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ANNUAL AWARDS BANQUET

HELD AT TANG'S

"Short and savage," is the way one person described this year's Awards Banquet held Friday, March 25 at Tang's. The speeches were generally shorter than those of past years, but the icy barbs, hurled by Master of Ceremonies Ted Forrest, 4th year student, never missed their mark. For the benefit of those students not in attendance, here's a brief rundown on some of the assaults made on the faculty:

—About Clifton Harris, trusts and wills teacher, Forrest said the students stayed in the classroom one hour listening to Harris' lecture one night before they noticed Harris had not yet shown up;

—About Stan Tuccori it was said he gave a property law exam on easements requiring the use of a compass, ruler, straight-edge, Rand McNally atlas, and a course on cartography, only to find the problem couldn't be done as the course had ended with feudalism and had never gotten to easements;

—About Richard Salisch, civil procedure instructor, it was said his opinions on what constitutes a good law exam parallel those of Justice Black's on obscenity: "I don't know how to describe it, but I'll know it when I see it."

Best Teacher Award, given by the fourth year class, went to corporations instructor Dan Russell, who taught for the first time at SJCL last year. When introducing Russell, Master of Ceremonies Forrest said: "Whether it was stock redemption, merger, dividends or piercing the corporate veil, everything Russell said all sounded alike." Russell good naturedly accepted the chiding and remarked in his acceptance speech on the spirit of cooperation among SJCL students and the high quality of the students.

Justice Roy Gargano, appellate court justice at the Fifth District Court of Appeals, was the featured dinner speaker. Appointed by Governor Edmund Brown, Gargano was formerly County Counsel of Kern County. He spoke on the role of the young lawyer in today's complex society, urging lawyers to think in terms of responsibilities as well as rights. "When our founding fathers wrote the U.S. Constitution," Gargano conjectured, "they should have written a Bill of Responsibilities as well as a Bill of Rights." Too much emphasis today is placed on a person's rights, not enough on his obligations and responsibilities, Gargano claimed.

Speeches were also given by outgoing studentbody president Marshall Hodgkins and incoming president Dan Koontz. Marshall applauded the studentbody for their participation in student affairs. This year 49% of the entire studentbody has participated in one or more functions of student government, Marshall announced. As usual, the outgoing president tossed out thanks in profusion, like rice at a wedding.

John Loomis, Dean of SJCL, paused to give tribute to the late Dan Eymann, whose vision nine years ago founded the school. Loomis told an applauding audience that a proposal would be presented to the Board of Trustees for a physical plant for the school, in memory of Dan Eymann.

Academic awards for achieving first place academic positions in their respective classes were given to the following:

Kathy Hart, 4th year student
Judy Evans, 3rd year student
Mary Ann Bluhm, 2nd year student

Second place awards were given to the following students:

Dale Dorfmeir, 4th year student
Tim McGill, 3rd year student
Patty Noyes, 2nd year student

About the only negative part of the evening was, unfortunately, the food and service. From the coagulated salad dressing to the soggy baked potatoes and margarine (you'd have thought that \$6.55 entitled you to butter, but you had to scream for it), the food was dismal. Definitely not worth the over \$1,000 Tangs received for hosting the banquet. Even Perry Boys could do better.



Master of Ceremonies Ted Forrest hurls verbal barbs at Awards Banquet

Student Bar Association

On Sunday, March 13, 1977, presidents of their respective law school Student Body Associations converged on Van Nuys California, from all over the state. Their purpose was to discuss the need for a statewide student bar association that would represent the interests of all law schools in California.

As the facts were slowly yet meticulously brought out to all who were present, it became apparent that there was no statewide organization of law school student bodies. At present there is a student bar division of the American Bar Association, but law schools that are not A.B.A. accredited are not allowed to participate in the governing body of that organization. Out of a total of 60 law schools in California, that leaves about 45 out in the cold.

At break time, after the morning session, it became quite apparent that what is happening in other S.B.A.s and how they conduct their internal affairs, work with their local bar association, and solve problems which are common to all S.B.A.s was a nexus from which a state student bar association could be formed to the benefit of all. With this much in mind a motion was made, seconded, and unanimously passed that the California State Student Bar Association be formed.

