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11 **UNITED STATES DISTRICT COURT**
 12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

14 ERNEST DEWAYNE JONES,

15 Petitioner,

17 v.

18 VINCENT CULLEN, Warden of
 19 California State Prison at San Quentin,

20 Respondent.

Case No. CV-09-2158-CJC

DEATH PENALTY CASE

22 **EXHIBITS IN SUPPORT OF MOTION FOR AN EVIDENTARY HEARING**
 23 **VOLUME 5**

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Rulings Summarized

Following are condensed versions of the latest opinions of the California Appellate Courts... as printed for quick checking by the attorney.

Finding of Willful Interruption of Utility Service Unsupported

The C.A. 3rd has held that a finding of willful interruption of utility service was unsupported by substantial evidence.

Three months passed without payment of any rent. In late May 1975 the defendant disconnected the electrical and water connections to the plaintiff's mobilehome.

The C.A. ruled that the record was devoid of any evidence that when the defendant disconnected the utilities he knew that he was committing a prohibited act.

Landlord-Tenant Relationship Survived Notice to Pay or Quit

In reversing the trial court, the C.A. 3rd held that a landlord-tenant relationship survived a three-day notice to pay rent or quit.

In the Superior Court the landlord's suit for unlawful detainer and unpaid rent was contested with the tenant's suit pursuant to Civil Code Sec. 798.3.

The appellant had fallen behind in rent after he presented the respondents' small claims judgment, the respondents served him with a second notice to pay rent.

Tribunal Asked to Retire, Not Fire Suspended Jurist

The respondents charged that the state deprives them of due process of law by forcing them to pay for the tenant's utilities.

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Action to Determine Value of Article in Felony Case Valid

The C.A. 1st has rejected an argument that CALJIC 48.20 mistakes the law by instructing the jury to find the highest price of the stolen article rather than its fair market value.

The pertinent part of 48.20 states that when the value of property alleged to have been stolen must be determined, the fair market value should be the test.

Action Against State Was Not Commenced Within Six Months

A medical student seeking redress from the University of Southern California medical school has been granted a reversal of the school's judgment of dismissal.

The C.A. 2nd in so doing held that the plaintiff's delay in instituting an administrative review, a prerequisite to any court action, was not so unreasonable as to bar the action.

ON THE INSIDE

CALENDARS: Superior Court, 10:00 a.m. - 12:00 p.m.; Municipal Court, 9:00 a.m. - 12:00 p.m.

PUBLIC NOTICES: Federal, 10:00 a.m. - 12:00 p.m.; State, 10:00 a.m. - 12:00 p.m.

EDUCATIONAL FEATURES: State of the State (Earl Warren), 3

Supreme Court Roundup

Double Jeopardy Relation to Corporation Under Review

WASHINGTON (UPI)—The Supreme Court rejected a government request that it rule on whether the Constitution's guarantee against "putting a person in jeopardy twice for the same offense" applies in corporations.

The court acted on petition of the Justice Department, which wants to appeal against a New York City (City of the Security National Bank as a case involving unlawful political contributions.

Only Justice Potter Stewart and Justice William Brennan voted to deny the case. Four votes are needed for acceptance.

Salary Payments: The department said it bank gave more than 40 officers salary increases of \$1,700 a year with the

Bill Introduced to Allow Recall of Bar Governors

From Our Capitol Bureau SACRAMENTO — Assemblyman Willie Brown has introduced legislation to allow the recall of members of the State Bar of California.

From Our Capitol Bureau SACRAMENTO — Assemblyman Willie Brown has introduced legislation to allow the recall of members of the State Bar of California.

A UPI survey showed 24 senators firmly in favor of the bill, 50 by George Lodwickman, R-Louis Beach. Ten were opposed and five remained inconclusive.

The bill now requires 27 Senate votes, a two-thirds majority for passage and, as an "urgency" measure, would become law immediately upon signature of the governor rather than on Jan. 1.

Initiative Funding: The veteran legislator, who asked for passage to Page 2.

Disposes Tax Held Under Study By Carter Aides

WASHINGTON (UPI)—The House of Representatives has agreed to impose a federal tax on the death proceeds of life insurance.

Key Votes: The bill was passed by a vote of 277 to 167 in the House.

New Cases Accepted by High Court

People v. Brown, Crim. 1977, (2) Crim. 28083; 66 Cal. App. 3d 618.

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Vote Due Thursday

Death Penalty Poll Casts Doubt on Veto Override

Sen. Bill Wilson, D-La Mesa, was traveling in the Soviet Union and unavailable for comment.

The survey of the Democratic caucus showed 17 in favor of overriding a gubernatorial veto, eight opposed and 15 undecided.

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Small Claims Court Sets Night Hearings Program

Small Claims Court will be offered on Thursday nights in a pilot program by the Los Angeles Municipal Court, Presiding Judge Irwin J. Nebrson announced.

"Small claims court judges work all day long to deal with thousands of cases," Nebrson said.

The pilot program will start April 28 in Division 62 of the Los Angeles Traffic Court building, which is open on Thursday evenings for night traffic court.

Twenty-five matters will be set for each Thursday session, starting at 5:30 p.m.

Association is assisting the pilot program by distributing pamphlets and other promotion.

John Quinn, president of the County Bar, told reporters at the meeting.

"We hope to see this project become a model for other courts around the state," the president added.

April 15 is Deadline to Claim Tax Exemption

Los Angeles County Assessor Philip E. Watson has reminded all new homeowners that April 15 is the deadline for filing 1977 homeowner's exemption claim forms.

The assessment and 100% homestead exemption forms were mailed to all eligible homeowners.

Trials Opens on Cancer Claims of DES Offspring

For more than 15 years, a synthetic estrogen called DES was widely prescribed for pregnant women to prevent miscarriage.

Heardings begin Monday in Wayne County Court on the wrongful death claims of the daughters of women who took DES.

An attorney for the women, Lawrence Chaffin, said the DES case was "the biggest scandal in medical history."

The suit charges that the companies which manufactured the drug are jointly liable for damages.

Child Abuse Seminar Held in Long Beach

A two-day seminar on child abuse—especially for residents of Long Beach—was held at the Long Beach Convention Center.

The seminar, from 9:30 a.m. to 5:30 p.m., was held at the Long Beach Convention Center.

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Death Penalty Poll Casts Doubt on Veto Override

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SACRAMENTO (UPI)—Death Penalty supporters easily have enough votes to win Senate passage of a capital punishment bill, but are far short of the 27 needed to override a promised veto by Gov. Edmund G. Brown, a poll showed Monday.

