

## **Notice: Warning Concerning Copyright Restrictions**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproduction of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be used for any purpose other than private study, scholarship, or research. If electronic transmission of reserve material is used for purposes in excess of what constitutes "fair use," that user may be liable for copyright infringement.

For additional information, comments or questions about copyright issues or Interlibrary Loan, please contact the ILL office at 407.823.2383, or email [ILLBOR@ucf.edu](mailto:ILLBOR@ucf.edu).

# Historical Review

FALL / WINTER 2021

A Publication of THE FLORIDA SUPREME COURT HISTORICAL SOCIETY



## WHO WAS JUSTICE MACRAE?

ACQUISITION OF  
FOLEY PHOTOS  
PAGE 6

REMEMBERING  
JUSTICE GRIMES  
PAGE 15



MYSTERY SOLVED:  
JUSTICE MACRAE  
PAGE 19

JUSTICES  
TEACHING  
PAGE 25

# Contents

**6**

HISTORICAL SOCIETY NEWS

**The Way We Were:  
The Supreme Court  
Photographs of  
Mark Foley**

*Craig Waters*

**10**

HISTORICAL SOCIETY NEWS

**FSCHS Facilitates  
Donation in Memory  
of Judge Van  
Nortwick's Charitable  
Legacy**

*Scott R. Rost*

**11**

HISTORICAL SOCIETY NEWS

**Historical Society  
Receives Donation of  
Watercolor Depicting  
Supreme Court  
Building**

*Mary E. Adkins*

**12**

FLORIDA LEGAL HISTORY

**Ask the Archivist**

*Erik Robinson*

**15**

HISTORICAL SOCIETY NEWS

**A Noble Man.  
A Noble Judge.  
Remembering Justice  
Stephen H. Grimes**

*Hope Keating*

**19**

FLORIDA LEGAL HISTORY

**Mystery Solved:  
Justice George  
W. Macrae**

*Kenneth Cutler*

**25**

HISTORICAL SOCIETY NEWS

**Farewell to a Beloved  
Friend of the Florida  
Supreme Court  
Historical Society:  
Susan Rosenblatt**

*Daniel Hoffman*

**26**

FLORIDA SUPREME COURT NEWS

**FSU Law Students  
Benefit from Courses  
Taught by Justices**

*Dean Erin O'Hara O'Connor*

**28**

FLORIDA LEGAL HISTORY

**"What a Life!":  
A Former Clerk  
Remembers Justice  
Joseph W. Hatchett**

*The Honorable Robert T. Benton II*

COVER PHOTO BY  
THE WORKMANS



THE  
**Workmans**

Photo by Mark Foley





# MYSTERY SOLVED:

# JUSTICE GEORGE W. MACRAE

By **Kenneth A. Cutler**

**A**t the stately Florida Supreme Court building located on South Duval Street in Tallahassee, portraits of all former justices of the Court hang on the inner and outer walls of the courtroom. This portrait gallery is the largest and most historically significant body of art in the building. The Court was established in 1846, shortly after Florida's entry into statehood, a time when the new age of photography was in its infancy, and some of the portraits are said to be the only existing likenesses

of the justices.

Unbelievably, as prominent and historically important as these individuals are, one of the portraits is an absolutely fictional representation, and—until now—the story of the jurist in the painting, Justice George W. Macrae, one of the Court's earliest members, has been shrouded in mystery.

The Court website contains summary reference biographies for all the justices. Macrae's brief biography states:



Former Justice George Macrae is the fourth Supreme Court Justice and is one of the mysteries of the Court. Little information has been uncovered about him. He served for one year, 1847.

[The] painting . . . of the justice is entirely imaginary. No actual photograph or portrait of him has ever been identified. There is no evidence of the date and place of his birth or of his family history.

Macrae first came into prominence in Florida in 1842, when President John Tyler appointed him United States Attorney for the Southern District.

