SAN JOAQUIN COLLEGE OF LAW

SAN JOAQUIN COLLEGE OF LAW
1717 SOUTH CHESTNUT AVENUE
FRESNO, CALIFORNIA 93702

Volume 6, No. 3 February, 1979

dicta

HAWKINS

The California Supreme Court has held an individual indicted for a felony is entitled to a postindictment preliminary hearing under the state Constitution.

In **Hawkins v. Superior Court,** 22 Cal. 3d 584 (filed Nov. 9, 1978), the Court ruled an accused is denied equal protection of the law (Article 1, section 7) when prosecution is by grand jury indictment depriving defense of a preliminary hearing, and concomitant rights. These rights would be available if the prosecution had been initiated by information.

James Hawkins and other defendants were charged with conspiracy and grand theft in a multiple-count indictment returned by the San Francisco Grand Jury. At their arraignment following indictment, the defendants pleaded not guilty to all counts.

Their motion for a dismissal or, in the alternative, a postindictment preliminary hearing was denied. The Supreme Court issued a preemptory writ of mandate directing the Superior Court of San Francisco to grant defendants' request for a preliminary hearing. The prosecution was directed to refile the indictment as a complaint.

A felony prosecution may be initiated by grand jury indictment, or by information, after examination and commitment by a magistrate. Cal. Const. art. I, s 14. Associate Justice Stanley Mosk, writing for the majority in **Hawkins,** emphasized the disparity in procedural rights afforded defendants charged under the two methods of prosecution.

A defendant accused by information "immediately becomes entitled to an impressive array of procedural rights, including a preliminary hearing before a magistrate, representation by retained or appointed counsel, the confrontation and cross-examination of hostile witnesses, and the opportunity to appear and . . . present exculpatory evidence." **Jennings v. Superior Court,** 66 Cal. 2d 867 (1967); Cal. Penal Code s 858 **et seq.**

In contrast, the indictment procedure omits these safeguards. "The defendant has no right to appear or be represented by counsel, and consequently may not confront and cross-examine the witnesses against him, object to evidence introduced by the prosecutor, make legal arguments, or present evidence to explain or contracict the charge." **Hawkins v. Superior Court,** 22 Cal.3d at 587.

The Attorney General asserted the procedureal differences between indictment and information were "more apparent than real."

The primary purpose of each procedure is to determine whether there is probable cause a public offense has been committed and that the defendant is responsible. According to the Attorney General, the likelihood of a probable cause finding is substantially the same whether the determination is performed by a grand jury, with subsequent judicial review, or by a magistrate at a preliminary hearing. **Hawkins,** 22 Cal.3d at 588.

The majority of the Court found a defendant derives more from an adversarial preliminary hearing than a judicial determination of probable cause.

Skilled interrogation of witnesses by a defense lawyer at a preliminary hearing is a tool to impeach the State's witnesses at trial or preserve testimony favorable to the accused. The preliminary hearing serves an important discovery function since it provides the defense with valuable information about the case against the accused. The preliminary hearing also provides defense with the immediate opportunity to argue before a judge on such matters as bail or the necessity for a psychiatric examination. Note: **See Coleman v. Alabama,** 399 U.S. 1, 9-10 (1970) Alabama preliminary hearing held to be a critical stage of the State's criminal process at which the defendant had a right to counsel.

The majority also found grand jury proceedings to be dominated by the prosecuting attorney.

"The grand jury is independent only in the sense that it is not formally attached to the prosecutor's office; though legally free to vote as they please, grand jurors virtually always assent to the recommendations of the prosecuting attorney, a fact borne out by available statistical and survey date." **Hawkins,** 22 Cal. 3d at 589.

The prosecuting attorney is free to choose which defendants will be charged by indictment rather than by information. Consequently, he chooses which procedural safeguards will be available to a defendant. The Court focused on the discrimination in procedural rights available under indictment and information.

Under the United States Supreme Court's traditional two-tier test of equal protection, a discriminatory legislative classification that impairs fundamental rights will be subjected to strict scrutiny by the courts. The state bears the burden of proving it has a compelling interest which justifies the classification, and that the discrimination is necessary to promote that interest.