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A UPI survey showed 24 senators firmly in favor of the bill, SB155, by Sen. George Deukmejian, R-Long Beach. Ten were opposed and five remained uncommitted. The proposal is scheduled for a floor vote Thursday.

The bill now requires 27 Senate votes, a two-thirds majority, for passage and, as an "urgency" measure, would become law immediately upon signature of the governor rather than on Jan. 1.

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The same two-thirds vote requirement is needed for a successful Senate override of a veto. In the Assembly, 54 votes are needed for approval of "urgency" legislation, the same number required for a veto override.

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Deukmejian said, however, that if he fails to muster 27 votes in the Senate for approval of the bill, he will strike the "urgency" provision and thereby reduce the margin needed for passage to only 21, a bare majority.

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Key Votes

Key votes were held by democratic Sens. Alex Garcia, Los Angeles, Rose Ann Vuich, Dinuba, and Omer Rains, Ventura, who said they were undecided on how to vote, but did not necessarily object to capital punishment.

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Sen. Bob Wilson, D-La Mesa, was traveling in the Soviet Union and unavailable for comment. Even though he voted for the measure in the Judiciary Committee, a change in the bill narrowly adopted by the full Senate last week could cause him to change his mind.

The survey of the Democratic-dominated Senate showed 17 in favor of overriding a gubernatorial veto, eight opposed and 15 undecided, including three Republicans.

Some of the undecideds in the override issue included lawmakers who plan to vote either "yes" or "no" on the Deukmejian bill.

One usually liberal democratic opponent of the death penalty said he might vote to override a veto "because of political considerations."

Initiative Planned

The veteran legislator, who asked Please turn to Page 4

Disposables Tax Held Under Study By Carter Aides

WASHINGTON (UPI) — President Carter plans to ask Congress to impose a federal tax on disposable containers to hasten the end of the no-deposit, no-return way of American life, the Washington Post reported Monday.

Quoting White House sources, the newspaper report said Carter also may seek to additionally penalize use of one-way containers by im-

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THE DA
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directing that an order denying pretrial discovery be vacated and the discovery motion be granted. The principal question presented is whether one co-defendant waived its work-product privilege as to plaintiff by providing another defendant with a copy of a report prepared by its expert. (Code Civ. Proc. Sec. 2016, subd. (b) and (g).)

No. 77-26 *Marasco v. Wadsworth*, L.A. 30735, has been retransferred to the Court of Appeal, Second District, Division Four, for reconsideration in light of *Smeltzley v. Nicholson Mfg. Co.*, 18 Cal. 3d 932.

Death Penalty

Continued from Page 1

not to be identified, noted that if the legislature failed to enact a capital punishment statute, several groups planned initiative drives to qualify a proposition for the November 1978 general election ballot.

"There is going to be a death penalty law," he said. "But I just don't think it would be wise for the governor and some of us to be on the same ballot with it."

Sen. John V. Briggs, R-Fullerton, said he is in favor of the bill, but might vote to uphold a veto just to make sure a proposition did appear on the ballot.

"I, for one, would be delighted in seeing a (death penalty) proposition on the ballot," he said, adding the governor's opposition to capital punishment could hurt

measure, but would override a veto of the right bill."

Amendment Fight

Wilson's vote seemed in doubt because an amendment he fought for in the Judiciary Committee was removed from the bill by the full Senate at the request of Deukmejian.

That amendment would have prevented prosecutors from introducing evidence of past criminal acts by murder trial defendants unless they resulted in convictions and involved violence.

Committee Chairman Alfred Song, D-Monterey Park, co-sponsored the amendment with Wilson and opposed its deletion, arguing the bill probably would be found unconstitutional without it.

After the Senate adopted the change, however, Song said he still planned to vote for the bill, "even though I will probably be voting for an unconstitutional bill."

McComb Hearing

Continued from Page 1

retirement or removal for incompetence would carry a "degree of stigma."

Stout argued that the judge had been deprived of due process and equal protection because inadmissible material was presented to the commission which recommended his removal.

"A parade of horrors was allowed to get into the record," Stout said.

State Power Argued

He also said that four Supreme Court justices were allowed "to cannibalize because Justice McComb refuses to walk to the same drummer."

William Weissich, special counsel for the commission, said that all proceedings had been by "specific constitutional authority."

He based his argument for removal on the decision of the Los Angeles Superior Court which found

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Death Bill Passed by Senate On Slender Two-Vote Margin

SACRAMENTO (UPI) — The Senate ignored a promised veto of Gov. Edmund G. Brown and Friday approved with two votes to spare the legislature's major bill to restore the death penalty in California.

A 29 to 10 vote, two more than the two-thirds majority needed, sent the legislation, SB155, to the Assembly, which is expected to enact it or a similar version. Likewise, a two-thirds margin is needed to override a gubernatorial veto.

However, virtually no one viewed an "aye" Senate vote on the

politically explosive bill as a favorable vote later to override a veto. Brown warned in January that he would veto as a "matter of conscience" any capital punishment bill that reached him.

Low Key Debate

Compared to previous stormy and impassioned debates over the death penalty, the Senate battle this time around was relatively low key. At the outset, senators were reminded to keep debate brief because many had early afternoon airplane reservations for a head-start on the week-long Easter recess.

The author, Sen. George Deukmejian, Senate Republican floor leader, argued that the bill, strongly supported by law enforcement, met requirements of both the state and federal supreme courts.

He said the issue was "fully debated by the people in 1972" when Californians voted more than 2-to-1 reinstate capital punishment. The State Supreme Court in December struck down as unconstitutional the statute authorized by the voters.

Counter-Argument

One opponent, Sen. John Dunlap, D-Napa, argued that if the biblical philosophy of an "eye for an eye and a tooth for a tooth" prevailed then the Lord should carry it out.

"Let's not turn the California State Senate into a body of people pompously playing God," he declared. "I don't want to play God."

Sen. John V. Briggs, R-Fullerton, said he believed Brown when the governor said he would veto the bill as a matter of conscience but didn't believe Brown's vow that he would administer a death penalty law if it was enacted over his opposition.

"I think if he vetoes it, we ought to send him out naked in November," Briggs said, referring to Brown's expected 1978 re-election bid. "We're going to put a governor in office who is going to carry out the wishes of the people."

Vote Breakdown

Here is the roll call vote on the death penalty bill.

Democrats for (17): Ayala, P. Carpenter, Dills, Foran, Garamendi, Garcia, Gregorio, Holmdahl, Presley, Rains, Robbins, Smith, Song, Stiern, Vuich, Wilson, Zenovich.

Republicans for (12): Beverly, Briggs, Campbell, D. Carpenter, Cusanovich, Deukmejian, Johnson, Nejedly, Nimmo, Richardson, Russell, Stull.

