

10-1966

The Caveat, October 1966

Follow this and additional works at: <http://digitalcommons.law.ggu.edu/caveat>



Part of the [Legal Education Commons](#)

Recommended Citation

"The Caveat, October 1966" (1966). *Caveat*. Paper 7.
<http://digitalcommons.law.ggu.edu/caveat/7>

This Newsletter or Magazine is brought to you for free and open access by the Other Law School Publications at GGU Law Digital Commons. It has been accepted for inclusion in Caveat by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.

CAVEAT

VOL. I, NO. 8

GOLDEN GATE COLLEGE SCHOOL OF LAW

OCTOBER, 1966

NORTHEASTERN LAW TO REOPEN WITH NEW APPROACH

In the near future Northeastern University in Boston, Massachusetts, plans to reopen its law school which was closed ten years ago because of declining enrollment and a surplus of lawyers in the Boston area.

When the law school reopens, at the demands of the alumni and the university's trustees, it will be the first in the nation to establish a program of student internship.

Under the new program, participating students will complete one year of required basic law courses, such as contracts, torts and property, and upon completion of these requirements the student will then spend part of each calendar year for the remaining two years of law school as internes in law offices, in the courts and in industrial legal departments.

Northeastern has already indicated that tentative arrangements have been made with several law firms to accept internes and the response from most lawyers in the area is very favorable.

At one time in the not too distant past clerking in an established law firm, without the benefit of a formal legal education, was an accepted practice which, if the clerk could cope with the great amount of work and sustain himself on a small salary, would eventually lead to admission to the bar after taking an exam.

Of course this is not acceptable today and for good reason, but is not the idea of clerking (i. e., interning) in a law office, affording the interne with the bene-

(cont. on page 3)

Law Wives Club To Award Scholarship

An annual scholarship award of \$100.00, using funds derived from coffee sales and other activities conducted by the Law Wives Club during the year, will be presented at our Fall Dinner this November. Dean Gorfinkel, who will make the award this year, views it not only as an incentive to the students, but a means through which the Law Wives Club can become "an even more valuable adjunct to our program. Tentative qualifications for the award are as follows:

1. The award is to a student who has completed the first year. (This is interpreted as not less than 19 units in the part-time division, or 30 units in the full-time division; the student must have carried the full course load for his division and his total period of attendance may not exceed 1½ years.
2. The student must be currently enrolled in the second year. A student who transfers, withdraws, or takes a leave of absence after the completion of the first year will not be eligible.
3. The selection will be made about October 1 of each year by a committee consisting of two members of the faculty, the current president and the immediate past president of the Law Wives Club.
4. The award will be based exclusively on scholastic achievement and merit; need is not a factor.

The above terms or qualifications are tentative to the extent that they will be reviewed by the Law Wives Club; if they are found to be satisfactory, the award will be presented at the Fall Dinner as planned.

FALL DINNER DANCE



This year's Fall Dinner Dance promises to be the best ever, according to chairman John Schneider. It will be held at the beautiful Claremont Hotel in Berkeley on Saturday, November 12.

A cocktail hour will precede a full course prime rib dinner, followed by dancing to the Claremont Hotel Orchestra. The S.B.A. will be paying a portion of each person's tab, in addition to the entire cost of the orchestra.

Watch for further information on ticket sales and keep November 12 open.



S. B. A. NOTES

As first order of business, Mr. Golden commented on the establishment of a S. B. A. petty cash fund. This was result of attempts to arrange a separate S. B. A. bank account rather than have funds maintained by the College Administration. By establishing such a fund, the Board of Governors can without undue delay, make immediate purchases and pay bills in small amounts.

In addition, Mr. Golden reported two programs which should be of student interest.

- a) Establishment by the A.B.A. of a Placement Information Service. This service will utilize a central computer clearing system; will be nationwide in scope and available to the members of the Bar and graduating law students. Complete information will be available with the Law Student Placement Service.
- b) The Barristers' Club of the San Francisco Bar Association will make available speakers to discuss the subject of law practice. The speakers will represent large law practices, small law practice, corporate practice and government service. Arrangements and coordination of this project will be handled by Jerry Houser and further information may be obtained from him.

Mr. Stephens announced that full committees will not be formed but that committee chairmen will call on members of the Board for assistance as required. In addition, all officers will act as ex officio members of the committees.