In **Hawkins** the Attorney General was required to prove a compelling interest justified a disparity in procedural rights under the two methods of prosecution. In addition, the Attorney General was required to show the disparity in procedural rights was necessary to promote that interest.

To satisy the burden of proof under this test the Attorney General raised some tactical advantages gained by the prosecutor who chooses the indictment procedure

"A prosecutor may proceed by indictment for valid reasons: the prospective defendant cannot be found; witnesses may fear testifying in court; the case may have potential for prejudicial pretrial

Continued on 2nd page

SJCL GRADUATE -AARON SWORN IN

by Phil Tavlian

James I. Aaron, Class of 1974, was sworn in as Judge of the Kingsburg-Riverdale Judicial District on January 8.

He is the first graduate of San Joaquin College of Law to serve as a member of the California Judiciary.

Aaron was born in the San Joaquin Valley and attended local schools. He received a Bachelor of Science degree in Business Administration from California State University, Fresno in 1968. In 1970 he received a Master of Business Administration degree from CSUF. He earned a lifetime Junior College Teaching Credential that same year.

Prior to studying law, Aaron studied court reporting and held a number of positions in the fields of sales, marketing, accounting, and advertising.

He is a member of the first graduating class at SJCL, and is the first person to be conferred the degree of Juris Doctor by the College. While attending law school, he served as Administrative Vice President of a large agricultural concern and owned an automobile dealership.

Aaron was admitted to the State Bar of California in June, 1975. After periods in private practice, and the Fresno County Public Defender's office, he entered the Fresno County District Attorney's Office. During his three and one-half years as a Deputy District Attorney, Aaron participated in approximately 50 jury trials and served as prosecutor for the communities of Kingsburg, Riverdale, Kerman, Firebaugh, and Sanger.

(continued in Alumni Corner)

S.B. 38 SEMINAR

SB 38 is a comprehensive and positive step toward eleviating the ever increasing problem of the drunk driver.

Current penalties established under the vehicle code are arduous, to say the least. SB 38 supplies a judicial alternative. The courts will now have authority to suspend execution of the sentence for first and second time offenders. This alternative is grounded in the party's qualification for, and particpation in, an approved alcoholism program.

The implementation of this program, and its impact on the legal community within this County, will be the subject of a seminar presented by the SAN JOAQUIN COLLEGE OF LAW STUDENT ASSOCIATION, and the FRESNO COUNTY ALCOHOLISM ADVISORY COMMITTEE.

The program will be presented on February 17, 1979 at the campus of Pacific College, 1717 South Chestnut Avenue, Fresno; in room S-6 between 9:00am and noon. The speakers will include Municipal Court Judge Dennis Caeton; Executive Director of the Alcoholism Council of Fresno County, Dean Duncan; Bud Taylor of the Alcoholism Advisory Council; Fresno Community Hospital's Tom Meza; Mike Merrick representing the Fresno County Health Department; and keynote speaker Fresno County District Attorney Dale Blickenstaff.

Members of the Fresno County Bar Association are encouraged to attend. From all persons who are not members of the Student Association a $3.00 donation will be required at the door. Advance sale tickets may be purchased for $2.50 by contacting Greg Myers at 251-7512.

HAWKINS

continued

by
Phil Tavlian

publicity; publicity may jeopardize a continuing investigation; a preliminary examination may involve prolonged delay because of the number of defendants or the complexity of the case." **Hawkins,** 22 Cal.3d at 593 n.6.

The majority found none of these reasons to be a constitutionally compelling state interest that justified depriving an indicted defendant certain fundamental rights guaranteed to him in a preliminary hearing.

Denial of a postindictment preliminary hearing deprives the defendant of "such fundamental rights as counsel, confrontation, the rights to personally appear, the right to a hearing before a judicial officer, and the right to be free from unwarranted prosecution. **Johnson v. Superior Court,** 15 Cal.3d 248, 266 (1975) (Mosk, J. concurring).

