

THE OREGON SUPREME COURT AND ITS MEMBERS

ITS EARLIEST HISTORY AND A BRIEF BIOGRAPHY

The Oregon Supreme Court as at present constituted consists of seven justices with Hon. Thomas A. McBride, chief justice. Up to last winter the number of justices was five, but the growth of population, and consequent increase in legal work had caused the court to get behind, and the legislature to remedy this, very wisely increased the number of justices to seven. The result has been eminently satisfactory in every way, and the court now has its work well in hand and the wearisome delays that had steadily grown longer, are a thing of the past, and litigants can now get quick action on all appealed cases, though the work of the court is still growing rapidly.

In this connection a brief resume of the supreme court from its inception may prove interesting. "The History of the Bench and Bar," published by the Historical Publishing Company, of Portland, gives the following brief but thorough history of the court.

The record shows that February 18, 1841, J. L. Babcock was unanimously chosen supreme judge of Oregon with probate powers, and was instructed to set in accordance with the code and laws of the state of New York until a code should be adopted in Oregon. He was probably the first man to occupy the position.

At Champoeg, May 2, 1843, W. E. Wilson was chosen supreme judge with probate powers "for the purpose of taking steps to organize a civil community and provide laws."

In the code and primary constitution submitted to the legislature on July 5, 1843, it was provided that "the supreme court should consist of a supreme judge and two justices of the peace, with appellate and original jurisdiction."

August 9, 1845, Nathaniel Ford, of Yamhill county, was elected a supreme judge but declined to serve, and Hon. P. H. Burnett was elected by the legislature to serve four years.

Hon. J. Quinn Thornton took office February 11, 1847, and November 13 the same year Columbus Lancaster succeeded him. Hon. A. L. Lovejoy was elected in February, 1849, and the records, incomplete, show W. P. Bryant and Thomas Nelson, who had been appointed supreme court judges, and who reached Oregon in 1849, were successors to Judge Lovejoy.

The first chief justice of the territory of Oregon was Judge William P. Bryant, 1849-1850.

The second was Thomas Nelson, 1850-1853. The third was George H. Williams, 1853-1859.

The first chief justice of the state was Aaron E. Wait, 1859-1865. From 1862 to 1864 and again from 1868 to 1870 Reuben P. Boise was chief justice. Judge Paige Prim was chief justice for three terms between 1859 and 1880, and Erasmus D. Shattuck was chief justice from 1866 to 1868. Then came W. W. Upton, B. F. Bonham, James K. Kelley with two years each in the position, and they were followed by William Paine Lord for three terms between 1880 and 1894.

John Breckenridge Waldo was the sixteenth supreme judge from 1884 to 1886, and William Wallace Thayer from that date until 1890. Then came R. S. Strahan for two years and Robert S. Bean for four. Frank A. Moore filled the place from 1896 to 1902 and again from 1908 until 1911. He was succeeded by the present incumbent, Chief Justice McBride.

During the long formative stage of the state as it emerged from the shadows under which the first primitive government was born, the supreme court had much arduous work, and many difficulties and unique problems to solve. More perhaps than ever fell to the lot of any court, for the strange conditions which surrounded the young commonwealth were different from those any other of the states faced, and there were problems peculiar to these conditions. The old donation land laws, and individual ownership of claims by husband and wife caused many odd questions to be asked. The sometimes double and always doubtful governments, left the residents uncertain whether they were subjects of the British government or citizens of the American republic, made many tangles in titles that the supreme court had to straighten out, and with these were other tangles incident to the first, and these often had both ends of the thread in the middle and the middle lost.

With infinite patience and perseverance one lot of justice after another has slowly digested and gotten rid of most of these much worrying questions, and the work of the supreme court in recent years has been along these lines more in keeping with the work of similar courts in other states.

From the little handful of 192 persons, who at Champoeg in May, 1843, decided by a majority of two votes that Oregon should, and did belong to the United States, that the code and laws of the state of New York should be the law of the land until such time as a code could be provided, and named "a supreme judge," to the present time when more than 700,000 persons take part in selecting the supreme court, the supreme court of Oregon has been composed of men of especially high rank as lawyers. In all that time no breath of scandal has smirched its enviable record, and its justices have gone out of office taking one and all with them the respect and confidence of the entire state. There are few if any states that can show so enviable a record, and this, too, when the salaries paid by the state were entirely inadequate, and politics were "in the saddle" throughout the whole country, and political graft, and even judicial graft, was rampant everywhere. Truly a record of which not only those who made it may feel proud, but one that the state can point to as unequalled in the galaxy of states.