As a matter of procedure it was announced that all new business must be communicated to the S.B.A. Secretary prior to any given meeting and placed on a formal agenda.

It was decided that the Constitution again be revised with the following Board members selected

to comprise the committee:

P. Stephens
J. Schneider
T. Long
A. Barasamian

A request was made that the Board consider for adoption at the next meeting, a rule whereby members will be dropped after two consecutive absences and a new representative appointed.

The Board then discussed the Annual Fall Dinner. Mrs. Dave Loofbourrow representing the Law Wives, proposed that a combined Law Wives and S.B.A. dinner be held, highlighted by a speaker. After much discussion it was apparently resolved that we hold a Dinner Dance on the first of second week-end of November. J. Schneider, in conjunction with the Law Wives, will coordinate this event.

D. Loofbourrow representing members of his class, commented with respect to the noisy conditions prevailing in the library and proposed a change in library hours. The Board abstained from official comment, suggesting that Mr. Loofbourrow first contact the Administration.

Meeting adjourned at 6:45 p.m.

Colloquy

Facing a prospective juror in a murder case in Belton, Texas, Percy Foreman asked if the man knew him by reputation.

"Yes" the man answered.

Would he be prejudiced by what he knew, Foreman asked.

"Yes" replied the man, "because you are a shyster. They wouldn't hire you unless they were guilty."

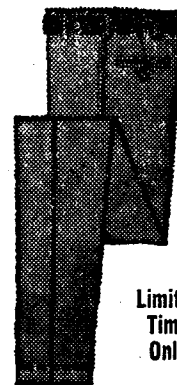
At this point, Foreman astonished the court by announcing, "I'll accept this juror. He's an honest man."

The juror, as it subsequently turned out, helped swing the verdict toward a five year suspended sentence for Foreman's client.

(Life - April 1, 1966, p. 96)

SALE!

of
Traditional Trousers



Limited
Time
Only

Complete stock of dress
slacks at ...

50% OFF!

All wool worsteds, flannels, hopsacks, dacron*/wool blend, and many more fine fabrics.

12.95	NOW	6.50
14.95	NOW	7.50
16.95	NOW	8.50
18.95	NOW	9.50
19.95	NOW	10.00
22.95	NOW	11.50
24.95	NOW	12.50
27.95	NOW	14.00

*Dacron polyester

BANK CREDIT CARDS WELCOME

ESTABLISHED 1927

35% DISCOUNT ON ALL MERCHANDISE

VAUGHN

AT SATHER GATE

SAN FRANCISCO, BERKELEY, LOS ANGELES, SEATTLE
PALO ALTO, SAN JOSE, SACRAMENTO, EUGENE

BERKELEY

2333 Telegraph Avenue
Open Monday & Thursday
until 9:00 p.m.

SAN FRANCISCO

447 Market Street
Open Thursday
until 9:00 p.m.



RECENT CASES OF INTEREST

JORDON v. FITZHARRIS
Fed. Supp.

In September, 1966, the Federal District Court for the Northern District of California inquired into the procedures and practices of the California Correctional Training Facility at Soledad, California, in a proceeding to determine whether the use of "STRIP CELLS" under the conditions alleged by the plaintiff Jordon constituted cruel and unusual punishment in violation of the 8th amendment of the Constitution of the United States. This is the "first district court in this circuit" to make such an inquiry "in a proceeding of this kind."

The cruel and unusual clause of the 8th amendment is applicable to the states through the due process clause of the 14th amendment. *Robinson v. California*, 370 U.S. 660. This action was brought primarily under 42 U.S.C. 1983, a civil rights act which creates a cause of action for deprivations, by persons acting under color of state law, of rights secured by the constitution. The courts jurisdiction was obtained primarily under 28 U.S.C. 1343, which gives the federal district court original jurisdiction of civil actions arising under 42 U.S.C. 1983.

A "STRIP CELL" is part of the isolation section of the prison's maximum security adjustment center. It is approximately 6 feet wide and 8 feet long. The floor, side and rear walls are concrete. The front wall is solid except for a barred and screened window with dimensions of 12 inches x 18 inches that can be closed by a flap attached to the bottom of the window. Approximately 2½ feet behind this wall

(between the front wall and rear wall) is a barrier of steel bar construction covered by a metal screen which forms a vestibule between the cell proper and the corridor. The cell is devoid of all furnishings except for a commode toilet encased in concrete or an "oriental toilet," a hole in the floor. The toilet is flushed by a prison official from outside the cell. Therefore, an occupant of a strip cell has no control over the removal of his body wastes. The cell has no interior source of light and when the flap is closed the cell is totally dark except for a "seepage of light." Heat and ventilation are supplied through two ducts located high on the rear wall of the cell.

