of Gilboa in a landmark suit against New York City resulting in an order requiring the city to pay taxes on Gilboa dam and reservoir, which supplies water for New York City. On October 1, 1930, Governor Roosevelt appointed him to the Supreme Court to fill a vacancy; he was elected to one 14-year term in November of the same year. In l931, he presided at the second trial of the notorious Jack "Legs" Diamond. On January 1, 1933, by appointment from Governor Lehman, Justice Bliss began service on the Appellate Division, Third Department; he served on the court until the end of 1944. While on the Appellate Division, he would return to Schoharie County annually to serve a two-week term as a Supreme Court trial justice. After his judicial service, he resumed the private practice of law, mostly in Schoharie County; he continued practicing almost until the date of his death. At the State Democratic Party's l950 nominating convention in Rochester, Justice Bliss was the unsuccessful candidate of upstate delegates for the party's gubernatorial nomination. In l965, by reference from the Court of Claims, Justice Bliss was one of a panel of three referees to hear and decide an action against the State by the Thruway Authority. The case resulted in an award of over $31 million to the Authority. In 1939, Central College of Pella, Iowa awarded him an honorary degree of Doctor of Laws. He served as a trustee of Howe Caverns from l947 to l965; then as president from l965 to l982; and finally as chairman of the board. He died on September 8, 1982, at the age of 90.

34. ***Christopher J. Heffernan, Amsterdam, Fourth District, 1933-1952***

Justice Christopher J. Heffernan was born in Athlone, Ireland on May 5, 1882. His family emigrated to Amsterdam when he was nine years old. He graduated from St. Mary's Institute and then studied law in the office of Florence J. Sullivan. He was admitted to the Bar in 1903. His career of public service began with his appointment, in 1906, as Corporation Counsel for the City of Amsterdam. In 1925, he was elected to the Supreme Court, and reelected in 1939. In 1926, acting as a special commissioner for Governor Smith, he recommended the dismissal of several officials of Saratoga Springs charged with neglect of duty by permitting "wide open" gambling. The Governor followed the advice and dismissed the District Attorney and the County Sheriff. For almost 20 years, March 1933 to December 1952 (when he had to retire because he had reached the age of 70), he served on the Appellate Division. He also served for several months in 1951 on the Appellate Division, First Department. While on the appellate bench, he wrote the majority opinion in a 1939 case which declared a Republican budget plan an unconstitutional emasculation of Governor Lehman's budget. The Republicans in the Legislature had attempted to substitute a legislative bill for the executive budget. The ruling was upheld by the Court of Appeals. After leaving the Appellate Division, he served as an Official Referee until his death on January 12, 1959. He had five children, four daughters and one son. The son, a West Point graduate, was killed at the Battle of Bataan in World War II.

35. ***Gilbert V. Schenck, Albany, Third District, 1939-1944***

Justice Gilbert V. Schenck was a member of one of the oldest families in New York. Dating from the period of Dutch occupation, the name is found mentioned in the public activities of the colony and of the state over a very long span of years. He was born in Palatine, Montgomery County on December 28, 1882. After attending the common schools, he entered the Albany Boys' Academy and Union College. He graduated from Albany Law School in 1906, and his admission to the Bar followed immediately. He opened a law office in Albany. From 1902 to 1916, Justice Schenck served in the 10th Infantry, New York State National Guard. During World War I, he commanded the Third Anti-Aircraft Machine Gun Battalion with the rank of major, a rank he continued in the Officers' Reserve Corps. He was appointed Corporation Counsel of the City of Albany at the beginning of 1922. His judicial career began as Albany

County Surrogate. He became a Supreme Court Justice in 1933. From 1939 to 1944, he served on the Appellate Division. In 1938, he was a delegate to the Constitutional Convention. He was President of the Albany Public Library Board of Trustees for many years and made particular contribution in that role. He died on March 24, 1946.

36. ***Sydney F. Foster, Liberty, Third District, 1939-1942, 1944-1959, Presiding Justice 1949-1959 (Court of Appeals 1960-1963)***

Judge Sydney F. Foster was born March 23, 1893 in Cazenovia, Madison County, the son of a farmer. He attended public schools and Cazenovia Seminary. He graduated from Syracuse University and, in 1915, was awarded his law degree from Syracuse University Law School. In January 1916, he was appointed special Deputy County Clerk of Madison County, and the following year he was admitted to the Bar. He served as special Deputy County Clerk until 1918. During World War I, he served (from 1918 to 1919) with the American Expeditionary Force (in the Army Judge Advocate General's Department), emerging with the rank of sergeant. He moved to Liberty in Sullivan County in 1920 and began practicing law with Joseph Rosch, later a Supreme Court Justice and President of the New York State Bar Association. In 1921, Judge Foster opened a law office with William A. Williams. He was elected Sullivan County District Attorney in 1925 and served until his election to the Third Judicial District Supreme Court in 1928. He was designated an associate justice by Governor Lehman in the fall of 1939 and served until December 31, 1942. After his reelection to the Supreme Court in 1942, he returned to the trial bench on January 1, 1943. He was designated an associate justice for the second time, by Governor Dewey, in June 1944. Governor Dewey also appointed him Presiding Justice of the Third Department, effective January 1, 1949. He served as Presiding Justice until January 1, 1960, when Governor Rockefeller appointed him to the Court of Appeals to fill a vacancy created by the election of Judge Desmond as Chief Judge of the Court of Appeals; he was elected to the Court later that year. Judge Foster retired from the Court of Appeals at age 70 in 1963. He returned to the Supreme Court as a certificated trial justice for four more years of judicial service. Judge Foster died November 21, 1973, at the age of 80.

37. ***O. Byron Brewster, Elizabethtown, Fourth District, 1944-1952***

Justice O. Byron Brewster was a direct descendant of Elder William Brewster of

the Mayflower. He was born in the tiny Adirondack village of North Elba, which later became part of Lake Placid. He graduated from Lake Placid High School in 1904, attended Amherst College for one year and, in 1908, graduated from Syracuse University. After two years at Albany Law School he was admitted to the Bar and began to practice in Elizabethtown, Essex County. He was appointed chairman of the Essex County Board of Elections in 1912. Four years later, he was elected Essex County District Attorney and served until 1927. Then he was elected to the Supreme Court, Fourth Judicial District, and was reelected 14 years later. In 1937, he became president of the board of trustees of Paul Smith College in the Adirondacks. Governor Dewey named him to the Third Department, effective January 1944. He remained on the appellate bench until June 1952, when he retired because of ill health; his designation expired January 17, 1953. He died October 27, 1953, at the age of 67, in Albany Hospital. Justice Brewster was a student of history and was the author of a state historical society paper on John Brown, the abolitionist who was hanged after the Harper's Ferry raid. Brown had lived in North Elba. Justice Brewster's parents were pioneers in the Lake Placid area.

38. ***Ellsworth C. Lawrence, Malone, Fourth District, 1945-1946***

Justice Ellsworth C. Lawrence, a native of Vermont, was a graduate of Middlebury College and was admitted to the Bar in 1904. His career of public service began with two terms as the Franklin County District Attorney. He was elected Franklin County Judge and Surrogate in 1925 and served in that capacity until his election to the Supreme Court in 1932. In 1941, Middlebury College awarded him an honorary Doctor of Laws degree. He was appointed to the Appellate Division in January 1945 and served until he reached the mandatory retirement age and retired at the end of 1946. After retirement he served as an Official Referee. He was chief executive officer of the Northern New York School for the Deaf for many years. He died in a hospital in Malone, Franklin County on October 17, 1954. His son, Ellsworth N. Lawrence, also served as a Franklin County Judge.

39. ***Pierce H. Russell, Troy, Third District, 1947-1948***

Justice Pierce H. Russell was born in Troy on May 25, 1878. He studied in the public schools, graduated from Troy Academy in 1896, and from Williams College in Massachusetts in 1900. For three years, he was supervising principal of a public school district in Troy comprising four public schools, while at the same time teaching some

classes. Meanwhile, he studied law and was admitted to practice in 1903. The next year, he served as clerk to County Judge M.A. Tierney. In 1905, he served as Troy Corporation Counsel. He was elected Rensselaer County Judge in 1915 for a six-year term and then was reelected. As County Judge he also presided over the Rensselaer County Children's Court. On January 1, 1926, he became an elected Justice of the Supreme Court for the Third Judicial District; he was reelected in 1939. In 1947, he was designated to the Appellate Division by Governor Dewey, where he served until his retirement at the age of 70 at the end of 1948. Justice Russell died June 4, 1952 of a heart attack while conducting a transit strike hearing in Rochester.

40. ***Martin W. Deyo, Binghamton, Sixth District, 1948-1951***

Justice Martin W. Deyo was born in Binghamton. He graduated from Binghamton Central High School in 1921. He graduated from Amherst College and Columbia Law School. He was admitted to the Bar in 1931. In 1932, he was elected to the Assembly and two years later to the Senate. He was a delegate to the 1938 Constitutional Convention. He was elected to the Supreme Court at the age of 36 in 1939. Justice Deyo was first appointed to the Appellate Division, Third Department in November 1947. The next year, he began a regular five-year term in place of retiring Justice Hill. He died on October 21, 1951, while serving on the Court. He was 48 years old.

41. ***William F. Santry, Oneida, Sixth District, 1949***

Justice William F. Santry was born on a farm in South Bay on May 12, 1879. The farm was on the south shore of Oneida Lake. He received his elementary education at the Messengers Bay School and was graduated from Oneida (Madison County) High School in 1896, and then from Cornell University, and Cornell University Law School in 1902. He was also admitted to the Bar in 1902. In 1918, he formed a partnership with Charles Coville, which partnership continued until his appointment to the Supreme Court early in 1944 by Governor Dewey. Prior thereto, Justice Santry had served as Oneida City Judge for three terms. He had also served as a member of the Board of Education of Oneida City High School from 1936 until 1944. He was designated to the Appellate Division effective January 1, 1949, and retired because of age at the end of 1949. He thereafter served as an Official Referee for six years. At the age of 76, he returned to practice law in Oneida in his old firm. He died on July 20, 1966, at the age of 87.

42. ***Francis Bergan, Albany, Third District, 1949-1963, Presiding Justice 1960-1963 (Court of Appeals 1963-1972)***

Judge Francis Bergan was born in Albany on April 20, 1902. He graduated from Albany Law School in 1923. In the early 1920s, a college degree was not a prerequisite for admission. He was admitted to the Bar in 1924. He had worked as a newspaperman for both the Knickerbocker Press and the Sunday Telegram, covering legislative affairs. He served for a time as a special assistant Attorney General. He was elected Albany City Court Justice in 1929, elected Albany Police Court Justice in 1933, and, in 1935, was elected a Supreme Court Justice for the Third Judicial District; he was reelected in 1949. He obtained his Bachelor's degree from Siena College in 1946, after attending classes at night while he was on the Supreme Court bench. Siena awarded him a Doctor of Laws in 1948. He was first designated to the Third Department in 1949 by Governor Dewey. He was designated Presiding Justice in 1960 by Governor Rockefeller. For a number of years after 1952, he was also designated a temporary additional justice for the First Department. During this period, his name appears on decisions from both the First and Third Departments. In November 1963, Judge Bergan was elected to the Court of Appeals. He was a delegate to the Constitutional Conventions of 1938 and 1967. He retired from the Court of Appeals at the age of 70 in 1972. After that, he authored, among other writings, "The History of the New York Court of Appeals, 1847 -1932" (Columbia University Press, 1985) and "The Appellate Division at Age 90: Its Conception and Birth, 1894" (New York State Bar Journal, January 1985). Judge Bergan died in 1998.

43. ***William H. Coon, Cortland, Sixth District, 1950-1963***

Justice William H. Coon was born in Homer, Cortland County at the turn of the century, on October 5, 1899. He received his earlier education in the Homer schools and graduated from Homer Academy in 1918. He graduated from Cornell Law School in 1922. He started practice with Albert Haskell Jr. and then opened his own practice in 1925. Shortly thereafter, he became associated with Senator Lusk and soon became a member of the law firm of Lusk, Buck, Ames and Coon. In 1926, he became Secretary of the Civil Service Commission of the City of Cortland and, in the same year, was appointed assistant city attorney for the City of Cortland in which capacity he served until 1935. In 1928, he was elected Cortland County District Attorney. He resigned in 1935 to

successfully run for the office of Cortland County Judge and Surrogate and Judge of the Children's Court; he served until the end of 1941. In November 1941, he was elected Supreme Court Justice for the Sixth Judicial District. He was elevated to the Appellate Division at the beginning of 1950. He retired from the bench (and the Appellate Division) at the end of 1963. Justice Coon was an avid outdoorsman and a man of few words, and admirably succinct in written opinion. He died on August 3, 1968. In 1957, he wrote the Appellate Division decision striking down a ban by the Board of Regents on the motion picture "Lady Chatterly's Lover." The Court concluded that the picture could not be considered obscene in the way that term was interpreted judicially.