Two years later, Macrae won election to the territorial senate from South Florida. When another candidate declined appointment in 1847 as circuit judge for the southern circuit, Governor William Moseley turned to Macrae, whom the legislature had also previously considered for the position.

After serving only a single year as circuit judge/Supreme Court justice, Macrae was replaced by Florida House of Representatives Speaker Joseph Lancaster. Macrae's activities after leaving the court are as uncertain as his origins.

The portrait described above was painted by Claribel B. Jett and commissioned by Chief Justice Joseph A. Boyd, Jr., in 1984 to fill in the gaps in the justices portrait collection, which was lacking Justices Macrae, Ossian



The Tombstone of Geo. W. Macrae is located at the Dade Family Cemetery in Church Hill, Christian County, Kentucky.

B. Hart, Franklin D. Fraser, and Albert G. Semmes. In a "tweet" published by The Florida Bar on January 4, 2018, Jett is described as operating a portrait studio in Tallahassee from 1962 to 1974 and is purported to have used photographs of Macrae's descendants to create the portrait likeness. This is contradicted by Erik T. Robinson, Archivist at the Supreme Court of Florida Library, whose vivid recollection was that he had been working as a curator at the Museum of Florida History, across the street from the Florida Supreme Court, when

Claribel Jett came to the Florida Supreme Court Building to add her name to the painted portraits in the lower right corner of each of the four that she had created in 1984 when Chief Justice Joseph Boyd commissioned the portraits. The portraits she created did not have an artist's signature until then, years after they were painted and put on display at the court.

She spoke to me about the Macrae portrait while she was in the act of painting her name on the justice portrait. Again, I did not record the conversation, so my memory of the event is all I can contribute. What I remember her saying was that she had never found any information about or image of him, so she started by painting "an uncle" of hers and dressed the resulting figure in a fanciful costume. (I note that the clothing worn by the "Macrae" figure is not historically accurate.)

Ms. Jett was quite elderly and physically infirm. She had the help of another older woman named Iona Skuce, who handed her the tiny brush and held her elbow while Ms. Jett added her signature to each of the four paintings, Ms. Skuce reloading the brush with white paint frequently. I note that several of the signatures are now darkened to an off-white and the paint used may not have been artist's oil paint or acrylic paint."

An attempt to resolve this mystery first brings one to the book *The Supreme Court of Florida and Its Predecessor Courts, 1821-1917*, which also describes the justice as an enigma. Its brief history of Macrae begins, "If mystery surrounds the life of any member of Florida's supreme court, that individual is George W. Macrae," and concludes: "Macrae's activities after stepping down from the court are as uncertain as are his origins."

New, extensive research into the elusive justice leads to the conclusion that Justice George W. Macrae was George Wallace Macrae, son of John and Elizabeth (Wallace) Macrae of Prince William County, Virginia, and that he was born in that county on June 24, 1802; died in Kentucky on March 6, 1858, at the age of 55; and

by the oath of James Whelan & C. M. Farney the two subscribing witnesses & ordered to be recorded. Whereupon said will together with this Certificate hath been duly received in my office. Given under my hand this 16<sup>th</sup> day of November 1823. Wm. A. G. Dade

Dade  
Will  
X

I the undersigned of the County of Christian and State of Kentucky do hereby revoke and annul all former wills which have been made by me. I give to my estate of my heirs and descendants shall be equally divided among my children who survive me. The share of my daughter Mary I give to Wm. Macrae and Mrs. Macrae in such manner as they shall separate and exclusive use of my said daughter so that their husbands whether of the first or any other marriage shall have no interest in her estate over the same. I direct that my estate shall remain undivided until such time as my eldest son shall reach the age of 21 or my oldest daughter the age of 18 years when I direct my lands to be sold and the whole estate to be divided and my share added as I have always directed. My funds I wish cultivated and the lands not necessary for the cultivation only to be held out and the profits or annual profits of my estate to be applied to the same and support of my children. I appoint Wm. Macrae and Mary Macrae his wife guardians of the person of my children and authorize them to assume the control of them and direct their studies. I appoint Wm. Macrae and Mrs. Macrae the executors of this my last will and testament and guardians of the estate of my children until my eldest son attains the age of 21 when I appoint him my executor and the guardian of my children and their estates. I request the Court not to require security in either case of the executors or guardians appointed aforesaid. I give to my son Wm. A. G. Dade my gold watch. To Mary