The long list of those who have shed honor on bench and bar in this state from the supreme court bench is truly a "roll of honor." Many who build so strongly the foundations on which the state rests have passed to their reward, and the pages of Oregon history written or to be written will tell their life's work. It is not our intention to write of their work. It is with the present bench that we have to do, and it is with considerable hesitancy and much trepidation we venture even a brief sketch of these, for it would take an abler pen, and a much better informed mind, at least on legal matters, to write of them as justices of the supreme court, than we can claim.

With apologies to the court in advance we append the following brief biography of the supreme court as it is now composed.

M'BRIDE, CHIEF JUSTICE.

The present chief justice is the Hon. Thomas A. McBride, who was appointed associate justice May 1, 1909, and whose term expires next year. At the time of his appointment he was a resident of Oregon City and engaged in practice there.

Like most Oregonians, for he is a native son, he was born in Yamhill county, selecting November 15, 1847, as the time for making his first appearance. He is the son of James and Mahala (Miller) McBride. He was educated in the common schools and at



Thos. A. McBride, Chief Justice.

McMinville college. Admitted to the bar at Salem in October, 1870, and began the practice of his profession at Lafayette in the same year. He removed to St. Helens in 1872, and practiced there until 1877, when he moved to Salt Lake. He married February 7, 1874, Mary E. Merrill.

He practiced in Salt Lake until 1880, when like all other webfooters who leave their native hearth, he could no longer resist the call of home and so shaking the dust of Mormonism from his feet he returned to Oregon to see what real rain looked like, and incidentally again take up the practice of law, which he did, hanging out his shingle at Oregon City in partnership with the late E. L. Eastham, and this partnership was maintained until he was elected circuit judge in 1892. He was district attorney for the Fifth district from 1892 to 1892, and judge of the same district from 1892 until appointed to the supreme bench in

1909. He was also a member of the state legislature, the lower house, in 1876, but he has earnestly and heroically endeavored to live that down and has succeeded so far as that can be done. However, he made a good legislator, and still has the thanks of the community for refusing to introduce more than a dozen bills. He has been chief justice since Jan. 1, 1912.

That is the brief story of the present chief justice, and it is about as complete a history of his life's work as that which is placed over Uncle Sam's dead soldiers, which is full and elaborate if it gives the date of birth and time of death. It costs money to emblazon a man's life work on a tombstone, and Uncle Sam is economical—in some things.

It is not this trait that compels us to thus abbreviate in this case but the fact that few men's work can be told in a newspaper story and certainly the long and strenuous years of "Tom" McBride cannot be crowded into one issue of a newspaper.

Few men in the state are so widely and so favorably known as is this "Nestor of the Oregon bar." Genial, a lover of companionship, with a heart as big as his mind is broad, possessed of a keen sense of humor as well as profound learning in the law, he impresses all who come in contact with him, and binds them to him with the steel hooks of friendship. He has a sharp and witty tongue, but his wit is without malice and his sarcasms without venom. He has never denied assistance to the needy and unfortunate, and many a case he has carried through the courts was carried without money and without price. May he be with us long.

HENRY J. BEAN, JUSTICE.

One of the comparatively new justices is Henry A. Bean, who was elected from Umatilla county, Pendleton, the place of the round-up being his home,



Henry J. Bean, Justice.

in 1910, taking his seat January 1, 1911.

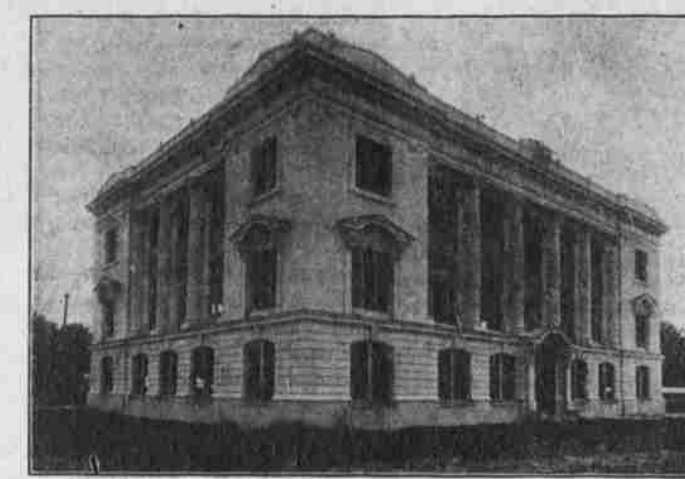
He is another example of what can be done with a Maine man if caught soon enough, for he was born there November 13, 1858. His birthplace was Bethel, and his parents were Timothy and Elizabeth E. (Swift) Bean. He married Mollie E. Magahey June 8, 1886.