To remedy this violation of equal protection, the majority declared the right of an indicted defendant to demand a postindictment preliminary hearing prior to or at the time a plea is entered. If the defendant makes a timely request for such a hearing, the prosecuting attorney will refile the indictment as a complaint (at the direction of the court). **See** Cal. Penal Code s 859 **et seq.**

In addition to writing the majority opinion, Justice Mosk (joined by Associate Justice Frank C. Newman) filed a separate concurring opinion calling for a new test of equal protection.

As briefly noted above, the United States Supreme Court has developed a two-tier framework for reviewing legislative classifications under the federal equal protection clause.

Under the "rational basis" standard of review, the state must show a classification is rationally related to a legitmate state end. Under the "strict scrutiny" standards of review, the state must show a classification that impairs fundamental rights is justified by a compelling interest and that the classification is necessary to promote that interest.

The less intensive rational basis standard of review has proved extremely deferential to legislative judgment. The more intensive strict scrutiny standard has been applied so rigidly that few legislative classifications have been upheld. Tunther, **The Supreme Court, 1971 Term--Foreward: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection,** 86 Harv.L.Rev. 1 (1972).

"The vice of the traditional approach is that it applies either a standard that is virtually always met or one that is almost never satisfied," stated Mosk. **Hawkins,** 22 Cal.3d at 598.

To avoid the problems inherent in the traditional test, Mosk advocated the adoption of a third test for reviewing state equal protection claims.

"In my view we should adopt a(n) intermediate level of review . . . applicable when rights important--but not 'fundamental'--are denied, or when a classification sensitive--but not 'suspect'--is made," he stated. **Hawkins,** 22 Cal.3d at 601.

Such rights and bases of classification would not trigger strict scrutiny by the courts under traditional equal protection analysis. And the rational basis standard of review would not adequately test the constitutionality of measures which denied important rights or made classifications based on sensitive criteria.

"When such rights or classifications are implicated, it is necessary to examine the importance of the state interests involved and the extent to which they are promoted. The proper inquiry is this: Does the classification **significantly** further **important** state interests?

Denial of a postindictment preliminary hearing violates equal protection under the proposed standard, stated Mosk.

Administrative ease and convenience of indictment procedures "are not sufficiently weighty to justify denying indicted defendants the right to have an evidentiary hearing before a judicial officer, to personally appear to confront and cross-examine witnesses, to present evidence, and to be represented by counsel . . ." **Hawkins,** 22 Cal.3d at 606.

Chief Justice Rose Elizabeth Bird concurred in the holding by the majority. However, she disagreed with Justice Mosk's proposed test of equal protection for several reasons.

First, the Chief Justice found the proposed test invited extensive judicial intervention into matters which are the primary responsibility of the other branches of government.

"It is generally recognized that the legislative and executive branches should make most of these substantive classification decisions. The role of the judiciary is to carry out those decisions, not to substitute its judgment on such matters for that of either of the coequal branches." **Hawkins,** 22 Cal.3d at 607.

Second, she found the key terms of the proposed test to be inherently vague.

"Rarely can it be said that the Legislature has passed a law which deals in 'unimportant' rights and nonsensitive classifications. indeed, the fact that a law is enacted strongly suggests the **Legislature** considers it to be 'important.'" **Hawkins,** 22 Cal.3d at 608.

Associate Justice Frank K. Richardson (joined by Associate Justice William P. Clark, Jr.) filed a dissenting opinion which challenged the holding of the majority on two grounds.

First, Richardson found the California Constitution to vest in the state legislature the exclusive power to obolish or amend the grand jury indictment procedure.

"Although courts have general power under the equal protection clause of the state Constitution to find specific legislation invalid, that authority may not be extended to strike down a legislative scheme which has developed pursuant to a direct and express **constitutional** grant. We possess no right whatever to rearrange or refashion to our own liking the provisions of article I, section 14, in which the people have expressly said that an examination need **not** accompany the indictment." **Hawkins,** 22 Cal.3d at 615.

Second, assuming the Court had the power to amend the indictment procedure, Richardson could find no violation of equal protection which would justify such action.