Macrae I do hereby give and be it so that my other children one hundred dollars to buy a watch the boys to receive it at 15 and the girls at 18 years of age. To my daughter Mary I give my watch and to be had by her and her mother's share. My share I give to my son who first reaches 21 years of age. I direct my executors to retain any other silver or jewelry to be divided among the children. I do not wish any of the stock or farming implements or other which are wanted on the farm I give to Wm. Macrae one hundred and fifty dollars to purchase a riding horse and to Mary 50 dollars to purchase a bureau and wash stand no the big round over the parlor. These are of Mahogany. July 17, 1823

Commencement of Kentucky  
County of Christian To wit J. S. John & Bryan Clerk of the County Court for the County aforesaid do hereby certify that the foregoing will of Lucien Dade was read and on the 2<sup>d</sup> day of September 1824 returned to Court and having been examined was found to be in the handwriting of the testator by the oath of J. S. McComb and John M. Macrae and ordered to be recorded as appears from the order Book of said Court. Whereupon said will together with this Certificate hath been duly received in my office. Given under my hand this 16<sup>th</sup> day of November 1823. Wm. A. G. Dade

In and full inventory and appraisement of all the personal estate of Nathan Dade deceased which was procured to us by G. G. Goran his administrator  
State and accounts to wit  
One of our account to W. H. H. amounting in all 172.00  
note on A. J. Sizemore and 1<sup>st</sup> March 1828 — 51.60  
One note on James and 1<sup>st</sup> March 1824 — 51.60  
One note on James and 1<sup>st</sup> March 1828 — 65.00  
One note on James and 1<sup>st</sup> March 1828 — 65.00  
One note on James and 1<sup>st</sup> March 1824 — 65.00

The 1823 Will of Lucien Dade, father of Wm. A.G. Dade, mentions William & Mary Wallace and William Macrae, which connects the Dade family and the Macrae family.

is buried in the Dade Family Cemetery at Church Hill, Christian County, Kentucky.

Macrae's family roots go back several generations in Virginia and he and his family members were slaveholders or certainly benefitted from the labor of slaves. Documents show both his father, John, and his grandfather Allan Macrae as land- and slave-owners in the area of Dumfries, Virginia. The father owned acres of Virginia land and there are many references to either him or George W. Macrae's brother John in numerous Prince William County newspapers of the time.

An 1828 news article concerning the death of Colonel Barnaby Cannon, a fellow member of the Prince William County Bar, confirms George Macrae's middle name to be Wallace, the import of which ties in with the death records found in Kentucky and on his tombstone, both of which indicate his middle name to be "Wallace." It is also the maiden name of his mother, Elizabeth Westwood Wallace.

Several letters reproduced in text on the website *Prince William County Virginia* [sic] by Ronald Ray Turner and transcribed from archival records suggest that George

W. Macrae was an attorney practicing as early as 1823 in the county and specifically Brentsville, the county seat of the time. His brothers, James W. Macrae and John Macrae, were also attorneys in Prince William County. George W. Macrae was advertising his services as an attorney at law in local papers in 1824 to attend Superior and Inferior Courts of Loudoun, Prince William, and Fairfax Counties, Virginia, and in the Fredericksburg District. According to the advertisements, his office was in Brentsville.

Macrae's legal practice was varied, often involving property and trust work as well as criminal cases. In 1836, he served as a court-appointed defense attorney for a slave who was accused of assault and eventually convicted and sentenced to hang.