44. ***Philip Halpern, Buffalo, Eighth District, 1952-1957***

Justice Philip Halpern was born in Buffalo on November 12, 1902. Educated in the public schools, he graduated from Hutchinson High School. In 1923, he graduated from the University of Buffalo Law School. He then attended the School for Social Research in New York City for a year. He was admitted to the Bar in 1924. For two years, he was associated with the general counsel of the Brooklyn Manhattan Transit Co. He then returned to Buffalo and began practicing law. In 1931, he formed a partnership with his brother-in-law, Milton H. Friedman. This partnership continued until Justice Halpern was elected to the bench in 1947. From 1925 to 1943, he was a professor at the University of Buffalo Law School, most often teaching torts and criminal law; he also served as acting dean and dean (1943 to 1947) and acting dean (1952 to 1953). He founded the Erie County Bar Bulletin and was its editor for several years (1933 to 1938). He was a delegate to the 1938 Constitutional Convention and left his mark by writing several amendments that became part of the State Constitution. One such amendment protects the power of grand juries to make inquiries into the conduct of public officials. During World War II, Justice Halpern was a Referee for the National War Labour Board and a member of the Enemy Alien Board; he was also a private in the New York State Guard. Justice Halpern's career in public service began in 1944 when Governor Dewey appointed him Chief Counsel to the State Public Service Commission. He was elected to the Supreme Court in 1947 and Governor Dewey appointed him to the Appellate Division, Third Department in 1952. Effective at the beginning of 1958, Governor Harriman transferred him to the Fourth Department. He was reelected to the Supreme Court in 1961. In 1958, Justice Halpern was appointed to the Advisory Council to the International Writers Association for the United Nations because of his work on behalf of

human rights. For eight years, he represented the United States on the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities. He and Eleanor Roosevelt were members of the Advisory Council to the United States delegation to the United Nations Commission on Human Rights. At the United Nations in 1960, Justice Halpern was a co-sponsor of a resolution that condemned anti-Semitism for the first time by a United Nations body. Justice Halpern died on August 25, 1963 in Buffalo at the age of 62, while still serving on the Appellate Division, Fourth Department.

45. ***Daniel F. Imrie, Glens Falls, Fourth District, 1953-1955***

Justice Daniel F. Imrie was born September 15, 1885 in Caldwell and attended the public schools in Lake George, Warren County. His father, Robert Imrie, was a Lake George attorney. Justice Imrie graduated from Union College in 1906 with the degree of Bachelor of Philosophy. He then graduated from Albany Law School in 1908 and was admitted to the Bar that same year. He conducted a general practice in Lake George until 1911, after which he relocated to Glens Falls. He represented his Senatorial district at the State Constitutional Convention in 1938. Justice Imrie was elected to the Supreme Court in 1941. He had served twice as city attorney of Glens Falls, and also served on the city's civil service commission and as chairman of the city planning commission. In 1944, he was named to preside over the grand jury investigating legislative spending. In December 1953, Governor Dewey appointed Justice Imrie to a temporary post on the Appellate Division, Third Department. He was serving on the appellate court when he died on July 19, 1955, at the age of 69. Justice Imrie was very active in the Rotary and was a delegate to the Rotary International Convention in Belgium in 1927.

46. Howard A. Zeller, Munnsville, Sixth District, 1954-1957

Justice Howard A. Zeller was born February 26, 1912 in Syracuse and attended grade school there. His family moved to Munnsville in Madison County in the summer of 1925. He graduated from Stockbridge Valley High School (as salutatorian) in June 1929. In September 1929, he was admitted to Hamilton College. He graduated in 1933 and then enrolled in Syracuse University Law School, from which he graduated in 1936. He was admitted to practice in 1937 and became an associate to Stanley Bliss in Oneida. The association continued until Justice Zeller entered the military in February 1944. Mr. Bliss died suddenly in August 1944 and the office was closed. In World War II, Justice

Zeller was assigned to the U.S. Naval Base in Casablanca in former French Morocco. He was home on a month's leave when the atomic bomb was dropped on Japan. In November 1945, Justice Zeller was elected Madison County District Attorney, a part-time position with no assistants. He had previously served as police justice of the village of Munnsville and Justice of the Peace for the town of Stockbridge. He was reelected District Attorney in 1948. Justice Zeller became a partner of the firm Covill, Nemeti & Zeller in 1945. Justice Zeller was elected to the Supreme Court, Sixth Judicial District, in 1949. He was appointed to the Appellate Division by Governor Dewey, effective September 17, 1954. At his own request, he left the Appellate Division effective November 22, 1957 (for health reasons), and returned to the trial bench. He was reelected a Supreme Court Justice in November 1963 and again in 1977. He served as district administrative judge from 1964 through 1982. After reaching the age of 70 in 1982, he was twice certified to continue as a Supreme Court Justice for two-year periods. From 1986 through the end of 1995, he served as a judicial hearing officer. He then retired and vacated the chambers he had occupied in the Madison County Courthouse for 46 years. Justice Zeller died in 2002.

47. ***James Gibson, Hudson Falls, Fourth District, 1956-1969, Presiding Justice 1964-1969 (Court of Appeals 1969-1972)***

Judge James Gibson was born in Salem, Washington County. Both his father and great-grandfather were judges. He obtained his preliminary education at Salem Academy. After graduating from Princeton in 1923 and Albany Law School in 1926 and being admitted to the Bar that same year, he began a general law practice in Hudson Falls in Washington County with the firm of Rogers & Sawyer. The firm later became Sawyer & Gibson until Mr. Sawyer's death in 1936. In 1935, he won election as District Attorney of Washington County, a post his father once held, and was the state's youngest prosecutor at the time. In World War II, he served in Europe as a captain in the Army. In 1952, he was elected to the Fourth Judicial District Supreme Court. Three years later he was designated to the Appellate Division, Third Department. Effective January 1, 1964, Governor Rockefeller appointed him Presiding Justice. On September 15, 1969, he was appointed an associate judge of the Court of Appeals; he was elected to the position in 1969; he continued on the Court until mandatory retirement in 1972. He retired from the Supreme Court in 1978. Thereafter, until 1984, he practiced law in Glens Falls. Judge Gibson died May 29, 1992, at the age of 90. In 1976 and 1977, Judge Gibson was given

the responsibility of presiding as special master over complex litigation over New York City's defaulting on $1 billion of notes in the fiscal crisis.

48. ***Walter B. Reynolds, Elmira, Sixth District, 1958-1976***

Justice Walter B. Reynolds was born in Elmira, Chemung County on July 25, 1901. He graduated from the University of Pennsylvania and then from Cornell Law School in 1925. He was admitted to the Kentucky Bar in 1925 and to the New York State Bar in 1927. He was in private practice until his election as Chemung County District Attorney in 1937, a post he held until 1950. Then from 1950 to the end of 1955, he was the senior partner with Reynolds, Cramer & Donovan in Elmira. Justice Reynolds also served as an Elmira acting city court judge for a time. In 1955, he was elected a Supreme Court Justice. He served on the Appellate Division from 1958 to 1976. His nickname was "Dobby". He died on November 9, 1991 at his home in Elmira at the age of 90.

49. ***J. Clarence Herlihy, Glens Falls, Fourth District, 1958-1981, Presiding Justice 1969-1975***

Presiding Justice J. Clarence Herlihy was born in Glens Falls on October 1, 1905. He graduated from St. Mary's Academy in Glens Falls in 1923, from Georgetown University in 1928, and from Albany Law School in 1930, the same year he was admitted to the Bar. Presiding Justice Herlihy became associated with the law firm of Leary and Fullerton in Saratoga Springs and thereafter opened his own law firm in Glens Falls in 1933 (later Herlihy & Metzner), and he had an extensive trial practice. He served as city attorney of Glens Falls from 1938 to 1940 and was elected District Attorney of Warren County in 1942, a post he held for 13 years until his election to the Supreme Court on November 8, 1955. He was first appointed an associate justice of the Appellate Division, Third Department by Governor Harriman on March 15, 1958, and reappointed in 1963 and again in 1968 by Governor Rockefeller. He was appointed Presiding Justice by Governor Rockefeller on September 25, 1969 to succeed Presiding Justice Gibson, and was redesignated Presiding Justice by the Governor on January 1, 1970, and served as Presiding Justice until he reached the statutory retirement age. In 1976, Presiding Justice Herlihy was certified to continue as a Supreme Court Justice and, at the same time, was redesignated an additional justice of the Appellate Division, and continued in that

capacity until mandatory retirement in 1982. Presiding Justice Herlihy died on February 28, 1985.

50. ***Donald S. Taylor, Troy, Third District, 1961-1968***

Justice Donald S. Taylor received his preliminary education in the public schools of Troy and graduated from Troy High School and then Colgate University and, finally, Albany Law School in 1922. After his admission, he began practicing law with his father, John P. Taylor, a former District Attorney of Rensselaer County. He and his father and brother, former Congressman Dean P. Taylor, formed the law firm of Taylor & Taylor, later Wager, Taylor, Howd & LeForestier. The firm continued on after Justice Taylor's withdrawal from active practice with his son John as a named partner under the name Wager, Taylor, Howd & Brearton. In 1948, he was elected to the Supreme Court. On March 1, 1961, he was designated to the Appellate Division by Governor Rockefeller, where he served until he reached retirement age in 1968. He was reelected to the Supreme Court in 1962. He died on June 23, 1970. He was born on June 17, 1898 in Troy.

51. ***Felix J. Aulisi, Amsterdam, Fourth District, 1964-1971***

Justice Felix J. Aulisi was born in Laviano, Italy, in the province of Salerno, in 1901. During his youth, he lived with his mother in Italy because his father had come to America to seek the family's fortune. Justice Aulisi followed his father to the City of Amsterdam, Montgomery County at the age of 12. He helped his father in his shoemaker shop. He graduated from Union College and Albany Law School and was admitted to the Bar on September 15, 1925. He began practicing in Amsterdam with the law firm of Conover, Myers and Searle. He continued with the firm for five years before beginning a solo practice. Following service as an assistant District Attorney in Montgomery County, he commenced his judicial career with his election as Surrogate in 1932, followed in 1949 by his election as County Judge, and then, in 1952, his election to the Supreme Court (he was reelected in 1966). He served on the Appellate Division from 1964 to the end of 1971, when he retired at the age of 70. He then returned to the trial bench as a certificated justice. He finally resigned for health reasons in 1975. During World War II, Justice Aulisi served three years in the Army in North Africa, Sardinia, and Italy,

attaining rare distinction as a much decorated military judge with the United States Army occupation forces in Italy as a captain and a major. In 1944, when his surrogate judgeship came up for election, he was returned unopposed for a third term in absentia, and the oath of office was administered to him in Rome. When Justice Aulisi volunteered for military service in February 1943, the 41-year-old judge was married, had three children, and held an exempt position as a judge of a court of record. Justice Aulisi died on September 20, 1976. His brother, Arthur, was a Supreme Court Justice in Fulton County. His two sons-in-law, Michael Riccio and Gene Catena, have served as judges in Montgomery County.

52. ***Herbert D. Hamm, Troy, Third District, 1964-1966***

Justice Herbert D. Hamm was born in Poestenkill in Rensselaer County in January 1896 (the same month the Appellate Division heard its first cases). He graduated from Troy High School and Rutgers University and Harvard Law School. His studies were interrupted by service in the Navy during World War I. He was admitted to the Bar in 1925 and practiced in Troy. He served as Rensselaer County Attorney from 1940 to 1945. In 1945, Governor Dewey appointed him acting Rensselaer County Judge upon the resignation of Hon. Harry E. Clinton. Later that year, he was elected to a full six-year term as County Judge and Judge of the Children's Court. In February 1951, Governor Dewey named Justice Hamm to the Supreme Court to succeed Hon. William H. Murray. He was then elected to a full 14-year term. In 1964, he was designated to the Appellate Division, where he served until his retirement in 1966 due to failing health. Justice Hamm was a regent of the Sons of the American Revolution. He died in 1972, at the age of 76. Justice Hamm's father was a prominent doctor in Troy. His mother was Ella L. De Freest. At his memorial service, Justice Mahoney noted one of his characteristics as a trial judge. Whenever a trial lawyer conducted himself in a manner not in keeping with Justice Hamm's view of proper procedure, a vein in his right temple seemed to enlarge itself and take up a life of its own by beating and pulsating noticeably. Invariably, when this occurred, the offending attorney would mollify his method and, invariably, the vein would slow its beat and finally stop and return to whatever pocket or enclosure years of trial experience of its owner had prepared for it. Justice Mahoney opined that this effect on attorneys must have mystified the judge, but the judge probably attributed it to his stern visage on the bench.

53. ***Ellis J. Staley Jr., Loudonville, Third District, 1966-1980***

Justice Ellis J. Staley Jr. was born in Albany on September 12, 1914. He graduated from Albany Academy in 1932, from Yale University in 1936, and from Albany Law School in 1939. He was admitted to the Bar in September 1939. From 1944 to 1961, he was a member of the law firm of Browne, Staley, Sanford & Forner. He was an associate professor of law teaching federal and state taxation at Albany Law School from 1945 to 1956. He was elected to the Supreme Court in 1960 and reelected in 1975. From April 1964 to April 1967, Governor Rockefeller temporarily assigned him as a Justice of the Appellate Division, First Department. He was designated to the Appellate Division, Third Department by Governor Rockefeller on May 16, 1966, and remained on the Court until he voluntarily retired on October 16, 1980. For a time, Justice Staley's name appears on decisions rendered by both Departments. He died at his home in Loudonville in January 1981. Justice Staley's father, Ellis J. Staley Sr., held numerous public offices, sequentially including deputy Attorney General, counsel to the Forest, Fish and Game Department of New York State, Albany County Attorney, Albany County Surrogate, New York State Conservation Commissioner, Chairman of the first Water Power Commission, and Justice of the Supreme Court for the Third Judicial District (beginning in 1922). Justice Staley Sr., while Albany County Attorney, was very involved in the planning and construction of the Albany County Courthouse. Judge Bergan has observed that he "was really the father of [the Albany County Courthouse]. He planned it, he arranged for its financing; in fact, he almost designed it point by point, and in many respects it is a monument to his memory." Staley family ancestors emigrated to America in the 1600s from Switzerland and southern Germany and settled around Albany and westward into Schoharie County.

