



San Joaquin College of Law

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Dean Loomis Extends Welcome

by John Loomis

Welcome to the entering Class of 1979. You are the tenth group to cross the threshold of San Joaquin College. Welcome also to our returning students. I trust all of you are filled with vigor and are prepared to swing into the hard and stimulating task of being a law student.

To you, who have just begun, I have a few special words. Your upper classmen did a superb job at the orientation program in outlining for you the problems, dedications and frustrations you will feel in the weeks to come. Paranoia may be the rule rather than the exception. Then it is time to remember that those who have gone before you are not super-human and that each of you is, in the opinion of the administration, capable of successfully completing the program and becoming a lawyer. It will take more time and work than most of you have been used to exerting, but it also offers to you inspiration, satisfaction and stimulation to a degree I doubt you now even suspect.

I commend to you participation in the extracurricular activities of the school, such as the student government, student parties, the alumni football game, working for the Dicta, proctoring in the library. The opportunity to work with and know your fellow student is very valuable. You will find that with your social and semi-social contacts, discussion will lead to law and legal problems, your vocabulary will improve and develop and you will find that there is both fun and excitement in the process. My very best wishes for success to all of you.

Upper classmen, of course, recognize a certain redundancy in the preceding paragraphs. Be that as it may. After all, you should have recovered from first year paranoia.

As is undoubtedly noted in other places in this paper, we have welcomed several new members to our faculty and have regretfully had to bid other faculty members adieu. Our new instructor come to us with excellent credentials and much enthusiasm and will, I am sure, adequately fill the shoes of those they replace. I publicly welcome each of the new instructors and publicly thank those who have moved on. The first for the scholarship and dedication I am sure you will give and the latter for the scholarship and dedication I know you have given.

During the coming year, it is the aim of the trustees and the administration to find answers for the school's physical problems. If we put many more books in the library, there will hardly be a place to sit. The administrative area is extremely cramped, we are out of storage space. Pacific College needs more night classroom space and we are looking for

See "Loomis," back page

Bar Association President Speaks on Ethics

Philip Tavlian

The President of the Fresno Bar Association opened the 1979-80 Speakers Program at San Joaquin College of Law.

David J. St. Louis appeared before nearly 80 persons at Pacific College's Pilgram Marpeck Center on September 11. His speech was entitled, "How Grand It Is To Be A Lawyer."

St. Louis, a native of Fresno, graduated from California State University, Fresno, in 1963. He received his Juris Doctor degree from Hastings College of the Law in 1967. He is currently the President of the Fresno County Bar, a Governor of the Hastings Alumni Association, and an attorney conferee to the United States Court of Appeals Judicial Conference. He is a member of the firm of Sandell, Young and St. Louis.

St. Louis opened his speech by recounting his impressions of the legal profession as a newly-admitted lawyer.

"How grand it is to be a lawyer," he recalled. "To be a member of a dignified pro-

fession, powerful, well-respected, financially independent, loved by friends, family, clients, and courts."

St. Louis then reviewed these early impressions from his perspective as a legal practitioner.

"I would like to examine with you . . . that lofty idea 11 years later," he said facetiously, "having swapped the insular beauty of law school for 500 clients, horrendous overhead, a large mortgage, degenerative paranoia . . ."

St. Louis questioned whether the legal profession is dignified in the eyes of the public.

"Are we dignified in the eyes of the public when government officials, who coincidentally are lawyers, are accused of crime and sometimes convicted?" he asked. "Are we dignified when lawyers, themselves, use the press to make charges prematurely, preview evidence, taint public opinion, hang clouds of suspicion over our legal community?"

He questioned the legal profession's reputation for a lack of social conscience.

" . . . (O)n the one hand, the law school professors say, 'You don't have a social conscience,'" he stated. ". . . (T)hey on the other hand, have taught us to be advocates only."

St. Louis questioned whether lawyers are respected by their clients.

"Most of us become to the clients one of many things," he said.

"We can be an advisor, we can be their alter ego, we can be somebody to battle with, we can be a defendant in a malpractice suit with them . . ."