He was extremely active in local politics and frequently represented Prince William County before the Virginia General Assembly. For example, at a meeting of county freeholders on May 26, 1825, Macrae was elected as one of six delegates to represent the county at a state meeting concerning constitutional amendments to be held in August that year at Staunton, Virginia. In July



1826, Macrae, along with several other Prince William County citizens—including John Macrae, John W. Tyler (a relative of the future President), and William A.G. Dade—were appointed as part of a committee to assist in the receipt of funds to aid former President Thomas Jefferson in the discharge of his debts. (This and other associations with Dade, a judge of the General Court of Prince William County, may be a family connection that helps explain Macrae’s burial in the Dade Family Cemetery in Kentucky.)

An article in 1839 suggests that Macrae was a captain in the Virginia Militia and that he was appointed as a Prince William County delegate to the Democratic Party state convention in Richmond that year. In 1840, a hint that he might have been tapped as a candidate to represent the county in the General Assembly comes in the form of a published declination on his part.

The tumultuous politics of the times, and the death of President William Henry Harrison one month into his term, may have been fortuitous for Macrae, because his fellow Virginian, Vice President John Tyler, assumed the Presidency on April 4, 1841. Macrae presided in January 1842 over a county Democratic meeting where he also was named a delegate to the statewide party convention

in February. By August, newspapers were reporting his appointment by President Tyler to the post of United States Attorney for the Southern District of Florida, after L.W. Smith resigned from the position. Macrae seems to have assumed the post and arrived in Florida by the end of 1842.

After two years as U.S. Attorney, he was elected to represent South Florida in the Florida Territorial Senate. One reference suggests he was the last president of that Senate, in 1845, the year Florida was admitted into the Union. Among Macrae’s actions as Senate president, he executed a resolution seeking to gain statehood for Florida as a slave-holding state, to counterbalance the admission of Iowa as a non-slave state.

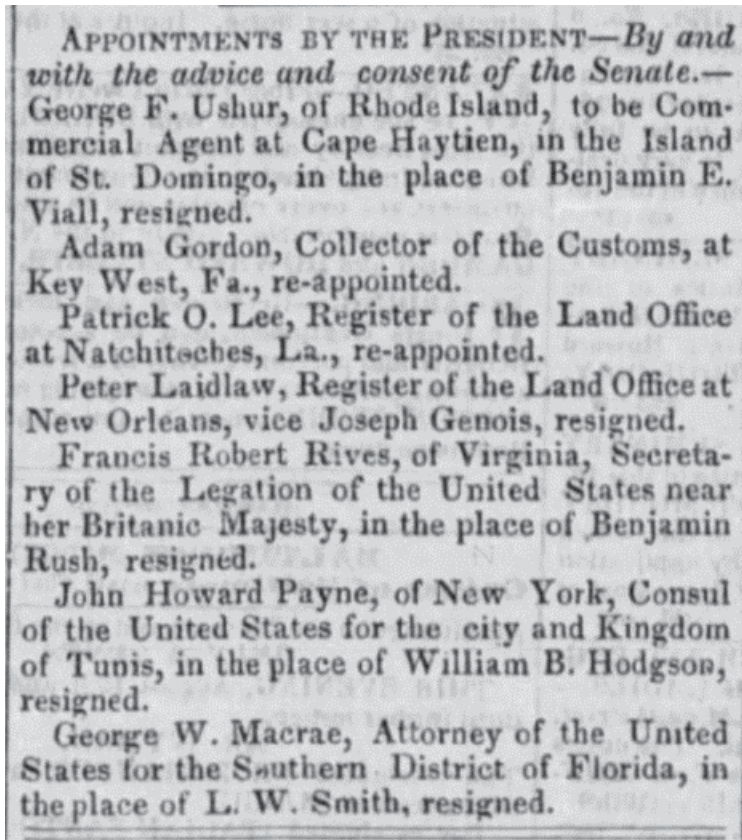
In the new state, justice was administered by circuit-riding judges and, in 1846, Macrae became the judge for the Southern Circuit, which included vast Monroe County. This appointment as the Southern Circuit judge continued when he was named to the Florida Supreme Court bench for a single year’s term in 1847.