54. ***Robert O. Brink, Binghamton, Sixth District, 1966***

Justice Robert O. Brink was born in Binghamton on October 21, 1896. He was educated in the local public schools and graduated from Binghamton Central High School in 1914. During 1914 and 1915, he was a newspaper reporter on The Binghamton Republican. In 1915, he studied law in the office of W.J. and F.W. Walsh. From 1916 to 1925, he was associated with Harry J. Hennessey, Esq., before taking over that practice. In 1939, he formed a partnership with his brother. In 1942, he was elected Broome

County District Attorney and was reelected once, for a total of eight years service. On December 31, 1950, Governor Dewey appointed him to the office of Broome County Judge. He was elected to that office for a six-year term in 1951 and reelected in 1957. In 1961, he was elected to the Supreme Court. He served on the Appellate Division in 1966, from November 17 to December 31. He died on February 21, 1974.

55. ***Domenick L. Gabrielli, Bath, Seventh District, 1967-1968 (Court of Appeals 1972-1982)***

Judge Domenick L. Gabrielli was born in Rochester on December 13, 1912, the only son of parents who had immigrated from Italy that same year. He graduated from Albany Law School in 1936 and was admitted to the Bar in 1937. In 1957, he was elected Steuben County Judge and Children's Court Judge. On July 13, 1961, by gubernatorial appointment, he was designated a Justice of the Supreme Court for the Seventh Judicial District; he was elected to a full term in November 1961. In January 1967, Governor Rockefeller designated him to the Appellate Division, Third Department; two years later, the Governor designated him to the Fourth Department (his home department). He was elected to the Court of Appeals in November 1972. He retired at the end of 1982 because he had reached the mandatory retirement age. He joined the Rochester based law firm of Nixon, Hargrave, Devans & Doyle and transferred to its Albany office in 1987. He founded the Gabrielli Moot Court Statewide Competition sponsored by Albany Law School. Judge Gabrielli died March 25, 1994.

56. ***Lawrence H. Cooke, Monticello, Third District, 1969-1974 (Court of Appeals 1974-1984; Chief Judge 1979-1984)***

Chief Judge Lawrence H. Cooke was born in Monticello in Sullivan County on October 15, 1914. After graduating from Albany Law School, he was admitted to the Bar in 1939. He was elected in 1955 as County Judge and Surrogate of Sullivan County and reelected in 1959. In 1961, he was elected a Justice of the Supreme Court for the Third Judicial District. He was designated to the Appellate Division, Third Department in 1968 by Governor Rockefeller and served there until his election to the Court of Appeals in 1974. He was appointed the 20th Chief Judge by Governor Carey on January 2, 1979. He retired from the Court of Appeals at the end of 1984 at the age of 70. He died in 2000.

57. ***Louis M. Greenblott, Binghamton, Sixth District, 1969-1980***

Justice Louis M. Greenblott was born in Binghamton on January 27, 1919. He graduated from Binghamton Central High School in 1936. He obtained both his undergraduate (1940) and law degrees (1942) at Cornell University. He was admitted to the Bar in 1942. He engaged in the practice of law in Binghamton from 1942 to 1961. He was an assistant District Attorney in Broome County from 1952 to 1955 and District Attorney from 1955 to 1961. From 1961 to 1966, he served as Broome County Judge. In 1967, he became a Supreme Court Justice. He was appointed by Governor Rockefeller to the Appellate Division in 1969. In 1974, he was an unsuccessful Republican nominee for the Court of Appeals. Justice Greenblott served on the Appellate Division through 1980. He retired to California. Justice Greenblott died in 2007.

58. ***Michael E. Sweeney, Saratoga Springs, Fourth District, 1969-1983***

Justice Michael E. Sweeney, born in 1915, was educated at St. Mary's College and Albany Law School. He was admitted to the Bar in 1939. He served as a staff sergeant in the Army in the Asiatic-Pacific Theatre during World War II. For 20 years, he was an active trial lawyer with the Saratoga Springs law firm of Leary, Fullerton & Sweeney. Justice Sweeney served as Acting Saratoga Springs City Court judge from 1950 to 1959. In 1959, he was elected to the Supreme Court for the Fourth Judicial District. He was designated to the Appellate Division in 1969 and retired at the end of 1983. Justice Sweeney died in 2006.

59. ***Richard D. Simons, Rome, Fifth District, 1971-1972 (Court of Appeals 1983-1997; Acting Chief Judge 1992-1993)***

Judge Richard D. Simons was born in Niagara Falls on March 23, 1927. He graduated from Colgate University in 1949 and from the University of Michigan Law School in 1952. He was admitted to the Bar in 1952. He served as assistant corporation counsel for the City of Rome from 1955-1958 and as corporation counsel from 1960-1963. He was elected to the Supreme Court, Fifth Judicial District, in November 1963 and reelected in 1977. He served on the Appellate Division, Third Department from 1971 to 1972 and on the Fourth Department from 1973 to 1983. Governor Mario Cuomo

appointed him to the Court of Appeals on January 3, 1983, and he served until 1997. He served as acting Chief Judge from November 1992 to March 1993.

60. ***T. Paul Kane, Cobleskill, Third District, 1972-1990***

Justice T. Paul Kane was a native of Washington, D.C. and the son of a national bank examiner. He grew up in Poughkeepsie and completed his undergraduate education at Yale in 1942. He was active in crew and Naval ROTC at Yale. Prior to entering Albany Law School, from which he graduated in 1948, Justice Kane was called to active duty in 1942 as a commissioned ensign in the United States Naval Reserve. He served for one year on the USS Blakeley as a gunnery officer in the Caribbean and South Atlantic. He then served on the destroyer USS Paul Hamilton for 2 1/2 years, first as a gunnery officer and later as executive officer. He was discharged at the end of 1945. Upon graduation from law school, and admission to practice on September 16, 1948, Justice Kane entered the office of Jones & Jones in Cobleskill, Schoharie County. Subsequently, he practiced alone until being elected Schoharie County District Attorney in 1950. In 1964, Governor Rockefeller appointed him to the Supreme Court; he was elected to the post that same year and reelected in 1978. He was designated to the Appellate Division in 1972, where he served until he retired in 1990 at the age of 70. Upon leaving the Court, Justice Kane joined the Albany office of Hiscock & Barclay as resident counsel. He later left the firm and practiced out of Cobleskill. He died in December 2002.

61. ***Robert G. Main, Malone, Fourth District, 1973-1987***

Justice Robert G. Main was born in Malone, Franklin County on September 29, 1917. He graduated from Franklin Academy in 1935, from Peddie Preparatory School in Heightstown, New Jersey in 1936, and from Colgate University in 1940, the year he entered Albany Law School. His law school career was interrupted by World War II; he enlisted in the United States Marine Corps and left active duty as a Major. He served in the Pacific. He graduated from Albany Law School in November 1946. For the next 13 years, he practiced law in Malone, with firms successively named Main & Pond, Main, Pond & Main, and Main, Main & Poissant. During this period, he also served in the New York State Assembly from 1950 to 1959. While a member of the Assembly, he was

largely responsible for a bill creating the Whiteface Mountain Ski Area. In November 1959, he was elected a Supreme Court Justice for the Fourth Judicial District; he was reelected in 1973. From 1966 to 1968, he also served as the District's Administrative Judge. He was designated to the Appellate Division in 1973, where he served until his retirement at the end of 1987 at the age of 70 . Justice Main's father and grandfather were both Franklin County District Attorneys and his great-grandfather was also an attorney. His son, Robert G. Main, Jr., currently serves as Judge of the County, Family, and Surrogate's Courts in Franklin County. Justice Main died in 1998.

62. ***John L. Larkin, Kingston, Third District, 1974-1979***

Justice John L. Larkin was born in Kingston, Ulster County on May 7, 1923. His father was a physician in Kingston. He graduated from Holy Cross College in Massachusetts in 1943 and from Albany Law School. He served as an ensign in the United States Navy during World War II and participated in amphibious landings in the Pacific Theatre. He was wounded and spent nearly two years in naval hospitals recuperating from his injuries. He was a trial attorney in Kingston and also served as assistant Ulster County District Attorney before his election to the Supreme Court in 1970 at the age of 47. While in private practice, he was a law partner to Ulster County Judge and former Ulster County District Attorney Francis J. Vogt. Governor Wilson appointed him to the Appellate Division in 1974. He retired from the Court in June 1979, effective July 15, 1979, and died on July 25, 1979, at the age of 56. He had had a brain tumor operation the prior year.

63. ***Harold E. Koreman, Albany, Third District, 1975-1977, Presiding Justice 1976-1977***

Presiding Justice Harold E. Koreman was born in Albany on June 12, 1916. He attended Holy Cross Academy and Christian Brothers Academy in Albany, and graduated from Holy Cross College in Worcester, Massachusetts in 1937, and from Albany Law School in 1940. He was admitted to the Bar in 1940. From 1941 to 1946, he was employed as a special agent of the Federal Bureau of Investigation. Then he served as an Albany County assistant district attorney (1947 to 1953), Director of Enforcement of the Office of Price Stabilization (1952 to 1953, while on leave from the District Attorney's

office), and City of Albany Corporation Counsel (1954 to 1957). From March 1946, Presiding Justice Koreman also was in private practice until his election as Surrogate of Albany County in November 1957. He was elected a Supreme Court Justice for the Third Judicial District in 1963. He served as Administrative Judge of the Third Judicial District from January 1972 to August 1975 by appointment of the Appellate Division, Third Department. Governor Carey designated him to the Appellate Division, Third Department on August 19, 1975, and then appointed him Presiding Justice on December 31, 1975. He served as Presiding Justice for two years, until his term as a Supreme Court Justice expired. He was appointed a judge of the Court of Claims by Governor Carey on January 4, 1978, for a term to expire January 22, 1986. Governor Carey appointed him Presiding Judge of the Court of Claims at the end of 1979. Judge Koreman died in 2001.

64. ***A. Franklin Mahoney, Troy, Third District, 1976-1993, Presiding Justice 1978-1991***

Presiding Justice A. Franklin Mahoney was born in Troy on August 13, 1921. He attended LaSalle Institute in Troy and thereafter Albany Academy. His college career at Yale University was interrupted by three years of service as an officer in the Marine Corps during World War II. Following discharge from the military, he graduated from Yale in 1947 and entered Albany Law School, graduating in 1950. He practiced law in Troy with his brother Justin, who was later to become Bankruptcy Judge for the Northern District of New York. In 1956, Presiding Justice Mahoney was elected Troy City Treasurer and reelected in 1959. In 1964, he began his judicial career when he was elected Rensselaer County Surrogate. Four years later, in 1968, Presiding Justice Mahoney was elected to the Supreme Court for the Third Judicial District, where he served on the trial bench until 1976. That year, Governor Carey appointed him an associate justice of the Appellate Division, Third Department. In 1978, he was appointed Presiding Justice, a position he held until December 1991. Presiding Justice Mahoney was responsible for establishing the Appellate Division as a "hot bench," a panel of judges who have read the legal briefs and familiarized themselves with the cases before attorneys make oral arguments before them. He continued on the Appellate Division as a certificated justice until the end of November 1993. Presiding Justice Mahoney died in October 1994.

65. ***Ann T. Mikoll, Buffalo, Eighth District, 1977-1999***

Justice Ann T. Mikoll is one of the first two women appointed to the Appellate Division in New York State. In a dual appointment on May 19, 1977, Justice Mikoll was appointed to the Third Department and Justice Dolores Denman was appointed to the Fourth Department. Justice Mikoll was appointed a Buffalo City Court Judge at age 27 in 1957 after two years as an Assistant City Corporation Counsel. She subsequently won election to the City Court and reelection in 1967. Her election to the Supreme Court in 1971 made her the first woman ever elected to that position outside of New York City; she was reelected in 1985. She obtained both her undergraduate (1951) and law (1954) degrees from the State University of New York at Buffalo. Justice Mikoll has the distinction of being the first woman to preside as the Justice Presiding of a Third Department panel. She was a member of the New York State Commission on Judicial Conduct for four years. She retired from the Third Department in 1999.

66. ***John T. Casey, Troy, Third District, 1979-1997***

Justice John T. Casey entered LaSalle Institute in Troy as a member of the class of 1939 and emerged as valedictorian and colonel of the regiment. He next graduated from the University of Toronto in 1943, entered the Navy as an ensign, and served in the North Atlantic, Aleutian Islands, and South Pacific. After the war, he returned to Troy, graduating from Albany Law School in 1949. Six years after his graduation, Justice Casey became a professor at Albany Law School, serving until 1977, teaching criminal practice and procedure. He served Rensselaer County as its District Attorney from 1956 through 1963 and as its County Judge from 1964 through 1968. In 1968, he was elected to the Supreme Court. He was appointed to the Appellate Division, Third Department by Governor Carey in 1979. Justice Casey served as a certified Justice on the Appellate Division from 1991-1997. He retired from the Court at the end of 1997 at the age of 76. Justice Casey died on Christmas Day in 2014.