He questioned whether lawyers are viewed with any favor by the courts.

" . . . (A) survey that was taken by the National Commission on the Quality of Advocacy in the Federal Courts

indicated that 12 per cent of the lawyers that appear in federal courts are unprepared, that 8 per cent . . . are incompetent, and that 25 per cent are . . . barely adequate," he stated. ". . . (T)he bottom line is that lawyers really aren't viewed with favor in courts," he said.

Finally, St. Louis questioned whether lawyers are loved by their families.

"A good lawyer gets to work about 60 hours a week," he said. "Most of our spouses have categorized us as *homo mechanics*. Now that's not some new offbreed that sexual liberality has engendered. Rather, it's 'fix this, fix that, why aren't you ever home when the water faucet is leaking.'"

St. Louis said all these problems add up to a very troubled legal profession.

"You're not entering into a profession that's in a lot of trouble," he said. "You will soon become a public target. If it doesn't end there and you go on to the bench, they shoot at you even harder."

He said that lawyers can solve many of these problems through professional responsibility.

"You, as a group and individually, have a professional responsibility to fulfill your dual roles," he said. The lawyer's first role is as a member of a State-licensed body, he explained. The lawyer's second role is as a member of a profession, he said.

St. Louis pointed out various ethical rules which apply in everyday legal practice.

"Do you know that your fee agreements should be in writing?" he asked. "That you should never charge a client an exorbitant fee? That you're required by law not to split a fee with another lawyer?"

See "St. Louis," Page Two

Attention!!

by Lois Luckman

John Gorfinkel, Legal Consultant to the Committee of Bar Examiners, played a significant role in the accreditation of San Joaquin College of Law. He will speak at the Fresno Holiday Inn October 8 from 7:00 - 8:00 P.M. Mr Gorfinkel will talk about the outlook of legal education in California and how San Joaquin fits into that outlook. San Joaquin students and members of the Bar are invited to hear this noted author and speaker. Cocktails will be served from 6:30 - 7:00.

Editor's Note:

San Joaquin College of Law takes this opportunity to acknowledge Mr. & Mrs. David St. Louis for being such gracious hosts by having the Student-Alumni-Faculty party at their home the evening of Saturday, September 29th. It was a great way to top-off the day of the Student-Alumni football game.

Thank-you Students, Alumni, and Faculty for attending. And a special thank-you to Mr. & Mrs. David St. Louis for their generosity and support.



Paranoia Sets In At Woodward Park

by Tom Snyder

On the evening of August 23, 1979, twenty prospective lawyers got a preview of how they will spend the next four years of their lives. The twenty attended San Joaquin's student orientation, held this year in Woodward Park.

Student Association President John Shehadey and School Dean John Loomis welcomed the incoming class and wished them luck in the coming year. The students were also introduced to each of their instructors who spoke about what the students could expect in their classes. Dean Wanger talked about the Civil Procedure course, Mr. Beltramo about Torts, and Mr. Riggs about Contracts. Unable to attend the first portion of the evening's program, Mr. Seiler, Legal Methods Instructor, was able to address many students upon his arrival. Mary Ann Parker, School Librarian, spoke a few words about our library and its usefulness.

The program continued with second year students speaking about some of the major problems of law school existence and survival. Jean Stovall, with able assistance from his wife, spoke of the problems attendant those students who are married, working full-time and going to law school. Julie Brungess discussed the time-management problems of full-time work and success in law school. Carlos Guzman finished the student presentations with a discussion of the problems of having perhaps too much time when one is a fulltime student.

As an innovation to the Orientation, Tom Snyder, a second year student, presented the briefing of a sample case which had been prepared specifically for the orientation. In addition, he led the students through a brief experience on how the Socratic Method works in the classroom.

It was now time for the highlights of the evening---FOOD!! There was much interaction between freshmen, upperclassmen and faculty which, hopefully, was beneficial to the new students as they prepared for their law school experience.