"In California, the preliminary examination has assumed an adversary character by reason of the direct confrontation between the accused and his accusers which occurs at the hearing. Accordingly, the accused is afforded a panoply of procedural rights. . .." **Hawkins,** 22 Cal.3d at 617.

According to Richardson, these rights are unavailable to the witness at a grand jury hearing because of the differing functions of grand jury and magistrate.

"Although both the indictment and information procedures are aimed at determining the ultimate question whether probable cause exists to hold the accused for trial, the grand jury is a distinct **investigative** body, conducting its sessions in private, without public accusation, in accordance with procedural rules . . . deemed sufficient in light of the nonadversary nature of the proceedings. Grand jury hearings are not the equivalent of a criminal trial or pretrial hearing, nor were they designed as such." **Hawkins,** 22 Cal.3d at 617.

The rule announced in **Hawkins** applies only to the defendants in that case and to those indicted defendants who had not entered a plea at the time the **Hawkins** opinion became final.

SIMPLE JUSTICE

by
Randall Penner

Simple Justice is the story of the American black's legal fight to racial equality, culminating in the decision of **Brown v. Board of Education** 347 U.S. 483 (1954). Kluger deals not only with the history and legal arguments of this decision, but also with the sociological background of the events and participants. As he puts it in the preface: "It is not just the study of the law but also how the law and men interact and how social forces of the past collide with those of the present."

The author begins by dealing with the early history of racism. He presents a brief synopsis of the Emancipation Proclamation and the creation of the Thirteenth, Fourteenth, and Fifteenth Amendments. These Constitutional guarantees were subverted by the development of the Jim Crow laws and legitimized by the Supreme Court in **Plessy v. Ferguson** 163 U.S. 537 (1896), when it ruled that "separate but equal" was within the parameters of the Constitution.

The second part of the book deals with the development of the black leaders dedicated to fighting for the equality of the black race. Men such as Charles Houston and Thurgood Marshall are studied in depth. Their strategy in attacking **Plessy** proved to be enlightening. Kluger showed the chronology of cases which first obliquely eroded **Plessy** and then directly confronted the doctrine of "separate but equal." Their attack had two prongs. The first was that if the law stated that facilities were to be "separate but equal" then the states should provide separate facilities. In the area of education states were forced to provide educational facilities that were in fact equal.

Having succeeded in this argument they began to confront the doctrine itself. A separate law school, they argued, could never be equal. The graduates of these schools could never take advantage of the prestige and intellectual interplay that the established schools could provide.

This argument was extended to the sociological results of segregation and applied to the public schools. Being separated from the majority race in the public schools the blacks were being told that they were inferior. This in essence contradicted the notion that schools could be separate and still equal.

Finally Kluger dealt with the make-up of the Supreme Court itself. He pointed out the various internal tensions and also the problems facing the court. Precedant would have to be overruled. They would have to engage in judicial lawmaking; something they did not want to have to do.

Most important was the knowledge of the effect of the decision. It would be difficult to overcome centuries of racism by a mere judicial proclamation. The Court realized that their decision would have to be unanimous for it to have any effect.

The problem was Chief Justice Vinson. He lacked the confidence of many of the other Justices and also the diplomacy to achieve unanimity. Callousness aside, the resolution was achieved by the timely death of the Chief Justice due to a heart attack. In the spirit of callousness Justice Frankfurter was quoted as saying: "This is the first indication I have ever had that there's a God."

The new Chief Justice Earl Warren proved to be the diplomat that Vinson never was. He achieved unanimity, overruling **Plessy** and stating that integration should be established with "all deliberate speed." This was a compromise between the necessity of correcting the evil, and overcoming the South's inertia.

If this article has been more of an elementary history lesson than a book review, I beg the reader's pardon. For me it was a new history lesson. Reading the history of the applications of the Constitution to various social evils is a new and enlightening experience. A book on this subject was long overdue. Kluger filled this void, with a book that was well researched and written.

Almost thirty years after the fact, busing problems across the nation have shown that "all deliberate speed" has meant more "deliberation" than "speed." Los Angeles is still in the process of intergrating their schools. In Boston, integration resulted in racial strife.