67. ***Leonard A. Weiss, Albany, Third District, 1981-1994, Presiding Justice 1992-1993***

Presiding Justice Leonard A. Weiss was born in Rochester, Pennsylvania, and grew up in Buffalo. His undergraduate education at the University of Buffalo was interrupted by Army service during World War II. After the war, Presiding Justice Weiss entered Albany Law School and graduated in 1948; he was admitted to practice that same year. From 1948 to 1978, he engaged in the general practice of law in Albany. In 1977, he was appointed a part-time Albany City Court Judge and was later elected to a full term on the City Court. In 1978, Presiding Justice Weiss was elected to the Supreme Court for the Third Judicial District (and reelected in 1992). He was appointed to the Appellate Division in 1981 by Governor Carey and designated Presiding Justice at the beginning of 1992 by Governor Mario Cuomo. He served in the latter position until the end of 1993, when he had to resign the post because he had reached the mandatory retirement age of 70. He then continued on the Appellate Division as a certificated justice. In 1994, he retired from the Court. He then entered the private practice of law with the Albany firm of McNamee, Lochner, Titus & Williams.

68. ***Paul J. Yesawich Jr., Cortland, Sixth District, 1981-1999***

Justice Paul J. Yesawich Jr. was appointed a Justice of the Third Department effective January 5, 1981. During World War II, he served as a Naval officer in the Pacific. Justice Yesawich obtained his undergraduate and Master's degrees from Niagara University (1948 and 1950). He graduated from Cornell Law School in 1951. He began his legal career in private practice in New York City. From 1952 to 1953, he was assistant counsel to a subcommittee of the Ways and Means Committee of the House of Representatives. He moved to Cortland in 1955 to become a partner in a law firm. From 1961 to 1970, he was a commissioner of the State Law Revision Commission. In 1970, he was appointed to the Supreme Court; the following year he was elected to that office and he was reelected in 1985. Justice Yesawich also served as a Justice of the First Department (1974 to 1981). He temporarily sat on the Court of Appeals during that Court's March 1992 term. After reaching the mandatory retirement age in 1993, he served on the Third Department as a certificated justice. He retired in 1999. Justice Yesawich died in 2017.

69. ***Howard A. Levine, Schenectady, Fourth District, 1982-1993 (Court of Appeals 1993-2002)***

Judge Howard A. Levine was born in Troy on March 4, 1932. He graduated from Yale Law School in 1956, the same year he was admitted to the Bar. He was elected in 1970 to Schenectady County Family Court, a position he held until 1980. That year, he was elected a Supreme Court Justice for the Fourth Judicial District. Effective at the beginning of 1982, he was designated to the Appellate Division, Third Department. On August 13, 1993, Governor Mario Cuomo appointed him to the Court of Appeals. He became the 200th jurist to sit on the Court of Appeals since it was founded in 1846. He retired at the end of 2002 and joined an Albany law firm.

70. ***Norman L. Harvey, Plattsburgh, Fourth District, 1984-1993***

Justice Norman L. Harvey was born in Canisteo, Steuben County on November 11, 1918. He graduated from the Canisteo Central School Class of 1935 and Syracuse University College of Law and was admitted to practice in 1948. His education was interrupted by World War II where he served as a pilot and air executive officer in the Army Air Corps, completing 74 combat missions over Germany and Axis occupied Europe. In 1949, Justice Harvey was elected Mayor of Canisteo. His career was interrupted by a second tour of military duty in the Air Force during the Korean conflict when he became Commanding Officer of the 509th air refueling squadron and the 715th bomb squadron. He was later transferred to the Office of the Secretary of the Air Force in Washington, D.C., and was discharged with the rank of Colonel. Following his military service, Justice Harvey and his family moved to Plattsburgh, where he became associated with the law firm of Jerry, Lewis & Harvey. He was elected to the Supreme Court, Fourth Judicial District, in 1967. He was appointed district Administrative Judge in 1975. Effective January 1, 1984, he was designated to the Appellate Division. He served on the Court until his retirement in 1993. Justice Harvey died February 18, 1996, at the age of 77 in Florida, where he had moved the year before.

71. ***Thomas E. Mercure, Fort Edward, Fourth District, 1988-2013, Acting Presiding Justice 2011-2012***

Justice Thomas E. Mercure graduated from Saint Michael's College in 1965 and Georgetown University Law Center in 1968. A resident of Hudson Falls, in 1973 he joined the staff of the Washington County District Attorney in 1973 where, from 1974 to 1977, he served as First Assistant District Attorney. Justice Mercure served as Washington County District Attorney from 1977 until 1981 and as a Washington County Judge in 1981. He also was engaged in the private practice of law from 1969 until 1981. Justice Mercure was elected to the Supreme Court in 1981 and was reelected in 1995 and in 2009. He was named a Justice of the Third Department, effective January 1, 1988. Justice Mercure served as Acting Presiding Justice of the Third Department from 2011 to 2012. He served on the Pattern Jury Instructions Committee from 1991 through 2006, served on the State Ethics Commission of the Unified Court System from 1989 until 2003, and as its chair from 1996 until 2003. He was a member of the Advisory Committee on Judicial Ethics and Federal-State Judicial Council for many years from 2003. He temporarily sat on the Court of Appeals in 1994 and 2011 by designation. Justice Mercure resigned from the Appellate Division in 2013 but remained on the Supreme Court trial bench and served as Administrative Judge of the Third Judicial District. He retired from the bench at the end of 2013. Justice Mercure has the distinction of longest service as a Justice of the Appellate Division, Third Department. Justice Mercure is of counsel to an Albany law firm.

72. ***D. Bruce Crew III, Elmira, Sixth District, 1991-2007***

Justice D. Bruce Crew III is a graduate of Colgate University (1959) and Albany Law School (1962). After 11 years in private practice in Elmira, he served as Chemung County District Attorney from 1973 to 1983. He was elected to the Supreme Court in 1982 and reelected in l996. In 1987, he was appointed Administrative Judge for the Sixth Judicial District. Justice Crew was designated a Justice of the Third Department effective January 1, 1991. Justice Crew has lectured as an adjunct professor of law at Elmira College and has also lectured at Corning Community College and other venues. He is the author of the publication "Criminal Discovery in New York State -- Selected Issues," currently in its ninth edition. He served on the Court of Appeals in 1994 by designation.

He retired from the bench in 2007.

73. ***Anthony V. Cardona, Albany, Third District, 1993-2011, Presiding Justice 1994-2011***

Presiding Justice Anthony V. Cardona was designated a Justice of the Third Department on September 8, 1993. He was appointed Presiding Justice on January 1, 1994 and reappointed January 1, 2005. He served as Presiding Justice longer than any other Presiding Justice. Presiding Justice Cardona graduated from Manhattan College in l962. He served in the United States Navy from 1963 to 1967 and served as a Naval officer in the Vietnam War. Following his honorable discharge, he attended Albany Law School and graduated in l970. Presiding Justice Cardona practiced law for 14 years, a span that included a two-year period as a part-time attorney with the Albany County Public Defender's office and service as a Law Guardian in Albany County Family Court. His judicial career started as Albany County Family Court Judge in l985, where he served until he was elected to the Supreme Court effective January 1, 1991. He was reelected to the Supreme Court in 2004. Presiding Justice Cardona was appointed Administrative Judge for the Third Judicial District in January 1992 and served in that capacity until his designation to the Third Department. Presiding Justice Cardona served as co-chair of the Family Violence Task Force established by Chief Judge Kaye, from 1994-2005, served as a member of the Board of Trustees of Albany Law School, and was a member of the Council of Chief Judges of the American Bar Association and served as the Council's President from 2002 to 2003. Presiding Justice Cardona died December 4, 2011.

74. ***James N. White, Fonda, Fourth District, 1993- 1998***

Justice James N. White was appointed to the Third Department on September 8, 1993. A resident of Amsterdam, he had served as a Justice of the Supreme Court since 1985. He was designated as the Administrative Judge of the Fourth Judicial District in January 1992. From 1972 until 1984, Justice White was the Montgomery County Judge, having initially been appointed and subsequently twice elected. In addition to his judicial career, Justice White was the part-time Assistant District Attorney for Montgomery County for seven years and then served as Montgomery County District Attorney from 1965 to 1972. He was a general private practitioner in Rochester and then in Amsterdam,

and is a graduate of the University of Pennsylvania and Harvard Law School. He retired from the Third Department in 1998. Justice White died in 2011.

75. ***Karen K. Peters, Kingston, Third District, 1994-2017, Presiding Justice 2012-2017***

Presiding Justice Karen K. Peters was appointed a Justice of the Third Department on February 3, 1994, by Governor Mario Cuomo. In 1992, she became the first woman elected to the Supreme Court in the Third Department. She was reelected in 2006. On April 5, 2012, she became the first woman to be Presiding Justice of the Third Department when appointed by Governor Andrew Cuomo. Her judicial career began with her election to the Ulster County Family Court in 1983. Presiding Justice Peters, admitted to the practice of law in 1973, began her legal career in private practice, later serving as an Assistant District Attorney in Dutchess County. From 1979 to 1983, she was counsel to the State Division of Alcoholism and Alcohol Abuse and became the director of the State Assembly Government Operations Committee in 1983. A former assistant professor at the State University of New York at New Paltz, Presiding Justice Peters is a graduate of George Washington University (1969) and New York University School of Law (1972). She served as a member of the Commission on Judicial Conduct from 2000 to 2012. Presiding Justice Peters retied as Presiding Justice and from the Third Department at the end of 2017. In February 2018, Chief Judge Janet Fiore appointed Presiding Justice Peters as Chair of New York's Permanent Commission on Justice for Children, formed in 1988.

76. ***Edward O. Spain, Troy, Third District, 1994-2013***

Justice Edward O. Spain was designated a Justice of the Third Department effective December 30, 1994. He began his legal career in private practice in 1966 with his father in Troy. In 1967, he served as an Assistant District Attorney for Rensselaer County until he was called to active duty in the United States Navy, Judge Advocate General corps; he was honorably discharged in 1972 with the rank of Lieutenant. Justice Spain returned to private practice and served as Deputy Corporation Counsel for the City of Troy for two years. In 1977, Justice Spain served as Deputy Clerk of Rensselaer County Surrogate's Court and was elected to Troy Police Court, where he served until he was elected to the Rensselaer County Family Court in 1985. He was elected to the

Supreme Court in 1991 and, in January 1994, he was appointed Administrative Judge for the Third Judicial District. He was reelected to the Supreme Court in 2005. Justice Spain is a graduate of LaSalle Institute in Troy, Boston College and Albany Law School. Justice Spain retired from the Appellate Division at the end of 2013.

77. ***Anthony J. Carpinello, Troy, Third District, 1996-2008***

Justice Anthony J. Carpinello was appointed to the Third Department on June 25, 1996. A native of East Greenbush in Rensselaer County, he graduated from Union College in 1970 and from Albany Law School in 1973. Justice Carpinello was elected to the Supreme Court in 1994, after serving two years as an East Greenbush Town Justice. Prior to that, he was a Rensselaer County Legislator for eight years and an East Greenbush Town Councilman for seven years. Justice Carpinello was a law clerk for the Third Department from 1973 to 1974. Upon completion of his clerkship, he entered private practice in Albany where he specialized in commercial litigation for 20 years. Justice Carpinello is currently engaged in dispute resolution with JAMS in New York City.

78. ***Victoria A. Graffeo, Guilderland, Third District, 1998-2000 (Court of Appeals 2001-2014)***

Judge Victoria A. Graffeo was appointed to the Third Department on March 31, 1998. She was elected to the Supreme Court for a term commencing January 1997, having been appointed to fill a vacancy on that court in September 1996. She served as Solicitor General for the State in the Office of the Attorney General from 1995 to 1996. Justice Graffeo spent 10 years of her legal career in the State Legislature, acting as Chief Counsel to the Assembly Minority Leader from 1989 to 1994 and Counsel to the Assembly Minority Leader Pro Tempore from 1984 to 1988. She began her career in public service as Assistant Counsel to the State Division of Alcoholism and Alcohol Abuse in 1982. Earlier, she was in private practice with a law firm in Colonie. A resident of Guilderland in Albany County, Judge Graffeo graduated from the State University College at Oneonta in 1974 and Albany Law School in 1977. She was nominated to the Court of Appeals by Governor Pataki in November 2000 and sworn in as a member of that Court in January 2001. After her term ended in 2014, Judge Graffeo

entered private practice in Albany.

79. ***Carl J. Mugglin, Walton, Sixth District, 1999-2007***

Justice Carl J. Mugglin was appointed to the Third Department effective June 14, 1999. Born in Walton, Delaware County, he is a graduate of the College of Business Administration and the College of Law at Syracuse University. After admission to the Bar in 1962, Justice Mugglin engaged in the general practice of law and served as a confidential law secretary to a judge and one term as Delaware County District Attorney. He was elected a Supreme Court Justice for the Sixth Judicial District in 1985 and was reelected in l999. He maintained chambers in Walton. He retired from the bench in 2007.

80. ***Robert S. Rose, Binghamton, Sixth District, 2000-*****2017**

Justice Robert S. Rose was appointed a Justice of the Third Department effective March 2, 2000. He is a graduate of St. Lawrence University and Albany Law School. After law school, he served in the United States Army as commanding officer of an intelligence unit in West Germany in 1970 and then as a captain in South Vietnam from 1971 to 1972. Upon his return to Broome County, Justice Rose was admitted to the Bar in 1973, served as a confidential law clerk to Hon. Robert E. Fischer, Justice of the Supreme Court, and then as an assistant Broome County District Attorney, before engaging in the private practice of law. He was elected a Supreme Court Justice for the Sixth Judicial District effective January 1, 1988, and was appointed Administrative Judge for the District in 1998. He was reelected to the Supreme Court in 2001. After reaching the mandatory retirement age of 70 in 2013, he was twice "certificated" by the Chief Administrative Judge as a Supreme Court Justice and reappointed to the Appellate Division. He retired from the Third Department at the end of 2017.