Democrats against (8): Alquist, Dunlap, Greene, Holden, Petris, Roberti, Rodda, Sieroty.

Republicans against (2): Behr, Marks.

Absent or not voting (1): Mills.

Trustees Back Bar Public Law Firm

By Bob de Carteret

Trustees of the Los Angeles County Bar Association want a public interest law office, but they have yet to agree on the extent the County Bar would be involved in cause-orientated litigation.

This type of litigation, also called impact litigation, involves matters affecting a broad segment of the public. Much of it makes headlines and some, such as school desegregation, is controversial.

"We conceive of public interest law to cover the whole range of pro bono work," said Robert Gelber, co-chairman of the County Bar Committee on Public Interest Law, which is urging County Bar sponsorship, of a public interest law office.

Trustees Meeting

The Board of Trustees, meeting Wednesday, approved the committee's 64-page report in principle, but asked for a special committee to work out details, such as involvement in causes.

John J. Quinn, County Bar President, will name a committee of five trustees to make a proposal on the funding, organization and

direction of the proposed public interest law office. The five will submit their proposal within 30 days.

But the trustees agreed that, at the very least, the public interest law office would promote and coordinate public interest services by association members.

The committee proposal contemplates joining forces with the Beverly Hills Bar Association, which created an office called Public Counsel in 1970. The office has one fulltime attorney.

One advantage of this arrangement is the William O. Douglas Awards Dinner, which raised more than \$40,000 last August for Public Counsel. This was the first time the retired U.S. Supreme Court justice allowed use of his name in a fund raiser.

The dinner is planned to be an annual event.

Trustee Objections

Some trustees objected to county bar involvement in some controversial cases Public Counsel has on its docket. Trustee Robert

Please turn to Page 2

By Rules of Courts, Official Newspaper for U.S. District Court, N. California, Superior Court, City and County of San Francisco, and the Municipal Court, San Francisco, Calif.

Printed on Special Class Matter at the Press Office of San Francisco, Publication No. 47802

Published Daily Except Sundays, Holidays and Legal Holidays



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Comments Sought From Attorneys

State Bar Considers Mandatory Fee Arbitration

The State Bar Board of Governors has voted to seek comments from California attorneys on a proposed mandatory fee arbitration program which would require an attorney upon a client's request, to arbitrate a fee dispute.

The dispute fee is not more than \$10,000. The client brings a malpractice action against the attorney. The fee is not to be determined by statute or court order. The statute would also require the State Bar Board to adopt rules for voluntary fee arbitration systems for local bar associations.

The Board voted to take no action at this time on the Committee's report but to first publish the Committee's recommendations in the State Bar's publication, Journal and Report, and ask the Bar's attorney members to comment.

In California, the 20 local bar associations in California have voluntary arbitration procedures available to clients and lawyers who consent to arbitrate. The San Diego, Los Angeles, Alameda County and San Francisco bar associations collectively received a total of 313 formal client requests for arbitration in 1971 and 334 requests in 1972 through Oct. 31.

Under the proposed system, a client with a fee dispute would go to the State Bar. The State Bar would refer the client to the appropriate local bar voluntary arbitration system. If the attorney refused to arbitrate voluntarily, then the matter would be placed in the State Bar's mandatory system.

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The Committee said that this approach is used in Pennsylvania, and has been upheld as constitutional by the Pennsylvania Supreme Court.

Governors Vote Against Liquor Bill

Legislation prohibiting issuance of liquor licenses to individuals who are not members of the State Bar of California has failed to gain the support of the State Bar Board of Governors.

Assembly Passes Death Penalty Bill

Sacramento Legislature is passing the death penalty in California pending the Assembly's vote on a vote on the bill. The bill would require a unanimous jury verdict to impose the death penalty on a defendant.

No Appeal For Justice McComb

Former California Supreme Court Justice Marshall McComb will appeal the decision of a state supreme tribunal ordering his voluntary retirement to ensure that the public is not harmed by his lawyer's conduct.

High Court Rejects Redwood City Political Sign Ordinance

Washington - The Supreme Court yesterday let stand a decision by the 9th U.S. Circuit Court of Appeals in San Francisco rejecting a plan for regulating political signs in Redwood City, Calif.

In a brief order, the justices declined to hear the city's appeal of the federal court ruling that the sign ordinance violates First Amendment free speech rights.

The extensive city ordinance barred temporary political signs from residential areas, required a \$1 registration and refundable \$5 recovery fee per sign and limited the size of each sign and the total area of sign space per candidate in the city.

Younger Files Brief On Tanker Law

California Attorney General Evelle Younger filed a brief of the court brief with the U.S. Supreme Court yesterday in support of Washington State's position that its tanker law is not preempted by federal law.

Women's Suit Against Drug Firms Dismissed

Detroit - A judge yesterday dismissed a lawsuit brought by 24 Michigan women against the nation's drug industry for cancer allegedly caused by a synthetic hormone that mothers took during pregnancy to prevent miscarriages.

Meeting Notice Calendar

Bush St., 21st floor, General meeting at plant committee's future activities. All attorneys interested in membership for more information call James P. Kibben, chairman (433-1950).

Hearing On Federal Court Admission Set May 24

A public hearing on proposed admission standards for federal court practice will be held at the U.S. Courthouse in Los Angeles on May 24, not on March as indicated in yesterday's issue of The Recorder.

Meeting Notice Calendar

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Bush St., 21st floor, General meeting at plant committee's future activities. All attorneys interested in membership for more information call James P. Kibben, chairman (433-1950).

ASIAN AMERICAN BAR ASSOCIATION Wednesday, 7:30 p.m. General membership meeting at Wah Yung Club, 727 Clay. For more information call Michael Lee (778-7290).

PROBATE AND TRUST LAW SECTION luncheon meeting, Engineers Club, 160 Sanson, Thursday, 7 p.m. "Community Property Confirmation and Independent Administration - Revisited" Thursday, 7 p.m. Dinner, 7:30 p.m. Dinner, 7:30 p.m. Dinner, 7:30 p.m.

LAWYERS CLUB Thursday, 11 a.m. 30th Annual Supreme Court luncheon at Grand Ballroom, Sheraton-Palace Hotel, 600 Montgomery, 11 a.m. Tickets, \$8 per person, \$80 for table for ten.

QUEEN'S BENCH Thursday, Noon Luncheon at Mortimer Memorial Club, 900 Sutter, Gordon L. Hough, chairman of the board, P.T.C. will discuss "Women No Longer On The 'Hold'." For reservations call Janet Aitken (556-4229) by May 16.

EMPLOYEES' UNION Thursday, 7 p.m. Dinner, 7:30 p.m. Dinner, 7:30 p.m. Dinner, 7:30 p.m.