He was educated at the public schools and took a business course at Yarmouth Academy, and also attended the Hebrew Academy, and Gonil's Academy at Bethel, his birthplace. Taught school for part of six years, and read law with Hon. Enoch Foster in his home town. He was admitted to the bar of that state March 9, 1881. He began practice in Pendleton, continued in practice there until elected to the supreme court in 1910. He was a partner at different times with some of the most distinguished lawyers of the state. He was with Hon. James A. Fee in 1885-1886; with John H. Lawrence in 1891, and with Stephen A. Lowell in 1900-1. In 1885 and 1886 he was city recorder, and again duty compels us to mention it, was a member of the Oregon legislature in 1889. He was city attorney two terms and county judge of Umatilla county in 1904-6. He was circuit judge from 1906 to 1910 when he was promoted to a position on the supreme bench.

As an attorney Judge Bean had a fine practice, which gave him a good foundation for his present place, broadening his views, giving him deep insight into the law and its practices and forms, and qualifying him for the judicial work called for by the position. He has a logical mind, is a close reasoner, and an ardent student. His opinions show that the authorities have been pretty well overhauled, and they are based firmly on precedent.

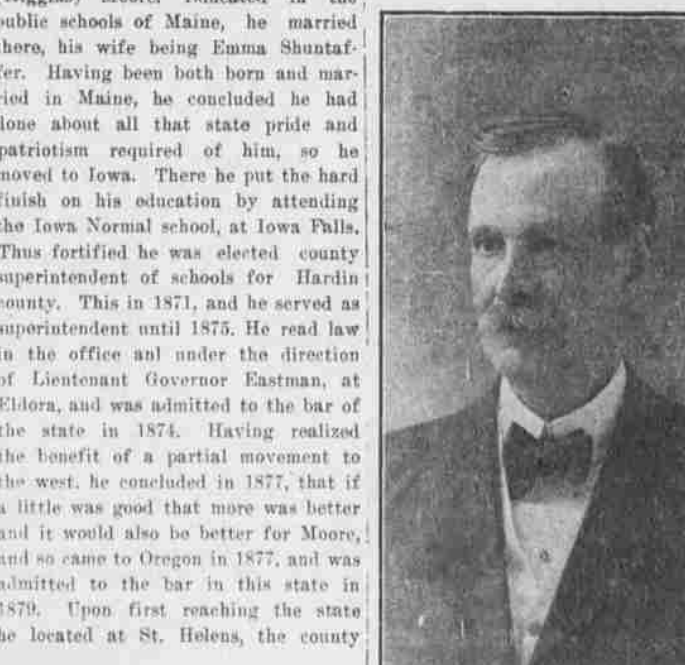
FRANK A. MOORE, JUSTICE.

From January 1, 1909, to January 1, 1911, Justice Frank A. Moore was chief justice. He was born November 5,



Capitol Annex and Supreme Court Building.

1844, at Ellsworth, Maine, and his case row of justices and was the "father proves the truth of the old saying that you can make something of a Maine man 'if you catch him young.'" He is the son of Heard L. and Bathshaba (Higgins) Moore. Educated in the public schools of Maine, he married there, his wife being Emma Shuntaffer. Having been both born and married in Maine, he concluded he had done about all that state pride and patriotism required of him, so he moved to Iowa. There he put the hard finish on his education by attending the Iowa Normal school, at Iowa Falls. Thus fortified he was elected county superintendent of schools for Hardin county. This in 1871, and he served as superintendent until 1875. He read law in the office and under the direction of Lieutenant Governor Eastman, at Eldora, and was admitted to the bar of the state in 1874. Having realized the benefit of a partial movement to the west, he concluded in 1877, that if a little was good that more was better and it would also be better for Moore, and so came to Oregon in 1877, and was admitted to the bar in this state in 1879. Upon first reaching the state he located at St. Helens, the county



Robert Eakin, Justice.