The afternoon session consisted mainly of forming an internal structure for the organization and establishing committee memberships for the purpose of getting down to specifics. Three committees were established. The Committee on the State Bar was organized for the purpose of providing the Bar Examiners with input from a state-wide group of law

Dan Eymann: A Memoir

by

David L. Anderson
Criminal Investigator
District Attorney's Office

In 1966 I met a very impressive man in black robes. This man exuded confidence and efficiency to all those who worked with him at the Fresno County Courthouse.

I was one of those people who had the opportunity and privilege of having the beginning of my career start under the guidance of a man such as Dan Eymann. When I began working as his bailiff late in 1966, I felt that our system of justice must certainly be one of the most efficient on earth, for Dan Eymann, as a judge in the Traffic Court, could handle a hundred or more cases in one morning's session, and would rarely need to go into an afternoon session. He was the most efficient judge on the bench that I have ever seen. Other judges who would attempt to replace him while he was on vacation or other assignment would take twice as long in handling the same case load.

However, Dan Eymann was not only an efficient judge; he had time to spend with his employees,

and encouraged many to go on with their studies and education. He personally encouraged me in my education. One side of Dan Eymann that not too many people noticed was that he really enjoyed philosophizing about the law. A couple of weeks before he knew of his illness, he sat down for over an hour and a half discussing the philosophy and direction of the law as it appeared to him. His discussion seemed to be very sensitive to the issues of our times, and he left me with words of encouragement in pursuit of my own legal education. He seemed to have no concern for himself at this time.

The fondest memory I have of the judge was his constant support that he gave me as his bailiff. When we had an attempted escape in his courtroom, his command and authority of the situation helped quiet the other 30-odd prisoners, probably preventing them from joining in the escape attempt.

With my fondest regard and memories do I remember Dan Eymann.

QUIZ

To those first year students wondering whether they'll pass or fail, this quiz takes the worry out of waiting. It's the painless, natural way of finding out whether you'll be eliminated. Answer the following statements as honestly as possible, check the score sheet at the end, and total your score.

- My sex life has ground to a screeching halt.
 - No, it's as good as ever.
 - No, it's only slowed down a bit.
 - Yes, except on rare and impetuous moments.
 - Absolutely. The law is my only (check one) mistress, lover.
- My friends have all forsaken me.
 - No, I still have one or two.
 - No, my dog still loves me.
 - Yes, except for one philodendron plant that nods my way. I'll water it one of these days.
 - Yes, the last time my phone rang and it wasn't a fellow law student was the eighteenth of April in '75 and hardly a man is now alive.
- My body has fallen apart.
 - No, I eat right, get plenty of rest, take Geritol, and have six kids.
 - No, I'm a little short on sleep but otherwise long on physical fitness.
 - Yes, my stomach is flabby and my bursitis is active.
 - Yes, my discs have slipped, ankles fallen, skin erupted, hair thinning, and my lungs asthmatic.
- I am a well-rounded person.
 - Yes, I read the *Chronicle*, the *L.A. Times*, Mike Kennedy's letters to the *Bee*, and two novels a week.
 - Yes, I still keep up with (1) current events and (2) the Joneses.
 - No, but I still get in the 6:00 o'clock news on Tuesdays.
 - None of the above.
- You can't study everyday. You need a night or two off now and then.
 - Yes, no matter what, I always manage a Saturday night drunk.
 - Yes, I still manage Mary Tyler Moore and Bob Newhart on Saturday nights.
 - No, you may think you need a night off, but don't take it.
 - No, all days off are promptings from the Devil bringing you closer to law school failure.
- I still have time for good food and wine.
 - Yes. Pinot Chardonnay and boeuf bourgignon.
 - Burgundy and Happy Steak.
 - No. Taco Bell, Taco Factory, Big Macs, Foster's Freeze.
 - No. Coffee. Sometimes a Snickers.

Scoresheet

Each (a) answer receives 1 point; (b) answers receive 2 points; (c) answers receive 3 points; and (d) answers receive 4 points. Add up your total score.