81. ***John A. Lahtinen, Plattsburgh, Fourth District, 2000-***

Justice John A. Lahtinen was appointed to the Third Department effective March 6, 2000. He is a graduate of Colgate University and Albany Law School. After his admission to practice in 1971, he engaged in the private practice of law in Plattsburgh,

Clinton County, until he was appointed and then elected Justice of the Supreme Court for the Fourth Judicial District in 1997. Justice Lahtinen also served as law secretary to the late Justice Norman L. Harvey in the early 1970s, as a Clinton County special acting District Attorney, and as a Plattsburgh special acting City Court Judge. Judge Lahtinen retired from the bench at the end of August 2016.

82. ***Anthony T. Kane, Monticello, Third District, 2002-2009***

Justice Anthony T. Kane was appointed to the Third Department effective July 31, 2002. He is a graduate of Iona College (1966) and Cornell Law School (1969). After his admission to the Bar in 1970, he engaged in the private practice of law in Monticello from 1970 to 1985. From 1976 through 1984, Justice Kane served as Town Attorney for the Town of Forestburgh. Justice Kane was elected to the Supreme Court in 1995. He previously served as a Judge of the Family Court of Sullivan County from 1985 to 1991 and as a Judge of the County and Surrogate's Courts of Sullivan County from 1992 to 1995. Justice Kane was the resident Supreme Court Justice in Sullivan County from January 1996 until his appointment to the Appellate Division. Justice Kane retired from the bench at the end of 2009.

83. ***Bernard J. Malone Jr., Albany, Third District, 2008-2012***

Justice Bernard J. Malone Jr. was appointed to the Appellate Division, Third Department effective February 11, 2008. He is a graduate of Niagara University and Albany Law School. Justice Malone served in the United States Army form 1965 to 1969, serving as an officer in the Vietnam War. After admission to practice in 1973, Justice Malone was an assistant District Attorney in Albany County and engaged in the private practice of law in Albany from 1974 until 1982. He served as an assistant United States Attorney for the Northern District of New York from 1982 until 1998. He was appointed to the Supreme Court in early 1998 and elected in November of that year to a 14-year term. He was appointed an Associate Justice of the Appellate Division, First Department in August 2005. Justice Malone is a member emeriti of the Board of Trustees of Albany Law School. Since leaving the bench in 2012, he has been in private practice in Albany.

84. ***E. Michael Kavanagh, Kingston, Third District, 2008-2012***

Justice E. Michael Kavanagh was appointed to the Appellate Division, Third Department on February 5, 2008. He graduated from Merrimack College in 1965 and from Villanova University School of Law in 1968. He served in the United States Army from 1968 to 1970 and was honorably discharged. He was admitted to the practice of law in 1970. Justice Kavanagh began his legal career in private practice with Munley & Mead in Great Neck, New York in 1968. He served as an assistant District Attorney in the New York County District Attorney's Office (1970 to 1974) and then as Chief Assistant District Attorney at the Ulster County District Attorney's Office (1974 to 1978). He was elected Ulster County District Attorney in 1978 and reelected six times; he served until December 1998. He was elected Supreme Court Justice for the Third Judicial District in 1998. Justice Kavanagh was appointed to the Appellate Division, First Department on November 17, 2006. He served as representative of the Third Judicial District to the New York State Litigation Coordination Panel from 2005. He also served as a member of the Advisory Committee on Judicial Ethics from his appointment in 2005 by the Chief Administrative Judge. Justice Kavanagh is in private practice with a law firm in Kingston, Ulster County.

85. ***Leslie E. Stein, Albany, Third District, 2008-2015 (Court of Appeals 2015-)***

Judge Leslie E. Stein was appointed to the Appellate Division, Third Department effective February 11, 2008. She graduated from Macalaster College in 1978 and from Albany Law School in 1981. She was elected Albany City Court Judge in 1997 and served as Acting Family Court Judge in 2001. She was elected to the Supreme Court for the Third Judicial District in 2001. She served as the Administrative Judge of the Rensselaer County Integrated Domestic Violence Part from January 2006 to February 2008. Prior to her judicial career, Judge Stein was confidential law clerk to the Schenectady County Family Court Judges from 1981 to 1983. She then engaged in private practice from 1983 to 1987, practicing exclusively in matrimonial and family law. She was elected a Fellow of the American Academy of Matrimonial Lawyers in 1991. She is a founding member of the New York State Judicial Institute on Professionalism in the Law, established by Chief Judge Kaye, since 1999. Judge Stein served as chair of the Third Judicial District Gender Fairness Committee from 2001 to 2005. On October 17,

2014, Governor Andrew Cuomo nominated Judge Stein to the Court of Appeals. The New York State Senate confirmed the appointment on February 9, 2015.

86. ***William E. McCarthy, Albany, Third District, 2009-***

Justice William E. McCarthy was appointed to the Appellate Division, Third Department, effective January 30, 2009. He graduated from State University College of New York at Potsdam and Albany Law School. He served as confidential law clerk to Supreme Court Justice Edward Conway (1990-1993), Supreme Court Justice Joseph Harris (1994-1997), and Court of Claims Judge Edward Sheridan (1997-1998). He then served as Senior Assistant Counsel to Governor George Pataki from 1998 to 2004. Justice McCarthy was appointed to the Supreme Court for the Third Judicial District in June 2004 and elected to a 14-year term in November 2004. He was appointed an Associate Justice of the Appellate Division, Second Department in December 2006. He served as Justice-in-charge, Commercial Division, Supreme Court, Albany County, in 2006. Justice McCarthy has served as a member of the New York State CPLR article 81 Guardianship Committee and is a former adjunct professor at Siena College.

87. ***Elizabeth A. Garry, Norwich, Sixth District, 2009- , Presiding Justice 2018-***

Presiding Justice Elizabeth A. Garry was appointed to the Appellate Division, Third Department effective March 19, 2009. Governor Andrew M. Cuomo appointed her Presiding Justice of the Appellate Division, Third Department, on January 1, 2018. She graduated from Alfred University and Albany Law School. Presiding Justice Garry served as Confidential Law Clerk to Hon. Irad S. Ingraham, Justice of the Supreme Court, from 1990 to 1994. She then engaged in private practice with the Joyce Law Firm in central New York from 1995 through 2006. Presiding Justice Garry served on the Planning Board for the Town of Berlin, Chenango County, from 1999 to 2001. She was elected as Town Justice in the Town of New Berlin in 2001 and reelected to a second term in 2005. Presiding Justice Garry was elected Supreme Court Justice for the Sixth Judicial District in 2006.

88. ***John C. Egan Jr., Albany, Third District, 2010-***

Justice John C. Egan Jr. was appointed to the Appellate Division, Third Department, effective February 4, 2010. He graduated from Bryant College in 1976 and from Albany Law School in 1980. He was admitted to the practice of law in 1981. Justice Egan engaged in private practice from 1981 to 1996. He served as Assistant Corporation Counsel for the City of Albany from 1981 to 1996. He also served as part-time law clerk in Albany County Surrogate's Court. He has served as Counsel, Third Department Judicial Screening Committee. Justice Egan was elected Albany City Court Judge in 1996. He was elected Supreme Court Justice for the Third Judicial District in 2005.

89. ***Michael C. Lynch, Albany, Third District, 2014-***

Justice Michael C. Lynch was appointed to the Appellate Division, Third Department on April 15, 2014. He is a graduate of Union College and Albany Law School. He served as an Assistant District Attorney in Albany County from 1980 to 1981. From 1981 to 1989, he served as the Principal Law Clerk to Hon. Leonard A. Weiss of the Appellate Division, Third Department. Thereafter, he engaged in the private practice of law from 1989 to 2005 and served as Albany County Attorney from 1995 to 2005. His other positions included serving as counsel to both the Albany County Industrial Development Agency and the City of Albany Charter Revision Commission of 1998. Justice Lynch was elected a Supreme Court Justice for the Third Judicial District in 2005.

90. ***Eugene P. Devine, Albany, Third District, 2014-***

Justice Eugene P. Devine was appointed to the Appellate Division, Third Department on April 15, 2014. He is a graduate of Villanova University and Albany Law School. He engaged in private practice for over 30 years. He was an Assistant Public Defender in Albany County and, from 1996 until 2006, the Public Defender of Albany County. He has also served as chief counsel for the Albany County Department of Social Services and as a member of the New York State Judicial Advisory Council. Justice Devine was elected to the Supreme Court from the Third Judicial District in 2006. He

was the recipient in 2013 of the Harold E. Koreman Award given by the State Trial Lawyers' Association for his commitment to the administration of justice with fairness and compassion. He has served as an adjunct professor of business law at both the College of St. Rose and Siena College.

91. ***Christine M. Clark, Schenectady, Fourth District, 2014-***

Justice Christine M. Clark was appointed to the Appellate Division, Third Department effective April 24, 2014. She initially attended a certificate program at the Alvin Ailey Dance Center in New York City and danced for several years with small modern dance companies. She graduated from Columbia University and Albany Law School. She began her legal career in private practice before becoming an Assistant District Attorney in Schenectady County from 1998 until 2004. Her judicial career began in 2004 when she was appointed as Schenectady City Court Judge. She was elected to that position in 2005. She was elected to the office of Schenectady County Family Court Judge in 2010. She became the second woman ever elected as a Supreme Court Justice from the Fourth Judicial District in 2012.

92. ***Robert C. Mulvey, Ithaca, Sixth District, 2016-***

Justice Robert C. Mulvey was appointed to the Appellate Division, Third Department effective March 1, 2016. He is a graduate of the State University College at Cortland and New York Law School. He engaged in private practice with Richard I. Mulvey (1980-1994) and Albanese & Mulvey Law Firm (1994-2000). He served as Assistant District Attorney (1982-1987) and as County Attorney for Tompkins County (1987-1993). He served as Legislative Counsel for State Senator James L. Seward (1994-2000). Justice Mulvey was elected to the Supreme Court for the Sixth Judicial District in November 2000 and reelected in November 2014. He was appointed Administrative Judge for the Sixth Judicial District in 2009. He was appointed as a member of the New York State Advisory Committee on Judicial Ethics in 2006.

93. ***Sharon A.M. Aarons, Bronx, Twelfth District, 2016-***

Justice Sharon A.M. Aarons was appointed to the Appellate Division, Third

Department by Governor Andrew M. Cuomo, effective March 1, 2016. The first person of color appointed to the Third Department, Justice Aarons emigrated from Jamaica, West Indies, where she was born, to the United States. She graduated from New York University and City University of New York School of Law. Justice Aarons was elected as Supreme Court Justice for the 12th Judicial District in 2009 and Judge of the Civil Court for Bronx County in 2003. She began her legal career as an attorney for the Legal Aid Society, Criminal Defense Division. She served as Principal Law Clerk to the Surrogate of Bronx County Lee L. Holsman and Supreme Court Justice Alexander W. Hunter Jr. She engaged in private practice specializing in personal injury and medical malpractice litigation with the Law Offices of William A. Gallina. She has taught as an adjunct professor at Pace University School of Law, Lehman College and Bronx Community College; was appointed as a member of the Unified Court System's Second Special Commission on Fiduciary Appointments; and, since 2008, has served as Chairwoman of the Board of Directors for the Highbridge Advisory Council, Family Services, Inc., a non-profit organization dedicated to serving special needs and preschool children in Bronx County. Justice Aarons is former President and Chairwoman and current Board Member of the Black Bar Association of Bronx County.

94. ***Phillip R. Rumsey, Cortland, Sixth District, 2017-***

Justice Phillip R. Rumsey was appointed to the Appellate Division, Third Department effective May 26, 2017. He graduated from Hamilton College and Syracuse University College of Law. He was admitted to practice in 1976 and his legal career has included service as Assistant District Attorney (1976-1979) and Assistant County Attorney (1980-1983) for Cortland County and service as Attorney for the Town of Cortlandville (1983-1993) and the Cortland Housing Authority (1988-1993). He engaged in private practice with Ryan & Rumsey in Homer, New York (1976-1993) and served as Legislative Counsel for State Senator James L. Seward (1987-1993) and Counsel to the Senate Standing Committee on Agriculture (1985-1986). Justice Rumsey was elected Supreme Court Justice in the Sixth Judicial District in 1993 and reelected in 2007. He is a member of the Committee on New York Pattern Jury Instructions - Civil (2008-present). Justice Rumsey was honorably discharged from service in the military police unit of the Army National Guard. He maintains chambers in Cortland.

95. Stan L. Pritzker, Fort Edward, Fourth District, 2017-

Justice Stan L. Pritzker was appointed to the Appellate Division, Third Department effective May 26, 2017. He graduated from the State University of New York at Buffalo (BA and MSW) and from the St. John's University School of Law (evening program). He engaged in private practice for nearly 20 years. Justice Pritzker was elected to Washington County Court in 2004, presiding in County, Family, Surrogate's and Drug Court. He was designated as Acting Supreme Court Justice in 2007. He was elected Supreme Court Justice in the Fourth Judicial District in 2013. He was a member of the Family Court Rules Advisory Committee (2007-2014), appointed as a member to the Unified Court System's Second Special Committee on Fiduciary Appointments, and served as President of the Washington County Bar Association (2015-2017). He maintains chambers in Fort Edward.

THE CLERKS OF THE COURT: 1896 TO PRESENT

Only six individuals have served as Clerk of the Appellate Division, Third Department since 1896. The responsibilities of the Clerk are administrative, although sometimes defined by statute or court rule. Because the Clerk and staff are career employees, the Clerk's office often serves as the memory for the Court, providing continuity in procedures as the Court's membership changes.