The evening ended with the perennial battle between the representatives of CES/BRC and BAR/Law Distributors. John Joyce, CES representative and John Shehadey, Law Distributors representative both spoke on the usefulness of their respective products.

The evening went quite smoothly. The Orientation Committee hopes it was of benefit to the new students, and that we will see them all back next year. GOOD LUCK!!

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Historical Notes on New Faces

by Joanne Sanoian

As we launch into another academic year, this seems an appropriate time to introduce some new instructors who have joined our faculty. While many were presented in the summer edition of Dicta, we take this opportunity to present four more newcomers. Welcome to you all!

Barry Kriebel will soon be assuming duties as instructor of our Corporation course, taking over for Richard Frampton, who will soon be moving to Turlock. Thus far, Mr. Frampton has been giving third and fourth year students an overview of agencies and partnerships. Mr. Kriebel will continue the course of study from that point. Undoubtedly neither students nor Mr. Keibel will have trouble adjusting to this transition.

After completing his undergraduate work at Stanford, Barry Kriebel earned his J.D. from Georgetown University in 1975. He has served as a staff member of *Tax Lawyer*, an American Bar Association publication. For four years he has been with the firm of Blumberg, Sherr and Kerkorian and is presently Chairman of the Fresno County Bar Association Estate Probate and Trusts Section.

Mr. Kriebel says that he shall commence his course of instruction with the view that "Corporations should be a class which emphasizes practical problems with which the practicing attorney will be faced, as opposed to being merely a practice in intellectual game-manship."

Don Horvath, who has previously taught Debtor-Creditor Law will for the first time conduct the Moot Court program for third and fourth year students. He has worked in the Fifth District Court of Appeals for four and a half years, where he has become quite a specialist on writs and motions. (We also understand that he is quite a backgammon specialist!) He hopes to introduce considerable realism to the student's experience by utilizing an authentic case for the Moot Court program. His goal is "to make the program a realistic encounter for the student rather than a practice in oral linguistics." We have no doubt that he will realize that goal.

Originally from Milwaukee, Mr. Horvath earned his undergraduate degree from the University of Wisconsin. He received his J.D. in 1972 from Hastings College of Law, where he served on the Law Review.

Tom Riggs is the new instructor for the first year Contracts course, filling the vacancy left by Michael Case, who is now practicing in Ventura, Ca. After earning his undergraduate degree from California State University at San Diego, Mr. Riggs attended the University of San Diego Law School, where he was the Law Review editor. He has published *Roe v. Wade* on the abortion decision, and graduated cum laude in 1974.

Backpacking and skiing are among the activities enjoyed by Tom Riggs when not working for the County Counsel, where he has been employed for four years. He is quite enthusiastic about his first teaching venture and is quite impressed with the caliber of proficiency of his first year class.

Steve Blumberg joins our faculty as professor of Real Property. He brings to this course his skills as a real estate legal specialist. He is a senior partner in the law firm of Blumberg, Sherr and Kerkorian. Having received his B.A. degree at Stanford, Mr. Blumberg earned his J.D. from UCLA Law School in 1958. He has served as President of the Fresno Bar Association and is presently Chairman of the Ethics Committee of that association. He is also on the Board of Directors of the Lawyers Mutual Insurance Company.

Having taught Real Property and Corporate Law at Humphrey's Law School, Business Law at CSUR, General Real Estate Law for Adult Education and Real Property Law at Pacific College, Mr. Blumberg is not new to teaching. His is a pragmatic approach to Real Property, stressing the importance of everyday problems with which the attorney is presented.

In addition to his busy law practice and teaching activities Steve Blumberg enjoys a game of tennis now and then, and currently holds the title of Lawyers Dobules champion.

These new instructors bring with them a wide range of experiences and wisdom. We are fortunate that they will be sharing these with us this year. Welcome again!

St. Louis

He advised students to remember the rules they learn while preparing for California's Professional Responsibility Examination.

"Once you take that examination, it doesn't mean you should forget about it," he said. "There are many lawyers that are disbarred on a daily basis, there are many lawyers that are publicly reprovved on a daily basis, and there are those that are suspended . . . for a certain given period of time."