- 24 points: Not Super Star, not Super Jock, but Super Law. You have abandoned sex, friends, money, nourishing food, and peace of mind. Law school success comes to those who suffer. Clear pass.
- 20-23 pts: High probability of passing. Steer clear of television, card games, and cheap weed and you may make it.
- 15-19 pts: You've not given up enough. You're still pretending to be a person. Recant now and there may still be time to pass.
- Less than 15: No sense in finishing out the semester. You flunked when you kept on watching MTM and Bob Newhart and kept right on eating those Happy Steaks.

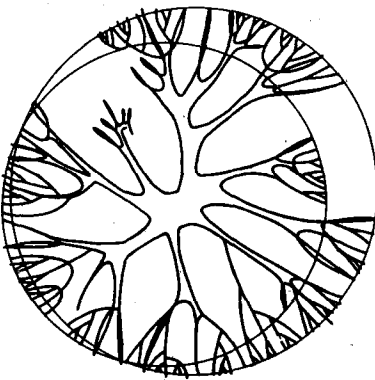
Exclusionary Zoning Laws Challenged at State Moot Court Competition

The 1977 Roger J. Traynor California Moot Court Competition took place on April 1st and 2nd in San Francisco. San Joaquin students who participated in the competition are Jim Tarhalla and Patty Noyes, both second year students. Their faculty advisors were John Missirlian and Mary Louise Frampton.

The SJCL entrants wrote a brief in which they urged the court to invalidate the zoning scheme of a fictitious county in California. The poor and minorities in the fictitious county were confined to substandard, overpriced housing in the inner city. They wished to move into a housing project in the suburbs, but were unable to do so, because there were no suburban areas in the county which had zoning laws permitting multi-family dwellings. The plaintiffs in the action were a developer who wished to build the housing project, and a class consisting of low income Chicanos who wanted to move into the project.

This case was a very interesting one for Patty and Jim, because it afforded them an opportunity to try to convince the court to set a very significant precedent in the areas of equal protection and due process. The jurisdiction of the case was in the California Supreme Court, and the brief urged the California court to disregard some recent United States Supreme Court holdings and interpret the California Constitution move liberally than the federal constitution. Most challenges to exclusionary zoning laws which have been based on the Due Process Clause or the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution have been unsuccessful. Therefore, there were many decisions unfavorable to the plaintiffs in the moot court case, and it was challenging to try to develop a strong argument for them.

The experience was very valuable. It encourages students to research an area in greater depth than everyday class activities require. Those who participate in Moot Court next year are urged to consider going on to the State Competition.



Dinner at Tang's By Jim Faust

Few would question the value of simply living and experiencing as being one, if not the most important, element of an individual's complete education. Often the truly enlightening nature of an actual experience is not recognized as such but that in itself is one of the subtleties of the "school of experience".

Seldom does one concentrate on an experience, go home and study the lesson or research it as is done with a school lesson (or at least should be). This again, is one of the features of a learning by experience. No reviewing, no memorizing, it's just there, available for instant recall. It's no wonder that many say there is no substitute for the learning one receives by experience.

Which brings me to the point of this article. Many students, faculty, friends and guests had one such learning experience Friday night, March 25 at the Annual Awards Banquet held at Tang's.

The dinner which Tang's prepared for the banquet would have been a second choice on a one-item menu in Ireland during the potato famine. Indira Ghandi couldn't have gotten her hordes of starving Indians to eat it.

If there was a comparison made between a Big Mac and the "Filet Mignon" that was served, the "Filet" would take distant third. I've nicked myself shaving and lost

a bigger piece of meat. One person at our table couldn't eat his. We decided to give it artificial respiration. My wife wrapped it in a tissue and put in her coin purse to take home to "Big Red," our Irish Setter. When she gave it to him, he bit her.

Someone jokingly said Dean Loomis was going to have to get a new horse because we just ate Josephine. Similar to Montezuma, Josephine had her revenge.

After someone at our table revealed his class by putting sour cream on his salad and blue cheese on his potato, we requested more sour cream. It was spoiled, and we lost one baked potato before the warning got out. Next, additional butter was requested and, would you believe, we got something marked M-A-R-G-A-R-I-N-E. It was in fact.

Lastly, to those of you who didn't get ice cream for desert, fret not. We all sat back and watched eight dishes of ice cream melt for lack of spoons.

The company was great, those who put on the program did an excellent job. Congratulations to all award winners, good luck to the new student body president and thanks to the old.