The first Clerk was Joseph H. Hollands. Prior to being Clerk, he had served in a similar capacity with the former General Term of Supreme Court and the trial and special terms of Supreme Court in Albany. He was an attorney and, at one time, a Justice of the Peace in Watervliet. He retired on August 14, 1925, at the age of 82, after almost 30 years of service as Clerk.

The second Clerk was John S. Herrick, first cousin of Justice Herrick. Mr. Herrick began employment with the Appellate Division in April 1907 as a stenographer. He was appointed Deputy Clerk on January 10, 1922. He was officially appointed Clerk on November 19, 1925 after temporarily holding the post (as acting Clerk) after Mr. Hollands' retirement. Mr. Herrick retired on March 26, 1956, after more than 30 years of service as Clerk (the longest tenure of the six Clerks to date).

The third Clerk was J. Robert Lannon. Mr. Lannon was a native of Norwich, Chenango County, and attended Notre Dame University and Albany Law School. He

was admitted to the Bar in 1940. That year he became a confidential clerk to the Court. In 1948, he was promoted to assistant Deputy Clerk and in 1950 to Deputy Clerk.

The fourth Clerk was John J. O'Brien, who was appointed Clerk effective August 1, 1960 to succeed Mr. Lannon, who continued on the Court staff as a deputy clerk functioning as a special assistant to Presiding Justice Bergan until his elevation to the Court of Appeals at the beginning of 1964 (having been elected in 1963) and Mr. Lannon's subsequent retirement that same year. Mr. O'Brien had joined the Court staff in 1956 as a confidential law assistant, a position newly created by the Legislature. At that time, he had served as a confidential law clerk to Supreme Court Justice Donald S. Taylor of Troy since January 1, 1949 (Justice Taylor was appointed to the Appellate Division in 1961); he had also been associated for a number of years with the Troy firm of Wager, Taylor, Howd & Brearton. Mr. O'Brien was the Court's first confidential law assistant and wrote the first preliminary report. Mr. O'Brien retired effective May 31, 1983. Mr. O'Brien graduated from St. Mary's School, Catholic Central High School, Siena College, and Albany Law School. He was a Navy veteran of World War II. Both he and his brother, Timothy F. O'Brien, served the Court as members of the Committee on Character and Fitness for the Third Judicial District.

The fifth Clerk was Michael J. Novack, who was appointed in 1983. Mr. Novack was born in Troy in 1947. He received his B.A. from Siena College in Loudonville (1968) and his law degree from Albany Law School (1971). He was employed by the Appellate Division from 1972 and previously served as Chief Motion Clerk, Chief Appellate Court Attorney, and then Deputy Clerk. Mr. Novack retired effective November 24, 2010, having served as Clerk for over 27 years.

The sixth Clerk is Robert D. Mayberger. Mr. Mayberger was born in Schenectady in 1953. He graduated from the University of North Carolina (1975) and Albany Law School (1978). He joined the Court's staff in 1978 as an Appellate Court Attorney. After serving as Law Clerk to Associate Justice T. Paul Kane and Presiding Justice A. Franklin Mahoney, Mr. Mayberger also served as Chief Appellate Court Attorney before being appointed Deputy Clerk in 1983. Mr. Mayberger was appointed Clerk effective November 24, 2010.

APPELLATE DIVISION, THIRD DEPARTMENT, COURTHOUSES: 1896 TO PRESENT

City Hall

The Third Department held its first two regular sessions in January and April 1896, and an extraordinary session in October 1896, in Albany's present City Hall, and convened in the Common Council chambers. The present City Hall is the second city hall to occupy the site, the first having been destroyed by a fire of mysterious origin on February 10, 1880. City Hall was built during the years 1881 to 1883. It is four stories in height, with a tower 202 feet high, which houses a bell carillon installed in the 1920s as a memorial to the heroes of World War I. City Hall was built by the Norcross Brothers at a cost of $325,000, including furnishings, following the design by famous architect Henry Hobson Richardson of Boston. Richardson also designed large portions of the State Capitol's interior, including the Senate chamber, the Governor's office, and the Great Western Staircase. In 1885, Richardson's Albany City Hall and the New York State Capitol were ranked among the 10 most beautiful buildings in the United States by the readers of American Architecture and Building News. City Hall was placed on the National Historic Register in 1972. The City Hall occupied by the Court in 1896 was built with funds insufficient to complete the building, especially the interior, as Richardson would have liked to have done. As a result, the design of the interior was modest and did not provide adequate lighting and the space inside the building could not be used efficiently. Between 1917 and 1920, the interior was redesigned and, on January 1, 1920, a ceremony was held to celebrate the official reopening of City Hall. The most notable visible changes were in the main lobby and vestibule, the Mayor's office, and the Common Council chamber. The General Term, the Appellate Division's predecessor court, held its Albany sessions in City Hall.

Saratoga Springs Town Hall

The Third Department held its September sessions from 1896 to September 1918 in Saratoga Springs Town Hall. When Saratoga Springs was incorporated in 1915, Town Hall became the present City Hall. The Court probably met in Saratoga Springs so that the justices and their families could enjoy the hotels and spring waters for which the town

was famous. The Court met in rooms occupied by the Leary & Fullerton law firm (later known as the Leary, Fullerton & Sweeney law firm after future Justice Sweeney became a partner). The American Bar Association was founded in the Saratoga Springs Town Hall in 1878. The Court of Appeals also used to hold sessions in Saratoga Springs for the same reasons as the Appellate Division. The original part of Town Hall was built in 1871; an addition in the rear, where the Appellate Division met, was probably built around 1882. The building was remodeled in 1936; at that time, a clock tower was removed as were lions that guarded the entrance. The tower also housed a large bell used, among other things, as a fire alarm. The second floor of the building once housed a theater.

Albany County Building

In 1972, Presiding Justice Herlihy stated that, "History does not indicate how welcome we were at City Hall, whether as tenants or guests, but it could hardly have been an easy assignment for City Hall, not only to quarter its own city and county offices, but, in addition, the five permanent members of the new Appellate Division and staff, the trial and special terms of the Supreme Court, the county and recorder's court and their staffs, as well as to provide chambers for the resident Justices of the Supreme Court. Fortunately for the courts, however, the county officials-- at the urging of the local Bar-- had already recognized the need for larger court facilities; and, towards that end, had purchased the old Albany Savings Bank building which still stands at the northwest corner of State and Chapel Streets. With renovations complete, most of City Hall's judicial tenants were moved to these new quarters in what was called the Albany County Building; and it was there, beginning with our December term in 1896, that the Appellate Division was to be housed for the next 20 years-- until our third move in 1916 [to the Albany County Courthouse]."

At the dedication of the new courthouse on Tuesday, December 1, 1896, Presiding Justice Parker said, "The convenient waiting room, and a well ventilated and handsome Court Room, will enable you Gentlemen to comfortably present your cases in a manner satisfactory to yourselves. A private room for each member of the Court, a comfortable consultation room, surrounded by a convenient library, enables us to give our undisturbed thought and attention to our work; and you may be assured that we fully appreciate the energy, good taste and liberality which has been exercised in bringing about this

satisfactory result."

The Albany County Building at 91 State Street no longer exists. The building was razed in the early 1970s as part of the Hotel Ten Eyck Project, which removed a number of buildings (and including the Chapel Street/State Street corner) and replaced them with a complex including a hotel. In the intervening years, the building was known as "91 State Street" and was sometimes referred to as the Woollard Building because it was occupied by two tenants named Woollard, one a realtor and one an attorney.

Albany County Courthouse

The Appellate Division, Third Department was housed in the Albany County Courthouse from 1916 to 1972, about 56 years. The cornerstone of the new courthouse, constructed on the site formerly occupied by the high school, was laid with impressive public judicial ceremony on Saturday, May 8, 1915, including a military display by a local infantry battalion. The participants gathered at the City Hall at 2:00 PM and then marched, preceded by the militia battalion, to the courthouse. Presiding Justice Smith's remarks touched on the imminent danger of war. The sinking of the Lusitania had just occurred. He called for an "international court to which all international controversies must be submitted and invested with power to enforce its decrees." Justice Chester pointed out that the new building was the first one in Albany County that could be fairly called a courthouse.

The Albany County Board of Supervisors enacted the necessary legislation for the construction of the Albany County Courthouse under the advice of County Attorney Ellis J. Staley, father of future Justice Staley. The Board also provided for the raising of $ 1 million to construct the building.

Writing in 1925, Justice Chester noted that upon entering the quarters provided for the Appellate Division (eventually to occupy almost all of the fourth floor), "one is at once impressed with a respect for the law [and] the extensive law library that walls the room to which the Appellate justices retire to consider their cases, a room as large as the average courtroom." He also noted that in the various courtrooms were hung many portraits in oil of jurists.

The Third Department first convened in the Albany County Courthouse on November 14, 1916. Justice Kellogg presided in a ceremony at which portraits of former Presiding Justice Parker and Associate Justice Houghton were presented. A newspaper

account of the ceremony called the Court's new quarters "palatial". The same account stated that the Court would hand down decisions the next day, and it was expected that one of the most important would consider the operation of motion picture theaters on Sundays, a test case having been argued before the Court at its last term in Saratoga Springs.

The design of the courthouse is neo-classical. Hoppin and Koen, a prominent New York City architectural firm, won the county courthouse competition and supervised its construction at the same time that its neighbor, State Hall, was being renovated for use by the Court of Appeals. The design was widely published in the architectural press of the day.

In 1958 to 1959, Court of Appeals Hall underwent extensive renovation. During this period, the Court of Appeals shared space with the Appellate Division in the Albany County Courthouse. Court of Appeals Hall was rededicated on October 5, 1959.

The final session in the Albany County Courthouse was Friday, January 14, 1972. The final session was memorialized by a ceremony at which a number of prominent judges spoke, as well as the Mayor of Albany and Condon A. Lyons, President of the Albany County Bar Association. Mr. Lyons voiced regret at "the loss of the immediate presence of this Court which, being in this building, has afforded us the opportunity of knowing the Justices of the Court, both past and present, and its staff in a way which would not be possible if our contacts came simply through arguing cases on appeal. Chance meetings in the building with the exchanges of the time of day, a wry comment or a humorous quip, have been the basis of a friendship between an appellate court and a practicing Bar, which is unique in the State."

The Robert Abrams Building for Law and Justice

The Third Department moved to its present quarters in the Robert Abrams Building for Law and Justice of the modernistic Governor Nelson A. Rockefeller Empire State Plaza in February 1972. The building was formerly known as the Justice Building but was renamed after former Attorney General Abrams at a ceremony in August 2009. Space constraints at the Albany County Courthouse, for both the Appellate Division and the other courts housed there, prompted the move. The new facilities were dedicated in a ceremony on April 24, 1972, attended by a number of dignitaries, including Governor Rockefeller, who spoke briefly. A plaque, containing a brief passage from the Governor's

remarks, is on the wall outside the Courtroom. The personal intervention of Governor Rockefeller in 1965, at the behest of the Court, assured the Third Department occupancy in the Robert Abrams Building for Law and Justice.

By the early 1960s, the need for state office space in Albany had again become acute. At that time Albany, like other cities, was suffering a deterioration of its downtown. In recognition of these joint needs, Governor Rockefeller resolved to embark on a downtown building program that would not only meet the need for state office space and help rejuvenate Albany, but would make Albany a beautiful Capital city. So, in 1962, the Empire State Plaza was born. Construction was not to start until three years later after the site of 98 acres (including access highways and adjoining areas - forty city blocks of Albany's South End) was cleared of 1,150 buildings and more than 3,000 family units.

Architectural design was placed under the direction of the New York City firm of Harrison & Abramovitz, although other architectural firms were later assigned detailed planning of individual buildings and the services of many engineering firms were called on. The Plaza (originally called the South Mall Project) was architect Wallace K. Harrison's final monumental commission in a long career associated with the Rockefeller family. Beginning as a junior partner on Rockefeller Center in the 1930s, Harrison's designs, including the United Nations headquarters (1953) and Lincoln Center (1966) in New York City, frequently consisted of complexes grouped around water. The Robert Abrams Building for Law and Justice architect was the firm of Sargent, Crenshaw, Webster and Folley of Syracuse. The Plaza was completed in 1978 at a cost which has been estimated at almost $2 billion.

On October 6, 1978, Governor Carey presided at the re-dedication of the Plaza as the Governor Nelson A. Rockefeller Empire State Plaza in honor of the former governor and vice-president who had brought about its creation. Gov. Rockefeller attended. Governor Rockefeller had presided over a November 21, 1973 dedication ceremony christening the mall the Empire State Plaza. He died on January 26, 1979.

In addition to the Robert Abrams Building for Law and Justice (which also houses the Court of Claims and offices of the Attorney General), the Plaza contains a concourse with shops, banks, cafeterias, restaurants, and an important 1960s collection of contemporary art and sculpture (all by New York State artists), a Convention Center (used by the Appellate Division for attorney admission ceremonies), a performing arts center (the Egg), a 42-story office building with an observation gallery (named the

Erastus Corning II Tower in 1983), the Legislative Office Building, the Cultural Education Center (which houses the State Museum, the State Library [with a collection of 4.5 million books], and the State Archives), the New York State Vietnam Memorial, the Swan Street Building housing the State Department of Motor Vehicles, four 23-story agency office buildings, and a great public square with pools, flowers, fountains, and parks. Ten thousand employees work at the Plaza.