St. Louis encouraged law students to study sophisticated ethical problems when enrolled in Professional Responsibility courses. Such problems include conflicts of interest and lawyer competency, he said.

He urged young lawyers to observe basic rules of professional courtesy. First, he advised them not to disparage other lawyers.

"The first thing you should never do is bad-mouth the other lawyer to your client," he said. "The other lawyer is an advocate for his client. He's not somebody you're stepping in the boxing ring with," he added.

Second, he advised young lawyers not to second-guess another lawyer's handling of a case.

"Don't ever try to second-guess another lawyer," he said. "You're trying to judge on a very simple set of facts a very, very complex case."

Third, he warned young lawyers against abandoning their clients.

"You willfully abandon clients if you don't return their calls, if you never have them into the office, if you never review their case with them, and if you never correspond with them," he said. "That is a borderline sin that very many busy lawyers are faced with on a daily basis."

St. Louis also reminded young lawyers of their duties as officers of the court.

Finally, St. Louis pointed out that ethical rules and professional responsibility serve a very positive purpose.

"For a client . . . the profession is what they see in you," he said. "Times change, but honesty, integrity, and truth do not."

The Speaker's Program is a project of the College of Law Student Association. Association Vice-President David Overstreet is chairman of the Speakers Program for the 1979-80 academic year.

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Drunk Drivers Liable For Punitive Damages

by Russ Cook

Last month, the California Supreme Court, in a surprising move, held that a drunk driver, who caused injuries to another, could be liable for punitive damages.

In *Taylor v. Superior Court* (1979) 24 Cal.3d 890, the Supreme Court reversed the holding in *Bombos v. Ashe*, 158 Cal.App.2d 517, and held that where a person drinks to the point of intoxication, then drives a vehicle, he does so with a "conscious and deliberate disregard for the interests of others," thereby allowing an award for punitive damages. cf. *G.D. Searle & Company v. Superior Court* (1975) 49 Cal. App.3d 22).

The Court, in support of the *Taylor* (Supra) decision, took judicial notice of the fact that between one-third and one-half of all traffic fatalities are alcohol-related. They further noticed the fact that to wage an effective war on drunk driving, the judiciary needs to support anti-drinking programs.

The Court stated that to assess punitive damages against drunk drivers who cause accidents may have a deterrent effect on similar future conduct.

Justice Clark, who wrote a dissenting opinion in *Taylor* (Supra), stated that the deterrent effect would be minimal at best. His reasoning was based upon the principle that prior to an accident the drunk driver truly believes he will not have a wreck. He reasoned that to assess punitive damages against the unlucky ones will not curtail the conduct of those who have never been in an accident while drunk.

The majority opinion cited the recent legislative reaction to *Coulter v. Superior Court* (1978) 21 Cal.3d 144, in support of their decision. In *Coulter* (Supra) the Supreme Court stated that a private host may be liable to a third party for injuries sustained at the hand of a drunken guest, who drives after attending a private party. The State Legislature immediately reacted by amending Civil Code, section 1714, to provide that the consumption of alcohol is the proximate cause of injuries inflicted upon another by an intoxicated driver.

In *Taylor* (Supra) the Court stated that by their recent legislative changes, the legislature intended the drunken driver to be principally responsible for the accident and that punitive damages should be assessed against the driver.

The question arises: What effect will *Taylor* have on the insurance industry? Under the law in California, insurance cannot cover liability for punitive damages. *City Products*

Corp. v. Royal Glove Indemnity (1979) 88 Cal.App.3d 31.

The award that would likely result in a case like *Taylor* will be for both compensatory damages and punitive damages. Traditionally, an award of punitive damages nullified all insurance coverage that the defendant may have had. To do otherwise, the court reasoned, would be violative of public policy, *Tomerlin v. Canadian Indemnity Co.* & 1964) 61 Cal. 2d 638. It remains to be seen whether or not this harsh rule will give way as a result of the *Taylor* decision to allow the insurance company to pay the compensatory damages and the defendant to pay the punitive damages.