EMPLOYEES' UNION Thursday, 7 p.m. Dinner, 7:30 p.m. Dinner, 7:30 p.m. Dinner, 7:30 p.m.

indications except the proposed limitation to disputes involving \$10,000 or less.

Herbert Hawkins, a San Rafael attorney representing the Special Committee told the Board that \$10,000 was an "arbitrary figure, easily circumvented." He also questioned why at-

The report on arbitration grew out of a 1974 Conference of Delegates resolution which called for adopting a new California Business and Professions Code Section which would require an attorney, upon a client's request, to arbitrate a dispute concerning fees.

After its year-long study of the situ-

found that the origin of a fee is frequently the failure of a client to make fee arrangements with a client. Family law was cited as a major source of problems with fee arrangements. About half of the disputes concerned fees in cases over \$1500 were uncon-

Assembly Passes Death Penalty Bill

Sacramento—Legislation reinstating the death penalty in California passed the Assembly yesterday with no votes to spare, advancing to just one step from the desk of Gov. Edmund G. Brown Jr.

Despite Brown's promised veto of any capital punishment measure, the bill (SB 1755) was returned on a minimum 54-23 vote to the Senate, which is expected to swiftly accept Assembly amendments.

It will take 54 votes, the same margin required for passage, for the Assembly to override the expected veto.

The measure fell one vote short of passage on an initial tally, but a half hour later freshman Assemblyman Henry J. Meno, D-Watsonville, cast a dramatic "aye" vote to assure passage.

He said he was "philosophically opposed" to capital punishment but feared a death penalty initiative drafted by law enforcement groups would be "far broader and far worse than what we have today."

Basically, the bill restores the death penalty for specific crimes such as murder for hire; murdering a peace officer; a life-time convict murdering another inmate; murder by torture; and slaying of a witness to prevent

(Continued on Page 6)

The Assembly drafted amendments to the major capital punishment bill which would have given the State Supreme Court final review of all death penalty sentences to assure that the penalty is uniformly administered. The vote was 29-44.

Supporters of the defeated amendments said without those safeguards, the bill would most likely be deemed unconstitutional and lawmakers would be debating the same issue in three or four years.

In another action, the Assembly yesterday passed a resolution asking the Adult Authority to deny parole to him from testifying.

convicted murderers sentenced to death but made eligible for release when California's 1973 capital punishment law was struck down, Dec. 7, 1976.

The measure (ACR 5) by Assemblyman Dave Stirling, R-Hacienda Heights, was sent to the Senate on a 59-11 vote just moments after debate on the Legislature's major capital punishment bill.

Stirling said that murderers responsible for 200 deaths and sentenced to die in San Quentin's gas chamber were made eligible for parole when

(Continued on Page 6)

No Appeal For Justice McComb

Former California Supreme Justice Marshall F. McComb appeal the decision of a special tribunal ordering his voluntary retirement from the bench, his lawyer yesterday.

Attorney Gregory Stout, represented the veteran jurist, "he will not pursue the matter in recent order."

The special tribunal, composed of seven state court of appeal judges, on May 2 ordered that Justice McComb be retired for senility. The tribunal rejected the charge that the justice, who has served on the state's highest court for 21 years, was guilty of "gross and flagrant misconduct."

The tribunal said that McComb's retirement would be considered "voluntary" and that he would therefore be eligible for pension benefits.

In a 15-page opinion, the tribunal said that Justice McComb's retirement "was not wilful, but symptomatic of senility."

It was the first time in his 21 years on the California Supreme Court that Justice McComb was forcibly removed from the bench.

Last January 7 the state's highest court voted on Judicial Performance Commission Justice McComb without

Younger Files Brief On Tanker Law

California Attorney General Evelle Younger filed a friend of the court brief with the U.S. Supreme Court yesterday in support of Washington

Women's Suit Against Drug Firms Dismissed

Detroit — A judge yesterday dismissed a lawsuit brought by 144 Michigan women against the nation's drug industry for cancer allegedly caused by a synthetic hormone their mothers took during pregnancy to prevent mis-

carriage because their mothers took the drug DES during pregnancies in the late 1940's and 1950's. The drug was prescribed to prevent miscarriage.

In the late 1960's, scientists discovered that female offspring of women

Governors Vote—

(Continued from Page 1)
law.
Proponents and opponents of the

specialization program appeared before the Board, airing various sides of this controversial issue. The Board,

however, decided to give the subject further consideration before taking action.

Women's Suit—

(Continued from Page 1)
many firms and never marketed under a brand name. Researchers for the

plaintiffs estimate there were about 3 million DES daughters in the nation.

Michigan, with an estimated 85,000 DES daughters, was a target area for testing and marketing the drug.

Assembly Passes—

(Continued from Page 1)
the state Supreme Court declared the death penalty unconstitutional. He said five had been released on parole and 14 more had been given release dates.

"What kind of civilized society would allow these people out to prey on innocent citizens?" he asked. But Assemblyman Howard Berman, D-Beverly Hills, argued that it was a "cheap political shot" to take the reso-

lution up immediately after debate on the death penalty. He added that if the authority went along with the legislative request, lawsuits filed by death row prisoners would create a "quagmire and logjam" in the courts.

Younger Files—

(Continued from Page 1)
gives the Coast Guard exclusive power to regulate oil tanker operations, was upheld by the U.S. District Court. Younger's brief urges the Supreme Court to reverse that ruling on grounds it undercuts historic state powers to regulate harbors and coastal resources to protect against oil spills.

"Washington's tanker law is designed to protect Puget Sound," he said, "against the kind of catastrophic oil spill that can occur when a super tanker breaks up, collides or goes aground." He said recent oil spills on the east coast indicate that existing regulations

are not sufficient to protect coastal states. California is particularly interested in the case, he said, because "in the next few years oil tankers will be bringing one million barrels of Alaskan oil per day into California ports and harbors.

Summary Of—

(Continued from Page 1)
limits on medical malpractice suits. The justices rejected an appeal filed by state officials asking them to uphold the state law limiting malpractice recoveries to \$300,000, cutting back on the grounds for suit and putting a 40 percent ceiling on attorney fees in malpractice actions. Doctors and hospitals filed a test suit asking state courts to rule on the law's constitutionality. They claimed

Justices William Brennan and Thurgood Marshall dissented, saying the court should go ahead and decide the case instead of waiting for the issues to arise again. They noted many professional organizations have urged a ruling and the state itself asked for a decision on the "important constitutional issues." Thirty-eight other states had similar laws at the time the appeal was filed. A ruling on the issues might

Other Cases

—Ruled 8 to 0 in an Illinois case that a driver's license may be lifted without a hearing under a mandatory scheme requiring revocation for three suspensions within 10 years. —Agreed to decide whether the 14th Amendment can be applied by federal courts to ban sexually discriminatory rules for Indian tribal membership. —Opened the way for another trial of Claude C. Wilde Jr. on a charge

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The RECORDER



Proposed Federal Court Rules Published Today For Comment

Beginning today, The Recorder will publish in several installments new Local Rules which have been tentatively approved by the U.S. District Court for the Northern District of California. These rules comprise General Rules, Bankruptcy Rules and Magistrate Rules. In the form in which they are finally approved they are scheduled to go into effect on August 1, 1977.