The Appellate Division occupies several floors of the Robert Abrams Building for Law and Justice. The contemporary style courtroom on the fifth floor originally included acoustically designed fluted walls and coffer ceiling. The Court was intimately involved in the selection of furnishings and the interior design and decoration of the Appellate Division quarters.

As happened with the Court's previous home, space constraints again became an issue as the Court's two floors in the building could not accommodate the increase in staff and storage needed to keep up with an ever increasing caseload. Plans to completely refurbish the Court's space began in late 1999. By 2002, the Court began to occupy a third floor within the building. In late 2003, most of the Court's staff was relocated to temporary quarters while the original two floors of the building space underwent a complete renovation. The highlights of this renovation were a redesigned Courtroom, integrating marble and wood paneling and a central lay light, and an expanded Justices' Conference Room. Finally, in October 2005, construction was completed and the Court's relocated staff returned to the Robert Abrams Building for Law and Justice, where the first session of Court was held in the renovated Courtroom on November 14, 2005.

Other Venues

Prior to 1995, the Appellate Division, Third Department sat in only two locales other than those mentioned above. The May term of 1902 was recessed to the chambers of Justice Chase at Catskill, Greene County for the purpose only of hearing motions, swearing in applicants for admission to the Bar, and handing down decisions on July 8, 1902. The May term of 1910 was recessed to the chambers of Justice John M. Kellogg at Ogdensburg in St. Lawrence County for the purpose only of hearing motions and handing down decisions on June 28, 1910. In the fall of l995, the Court held a session at the Albany Law School. Since 1996, as part of a program initiated by Presiding Justice Cardona, the Court has held sessions throughout the Third Department and often at

Albany Law School and Cornell Law School.

From 2003 to 2005, during renovation of the Robert Abrams Building for Law and Justice courtroom and offices, the Appellate Division, Third Department was temporarily located in an office building at 286 Washington Avenue Extension in Albany. The Court still maintains auxiliary offices in that building.

DETAILED STATUTORY AND CONSTITUTIONAL HISTORY OF THE APPELLATE DIVISION

The statutory and constitutional history of the Appellate Division, Third Department is also the history of the evolution of New York State's appellate court system. As such, it involves the history of New York's statewide trial court, of which the Appellate Division is a part, and of the state's highest appellate court. Intermediate appellate jurisdiction was first lodged in the Supreme Court of Judicature, then the General Terms of Supreme Court, and then the Appellate Division. Final appellate jurisdiction was first lodged in the Court for the Correction of Errors and Appeals, then the Court for the Trial of Impeachments and the Correction of Errors, and then the Court of Appeals.

As a division of the New York State Supreme Court, the Appellate Division's origins can be directly traced to 1691. In that year, the Colonial Assembly (the first General Assembly to meet after the English Revolution of 1688) established the Supreme Court of Judicature, the antecedent of today's Supreme Court. The court possessed all the civil, criminal and extremely limited appellate jurisdictions of English common law courts. Appeals from the court lay with the colonial Governor and his council sitting as the Court for the Correction of Errors and Appeals (also founded in 1691). The court of last resort was the Privy Council sitting in London. The Supreme Court of Judicature originally consisted of a chief judge and two puisne judges; by the time of the Revolution, the number had grown to four. The court held terms in New York City, mostly trying difficult civil cases and major criminal cases. The judges also held circuit sessions in the counties at which they tried civil and criminal cases; the criminal circuit sessions were called courts of oyer and terminer. The judges were appointed by the colonial Governor and sat at his pleasure. The court's term was limited: "The justices must hold a term once every six months and no oftener, on the first Tuesday of October and the first Tuesday of April annually at the city hall in the city of New York, provided they shall not sit longer

than eight days."

New York in 1691 was a far different place than it is today. Only 82 years separated it from Henry Hudson's explorations up the Hudson River for the Dutch and Champlain's exploration of northern New York for the French. The Algonquin and the Iroquois nations were still powerful political forces. Henry Hudson reached Albany in the Half Moon in 1609 and just five years later it became the seat of the first trading post established by the Dutch in New York State. In 1621, the Netherlands gave the Dutch West India Company trading rights to the region claimed for the Dutch by Hudson, called New Netherlands. In 1624, the Dutch settled Fort Orange, present-day Albany, and in 1625 they settled New Amsterdam, present-day New York City. The first Director-General of the Dutch colony was Peter Minuit. He and a small council exercised all executive, legislative, and judicial powers. In 1629, the Dutch introduced the patroon landholding system, hoping to induce settlement in New Netherlands. This feudal system found its greatest permanency and success under Kiliaen van Rensselaer and his successors in an immense tract of land of the upper Hudson embracing practically the whole of the present counties of Albany, Columbia, Delaware, Greene and Rensselaer. In 1653, the Dutch established the first court in the colony in New Amsterdam. In 1664, the English conquered the colony. King Charles II of England granted the colony to his brother, James, Duke of York (the future King James II, 1685-1688), renaming it New York in his brother's honor. The beginnings of New York State government and especially its court system can be primarily traced to the Duke's Laws of 1665 and to the Dongan Judiciary of 1683. Albany County was one of the 10 original counties erected in New York by the English in 1683. It is sometimes referred to as the mother of counties because it embraced all of the territory in New York (and Vermont) north of Ulster and Dutchess counties as far as English claims went, north to Canada and west to Niagara. It retained this vast indefinite size until the 1770s; by 1809 it had assumed close to its present dimensions. Just two years before the establishment of the Supreme Court of Judicature the French and Indian Wars began, which were to last until 1763 and provide future President Washington his first fame. The population of the colony in 1691 was no more than 18,000.

In 1774, colonial Governor Tryon described some of the salient features of New York's colonial government. The Governor was the King's appointee and held office during royal pleasure. He had a council in imitation of the King's council. The colony had an Assembly, consisting of the Governor's council and representatives of the people,

which the Governor could adjourn, prorogue or dissolve. All laws had to be approved by the Governor and the King. The colony had a court of chancery, in which the Governor sat as chancellor and courts of common law, the chief being the Supreme Court of Judicature. There were county courts of lesser jurisdiction and justices of the peace to try minor causes. There were also criminal courts. There was a court of admiralty and a prerogative court, charged with the probate of wills, the administration of estates and the issuing of licenses for marriage. The common law of England was considered the fundamental law of the province.

New York's Fourth Provincial Congress declared New York independent of English rule on July 9, 1776. Renamed the Convention of Representatives, it adopted (without a vote of the people) the State's first Constitution at Kingston on April 20, 1777. The Convention was under constant threat of attack by the British and had previously met successively at White Plains, Harlem, King's Bridge, Odell's In Phillip's Manor, Fishkill, and Poughkeepsie. The court system remained largely unchanged by the new Constitution except for the creation of the Court for the Trial of Impeachments and the Correction of Errors, which replaced the colonial Governor and his council as the highest appellate court. The new court, which was actually organized pursuant to an Act passed in November 1784, reviewed cases brought up from the Court of Chancery, the Supreme Court of Judicature, and the probate and admiralty courts; it was also empowered to try government officials who had been impeached by the Assembly. The new court consisted of the president of the senate (the lieutenant governor), the senators, the chancellor, and the judges of the Supreme Court; the incongruous combination of legislators and judges in the new court was one of its defects which would eventually lead to its replacement by the Court of Appeals. Supreme Court judges were appointed by the Governor and held office during good behavior or until reaching the age of 60 years. (The Constitution was drafted by John Jay, Gouverneur Morris, and Robert Livingston, the oldest of whom was only 31.) By 1800, statutes had been enacted directing the Supreme Court of Judicature to hold terms in Albany as well as in New York City and making more detailed provision for holding circuit sessions in the counties and the outlying districts of the state. At that time, Western New York was still truly pioneer country. The principal business of the Supreme Court of Judicature at its terms was hearing arguments and ruling on points of law raised during pleading in Supreme Court or during circuit session trial proceedings. The Supreme Court also reviewed numerous cases appealed from inferior courts, including the county level civil and criminal courts,

and the courts of justices of the peace. Supreme Court cases were entered on its calendar as "enumerated business" because each case was numbered. "Nonenumerated business", not placed on the calendar, consisted of motions seeking procedural rulings not involving the merits of a case-- for change of venue, for commissions to obtain testimony out of state, and for other special rulings. The first Chief Justice of the Supreme Court of Judicature was John Jay. The minutes of the first term of the court at Kingston in September 1777 were entered in the same volume that had been used by the court prior to the Revolution. However, People of the State of New York was substituted for Dominus Rex in the title and docket of the first case. The court first met in Kingston because New York City was occupied by the British. The first sessions of the Assembly and Senate were also held in Kingston in September 1777. The Supreme Court of Judicature was not expressly created by the Constitution of 1777 but simply continued by implication.

The 1777 Constitution also created a Council of Revision and a Council of Appointment. Since the Governor was not invested with veto power over legislation by the Constitution, that power was invested in a Council of Revision composed of the Governor, the Chancellor, and the Judges of the Supreme Court of Judicature. The Council of Appointment, composed of the Governor and four senators (appointed by the Assembly), controlled the appointments of most officials, state, local, and judicial, with the prominent exception of Assemblymen, Senators, and the Governor.

When the colony became a state, its population was about 175,000. It was divided into 12 counties: Suffolk, Queens, Kings, Richmond, New York, Westchester, Dutchess, Cumberland, Gloucester, Charlotte, Orange, Ulster, Albany, and Tryon. New York County was the commercial center. Albany had the most inhabitants (about 42,000) of the named counties. The only newspaper outside of New York City was the Albany Gazette, established in 1771. The countryside was quite primitive. New York City was the seat of the major colonial and state courts until 1797, when the capital was moved to Albany.

The reliable recorded history of the Supreme Court of Judicature began under Chief Justice James Kent, who became an associate justice in 1798 and was Chief Justice from 1804 to 1814, when he became Chancellor. The first Supreme Court reporter was appointed in 1804. Prior to Justice Kent joining the bench, opinions were delivered orally and there was no systematic examination of cases and written opinions to determine the law. The volumes of Caines' reports, Coleman's Practice and Johnson's cases record the early decisions of the Supreme Court of Judicature.

In 1822, after a third Constitutional Convention in 1821, a revised Constitution was adopted by vote of the people. This Constitution gave the Governor direct power of appointment (with Senate approval) of all judges except justices of the peace, in place of the prior system of appointment by the Council of Appointment. It changed the name of the judges of the Supreme Court of Judicature to justices. It reduced their number to three, including the Chief Justice. It continued the 60-year age limit. The actual trial of factual issues in the Supreme Court was vested in circuit judges (civil trials in the circuit courts and criminal trials in the courts of oyer and terminer); the application of the law to the cases was left to the three Justices of the Supreme Court. This bifurcation of fact-finding and law-finding was much criticized but can be considered a role distinction that eventually led to the bifurcation of trial and appellate functions, which later characterized the Supreme Court and its General Terms and then its Appellate Division. The Constitution authorized the Legislature to establish not more than eight or fewer than four judicial circuits, which can be considered the progenitors of the judicial districts of the state's present Supreme Court. Eight circuits were established in 1823, corresponding to Senatorial districts. In all practical respects, including appointment, term, and power (at chambers, at nisi prius and at oyer and terminer), the circuit judges were and were perceived as Supreme Court justices. The three Supreme Court justices were principally occupied with applying the law to causes tried at circuit, hearing and deciding appeals from circuit judge rulings, and reviewing cases brought up from lower courts by writs of certiorari and error. The Supreme Court of Judicature became, in effect, an intermediate appellate court, holding terms in four places in the state, including Albany. However, the justices were still empowered to preside over a circuit court or a court of oyer and terminer when the press of business so dictated. Their rulings were subject to review by the Court of Errors portion of the continued Court for the Trial of Impeachments and the Correction of Errors. As members of the Court of Errors, they also heard cases brought to that court from their own court or the Court of Chancery; they did not review decisions in which they had taken a personal part. Ultimately, the system of having circuit judges try causes and having the three Supreme Court justices hear appeals and make rulings on questions of law did not work well and was replaced in 1846 by a new system. The 1822 Constitution abolished the Council of Revision (giving the Governor the veto power) and the Council of Appointment (giving the power of appointment over certain offices to the Legislature and over other offices to the Governor). By 1821, the state had 53 counties and a population of nearly a million and a half.

The Constitution of 1846 and the implementing legislation of 1847 made a number of very significant and sweeping reforms, including in the judiciary. The Supreme Court of Judicature was abolished and reconstituted as the Supreme Court. It continued to have statewide original general "jurisdiction in law and equity"; the quoted language was proposed by Levi S. Chatfield of Otsego County and is still part of the language defining the Supreme Court's jurisdiction. The equitable Court of Chancery, which was plagued by delay due to its single chancellor, was abolished. The extensive merger of law and equity in one court was novel. General Terms of Supreme Court were created as the courts of intermediate appellate review, and can be considered the predecessors of the Appellate Division Departments. The eight General Terms were composed of three Supreme Court justices from each of the newly created judicial districts. The General Terms heard appeals from Supreme Court proceedings and from the lower courts. Having eight General Terms with coordinate jurisdiction led to serious conflict of opinion among them. The criminal courts of oyer and terminer continued to operate as branches of Supreme Court until 1896. The justices were elected by district for eight-year terms; at first, four from each of seven of the districts and five from the New York district. The counties comprising the third, fourth and sixth districts established in 1846 correspond to the counties currently in those districts in the Third Department. The 60-year age limitation on service as a justice was discontinued. The county clerks (previously clerks of the circuit sessions of the Supreme Court of Judicature) became the clerks of the new Supreme Court, and the Supreme Court of Judicature's clerk's offices in New York City, Albany, Utica, and Geneva were closed. The 1846 Constitution eliminated the separate adjudication of law by the Supreme Court and fact by the circuit judges which had characterized the system adopted by the 1821 Constitution. The unwieldy Court of Errors was replaced by an eight member Court of Appeals, with broad appellate jurisdiction.