The defendants contend that the strip cells are warranted in eliminating so-called incorrigible inmates from the rest of the inmates, and are preventive and punitive devices used to house those that are "beyond the reach of ordinary controls and prison directives."

Jordon was placed in one such cell for 12 consecutive days. The flaps were closed and he was deprived of his clothing for the first 8 days. Thereafter he was given a "rough pair of overalls only." The toilet was flushed at 8:30 a.m. and at 9:00 p.m. The cell was not clean; body wastes from the prior occupant remained on the floor. He was not allowed any means with which he could cleanse his body, hands or teeth. In the unrelenting darkness, Jordon became nauseous from the constant state of filth. The vomit was not cleaned out. In this abhorrent environment, he was forced to eat and sleep. There was no heat, and a stiff small mat was given him for a cover. The mat was not large enough to adequately cover his large frame. Sleep was impossible.

While not finding the use of strip cells a per se violation of the 8th amendment, Judge Harris enjoined their use unless "it be accompanied by supplying the basic requirements essential to life by providing essential requirements as

may be necessary to maintain a degree of cleanliness compatible with elemental decency in accord with standards of a civilized community." In finding the conditions that existed during Jordon's tour in the strip cell as violating the constitution of the United States, Judge Harris said, "the responsible prison authorities in the use of strip cells have abandoned elemental concepts of decency by permitting conditions to prevail of a shocking and debased nature." Under such circumstances, "courts must intervene to restore the primal rules of a civilized community in accord with the mandate of the constitution of the United States."

QUERY: This practice may be cruel and unusual with reference to the constitution of the United States, but is it an unusual procedure in the penal institutions of the United States today?

(cont. from page 1)

fit of exposure to actual practice, still of value and great merit? Perhaps more law schools and law firms should give considerable thought to instituting an internship program similar to the one proposed at Northeastern.

Patronize

Our

Advertisers

CERVANTES

Your Favorite Sandwiches
Made To Order

BEER AND COFFEE

567 MISSION ST.

Bet. 1st and 2nd Streets
San Francisco, California

**SAN FRANCISCO
BAIL PROJECT:
ASSISTANCE & REFORM**

Over the past two years the accomplishments of the San Francisco Bail Project have established it as one of the best in the country. To date, over 2,000 people have been released pending trial without paying any bail premiums. In the overwhelming majority of cases, these people would not have been able to raise the required bail, or if they could, it would put them seriously in debt.

Those facts alone justify the continued existence of the OR Project. However, there are other achievements, not quite so obvious, but which are probably of more interest to the law student.

Law Books

New Used

**SAVE MONEY
BY DEALING WITH LAKE**

All student Books & Aids
Also Practice Sets
Come where your credit is good!

Harry B. Lake Kenneth W. Lake

MAIN STORE

339 Kearny St., San Francisco
SUtter 1-3719

BRANCH STORE

138 McAllister St., San Francisco
UN 3-2900



The O.R. Project acts as an informal watchdog over the area of pretrial criminal procedure. For example, before the advent of the project, "holds" were regularly placed on people on probation to the California Youth Authority. The effect of this "hold" was to prevent the accused from being bailed or O.R.ed (released by the O.R. Project). The "hold" remained until the California Youth Authority was finally notified and a probation officer personally came to the prison and removed the hold. Even where the charges were dismissed and there was no violation of probation, the defendant was held in prison for several days.

As a result of O.R. Project pressure, the practice of automatic "holds" has ceased. A "hold" is no longer put on someone who is on probation unless the officer makes a special request to do so.

Penal Code sec. 825 seems clear in requiring that a person be brought before a magistrate within two days of arrest (excluding Sunday and Holidays). In practice, where someone is arrested for committing a felony, he is held for three days on a "suspicion booking", which is apparently unauthorized by the Penal Code. He is then rebooked for violation of a specific section of the Penal Code and only then does the person get before a judge for arraignment.

Aside from what appears to be a violation of Sec. 825 of the Penal Code, there were numerous instances of people being held for weeks on a "suspicion booking" before arraignment. The O.R. Project has been successful in limiting detention on "suspicion bookings" to three or four days. Because of studies made by the O.R. Project staff, compliance with Penal Code section 825 may become a reality in the near future.