Copies of the new Local Rules will be available in July at the Clerk's Office. The first installment of the proposed rules appear on pages 6 and 7 of today's Recorder.

Justices Accept 4 Cases For Review

The California Supreme Court has announced it accepted the following cases for review during the week of May 23, 1977. No. 77-181—*Britt v. Superior Court*, L.A. 3788, (4 Civ. 1053). Unpublished opinion. Petition for habeas after the Court of Appeal denied a writ of mandate and/or prohibition to compel a protective order limiting the scope of discovery in a class action seeking damages for noise, fumes, and vibrations from an airport. The question presented is whether discovery of the identity of all persons present at, and details of discussions at, meetings concerning airport noise, etc., violates the First Amendment right to freedom of association. No. 77-82—*Camden v. Superior Court*, L.A. 3957, (2 Civ. 5651), 69 Cal. App. 3d 453. Petition for hearing after the Court of Appeal issued a writ of mandate requiring the superior court to vacate its order requiring a law firm to withdraw as counsel in a civil case.

The question presented concerns the power of a trial court to compel withdrawal as counsel of a law firm, one of whose members, not participating in the case, might be called as a witness. No. 77-43—*Jacobov v. State Bar*, S.F. 23878, (1 Civ. 38276; 87 Cal. App. 3d 23878). Petition for hearing after the Court of Appeal affirmed a decision denying injunctive relief. The principal question presented concerns the jurisdiction of the superior court to review State Bar subpoenas in disciplinary matters prior to the initiation of enforcement proceedings. No. 77-41—*Jara v. Municipal Court*, L.A. 3938, (2 Civ. 4925), 69 Cal. App. 3d 623. Petition for hearing after the Court of Appeal reversed a judgment denying a writ of mandate. The question presented is whether a trial court has a duty to appoint a public expert an interpreter to assist an indigent, non-English speaking defendant in a civil action.

Bird Assigns Judges To High Court

Chief Justice Rose Elizabeth Bird yesterday announced that a state appellate justice and superior court judge will be assigned to the California Supreme Court for the court's calendar session in Los Angeles during the week of June 13, 1977. Those assigned are Justice Bernard Jefferson, of the Second District Court of Appeal in Los Angeles, and Judge Bruce Sumner of the Orange County Superior Court. Justice Jefferson was appointed to the Court of Appeal in 1975, and had previously served as a Los Angeles Superior Court judge from 1969 to 1975 and as a municipal court judge in Los Angeles County during 1960. Judge Sumner was appointed to the Orange County Superior Court in 1965. He previously served as a member of the state Assembly and conducted a private law practice in Santa Ana from 1952 to 1965. Justice Jefferson and Judge Sumner will be sitting under assignment in the high court position left vacant by the recent retirement of Associate Justice Marshall R. McComb.

Bar Exam Results Set For Monday

Results of the Spring 1977 California General Bar Examination are scheduled to be released to law schools and newspapers on Monday, June 6, the Committee of Bar Examiners announced yesterday. But the Committee warned that distribution of the results could be delayed beyond Monday if "unanticipated problems are encountered." A spokesman for the Committee previously said that the results were delayed due to an illness in the family of one of the graders. One grader, the spokesman said, can delay the entire grading and distribution of results. The Committee said it expects to mail notices to candidates on Sunday. It said results would not be obtainable from the Bar Examiners staff through inquiries either by phone or in person prior to the start of business on Monday. On that day complete lists of those who passed will be posted in the lobbies of State Bar offices in Los Angeles, San Francisco and Sacramento. The lists also will be available at most law schools when the Monday morning mail arrives. The Committee will certify candidates who have qualified for admission to practice law at admission ceremonies before the Court of Appeal on June 28 in Fresno, Los Angeles, Sacramento, San Diego and San Jose and on June 30 in San Bernardino.

Legislative Fight

Assembly Panel OK's Sentencing Law Delay

Sacramento — The Assembly Ways and Means Committee yesterday unanimously approved a bill that would maintain the present system under which the parole-granting Adult Authority sets release dates. The action makes way for a legislative fight over changing the statute, since a Senate committee voted Tuesday to legislate the new law more than Gov. Edmund G. Brown, Jr. wishes. The Brown-backed bill grew out of public criticism of the new law as too lenient. Assemblyman Daniel Boatright,

chairman of the Ways and Means Committee and author of the Brown bill, voted for the Nardine measure which would prevent the Uniform Determinate Sentencing Act from taking effect July 1, and blocked a measure that would ease penalties for backyard growers of marijuana. On a 13-0 vote, the committee passed a bill by Assemblyman Bruce Nardine, H-Orange County, which would maintain the present system under which the parole-granting Adult Authority sets release dates. The Brown-backed bill grew out of public criticism of the new law as too lenient. Assemblyman Daniel Boatright,

consistent with current law that makes possession of one ounce of marijuana a misdemeanor. Cultivation of one to three plants would result in a traffic-ticket style citation and a \$100 fine under Brown's bill. Planting three to six plants would be a subject to imprisonment in county jail and a fine of up to \$500. Persons arrested for growing more than six marijuana plants would be charged with a felony. Brown said his bill was supported by several district attorneys, including San Francisco District Attorney Joseph Freitas. Assemblyman Frank Lasterman, R-La Canada, argued against the measure, saying the bill encouraged domestic cultivation of the weed. Brown argued that the measure was not designed to eliminate criminal penalties but to conform to misdemeanor law on possession.