The Florida Supreme Court Minute Book, kept in the Court archives, lists Macrae as being present at the Court throughout its two-month session from early January to early March 1847 and again on January 3, 1848; but on January 7, 1848, his successor, Joseph B. Lancaster, took his place. During his time on the Court, Macrae appears to have authored five opinions, all issued in January 1847.

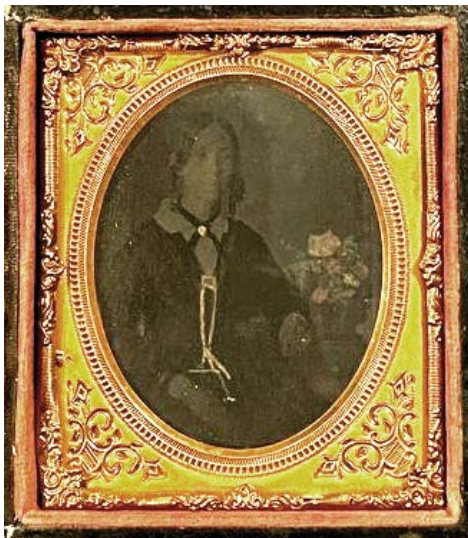
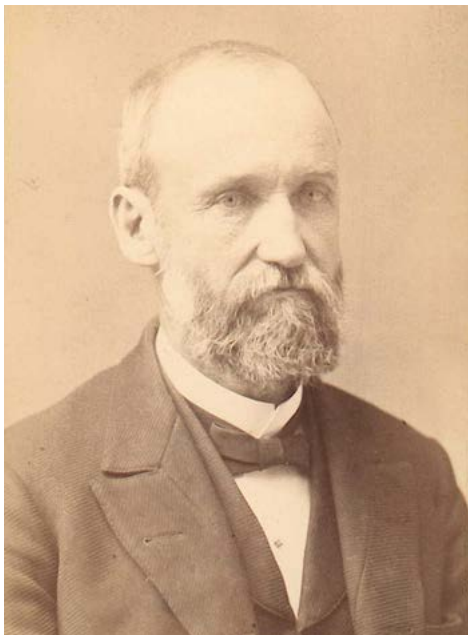
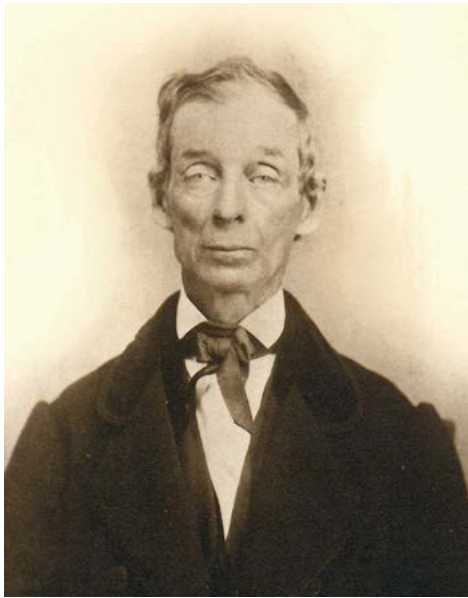
That summer, a Tallahassee newspaper reported on June 26 that Macrae had returned to the capital city—apparently from Key West—aboard the U.S. Schooner On-ka-hy-ee. He continued to ride circuit through the end of the year. On December 11, 1847, Macrae heard a Hillsborough County divorce case, *Parish v. Parish*, also in the Southern Circuit. He then headed north to preside on December 19 over the Chancery case of *Lynch v. Cole et al.* in a Marion County court, part of the state’s Eastern Circuit. After that, he moved swiftly to Columbia County, where on December 21 he was on the bench for *Mattair v. Jones*, an estate dispute.