Next year if the banquet is at Tang's, thanks to the never ending process of education by experience, I'm bringing a bag of burgers.

FAIR EMPLOYMENT PRACTICES

by Norma Crane

The California Fair Employment Practice Act, contained in Labor Code Sections 1410-32, is the State law which forbids discrimination. It imposes requirements similar to Title VII of the Federal Civil Rights Act of 1964. (42 U.S.C. Sec. 2000, as amended by the Equal Opportunity Act of 1972.)

Under the Fair Employment Practice Act, it is illegal for any employer with five or more employees to discriminate on the basis of race, religion, color, national origin, ancestry, sex, physical handicap, medical condition, marital status, or age (40 to 64 years) with respect to any condition of employment or selection of training. The law also applies to labor unions and employment agencies.

Complaints of unlawful employment discrimination may be filed by persons claiming to be aggrieved, by the State Attorney General, or by employers whose employees refuse to cooperate with the law.

In practice, complainants who claim to be an aggrieved party are the only persons with sufficient standing to initiate a complaint and subsequent investigation. Un-

der authority of Section 1421 of the Act, community groups and individual's requests may be made upon the Commission to initiate investigations of apparent unlawful practices.

The emphasis of the agency is to eliminate alleged unlawful practices by conference, conciliation, and persuasion. If these fail, the assigned Commissioner may call a public hearing. If, after the hearing, the Commission makes a finding of unlawful discrimination, it may serve upon the respondent an order requiring him to correct the practice complained of.

The Fair Employment Practice Commission, consisting of seven members appointed by the Governor, is the governing body. The Commissioners serve parttime and are charged with the dual responsibility of enforcing the fair employment and fair housing laws and of broadening opportunity for minority groups through affirmative action, education, and conciliation.

Norma Crane, a third-year class member of the San Joaquin College of Law, has been appointed as Consultant for the Fresno office of Fair Employment Practices.

Student Bar Association

students on problems which are common to all law students. Second, the Organization Committee was established to draft a constitution and by-laws for the new organization. Third, a Committee of Students Affairs was established to coordinate programs that are carried on in every S.B.A. on a state-wide level.

The Student Affairs Committee will allow the small law schools,

which don't have the numbers or resources, to benefit from activities carried on by other law schools. In short, the theme of the new organization was that through communication and coordination of all, each can and will benefit. With the enthusiasm that existed in Van Nuys on March 13, 1977, this organization is sure to be a benefit to all law school S.B.A.s in California.

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Probation and the First Amendment: A Balancing Act

Many of you may remember last summer's news story about the Yosemite aerialist who hauled a cable up the mountains, strung it across two mountain peaks, and proceeded to tightrope walk across the cable, only to be arrested for defacing a mountaintop, performing a spectator attraction without a license, and creating a hazardous condition not serving a legitimate purpose. The defendant, Steven Guy McPeak, pled guilty to three counts, was fined \$500.00, and was placed on three years' probation. One of the conditions of probation was that he make no illegal high wire walks while on probation and that he give no interviews or comments concerning his actions, preparations, or any other matters connected with the Yosemite Park aerial walk. McPeak appealed from Magistrate Pitts in Yosemite to the U.S. District Court of the Eastern District of California, arguing that the probationary prohibition against commenting and giving interviews violated his free speech rights.

Did it? Because probation is considered an act of grace, a trial judge has wide discretion in imposing conditions to probation, including some reasonable restrictions on a defendant's speech. The test is that the restriction must relate solely to the underlying offense and must not be broader than that of the underlying offense. A case illustrating this principle — and cited by both defendant-appellant and appellee — was *Porth v. Templar*, 453 F.2d 330 (10th Cir., 1971). There, two restrictions were placed on probationer after his conviction for failure to file his tax returns. First he was prohibited from circulating materials questioning the constitutionality of the Federal Reser-

ve System and Federal Income tax laws and second he was prohibited from questioning the constitutionality, in speech or in writing, of the Federal Reserve System and the Federal income tax laws. The Court indicated, at page 333, that: "... the sentencing Judge has a broad power to impose conditions designed to serve the accused and the community. The only limitation is that the conditions have a reasonable relationship to the treatment of the accused and the protection of the public."