These problems, it could be argued, show that one cannot legislate morality. Granted, but the fact still remains that the nation's treatment of its black minority directly contradicted elementary laws of morality. The Supreme Court stood up to its moral duty. It is now up to the people of the United States to prove that they are in fact "a nation under God."

Simple Justice
by Richard Kluger
$6.95 Vintage Books

Alumni Corner

Continued from 1st page

In 1978 Aaron took a two-month leave of absence from the District Attorney's Office to campaign for the judgeship of the Kingsburg-Riverdale Judicial District. In November, 1978 he received 70 per cent of the votes cast to 22 per cent for the incumbent, one of the widest margins ever for any elected office.

During December, 1978, Aaron served as Judge Pro Tem in the Fresno Municipal Court. His six-year term of office in the Kingsburg-Riverdale District began January 8. He will hold court several days each week, and will conduct a general law practice the remainder of the time.

Judge Aaron's views about justice are shaped by a number of factors. First, he believes justice must be consistent.

"Whether a person is rich or poor, of high standing in the community or from the gutters of the poorest section of town, he should be treated the same as anyone else."

Second, he states justice must be compassionate.

"The worst judge in the world is the 'hanging judge,' the judge who puts everybody in jail for the maximum time no matter what." "Granted, there are certainly cases that require this kind of hard-line attitude. But if I can help straighten a person's life out by trusting him, and giving him an opportunity to repay his debt to society and rehabilitate himself, I will do just that."

Third, Judge Aaron believes justice must be fair.

"If I am to fine people for traffic infractions, I must also be unwilling to 'fix tickets' for my friends," he said. "I hereby serve notice on my many acquaintances. . .I won't fix them."

Finally, the new judge believes justice must be swift.

"Nothing irks me more than to see cases drag on and on in the courts," he said. "Such a delay is expensive for the taxpayers, and detrimental to the rights of the defendant. When a case drags on and on, there are no winners."

Judge Aaron is an individual with many interests. While in law school, he learned to fly, managed a country-western singing group, served as an ordained Ruling Elder of the First Armenian Presbyterian Church, and sang in its choir. His current interests include flying, photography, hunting, fishing, and music. He and his wife Wanda, a real property relocator for Fresno, have two sons.

Aaron advises law students ". . .anybody can be anything he or she wants to be. All it takes is desire and stubbornness." He points to his own law school experiences as an example.

"I was married and had a son while in law school so my law school schedule went something like this: 8 a.m.--arise and go to work; 6 p.m.--leave work; 6:30 p.m.--arrive at law school; 9:30 p.m.--leave law school; 10 p.m.--arrive at home to spend some time with my family; 11 p.m.--leave home and go to law library at the Courthouse; study till 3 or 4 a.m.; 4 a.m.--return home."

Aaron noted his law school schedule resulted in a one-week hospital stay during his fourth year. But no matter what price has to be paid, a legal career is worth it, he added.

"Law is the fulcrum upon which society hinges. Every human problem, every human condition, every business and personal relationship eventually comes to the courtroom for solution. To be there in that arena of human endeavor is the most thrilling occupation of all."

Dean's Corner

by John E. Loomis, Dean

Entry into the new year is a time both for reflection on the past and a time to look to the future. The turn of the year takes on added significance to us in that 1979 marks the decennial of the San Joaquin College of Law. It is indeed a time to reflect on the college's course and its hopes and expectations for the future.

San Joaquin College is the outgrowth of a vision of its first dean, the late Honorable Dan B. Eymann. In 1969, Dan, with his characteristic enthusiasm and persuasiveness, encouraged several persons to band with him and commit themselves to the establishment of a law school in Fresno which would be dedicated to the idea of providing quality legal education.

The ten years following have seen the school grow from an initial investment of $200.00 and a lot of donated time with four part-time employees to an institution with a net worth of about $200,000.00, two full-time employees, three part-time employees and some 15 part-time faculty members.

We have seen the establishment of a law library of more than 20,000 volumes properly catalogued and adequately housed under the supervision of a trained librarian.