While a judge, Macrae was very active in Florida Freemasonry, and multiple sources refer to his many different leadership roles in the organization. For example, during the two months he was sitting on the Supreme Court, he attended a meeting of the Grand Royal Arch Masons Chapter in Tallahassee on Thursday evening, January 21, 1847, where he was installed as Grand Scribe. Masonic records also document his continued presence in Florida for a time after he left the judiciary: A note of proceedings held at the Grand Lodge of Florida (Freemasons) in Tallahassee on January 8-10, 1849, shows him in attendance as a member of Dade Lodge No. 14 and “District Deputy Grand Master for the Southern District of Florida.” After that, we find no more references to Macrae in Florida.

But, on May 21, 1849, a “Judge Geo. W. Macrae” is



A newspaper announcement published in *The Baltimore Sun* (Baltimore, Maryland) on August 29, 1842, announced the appointment of George W. Macrae as U.S. Attorney in Florida by President John Tyler.



found in New York, boarding the bark (sailing ship) *Alice Tartan* for California. The San Francisco City Directory of September 1, 1850, lists Geo. W. Macrae, counsellor, on Clay Street between M and Kear. The book *California Imprints, August 1846-June 1851* confirms this to be our Macrae, indicating that, in 1850, a man by the same name had a brief venture with Washington Bartlett in publishing a newspaper called the *Journal of Commerce and Daily Bulletin*. The book further states, “Bartlett brought the press from Florida, and Macrae was also from Florida, having been a judge of the supreme court there.” In the same year, Macrae attended the first legislative session of the new State of California, where he was nominated and ran for chief justice of the Superior Court of San Francisco; he came in second in the voting and was thereby not appointed.

He returned to involvement in Masonry, and held a leadership role in 1850 as a founding member of Madison Lodge No. 23, located in Grass Valley, California. He apparently was a member just in 1853, as his name disappears from lodge rosters in later years. Macrae also served as an officer in a California division of the Sons of Temperance, as noted in an 1851 article in *The New York Times*. In 1854 he opened a firm with Augustus Heslep, Heslep & Macrae, on the corner of Merchant and Montgomery Streets in San Francisco. By 1856, he appears at a different location from Heslep in the City Directories, so it is assumed the partnership had broken up. The last reference found of him in San Francisco is in the 1858 City Directory, at 101 Merchant Street. Searches in the same directory for 1859 through 1865 yield no results for George W. Macrae. No death records, obituaries, or notices of his death are found in California searches.

Death records in Christian County, Kentucky, may reveal the answer of where George W. Macrae went. There, recorded for March 6, 1858, “Geo. W. Macrae” died of dysentery at the age of 54, near the community of Lindsay’s Mill. He is listed as single, born in Virginia, and his occupation is “Lawyer.” His parents are listed as John and Elizabeth Macrae. He is buried at Dade Family Cemetery. The gravestone marker clearly indicates that Geo. Wallace Macrae is buried there. The Find-A-Grave memorial listing for this burial indicates his birthplace as Prince William County, Virginia, bringing us full circle with the George W. Macrae described earlier.

We also can assume that the George W. Macrae buried in the Dade Family Cemetery is in fact the former Florida Supreme Court justice because of another grave in the same cemetery: that of Charles Lucien Dade, who was born August 8, 1813, in Virginia and died August 3, 1854, in Christian County, Kentucky. The will of a Lucien Dade, found in Christian County probate records and dated July 19, 1853, mentions that Lucien’s son was named William A.G. Dade, presumably the namesake of the judge connected early on to George W. Macrae in Prince William County, Virginia. Furthermore, the will specifically mentions members of both Wallace and Macrae families.