The Court continued:

"We see no basis for criticizing a condition which prohibits the violation of any public law or which prohibits the inducing of others to violate the law and we hold the instant condition invalid only to the extent that it prohibits the expression of opinions as to the validity or constitutionality of the laws in question. Insofar as it prohibits public speeches designed to urge or encourage others to violate the laws, the condition is valid."

Thus in *Porth* the Court upheld the condition prohibiting defendant from urging others to violate the law, but struck down the limitation on his mere expression of opinions. In *Sobell v. Reed*, 327 F. Supp. 1294 (1971), Sobell sought permission from the parole board to travel to demonstrate against Vietnam and to speak on prison conditions. When denied permission, he appealed. The Federal Court concluded that the prohibition against his speaking was unrelated to his conviction of espionage. Espionage activities would not likely be conducted by open talks at public banquets, the court reasoned, and the blanket requirement that he obtain per-

mission before speaking was an abridgement of his First Amendment rights: "When a parolee speaks publicly about prison conditions, his speech may be particularly important, since he is one of the few sources of information that society has about the subject."

But in *In Re Mannino*, 14 Cal. App. 3d 953 (1st Dist., 1971), a condition prohibiting the defendant's speaking and participating in public demonstrations was upheld because probationer's offense (kicking) had occurred during the heat of such events. A second condition against writing and distributing written materials calling into question state and federal laws was invalidated because of the lack of relation to the underlying offense.

There are two federal cases in which broad restrictions have been upheld without explanation. In *U.S. v. Kohlberg*, 472 F.2d 1889 (1973), the defendant was convicted of mailing obscene matter and had to deliver all the obscene material in his possession, terminate his interest in an illegal pornographic company, and not associate with any known homosexuals. On appeal, the Court merely affirmed the restriction, concluding such prohibitions were within the trial court's discretion. In *U.S. v. Smith*, 414 F.2d 630 (5th Circuit, 1969), as a condition of probation the defendant was required to forego any association with SDS and to discontinue his association with members of a humanist group. The Court said: "Smith could have rejected probation and elected prison. He chose to enjoy the benefits of probation;

he must also endure its restrictions. The trial court did not abuse its discretion in attaching the special conditions to Smith's probation."

In the brief filed in the Yosemite case, defendant McPeak argued that the probationary condition was excessive and that the limitation on his expressing opinions or feelings about the case should be struck down. In its brief the U.S. Attorney argued that the condition of probation was carefully framed to relate only to the underlying offense. Had the Judge imposed a condition that appellant not speak at all concerning any illegal high wire walks or stunts, such a condition would have been unjustifiably broad, the U.S. argued. But here the condition was circumscribed to apply only to interviews or comments concerning the underlying offense.

The trial judge concluded that sealing the defendant's lips with silence would contribute to his rehabilitation. If he were allowed to grant interviews, thereby obtaining money, approbation or attention from his illegal acts, he would be more likely to repeat his actions or set an example for others anxious to gain the public eye with flamboyant spectacles. At least this was the trial court's reasoning, and the reasoning adhered to on appeal.

As to who is more likely to prevail on appeal is anyone's guess. The cases on free speech restrictions and probation go both ways. The McPeak case is presently awaiting a decision. When the decision is handed down, if there's talk about freedom of speech being a "balancing" process, in McPeak's case it won't just be a play on words.

SJCL's Clinical Program at 5th DCA to Continue

San Joaquin College of Law's Clinical Program in California Appellate Review will continue at the Fifth District Court of Appeal in Fresno even though the program's supervising attorney, Pauline Hanson, is leaving her position as Principal Attorney at the Court. She was recently appointed to the Fresno County Superior Court Bench by Governor Brown and is the first woman ever appointed to the bench in Fresno County. Mrs. Hanson has been a staff attorney at the Court of Appeal since 1961, when the Court was established.

Students selected to participate in the clinical program assist in preparing memoranda for the court and research, review, and evaluate civil and criminal opinions of the Supreme Court and the Courts of Appeal with staff attorneys.

Since the programs inception in late 1975, five students from San Joaquin have participated in the 14-week course. The consensus among them is that the Fifth DCA clinical is probably the most valuable one offered at San Joaquin because of the unique exposure it provides to the appellate process. For this reason, there are more students interested in participating when sign ups are taken in the Fall than the program can accommodate.