The Court for the Trial of Impeachments was, however, continued, composed of the president of the Senate, the senators, and the Court of Appeals judges (or a majority of each of the two groups); it continues in much the same form to the present. Four of the Court of Appeals' members, including the Chief Judge, were elected for eight-year terms; the other four members were selected from among the Supreme Court justices with the shortest remaining terms. The judge elected by the state at large having the shortest term to serve acted as Chief Judge, which created quick turnover in that position; the inclusion of Supreme Court justices with short terms also created instability among the judicial personnel. The broad appellate jurisdiction of the Court of Appeals fostered a view that

the General Terms were mere way-stations on the road to the Court of Appeals. In a much criticized omission, the 1846 Constitution did not prohibit a justice of the Supreme Court from sitting at General Term or in the Court of Appeals in review of his own decision. The justices were also allowed to refer cases to themselves as official referees, which created the temptation to hear cases as referees and thereby be paid referees' fees to addition to the regular salary. Pursuant to the 1846 Constitution, the landmark Field Code of Procedure was formulated and enacted into law in 1848. This Code substantially expanded the right of appeal which had been strictly limited by the common law prior to 1846. For example, the General Terms were empowered for the first time to review a trial judge's findings of fact, and appeals to the General Terms from intermediate orders were permitted. Several political forces, including the anti-rent and abolitionist movements, as well as concerns about the state's financial stability (partially caused by the state's funding of the canal system), prompted the convening of the 1846 Constitutional Convention and thus provided the opportunity for its judicial reforms. The abolitionists, whose political strength in New York State grew in the 1830s and 1840s, also favored judicial reform, especially direct election of judges. The anti-rent movement sought reform of the remnants of the Dutch patroon landholding system, especially extant in the Van Rensselaer tract. By 1845, the state's population had grown to over two and a half million.

In 1869, just four years after the end of the Civil War, a reformed judiciary article of the Constitution was approved by the voters, effective January 1, 1870. It was proposed by the Constitutional Convention of 1867 (Presiding Justice Parker and Justices Landon and Merwin of the Appellate Division, Third Department's first court were delegates to this Convention). The approved amendment authorized the Legislature to reduce the number of General Terms from eight to no less than four, not unlike today's four Appellate Division Departments. The state was duly divided into four departments for General Term purposes but the number of judicial districts remained at eight. Each General Term was to be composed of a Presiding Justice and two associate justices (later, no more than three) to be designated by the Governor from among all of the Supreme Court justices. The Presiding Justice served during the remainder of his judicial term and the associate justices had five-year terms unless their judicial terms expired sooner. The Third Department was composed of the third, fourth, and sixth judicial districts, as it is today. The first Presiding Justice of the Third Department's General Term was Theodore Miller (from 1870 to 1875 when he was elected to the Court of Appeals); he was followed

by William L. Learned of Albany (1876 to 1891) and Stephen L. Mayham. For a time, from 1883 to 1894, the state was divided into five departments (I to V) as follows: I: first district; II: second district; III: third and fourth districts; IV: fifth and sixth districts; and V: seventh and eighth districts. Four of this Court's first five justices first served on the reformed General Term after 1870 (Presiding Justice Parker being the exception). The General Terms were to be held at least once each year in each Department. The General Term justices were not removed from trial and special term work for long enough periods of time to give the priority to their appellate work. The Supreme Court terms of circuit court, court of oyer and terminer, and special term continued and the General Terms of Supreme Court had authority to hear appeals therefrom as well as from the county courts. Appeals from the General Terms lay to the Court of Appeals; in excepted classes, however, the General Term was the court of final resort.

The amendment also provided for direct election of all of the Judges of the Court of Appeals and reduced the number of judges on that court from eight to seven. The Chief Judge was one of the seven and was directly elected to that office. In 1870, the Legislature also created a temporary Commission of Appeals to handle the serious backlog of Court of Appeals cases. It remained in existence until 1875. Its members consisted of the four members of the Court of Appeals that was superseded by the reconstituted Court in 1870 and a fifth judge appointed by the Governor. The backlog was the result of the broad avenues of appeal to the Court of Appeals, the perceived weaknesses of the General Terms as established in 1846, and the constant turnover of judicial personnel on the Court of Appeals. The backlog accumulated again after the Commission expired and the Judiciary Amendment of 1888 permitted the creation of a second division of the Court of Appeals to handle it. Seven Supreme Court justices were designated by the Governor as associate Court of Appeals judges for this purpose. The Second Division closed its work in October 1892. The Commission and Second Division were not popular methods for dealing with the backlog as they created the potential for conflict between the equal parts; it was also thought that limiting accessibility to the Court of Appeals was a better method of handling its burdensome workload than increasing the number of judges to handle it. Much of the backlog was due to the presentation of issues of fact to the Court of Appeals. Justice Landon was a member of the Second Division from 1891 to 1892. The new judiciary article adopted in 1870 also provided that no justice of the Supreme Court or judge of the Court of Appeals should sit in review of his own decision, or act as a referee. It increased the elective terms of both

Supreme Court justices and judges of the Court of Appeals to 14 years and decreed a compulsory retirement age of 70. The term was a compromise between those favoring fixed terms and those favoring tenure for life during good behavior. Fourteen years was the statistical average of the actual number of years that had been served by federal judges and others who had life tenure. The New York State Bar Association was organized during this general time period, in 1876.

In 1890, the Legislature authorized a State Constitutional Commission to propose Judiciary Act reform. The members were appointed by the Governor and included Justice S. Alonzo Kellogg. The Commission's report was influential at the ensuing Constitutional Convention of 1894. The court system that emerged from that Convention and was approved by the voters in 1894 has remained largely the same to the present, especially in its appellate tribunals. The Convention had been authorized by the voters in 1886, but it was not convened until 1894 because of political dispute. The 1894 Constitution is the state's present Constitution, with ensuing amendments. In addition to judicial reform, the 1894 Constitution set up a merit-based civil service system, prohibited the sale of the forest preserve, authorized the Legislature to maintain and support free, public schools, and established home rule provisions for cities. The 1894 Constitution created the Appellate Division to supplant the General Terms as the state's intermediate appellate court. It limited the jurisdiction of the Court of Appeals to questions of law and reduced the circumstances under which appeal to the Court could be had. It also provided that the Governor could designate as many as four Supreme Court justices to serve as associate judges on the Court of Appeals upon certification by the Court that it was unable to hear and dispose of its cases with reasonable speed. Justice Landon was one of the first judges appointed under this provision and Justice Chase one of the last. The Convention's Judiciary Committee explained the creation of the Appellate Division: "The nine general terms which now exist, five in the supreme court and four in the superior city courts, are to be abolished. The State is to be divided into four departments. In each department an appellate tribunal is to be constituted of five justices elected to the supreme court [seven in the First Department]. The name 'appellate division' is adopted in place of the now meaningless expression 'general term'. All appeals, except in capital cases, are, in the first instance, to be to the appellate division. We propose to make this tribunal a more efficient and satisfactory court of review than the old general term: (a) By making its judgments final in a much wider range of questions through limitations imposed upon the jurisdiction of the court of appeals and

upon appeals to that court. (b) By giving it stability and independence through the establishment of fixed terms for its members, and power to control its own sessions, and appoint its own clerk, and designate the place of his office. (c) By making it large enough [five justices instead of the usual three on General Term] to insure full discussion and the correction of individual opinions by the process of reaching a consensus of opinion. (d) By relieving its members from all other duties, so that there shall be the fullest opportunity for consultation and deliberation undisturbed by the demands of circuit or special term assignments, and so that no litigant shall be obliged to argue his appeal before a court of which the judge from whom he appeals is a member... We are of the opinion that the new appellate courts will be more efficient, that their judgments will be less frequently reversed, and that, for all these reasons, there will be fewer appeals from them to the court of appeals than there are from the existing general terms."

It was intended that the Court of Appeals would be concerned with settling law questions and articulating general principles and reconciling conflicts among the lower courts rather than considering the justice of particular cases on their facts or the discretion exercised; it was intended that the Appellate Divisions would provide the sole appellate review for the vast majority of cases and be the court of last resort upon questions of fact and in all interlocutory proceedings. The Appellate Division was given broad powers to review questions of fact and law. In 1914, its scope of review in civil cases was extended even to review of findings of fact made by a jury in the trial of an action. Even on questions of law, the Court of Appeals jurisdiction was limited to cases where there was an expressed difference of view within the Supreme Court over what the law is, either by reversal of the trial or special term or dissent within the Appellate Division itself (mechanisms for appeals by permission granted by judges of the Court of Appeals of justices of the Appellate Division were also enacted). Elihu Root, chairman of the Convention's Judiciary Committee, is given credit for formulating the new appellate framework. In 1899, he became President McKinley's Secretary of War; in 1905, Secretary of State under President Roosevelt. In 1910, he became President of the Carnegie Endowment for International Peace and he was awarded the Nobel Peace Prize in 1912. The Judiciary Article of the 1894 Constitution went into effect on January 1, 1896. The 1894 Constitution established the Supreme Court, county level courts, and other inferior courts in much their present form; while New York State still has a number of different courts, especially on the county and local levels, the 1894 Constitution certainly was an improvement on the then existing confusing patchwork of courts. The

number of Supreme Court justices was increased to 76 as of January 1, 1896. Two future justices of the Third Department were delegates to the 1894 Constitutional Convention: Justices Lyon and Whitmyer. The Appellate Divisions were given administrative power over the Supreme Court by the 1894 Constitution. The justices had power to fix the time and places for holding special and trial terms of Supreme Court, to assign justices to hold such terms, and to make rules therefor. The sheer volume of litigation and resulting appeals in the state as a whole arising from vast economic development and rapid increase in population (in 1900, the population was seven million) plagued the Appellate Division from the beginning and, for at least the next two decades, the Court of Appeals was also stressed with its consequent workload. In 1899, the Judiciary Article was amended to give the Governor the power to designate additional justices to the Appellate Division Departments as they certified the need therefor.

A Judicial Constitutional Convention was held in 1921, at which future Presiding Justice Hill was a delegate. It built on suggestions from the 1915 Constitutional Convention and resulted in the Judiciary Amendment adopted in 1925. The amendment broadened the jurisdiction of the Court of Appeals in several respects. For example, the Court of Appeals was given power to review cases where the Appellate Division, on reversing or modifying a final judgment, made new findings of fact (this was also the first constitutional recognition of the Appellate Division's power to make new findings of fact); direct appeal was authorized where only a constitutional question was involved. It provided that in the case of the temporary absence or disability of a judge of the Court of Appeals, that Court could assign a Supreme Court justice (in practice, almost always an Appellate Division justice) to the Court of Appeals during such absence or disability. It gave constitutional stature to the Appellate Terms. One of the proposals from the 1915 Constitutional Convention, creation of Children's Courts in the counties outside New York City and the Domestic Relations Court in New York City, was passed by the voters in 1921.

The modern administration of the courts in New York State, including the growth of the centralized Office of Court Administration (OCA), began in the 1950s. In the mid-1950s the Tweed Commission held hearings on the court system. In 1955, the Legislature created the predecessor of OCA, the Judicial Conference, composed of trial and appellate judges from around the state (the Conference succeeded the Judicial Council, which had been established 20 years earlier). Also created was the Office of State Administrator. Both the Conference and the Administrator had only advisory functions. The Conference

still exists as an advisory entity within OCA. In 1961, the Constitution was amended, effective September 1, 1962, to vest authority and responsibility for the administrative supervision of a Unified Court System in the Administrative Board of the Judicial Conference. The Board consists of the Chief Judge of the Court of Appeals and the Presiding Justices of the four Appellate Division Departments. The amendment authorized the appointment of a State Administrator by the Board and departmental court administration committees and directors. The 1962 amendment replaced the Children's Courts and the Domestic Relations Court with a Family Court. In 1974, the four Appellate Divisions delegated their management authority over the trial courts, granted them by the 1894 Constitution and continued under the 1962 amendments, to the State Administrator. The same year, the Legislature created OCA. By constitutional amendment in 1977, effective April 1, 1978, the current central administration of the court system under the direction of the Chief Judge of the Court of Appeals, with day to day operational authority delegated to a Chief Administrator, was established. The 1977 constitutional amendment also eliminated the electoral system for choosing judges of the Court of Appeals and vested that responsibility in the Governor (with the advice and consent of the Senate), who was authorized to appoint Court of Appeals judges from candidates recommended by a Commission on Judicial Nomination. The Commission on Judicial Conduct, responsible for disciplining judges, was also established by 1977 constitutional amendment. In 1976, the Legislature passed the Unified Budget Act making the state directly responsible for court financing, with the exception of facilities and town and village courts. Before 1977, court personnel were county or city employees. OCA's Office of Budget and Finance is now responsible for preparing the budget for the Unified Court System and for monitoring expenditures. In the 1980s, District Administrative Judges were given greater administrative responsibilities, with OCA still serving as the centralized policy source. By 1981, the eight judicial districts extant in 1894 had grown to 12, with the growth in districts occurring in the First and Second Judicial Departments. In 1985, a significant statutory change known as "chapter 300" made the Court of Appeals essentially a certiorari court, meaning that for the most part it selects the cases that it will review (much as the United States Supreme Court does). This change has enhanced the role of the Appellate Division as the court of last resort in New York State.

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