The only photographs available are those of George W. Macrae’s relatives. From top to bottom: Brother, Bailey Washington Macrae Sr.; Nephew, Bailey Washington Macrae Junior; and Sister, Amelia Ann “Emily” Macrae.



FREDERICKSBURG, Feb. 29, 1840.

To the Editor of the *Alexandria Gazette*:

Since my arrival here, this evening, from Richmond, I have been informed that I have been announced, or nominated, through the your columns, as a candidate to represent Prince William, in the next Legislature of Virginia. With a due sensibility to the favorable opinions of any portion of my fellow citizens, I must beg leave, through your paper, to say that I am *not* a candidate; and that I could not, under any circumstances, consent to become one. I have not seen your paper in my absence from Prince William; but, not doubting the information to which I have referred, I consider it due, as well to the people of my County as to myself, thus promptly to make you this communication.

**GEORGE W. MACRAE.**

A letter to the Editor published in the *Alexandria Gazette* on March 11, 1840, by George W. Macrae declaiming his candidacy for the Virginia State Legislature as a representative of Prince William, Virginia.

Several connections with a man named Lucien Dade had been documented during Macrae's Virginia days. A Lucien Dade served as prosecutor when Macrae defended a slave on capital charges of assault. Presumably the same Lucien Dade was named along with Macrae as a delegate to the February 1842 Virginia Democratic convention. Lastly, the 1840 Federal Census for Prince William, Eastern District, Virginia, actually has Geo. W. Macrae and Lucien Dade on the very same page, clearly indicating that they were neighbors. Contact has been made with members of the Dade family of Christian County, Kentucky, in the hopes of finding additional records.

This research also may have brought us closer to knowing what Justice Macrae might truly have looked like. The website Ancestry.com has several family trees with the Macrae family and several photos of family members, including George W. Macrae's brother Bailey Macrae. Additionally, members of the Dade family in Christian County, Kentucky, have provided the author with a daguerreotype photograph of Macrae's sister, Amelia Ann "Emily" Macrae.

While further extensive verification with documentation and other records, potentially including those from the Dade Family Cemetery, would solidify this theory further, it is believed that this Geo. Wallace Macrae is the mysterious George W. Macrae, the Florida Supreme Court justice for whom so little had been previously known. The evidence trail presented here certainly suggests that conclusion.

*For ease of publication and reading, footnotes have been removed from this article. The full version, with footnotes, may be viewed on the Historical Society's website at*

[Link to Research Documents & Sources for Justice George W. Macrae Article](#)

## A NOTE ABOUT THE AUTHOR

It took a Parkland personal injury attorney and amateur historian just three months to solve a mystery that had cloaked Florida's fourth Supreme Court justice, George W. Macrae, for nearly two centuries.

Ken Cutler was shocked that little was known about Macrae beyond his appointment and dates of service, and that the justice's official portrait was a fake.

Using tools he honed as a family genealogist and "history detective," Cutler uncovered 19th Century newspapers, surveys, Census records,

and letters establishing Macrae as a well-connected Virginia lawyer before he moved to Florida and assumed a series of significant government roles.

A tiny mention that a man named "Judge Macrae" boarded a ship, bound from New York to California, was a breakthrough in taking the story beyond Florida. Further research led to Macrae's death details and tombstone.

Along the way, Cutler read scores of handwritten documents, researched several other "George Macraes" until he could eliminate them, corresponded with descendants of Macrae associates,

and dipped into the histories of three states and national politics.

Cutler credits the dramatic growth in digitized historic materials with making it possible for him to establish a biography that eluded researchers for years. Though he did not find a photograph or other contemporary likeness of Macrae, the attorney—who enjoys doing "random acts of genealogical kindness"—says he is glad he could help prevent Macrae from being "almost lost to history."

"His import was significant historically for our state and his roots are tied to the earliest parts of American history."