Reaction among students, who have worked under Mrs. Hanson to her appointment is perhaps best described as one of mixed emotion. As one put it, "She is a very bright lawyer and inspiring teacher; I'm sorry other students won't have the chance to work with her. On the other hand, she is also sensitive and understanding, which means she will be an excellent judge."

MAURICE BRAUN, INSURANCE BROKER IN THE LOS ANGELES AREA, INTRODUCES A DENTAL AND HEALTH INSURANCE PLAN FOR ALL STUDENTS AT SAN JOAQUIN COLLEGE OF LAW AND FOR FRESNO AREA ATTORNEYS.

Mr. Braun specializes in lawfirms in the Beverly Hills and Los Angeles area and is expanding to meet needs in the Fresno area. Mr. Braun will be at the San Joaquin College of Law during summer registration week to discuss health insurance and dental program.

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SJCL: PRAISE AND PROBLEMS

by Bob Sherfy

This article is an attempt on my part to present both the good and bad points about San Joaquin College of law. It should be noted at the outset that the good far outweighs the bad. I believe that it is time for the legal community to recognize that San Joaquin graduates are extremely well-qualified people.

The results of the bar examination for the last two years provide ample evidence that San Joaquin graduates can compete for jobs and should be considered on the same academic level as those who graduate from so-called "name" law schools. Over 90% of our graduating class, the last two years in a row, passed the bar examination on the *first* attempt. We were number one in the state in regard to the percentage which passed in 1975. Since our percentage was even higher last year, I suspect that we were number one again.

In addition to our regular curriculum, many of us are involved in some type of clinical program which gives us a view of the practical, everyday, side of the law.

All this is not to imply that we do not have our problems at San Joaquin. To use an over-worked phrase (yet an applicable one) there seems to be a breakdown in communication between the administration and the student body. Let us look at a case in point.

Last year, the first year day class was told that their mid-term grades would count 10%. Later we were told that they would not count at all. At mid-term time we were under the impression that the midterms would *not* count at all. We heard conflicting stories that these tests would count 10% or nothing throughout the year. However, the haze seemed to be cleared up by the time we took our finals — the midterms would not count, we were assured. Unfortunately, when the grades came out, everyone could see at a glance that the midterms *had* been averaged into our final grade. (I understand that one instructor "upped" every-

one's final test grade by 10% to compensate for the generally low midterm scores. And in a second class our midterms did not count because of the change of instructors during the middle of the year.)

Another point of concern is that, as of last spring, the day program — a three year program — was discontinued. Many of us were under the impression that the school was on its way to full accreditation by the American Bar Association. However, it was decided, for a number of reasons, that the school would be better off just supporting a night program. Those of us in the day program have been allowed to continue, but we will be the only three year class to go through San Joaquin. The decision to discontinue the day program not only dashed our

hopes about becoming an A.B.A. accredited law school, but seemed to spring out of nowhere. Many students felt that they should have been allowed to at least voice their opinion at the meeting where the decision to drop the day program was decided.