The college's graduates have performed extremely well on the California Bar Examination, and in the cumulative statistics, San Joaquin College stands among the top several law schools in California with respect to the passage rate of its students. As we enter this dicennial year, we are proud to observe that more than 100 San Joaquin College graduates are now engaged in the active practice of law and I suspect form the largest single law school alumni contigent in Fresno County.

So much for the past. Bare statistics can only suggest the school's course and can only intimate the degree of satisfaction, stimulation and accomplishment felt by students, alumni, faculty, administration and all others who have taken part in the growth of the school and the establishment of the dream Dan had for an opportunity for students in the Fresno area to receive a quality legal education.

Where will the next ten years take us? What are the plans of the school for the future? I'm asked questions of this nature often. I am pleased to have a built-in opportunity to reflect on them with our legal community at large through this column.

Demographic studies seem to indicate that law school enrollments have leveled and that our expectation over the next term is that we should expect to be able to maintain a total night school enrollment of approximately 100 students. As the next decade matures, we anticipate that enrollments will slowly climb.

The biggest need for the school in the immediate future is to obtain more physical facilities for administrative room and library and for expansion of programs. We already have books stacked on the top of almost all of our present bookshelves and the library tables have been squeezed into the smallest possible area to accomodate additional shelving. In recognition of the extremely cramped quarters, the Board of Trustees addressed itself nearly two years ago to the proposition that it is imperative that the school obtain more physical space for library and offices. In line with this commitment, explorations are proceeding either to acquire additional physical facilities on or in conjunction with the Pacific College campus or to acquire physical facilities at another location and create our own campus.

Expanded programs in continuing education have a high priority in our planning. Offerings we've made in specialized areas have met with good acceptance, and we hope to be able to serve the local Bar in this respect in an increasing degree as facilities and resources permit.

Continued on back page

Moot Court Finalists: Phil Tavlian & Beth Hunter

The question presented this year for Moot Court competition was: Is there a duty on the part of a psychotherapist to warn a third-party of anticipated danger or risk or harm, from his patient. Tarasoff vs. Regents of the University of California 17 Ca.3d 425 (1976). Written briefs were submitted by the Third-year students to Adjunct Professor Missirlian, on November 6, 1978. Phil Tavlian's brief was selected as best written. It must have been all the experience he gets writing for DICTA. On Nov. 17 the preliminary rounds of the oral arguments were heard at the Fresno County Courthouse. The participants alternately argued for both the appealee and appealant during this stage of the competition. Eight finalists were selected to argue the following day before the Honorable Judges Hopper, Hanson, and Schrieber. The finalists were: David Anderson, Michael Condry, Nancy Currier, Robert Giovacchini, Ronald Henderson, Beth Hunter, Michael Weinberg and Nancy Winston. Each advocate was allowed to choose the side they wished to present in the finals. Beth Hunter was victorious in the final arguments, with David Anderson second and Nancy Winston in third place.

Phil Tavlian and Beth Hunter, as winners of the written and oral parts of Moot court will comprise the team from S.J.C.L. in the state-wide **1979 Roger J. Traynor California Moot Court Competition.** This year the host school for the final competition will be the Stanford University School of Law. The topic for the Stanford meet has not been released as of this time. That competition will be held on April 20th and 21st., with the written brief due on or before April 2, 1979. The California Young Lawyers Assoc. sponsors the Moot Court competition each year, with the assistance of a host school.

Our congratulations to the winners.

Karen Brown

The DICTA is offering to all attorneys free classified space to those who wish to advertise for law clerks.

Letters To The Editor

Dear Editor,

We as law students are being trained for a profession that in theory at least, has its basis in the protection of individual rights. Yet we as students at S.J.C.L. are afraid or refuse to stand up for our rights as students. We do have an interest in the curriculum at this school, yet time and again the Administration has made changes in that curriculum without regard to the needs or reliance of the students in that curriculum. Nor does the Administration pay credence to the justified criticism of various instructors that the students have voiced. There are numerous incidences of the shabby treatment afforded the students at this school, but the latest and most reprehensible act has been the new rule requiring payment by certified check or money order for tuition and books. I take this as a personal affront to my integrity and honesty, that I can not be trusted to pay by personal check. The legal profession is one strong in ethical considerations, however the school that is training us for this profession assumes we have no ethics.