Anti-Busing Legislation Introduced

Sacramento — Legislation to prevent California judges from ordering forced busing of school children for purposes of integration was introduced yesterday by Sen. Alan Robbins, D-Van Nuys. The constitutional amendment (SCA 46), if approved by the Legislature and voters, would prevent busing as a remedy for segregation under the Equal Protection Clause of the state Constitution, but would let the issue to U.S. Supreme Court decisions. It means simply that if the U.S. Supreme Court orders busing as a remedy then it's OK," Robbins said in an interview. "But unless it's required by that court, then we don't have to use it." He added, however, that the court's most recent decisions indicate a reluctance to rely on busing as a solution to segregation in schools. Robbins said he introduced the measure because of the controversial (Continued on Page 7)

Grand Jury Reforms Urged For Witnesses

Washington—Civil rights advocates and representatives of the news media, labor unions and clergy urged Congress yesterday to reform the grand jury system. At a House Judiciary subcommittee hearing, witnesses testified to abuses of grand jury powers and urged reforms that would increase protection of witnesses and open up proceedings so that over-zealous prosecutors could obtain unwarranted indictments. The panel is considering legislation that would, among other things: —allow any subpoenaed witness to take a lawyer along for advice. —set a six-month limit on jail terms given those held in contempt for refusing to testify. —change immunity requirements. —and set stiff penalties for leaking grand jury information. Charles Perles, president of the Newspaper Guild, said about 60 journalists had been subpoenaed be-

fore grand juries since 1971 and threatened with jail if they did not reveal confidential information or sources. Noting that many gave in, he said reporters will lose their contacts and the public will be deprived of important stories if this "blizzard of subpoenas" continues. Spokesmen for the Reporters Committee for Freedom of the Press said Congress must lift "the cloak of secrecy" on grand jury activities and block efforts to turn journalists into "an official investigative arm of the government." A spokesman for the International Longshoremen's and Warehousemen's Union said the grand jury system "triggers" its work against the interests of the accused, and especially against "working people." It said a prime example was the 1949 indictment of its own president, Harry Bridges, in connection with alleged violations of the naturalization law. The Supreme Court finally dismissed the case against Bridges, "but the grand jury procedure that placed him and I.W.U. under such great strain a generation ago are still jeopardizing the security and liberty of trade unionists today." (Continued on Page 7)

Briggs Nixes Death Penalty Veto Override

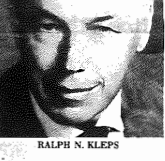
Sacramento — Sen. John V. Briggs yesterday declared he will refuse to vote to override Gov. Edmund G. Brown's veto of a death penalty legislation in an effort to keep it alive as a political issue during the 1978 election year. Briggs, the only announced Republican candidate for governor, told a news conference that if the veto is sustained, he will attempt to qualify an initiative for the November 1978 ballot that "even tougher" than the bill Brown rejected. "What has happened here with this override controversy is a conspiracy to keep Brown's disagreement with the people from becoming an issue next year," Briggs said. "I do not intend to help him (Brown) duck this issue."

Washington — Millions of married persons will be notified that they may have credit histories with banks, stores and oil companies may be carried in the names of both spouses under federal credit regulations that took effect yesterday. The credit counts opened after Tuesday will automatically include the names of both spouses. Those benefiting particularly are women who subsequently become divorced or widowed. They now frequently have problems establishing credit ratings since their previous credit transactions were in the husband's name or with only "Mrs." preceding her husband's name. "This will assure that married women will have adequate credit histories when they are needed," said Ann Geary, a consumer affairs specialist for the Federal Reserve System. The National Organization for Women, through a spokeswoman, said the changes were "a great step forward. However, we will be watching with great interest the implementation and the enforcement of the act by the Federal Reserve and the Federal Trade Commission."

New Credit Rules Now Effective Kleps Resigns Top State Court Post

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Ralph N. Kleps, Administrative Director of the California Courts since November 1961, has announced that he will resign July 1. Kleps, 63, also said he will serve in an advisory role that might be helpful to Chief Justice Rose Elizabeth Bird, and the promptly accepted the offer. "I hope you will agree to serve as a special advisor to me as Chief Justice," she said in a formal statement. She also announced that Deputy Director Richard Frank, 66, will serve as acting director of the courts until a successor is chosen. Frank plans to retire this year. In announcing his move, Kleps said in a press release: "After three Chief Justices and 15 and a half years in office, I believe it is time to let someone else try a hand at one of the most difficult court management assignments in the country." "I wish Chief Justice Rose Bird every success in her very demanding role at the head of the California judicial system; and I will make myself available for any advisory role that would be helpful to her or to the judges and court administrators of the state." Kleps will be on vacation this month but will maintain headquarters in San Francisco thereafter. He plans to remain active in governmental law and administration, but said that he has made no specific commitments. "I look forward..." to working on an individual rather than an organizational basis from now on," he said, "and expect to be teaching and writing in the field of judicial administration."



RALPH N. KLEPS

Meeting Notice Calendar

- BAR ASSOCIATION**
Tuesday, June 7, 9 a.m.
Committee on Rights of Mentally Disabled, Bar Association Conference Room, 229 Bush St., 21st floor. Agenda includes discussion of LPS practice in San Mateo County. Terry Hoos, chairperson.
- BARRISTERS CLUB**
Today, Noon
Non-Violent Crime Committee, Bar Association Conference Room, 229 Bush St., 21st floor. Agenda includes measures on prostitution, pornography, cultivation of marijuana, crime scene revision, transsexuals, and consenting adult prisoners. For more information call Richard Scholzer (558-2111).
- Economics of Litigation Committee**
Bar Association Conference Room, 229 Bush St., 21st floor. Agenda includes suggested problem areas for study, and subcommittee assignments. Those who cannot attend in person should call the committee should call
- Durine Kohn (431-3106) or Richard Stritt (381-6500)**
Saturday, 9 a.m.-12 Noon
Worker's Compensation Law Seminar, Golden Gate College of Law, 55th floor auditorium, 536 Mission St. Fee: \$5 for BASS, LRS members, \$10, non-members. For more information call Larry Long (391-0102).
- Thursday, June 9, 12 Noon**
"Three Candidates at the Crossroads," luncheon debate featuring three candidates for State Bar Board of Governors — Charles H. Clifford, William L. Ferdon and E. Robert Wallich. Wallach, California, tickets: \$4.50. For more information call 392-3200.
- PRISONERS UNION**
Friday, 4 p.m.-4:45 p.m.
Fundraising party to celebrate opening of law offices, 539 Clayton St., Golden Gate College of Law, 55th floor. For reservations call 628-793, 648-2881.
- ST. THOMAS MORE**
Today, Noon
Luncheon at Four Seas Restaurant, 711 Grant Ave., banquet room. Guest speaker: State Attorney General Ewelle J. Younger. Tickets: \$6.50 per person. For reservations call David A. Thompson (451-1800).