It is obvious from these examples of their work that the O.R. Project presents an unusual opportunity for law students to learn the administration of criminal justice and to participate in badly needed reforms. The project has always depended on

volunteer work by students. As its activity has become more widespread and the work load has increased, student volunteers have become increasingly important.

Editors Note Any student wishing additional information on the workings of the O.R. Project and the possibility volunteer work with them should contact either the Bail Project at its offices in the Hall of Justice on Bryant Street, or Jerry Edelman, 4th year day program.

LAW SCHOOL WELCOMES NEW PROFESSOR

David Stern, newly appointed Associate Professor of Law, brings to the Law School a varied background. He was graduated from Harvard and Harvard Law School and received his LL.M. in international law from New York University. Over the years Professor Stern has been engaged in both the practice and teaching of law. He has taught in the law schools of the University of Miami and the University of Washington. While at the University of Miami he was instrumental in organizing a program in international law which included the reciprocal training of American and Latin American students.

Professor Stern is especially interested in international and comparative law, and, with the planned future expansion of the law school curriculum, he hopes to offer a course in international law next year. He is likewise interested in the inter-relationship of the social sciences and law.

At present Professor Stern is teaching property and equity and has assumed the position of Acting Law Librarian. This is temporary however as in the future a professional law librarian will assume these duties.

Professor Stern finds his students challenging and foresees a bright future for the Law School. He is a welcome addition to an already fine full time faculty.

LETTER TO THE EDITOR

Dear Sir:

Most corporations and Associations publish an annual report in which can be found a balance sheet and a profit and lost statement. The purpose of such publications are to inform the stockholders of the financial condition of the business and to illustrate the manner in which their monies have been utilized.

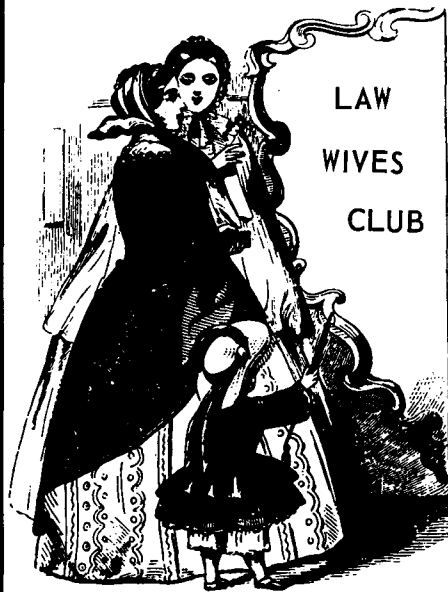
Yet the student body of the Law School, who are members of the Student Bar Association, all of whom contribute \$5.00 per year to their association, remain completely uninformed as to the financial status of their organization. It would seem appropriate that the S.B.A. immediately publish the balance remaining in the association account and the planned expenditures for the remainder of the year.

True, \$5.00 per student is not a large sum of money, yet multiplied by the 400 plus students now attending this law school we are concerned with a sum exceeding \$2,000 per year or the disposition of from \$6,000 to \$8,000 during our three or four years here.

The student body has an interest in the compulsory sum extracted from them. The S.B.A. representatives should do us the courtesy of informing us how our money is being expended. Certainly that is not too much to ask.

William J. Fahres
2nd Year; Day Program

This space is reserved each month for comments from members of the faculty and the student body on subjects related to the legal profession, Golden Gate School of Law, or articles that have appeared in the CAVEAT. All letters should be signed, and the students year in school noted. Letters may be left with one of the secretaries in the library or deposited in the box on the second floor.



DR. ORCUTT TO SPEAK HERE

The next meeting of the Law Wives Club, scheduled for November 17, will have as its speaker Dr. Elgin Orcutt. Dr. Orcutt is an Associate Clinical Professor at the U.C. Medical School, and is presently arraigned on charges of performing an illegal abortion. This pending action will be the subject of his talk.

Because of the nature of Dr. Orcutt's talk, the Law Wives have decided to alter their normal procedure and allow any and all interested students to attend.

Dr. Orcutt will speak in one of the available classrooms on the second floor at approximately 7:45 p.m. on November 17. Therefore, if you would like to attend what promises to be an interesting evening, set the date aside now.