Taylor leaves substantial gaps in the world of insurance law. In cases wherein the defendant is wealthy, the plaintiff will be fully compensated. However, where the defendant is middle class or below, because of the present state of the law with respect to enforcement of judgments, the plaintiff may not be able to recover even his compensatory damages.

Further, the case places insurance defense lawyers in an immediate conflict. Assuming that the compensatory damages are a little less than the policy limits of the defendant's insurance policy, the defense lawyer (prior to *Taylor*) would have settled the case for the policy limits. After *Taylor*, with punitive damages being assessed if the defendant is proven to be drunk at the time of the accident, the defense lawyer may not be willing to settle within the policy limits for the compensatory damages. Their reasoning would be that if the plaintiff proves that the defendant was drunk, then it would absolve the company from any liability whatsoever. (See *Tomerlin* above)

If the insurance company is unwilling to settle, they may expose themselves to substantial liability based upon their bad faith failure to settle the case. The standard is whether a prudent insurer would have accepted the settlement offer if it alone were to be liable for the entire judgment. *Johanson v. California State Auto Assn.* (1975) 15 Cal.3d 9, *Egan v. Mutual Of Omaha* (1979) 24 Cal.3d 809. Because of the liability of the insurance company, if they do not settle cases in good faith, an insurance company may be more than willing to settle the bulk of those cases which are similar to *Taylor*. Because of *Taylor*, an insurance company may indirectly do what the court stated was in violation of public policy; to pay for damages wherein punitive damages could be assessed.

Dear Editor:

The San Joaquin College of Law Student Association would like to thank the following contributors to the DICTA Editor Scholarship Fund.

The law firm of Cowin, Johnson, Brewer,
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The law firm of Bennett and Ostroff
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John Loomis
The law firm of Lusk and Kesselman
Deborah Owdom
David J. St. Louis
Sylvia Dorsey Stewart
Kay Tuttle

We would also like to thank those who have pledged to contribute in the future. Your contributions to this worthwhile endeavor will be and are greatly appreciated.

Barbara St. Louis
Treasurer

"And Now A Word From Our President..."

"Let's work together!" This is the theme of our Studentbody Association for Academic Year 1979-80.

Who are we asking this of?" Everyone connected with San Joaquin College of Law; Students, Faculty, Administration, Alumni, and the Board of Trustees. We are benefitting from San Joaquin College of Law in one way or another (or we wouldn't be associated with it) and everything we do reflects on San Joaquin College of Law (and conversely). So "let's work together" to improve San Joaquin College of Law.

How can we "work together?" First of all, we can all participate in school events and functions. We invite all those connected with SJCL in any capacity to every event and function held this year - - - and we have quite a lot scheduled for this year; Alumni Challenge and Fall Social on September 29, 1979; SJCL Tennis Tournament on March 15, 1980; Jog-A-Thon on February 16, 1980, as well as speakers at the school and other events to be announced. We, the students, need your support and participation. As Alumni, faculty, administration, and Board of Trustees, we can all work to better the reputation of SJCL.

How else can we "work together" to elevate SJCL? As students, we can work to keep SJCL #1 in California (based on last bar results over a three year average). As Alumni, we can be proud of past achievements and project a positive attitude to the community. As faculty, administration, and Board of Trustees we can keep up the work that made SJCL #1 and communicate our accomplishments into the community.

There! Now that the monkey is on everyone's back "lets all work together" to keep SJCL on top—and with all of your support we will do it.

P.S. Have you ordered your "We're #1" SJCL T-shirt yet?

Sincerely,

John Shehadey
President
SJCL Student Association

The DICTA encourages all those who would consider themselves thwarted writers to submit articles that they would consider of interest to the editorial staff, or just deliver the articles to one in charge at the library.

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Students Dump Alumni in Grid Battle

by Douglas E. Haas

On Saturday, September 29, 1979 the San Joaquin Valley College of Law Student's Association challenged the Law School Alumni to a flag football game and downed the Alumni 28 to 9. The game took place at Quigley Park in Fresno. Approximately 12 Alumni and 15 students were present to take part in the competition.