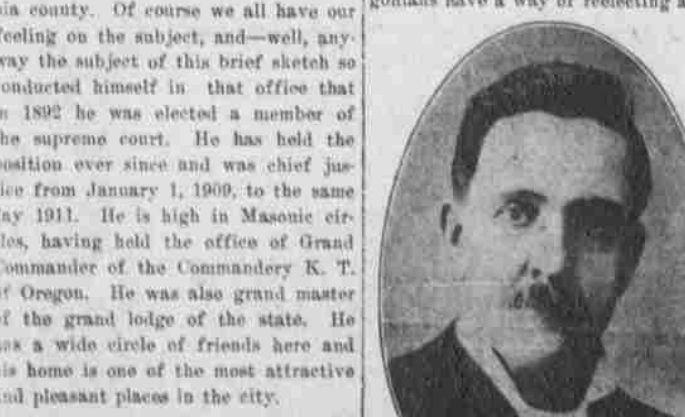
well as on to his work. The date was March 15, 1848. His parents were Stewart B. and Catherine (McEldowney) Eakin. He was educated in the public schools of Illinois and in the Willamette university of this city, graduated from the university here in 1873. He came to Oregon in 1866, and studied law with Hon. George B. Dorris in 1873-74, and was admitted to the bar here in Salem in 1884. He married June 21, 1871, his wife being Mary Walker. He commenced the practice of law at Union, immediately after his admission and continued it at that place until 1895, when he was appointed judge of the circuit court for the Eighth judicial district, and was re-elected in 1902, serving until 1907, when he was elected to the supreme court. He was chief justice from January 1, 1911, to Jan. 1, 1913, his term expiring at that date. He was re-elected and will be on the bench until 1917 and with his high record and recognized ability probably much longer than that.

Justice Eakin has been here so long that like other state officers he is looked upon by Salem people as one of them, as a full fledged Salemite. Justice and Mrs. Eakin have a pleasant home at the corner of State and Twelfth streets where a large circle of friends find warm welcome and genial companionship. Justice Eakin is a man of rather retiring disposition generally. He is a hard worker and a man who takes infinite pains, which someone has said is the hall mark of genius, if not genius itself. His opinions show scholarship and patient research and are models of their kind.

Personally the judge is a good companion and one whom having become well acquainted with, you will surely hunt up occasionally to swap ideas with and get the best of the bargain, too.

G. H. BURNETT, JUSTICE.

Justice George Henry Burnett was elected a member of the supreme court in 1910, and his term expires in 1917, though it is not probable he will retire from the bench at that time, for Oregonians have a way of reelecting a man



George H. Burnett, Justice.

For the two years preceding the incumbency of Chief Justice McBride, Justice Robert Eakin sat in the center

if he suits them, and Justice Burnett is that kind of a man and officer. He is a native of the best section of the best state, of the best country in the universe, for he was born in Yamhill county, May 9, 1853. He is the son of George W. and Sidney A. (Younger) Burnett. Having been born in Yamhill there was nothing he could do and maintain the Yamhill reputation except to get busy, do something, reach for the top. He took his first mental pulsation in the public schools of Yamhill, and having exhausted the possibilities in that line, he attended the McMinville college until 1871, when he entered Christian college at Monmouth, graduating therefrom in 1873 with the degree of A. B. After this he read law in the office of Mallory & Shaw in this city, for two years. He was admitted to the bar here in Salem in 1875, to the United States district and circuit courts in 1876. He was elected district attorney for the Third judicial district the same year. In 1878 he formed a partnership with John J. Shaw, which continued until 1886. A year later, or in 1879, he formed another partnership, in which he forfeited his degree of A. B. and married Miriam Belt. Had he put off his marriage one day he would have missed a year, for he was married December 31, 1879. Now in most biographical sketches and in all novels, the story ends when the hero gets married, but it is different when the subject is a lawyer, and claims Yamhill as his native health. With a keen analytical mind and boundless energy, his list of clients grew to that point where he had all the work, and more, than he really cared to do, but he remained alone in his practice until in 1892, he was elected judge of the Third judicial district. We stated before that he will probably not retire from the supreme bench until he does so of his own volition; and that Oregonians have a way of re-electing a man that suits them. Evidently Judge Burnett gave entire satisfaction as a judge, for he was kept on the bench from 1892 until 1910 when he was invited to go up higher, and was elected to the supreme bench. He is an indefatigable worker, a close and profound student of the law, and there is no lawyer on the supreme bench of Oregon or off it in the state at large, whose opinions carry greater weight. Of genial and companionable disposition, in the broadest sense a thorough democrat, though a republican in politics, he has an array of friends and admirers, among whom are practically everybody in Salem, who just from old habit greet him with, "Hello, Judge." Being from Yamhill there is nothing in the state too good for him, and nothing he cannot have if he will take the trouble to ask for it.