I think it is ridiculous that many people had to write checks for 15¢, since there had been a change in the price of books in the time we had the certified checks prepared. I guess we can only be trusted for checks under a dollar. If the school was having trouble with bad checks, there must be a more reasonable alternative to the solution of the problem, than certified checks. It shows poor management on the part of the school if they cannot control the bad check situation, without resorting to a solution by which we all feel the consequences. The innocent should not be punished to catch a few guilty individuals.

The Student government of this school is letting the students down. It makes feeble attempts to deal with the Administration in regard to the needs of the students. The Association will not do all that is reasonable and necessary to take a stand and carry it out to a reasonable and adequate conclusion. As a consequence the Administration does not respect the Student Government, and without respect we are now an ineffective body. I for one can no longer be part of a body that does not have enough initiative & strength to make the Administration responsive to our needs and rights as students. Therefore I am resigning as Third-year student representative. This does not mean that I have given up, only that I will deal with the Administration as I may need, to protect my rights.

Karen Brown

Letters To The Editor

STAFF

EDITOR
Neal Hart Pedowitz

ASSOCIATE EDITOR
Russ Cook

PHOTOGRAPHER
Tom Snyder

CONTRIBUTORS
Karen Brown
Phil Tavlian
Greg Myers
Randall Penner

DEAN
John E. Loomis

BUSINESS MANAGER
David Overstreet

Dean's Corner *Continued*

Closely allied with the problems of physical facilities and expanded programs is that of financial resources to acquire and support the necessary facilities. Recognizing that tuition cannot and should not be the only base for carrying the current operations of the school, the Trustees have also committed the school to active solicitation of funds from the community, foundations and other sources which may be available to help finance the acquisition of the needed physical plant. I should add parenthetically that any contribution to San Joaquin College is tax deductible in that the college is a non-profit corporation and has been recognized by the Internal Revenue Service as a charitable institution. Most of you who read this article will hear more about the fund needs of the college in the near future.

Thus, we hope to see the continued operation of San Joaquin College as a night school during the next decade with a slowly increasing student body. We also hope to see early in that decade the college library and staff support facilities housed in more adequate and comfortable quarters. We would expect also to see an expansion of our program, particularly in the area of continuing education, both on our own part and also in conjunction with the continuing education program of the State Bar. In the several years to come, I therefore anticipate seeing the school continuing to grow to provide better services to its students and to the legal community.

Editorial

WHO'S WHO ?

I recently had the opportunity to listen to attorneys argue whether or not a plea bargain had been struck. Both defense and prosecution had to alternately take the stand to offer their contradicting stories into evidence. After the defense counsel had been directly examined, he proceeded to cross-examine himself. The witness asked himself a question, paused for a moment to reflect, and then answered. Lawyers make horrible witnesses. Anyway, in the midst of the cross-examination, my wife entered the courtroom and took a seat beside me. Her initial inquiries were, "What's going on?," and, "Who's who?" What follows are a few guiding rules to use in determining who's who.

The prosecution sits on the right, and defense sits on the left; unless you're the presiding judge. Then it's vice-versa.

The Deputy D.A.s call them informers, while the Public Defenders prefer the term, *snitches.*

The People are usually sustained, and the Defense overruled.

The State demands justice, while the defendant begs for mercy.

Prosecutors invariably litigate in wingtips, while the Public Defenders prefer loafers, pumps, or flats.

The Defendant files Hawkins, Johnson, and Discovery motions. The Prosecution objects.

The People are the Shepherds of the Grand Jury Room. The Defense never gets in.

Either side is quite capable of clarifying or confusing the issues as necessity dictates, and both sides use yellow pads; but it should be noted that the Prosecutors use pens; the Defense, pencils.

The danger in using these general observations occurs when the defense counsel was groomed and trained as a Deputy D.A. prior to switching sides. In that case everyone looks the same, and you have to pay careful attention to see who is sitting where, and what they are objecting to.