The Alumni were prepared with a full squad, including Ernie Kinney, Bill Cowin (plus two sons), Bill Hancock, Mike Meyers, Don Forbes, Michelle Stahl and John Suhr.

A spirited initial surge by the Alumni earned them the first touchdown shortly after the game commenced. Apparently being away from the rigors of law school has softened the Alumni as they earned only two more points, in the form of a safety, during the remainder of the game. The students fought back and scored 21 points by half-time. Second year student Tom Snyder was responsible for two touchdowns. One spectacular play occurred when Snyder intercepted a pass close to the student's goal line and ferried the ball almost to the Alumni goal—being downed inches in front of it. Second year student Gary Dyer made one more touchdown during the first half. During the second half the students dug in and held the alumni to their first half score along with scoring one more touchdown. First year student Eric Christiansen received a pass thrown right down the middle while standing in the end zone. An outstanding performance was exhibited by Second year student Ronda Duncan when she intercepted a pass putting the students at the Alumni front door for another touchdown.

Refreshments were provided by Third year student John Shehadey. Channel 24 news filmed some footage of the game and presented it on the 6:30 P.M. and 11:00 P.M. news on September 29, 1979.

This football game provided a welcome reprieve for a law student's usual Saturday curriculum—studying the law. One recommendation will be made for next year's game. With one team being composed of attorneys and the other team being composed of prospective attorneys, there were a few disputes over matters such as whether a score had been made or where a flag had been pulled. The services of an impartial faculty person acting as referee might remedy this situation.

Loomis

ways to be accommodating. In the weeks to come, I hope to be reporting definitive plans to you with respect to the school's physical facilities.

We are also seeking this year to obtain accreditation for the school from the Western Association of Schools and Colleges. When such accreditation is received, students will be eligible for federally insured loans which I know will be of substantial help to many of you. We are moving as quickly as we can in this direction.

I look forward during this coming year to meeting with each of you. I hope that any ideas for the betterment of the school, concerns with its programs and your own participation will be shared and that in the process, mutual support will be forthcoming.

Best wishes to all for a successful year.

FROM THE EDITOR'S DESK

Now entering its ninth year of publication, the Dicta is "holding its own," so to speak. It has, indeed, been in capable hands in the past. But those hands found themselves overburdened with the responsibilities of a publication that at times, though not frequently, ended up being the product of one or two dynamic individuals. I take this opportunity to praise those individuals for keeping the Dicta alive.

This editor has been blessed with a staff of people who wish to "do their share" to see that this individual does not find himself alone, and that the Dicta is produced. Various positions with various tasks have been created and filled by capable individuals with the hope that a tradition of organization will be formed for the future. With this in mind, perhaps the Dicta will no longer start each year from "scratch."

The Dicta will not attempt to be a "Harvard Law Review," but we feel it should be more than just a "school newspaper." It should not only be informative as to events, but should be academic as well. In short, it should inform the legal community as to what is taking place at San Joaquin both in and out of the classroom, plus inform the students here of the happenings in the legal world of which they hope to be a part.

This publication welcomes any input from the students, faculty, administration and legal community. Without such, the Dicta will be only a "calendar of events." With such, however (plus the help of what this editor feels is a superior staff), the Dicta will grow with San Joaquin College of Law and it is hoped that, like our school, it will improve with age.

Peter Wasemiller

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Important Dates and Events

Speaker: John Gorfinkel October 8
Legal Consultant to
Committee of Bar Examiners
Holiday Inn
6:30-8:00

Speaker* November 1
Mid-Term Examinations Dec. 10 through
Dec. 14

Movie Premiere *

Registration for Spring
Semester January 2
Instruction Commences January 2
Jog-A-Thon February 9
Spring Banquet * (April)
Tennis Tournament *

Easter Recess Mar. 31 through
Apr. 4

Final Examinations May 12 through
May 23

Graduation May 30
*to be announced

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