Gadfly

The problems attendant to the present operation of the bookstore seems to have reached at least a temporary solution: the bookstore will close its doors on Wednesday, October 19, 1966, and not re-open until the Spring semester. Any books or supplies needed between now and next spring will have to be purchased at one of the other law book stores in the city. While this solution does seem to be a bit extreme, there is some justification for it. The college maintains that while the volume of business during registration is considerable, that volume drastically decreases during the remainder of the semester making continued operation unfeasible. In addition to this there

seems to be a problem finding students who are willing to work in the bookstore four hours per week for \$1.75 an hour.

Appreciating the problems of all those concerned, the college remains willing to operate the bookstore if those of us involved, the students and the administration, can arrive at some general agreement or consensus as to what the needs of the students and faculty are, and how the bookstore can best be operated to satisfy those needs.

Apparently a co-ordinated effort by the administration and the S.B.A. to arrive at a workable solution to the problems involved would enable the bookstore to improve and continue the services it now provides.

PUBLISHED MONTHLY BY THE
STUDENT BAR ASSOCIATION
GOLDEN GATE COLLEGE SCHOOL
OF LAW, SAN FRANCISCO.

EDITOR IN CHIEF
D. T. LOOFBOURROW, JR.

ASSOCIATE EDITOR
M. C. COLLINS

PUBLISHING EDITOR
J. F. VILLANY

BUSINESS MANAGER
R. HUDDLESTON

REPORTERS
A. CUNNINGHAM J. EDELMAN
R. SCOTT JR.

Traynor And Court Number 1 In U. S.

Like federal courts, California's are now centrally administered and answerable to the state's top court. Under former Chief Justice Phil S. Gibson, who retired last year at 72, the state banished overlapping minor courts and non-lawyer judges. In 1960 the voters approved Gibson's pioneering plan to ease aging or incompetent judges out of office. But sound organization is only half the story. Equally vital is the quality of California's high court, which currently includes such able men as Justice Mathew O. Tobriner, Paul Peek and Raymond E. Peters. Most important of all is the brilliant legal mind of Gibson's successor, Chief Justice Roger J. Traynor, 65. Traynor, says Illinois' own dis-

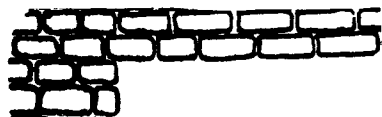
tinguished Justice Walter V. Schaefer, is "the nation's No. 1 state judge."

As a Berkeley law student, Traynor simultaneously taught political science and edited the California Law Review. He graduated in 1927 with both Ph.D. and J.D. degrees. As a young tax expert, he drafted many of California's revenue laws while teaching at his alma mater; he served as deputy state attorney general and became the state's first sales-tax administrator. In addition, he helped draft the new Federal Revenue Act of 1938.

Appointed to the California Supreme Court at 40, Traynor has since written 775 opinions on every imaginable subject; many of his 156 dissents later became

U.S. Supreme Court doctrine. Traynor is aptly called "a law professor's judge"—he writes not only acute, balanced opinions but reams of scholarly law-review articles as well. Most important, he is undaunted by the cautious rule of stare decisis (adhere to current doctrine that Northern school boards may or may not remedy de facto segregation, as they please. In a still unique state-court reading of the 14th Amendment, Gibson ruled in *Jackson v. Pasadena* that California school boards can no longer merely refrain from discrimination. "It is up to the school boards," he said, "to eliminate racial imbalance in schools regardless of its cause." In 1963 Traynor spoke for his court in issuing another U.S. precedent: the idea that even non-negligent manufacturers now have "strict liability" to consumers injured by their defective products.

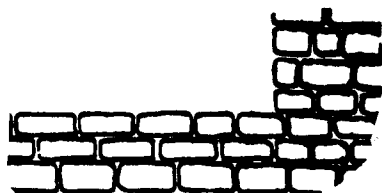
TIME, JANUARY 21, 1966



Vince's
BEEF HOUSE

**55 STEVENSON ST.
SAN FRANCISCO
YU 6-1893**

**LUNCH 11:30 - 3:30
DINNER 6:00 - 11:00**



Kenneally's SHAPE UP FOR SKIING

A complete selection of the finest in ski apparel and equipment.

Head's new 360. The all-around ski for the all-around skier.

RENTALS (FREE PARKING)



67 SECOND STREET. - 362-6042
(Between Market & Mission)