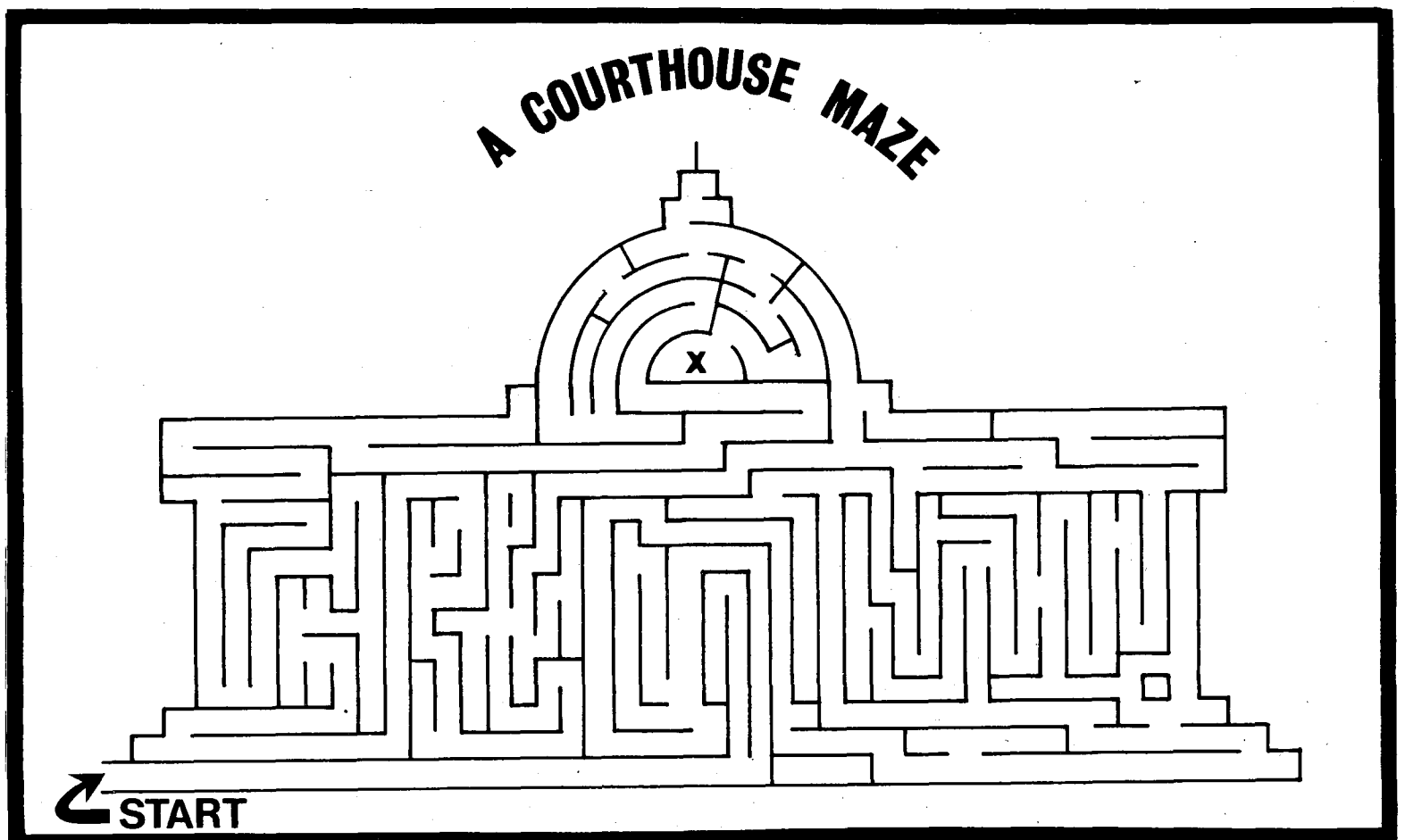
Finally, the biggest problem, at least in my opinion, revolves around the quality of instruction. We have some very excellent teachers here at San Joaquin. They are especially distinguished from the poorer ones by the obvious interest they take in the students. They come to class well-prepared and are ready and willing to answer all questions. They will continue to answer questions until a particularly difficult or confusing concept has been cleared up.

However, some of our instructors are at best minimally adequate. We cover most of the required material but go through it in a less than thorough manner. The lectures reflect a lack of preparation in some instances. Some students feel that during the particularly poor sessions, they can get more out of the class by studying the case book and outline than by coming to class.

It should also be noted that San Joaquin will have to find new facilities for 1978. Due to its own expanded curricula, Pacific College will need classrooms more than they do now and hence the tenants (we law students) will have to find a new home. Some say that we should build a new building. It

has been suggested that some of the money which now goes to the payment of the deans' salaries should be used to help finance our move.

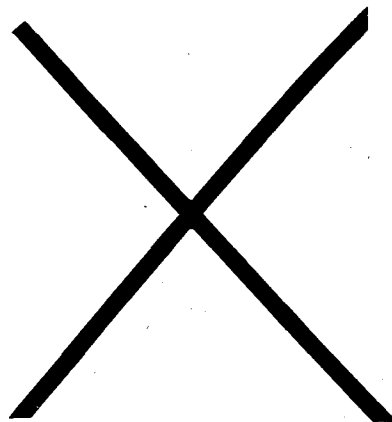
In spite of our problems, the test of the true quality of this school is to be found in the results on the bar examination. It is my hope that law firms in the community will bear this in mind when considering a San Joaquin student for employment.



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