fore grand juries since 1971 and threatened with jail if they did not reveal confidential information or sources. Noting that many gave in, he said reporters will lose their contacts and the public will be deprived of important stories if this "blizzard of subpoenas" continues. Spokesmen for the Reporters Committee for Freedom of the Press said Congress must lift "the cloak of secrecy" on grand jury activities and block efforts to turn journalists into "an official investigative arm of the government." A spokesman for the International Longshoremen's and Warehousemen's Union said the grand jury system "triggers" its work against the interests of the accused, and especially against "working people." It said a prime example was the 1949 indictment of its own president, Harry Bridges, in connection with alleged violations of the naturalization law. The Supreme Court finally dismissed the case against Bridges, "but the grand jury procedure that placed him and I.W.U. under such great strain a generation ago are still jeopardizing the security and liberty of trade unionists today." (Continued on Page 7)

fore grand juries since 1971 and threatened with jail if they did not reveal confidential information or sources. Noting that many gave in, he said reporters will lose their contacts and the public will be deprived of important stories if this "blizzard of subpoenas" continues. Spokesmen for the Reporters Committee for Freedom of the Press said Congress must lift "the cloak of secrecy" on grand jury activities and block efforts to turn journalists into "an official investigative arm of the government." A spokesman for the International Longshoremen's and Warehousemen's Union said the grand jury system "triggers" its work against the interests of the accused, and especially against "working people." It said a prime example was the 1949 indictment of its own president, Harry Bridges, in connection with alleged violations of the naturalization law. The Supreme Court finally dismissed the case against Bridges, "but the grand jury procedure that placed him and I.W.U. under such great strain a generation ago are still jeopardizing the security and liberty of trade unionists today." (Continued on Page 7)

The State Bar Candidate Switch

Here is a correction for some confusion which took place in yesterday's story on State Bar board candidates when Charles identifying pictures of Charles Clifford and William Ferdon were inadvertently transposed. Clifford and Ferdon—along with E. Robert Wallich—are candidates for the San Francisco seat on the State Bar Board of Governors. All three will be featured at a luncheon debate on Thursday, June 9, sponsored by the Barristers Club. The event will begin at noon at the Clubhouse, 718 California St. Tickets are \$4.50 and reservations may be made by calling the Bar Association (392-3500).



WILLIAM FERDON

Charles Clifford and William Ferdon are candidates for the San Francisco seat on the State Bar Board of Governors. All three will be featured at a luncheon debate on Thursday, June 9, sponsored by the Barristers Club. The event will begin at noon at the Clubhouse, 718 California St. Tickets are \$4.50 and reservations may be made by calling the Bar Association (392-3500).

CHARLES CLIFFORD

District Court Seeks Fourth Magistrate

Applications are now being accepted for the position of fulltime Magistrate of the U.S. District Court, Northern District of California. The Judicial Conference of the United States recently approved the position for a fourth fulltime magistrate to sit in San Francisco. Among the duties to be performed by the magistrate are the following: reviewing and approving criminal complaints, issuing warrants or summonses, conducting initial appearances of defendants, hearing preliminary hearings, removal hearings, probation revocation hearings and similar matters of a criminal nature. A magistrate also conducts the District Court criminal calendar at the arraignment and pretrial stages. A magistrate has jurisdiction of the trial and disposition of minor offenses which are subject to review under the standard of clearly erroneous or contrary to law. He or she also conducts hearings on dispositive motions, such as motions for summary judgment, trial which he or she prepares findings (Continued on Page 7)

tice Jefferson was appointed to court of Appeal in 1975, and had usly served as a Los Angeles or Court judge from 1960 to 1975 s a municipal court judge in Los es County during 1960.

ge Sumner was appointed to the ge County Superior Court in 1965. eviously served as a member of ate Assembly and conducted a te law practice in Santa Ana 1953 to 1965.

tice Jefferson and Judge Sumner e sitting under assignment in the court position left vacant by the t retirement of Associate Justice hall R. McComb.

forms nesses

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(Continued on Page 7)

geles, Sacramento, San Diego and San Francisco and on June 30 in San Bernardino.

Briggs Nixes Death Penalty Veto Override

Sacramento — Sen. John V. Briggs yesterday declared he will refuse to vote to override Gov. Edmund G. Brown Jr.'s veto of death penalty legislation in an effort to keep it alive as a political issue during the 1978 election campaign.

Briggs, the only announced Republican candidate for governor, told a news conference that if the veto is sustained, he will attempt to qualify an initiative for the November 1978 ballot that "is even tougher" than the bill Brown rejected.

"What has happened here with this override controversy is a conspiracy to keep Brown's disagreement with the people from becoming an issue next year," Briggs said. "I do not intend to help him (Brown) duck this issue."

But Gov. Brown said he foresaw no "fundamental" political problem in sharing a re-election ballot next year with a death penalty initiative.

Both Republican and Democratic legislative leaders immediately disassociated themselves from Briggs' strategy. They suggested the Fullerton lawmaker was grandstanding while Brown dismissed him as a "fellow who is seeking publicity."

If the veto is upheld, and an initiative is successful, capital punishment could not be reinstated until 1979. If the veto is overturned by a two-thirds vote of both the Assembly and Senate the death penalty would be restored immediately as punishment for certain kinds of first-degree murder.

Briggs was asked if it would be better to help reinstate capital punishment at the earliest possible date and later amend the law to make it stronger.

"When you have a law on the books you remove it as an issue," he re-

(Continued on Page 7)

RULES NOW Effective

Washington — Millions of married persons will be notified that their credit histories with banks, stores and oil companies may be carried in the names of both spouses under federal credit regulations that took effect yesterday.

All accounts opened after Tuesday will automatically include the names of both spouses.

Those benefiting particularly are women who subsequently become divorced or widowed. They now frequently have problems establishing a credit rating since their previous credit transactions were in the husband's name or with only a "Mrs." preceding her husband's name.

"This will assure that married women will have adequate credit histories when they are needed," said Ann Geary, a consumer affairs specialist for the Federal Reserve System.

The National Organization for Women, through a spokeswoman, said the changes were "a great step forward. However, we will be watching with great interest the implementation and the enforcement of the act by the Federal Reserve and the Federal Trade Commission."

The Federal Reserve, which is one of the nation's three bank regulators, wrote the credit history guidelines that will apply to all financial institutions and businesses under provisions of equal credit opportunity laws enacted in 1975 and 1976.

Geary said credit backgrounds for married women have been difficult to establish because charge accounts traditionally have been kept only in the names of husbands.

Over the next four months, bills sent out by banks and retailers will contain a statement for the creditor asking permission to establish credit backgrounds on existing accounts in the names of both husbands and wives.

The signature of either husband or wife is enough to set up the credit history in both names, Geary said.

"Millions and millions of accounts will be affected by this regulation," she said.

The Federal Reserve will be responsible for state banks that are mem-

(Continued on Page 7)

evidence presented by a prosecutor

A National Council of Churches representative said a grand jury's

rights of suppression of unpopular ideas.