W. M. RAMSEY, JUSTICE.

Appointed at the same time with C. L. McNary, or in May of this year, William Marion Ramsey took his seat as a member of the supreme court June 1, 1913. Justice Ramsey was born in Iowa, Monroe county, on Christmas day, 1846, and is the son of David and Susan (Shuck) Ramsey. Just when he came to Oregon is unknown to the writer, but it must have been at an early day as he was educated in this state, absorbing English and some Chinoek, no doubt, in the schools of Yamhill county. He also took some drafts of knowledge in the Clackamas county schools, and finished this with a course at McMinville college. He was admitted to the bar of the state in 1868, to the district court in 1869 and later to the U. S. circuit court. He located at Lafayette in 1868 and was associated with James McCain for a short time. In 1870 he married Mahala A. Harris, and in 1896, Julia L. Snyder. He was elected Judge of Yamhill county in 1870, and moved to Salem in 1878. Here he formed a partnership with B. F. Bonham, the firm being Bonham & Ramsey, and later the firm became Ramsey & Bingham.

We are pleased to state that nowhere do the records show that he was ever a member of the Oregon legislature, but as a faithful recorder of history we are bound to relate that he was mayor of the city of Salem. However, there was a long time ago and it should not be held up against him.

C. L. McNARY, JUSTICE.

One of the youngest members of the supreme court, both in years and service, is Charles L. McNary, who was appointed by Governor West last May, he taking his seat June 1, 1913. Not only is he one of the youngest, but he is also one of the two native sons on the supreme bench. He was born here in Salem in sight of the state house



Charles L. McNary, Justice.

where he now has his office and where he writes out his share of the opinions of the supreme court. In speaking of "Charley" McNary's age, (we find it hard to say Justice McNary), it reminds us of a small boy who was busily chasing around a corn crib, and when asked what he was doing he replied, "catching mice." How many have you, was the next inquiry, and the answer settled it with: "When I got this blamed dodger and two more, I will have three." It is that way with Justice McNary's years. He has not many of them, yet; but we hope lots of them to get. He was born June 12, 1874, and as we have said, here in Salem. He is the son of Hugh L. and Margaret (Claggett) McNary. He attended the public schools of Salem, and polished it up with a course at Stanford University, California.

He read law with his brother, John H. McNary and Samuel L. Hayden, being admitted to the bar in 1898, forming a partnership with his brother

and taking up the practice here. He was married to Jessie Breyman, a Salem girl, November 19, 1902. He worked steadily to the front in his profession making, with his brother, a reputation for sound and safe legal advisors that is second to none in the state. The firm's business grew to large proportions, and it was at the sacrifice of business that the young justice accepted the position tendered him. He felt that the experience on the bench would be of great benefit, and that the honor, coming to him so early in life was one he could not turn down. He is a hard student, a deep reasoner, and as a pleader, the true test of a lawyer, he has few equals. In putting honor before coin, and accepting this appointment, which indeed few could refuse, he undoubtedly did a wise thing for it will round out and perfect his knowledge of the law, and more than all it gives to the state the service of a well trained legal mind and the work of an honest and conscientious lawyer. It is no use to try to tell anyone in Salem about the everyday life of the "Baby Justice" for everybody knows all about "Charley" McNary.

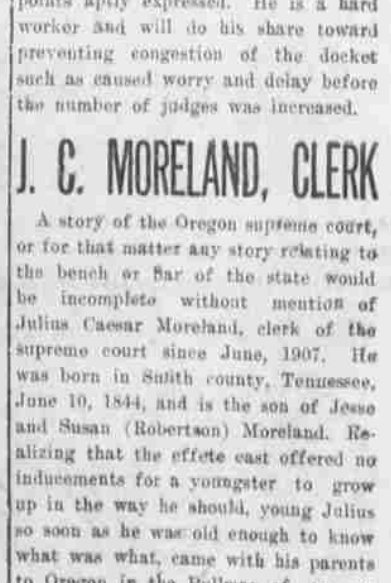
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