Kleps--

(Continued from Page 1)

He was secretary of the California Commission on Uniform State Laws, is a past president of the National Legislative Conference, and has published articles in various legal publications dealing with administrative

law and legislation.

Kleps has served as the first Administrative Director of the California Courts since November 1961 and is also secretary of the California Judicial Council. He is a past chairman of the National Conference of State

Court Administrators, served on the California Constitution Revision Commission and participated in the organization of the Institute for Court Management. He has served on the California Council on Criminal Justice since 1971.

Anti-Busing--

(Continued from Page 1)

integration plan proposed in Los Angeles, which includes some use of mandatory busing. He noted that voters Tuesday elected two anti-busing school board candidates and defeated a third person who favored busing as a solution.

Robbins said Los Angeles County Superior Court Judge Paul Egly, who must rule on the proposed plan, "appears to favor busing, but the voters are clearly going the other way."

Robbins said the amendment, if approved, also would allow school

boards and parents' groups to appeal any court-ordered busing plan through the federal courts.

He said if the measure would move quickly through the Legislature, Egly might delay action on the plan, awaiting a decision by voters.

Briggs--

(Continued from Page 1)

plied. "I don't want to remove it as an issue."

Briggs, who voted twice in favor of the Legislature's main capital punishment bill (SB 155) by Sen. George Deukmejian, R-Long Beach, said he would refuse to vote either "aye" or "no" when the override is attempted,

even if his is the crucial 27th vote.

He said even if both the Assembly and the Senate override the Governor's veto and the bill becomes law, he will attempt to place an initiative on the November 1978 ballot to strengthen it.

In addition, he said his proposed initiative also would be written to

"forbid the state Supreme Court from having final authority to rule on it (the death penalty)."

He said a representative of the Attorney General's Office had told him the measure could be written in such a way as to give final authority over the law's constitutionality to the U.S. Supreme Court.

District Court--

(Continued from Page 1)

and recommendations which are subject to de novo review.

In addition, a magistrate serves as special master pursuant to District Court references and conducts both jury and non-jury civil trials when reference is stipulated to by the parties.

attorneys are referred to 28 U.S.C. section 631, et. seq.

In order to be eligible for the position an applicant must have been admitted to practice law for at least five years. Compensation, based upon a recent ruling of the Judicial Conference, is contingent upon years of experience as a member of the bar.

Court judges have discretion in determining compensation within these limits.

Interested applicants who meet the above requirements should submit a statement to the District Court Judges Committee for selection of a Magistrate and mail it to 450 Golden Gate

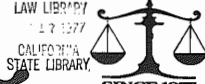
By Rules of Courts, Official Newspaper for U.S. District Court, N. California, State Court, City and County of San Francisco, and the Municipal Court, San Francisco, Calif.

VOL. 102, NO. 117

Printed at Second Class Matter in the Post Office at San Francisco, Publication No. 438020

THE RECORDER, THURSDAY MORNING, JUNE 16, 1977

Published Daily Except Sundays, Holidays and Legal Holidays



621-5400 35 CENTS



BENJAMIN DREYFUS Award Winner



E. ROBERT WALLACE Luncheon Chairman

Pro Bono Luncheon Set Today

The first Pro Bono Publicus Award of the Law Students Civil Rights Research Council will be presented today to San Francisco attorney Benjamin Dreyfus.

The award will be presented at the noon luncheon at the Hyatt Regency... The group was founded by law students in 1967 and in its early days counseled law students for volunteer work in the offices of civil rights attorneys...

Closed-Door Bill Blocked in Assembly

San Francisco Assembly members would permit closed door consideration of appropriations bills. The bill would allow the Assembly to discuss bills in closed sessions...

Expanded Legal Aid For Elderly

The Legal Assistance to the Elderly Project has announced five new San Francisco locations where legal aid services are available to low-income senior citizens. The project provides attorneys to deal with legal matters such as simple wills, landlord-tenant conflicts, consumer contracts, domestic relations and conservatorships and guardianships...

Reagan Backs Freedom of Expression

Sacramento - Former Gov. Ronald Reagan yesterday called on Californians to urge the Legislature to override Gov. Edmund G. Brown Jr.'s veto of the state's major death penalty bill. He also called that proposed capital punishment bill initiatives "the only thing calling for charges of opportunism later..."

Reagan said it is "time for the people to once again let their wishes be known to their legislators on the matter of the death penalty." He charged that by vetoing the death penalty bill Brown "disregarded the will of the people and the provision of the Constitution." The next step is for the Legislature to vote to override the Governor's veto...

High Court Lifts Ban On Nazi Public Rallies

Washington - The Supreme Court yesterday overturned a 5 to 4 Illinois judge's order barring a Nazi group from parading in uniform or displaying the swastika anywhere in the village of Skokie, Ill. If a state seeks to impose a restraint of this kind, it must provide procedural safeguards...

Tenants facing eviction from the International Hotel got another reprieve yesterday from the First District Court of Appeal. The court issued a temporary stay of the eviction on a request by the Housing Authority and the International Hotel Tenants Union. The stay is in effect pending an appellate ruling on whether the Housing Authority was allowed to take action toward acquiring the site...

Appeal Court Stockholders Suit Stays Intl. Hotel Eviction

A suit was filed in federal court here yesterday charging that Pacific Gas and Electric Co. has furnished its shareholders and ratepayers with inadequate and misleading information concerning its Diablo Canyon nuclear power plant...

Fired Jail Food Chief Plans Appeal

San Francisco jail's food administrator, fired after charges that jail meals were substandard and sometimes so poor that inmates nearby rioted, planned yesterday to appeal his dismissal. Sheriff Richard Hongisto Tuesday ordered the firing of Carl Rutledge, 62, from his \$19,000-a-year post, effective July 15...

Stockholders Suit Filed Against PG&E

The Diablo Canyon power plant, which is estimated to have cost \$1.5 billion, is located near the 30-mile long Haight Fault, near San Luis Obispo. According to the complaint, a nuclear accident at Diablo Canyon or a decision by the Federal Nuclear Regulatory Commission to force PG&E an operating license-based upon the plant's proximity to the Haight Fault would cost the company and its shareholders over a billion dollars. The suit also alleges that such a loss is likely to be passed along to other ratepayers in the form of higher electricity rates...

Seminar Roundup: From Family Law To Federal Rules Of Evidence

The Family Law Section of the Bar Association of San Francisco will present a seminar this Saturday, June 16. The seminar is free to members and professional practice in Family Law. The program will be held at Hastings College of Law, 198 McAllister Street, from 9 a.m. to 12:30 p.m. Panel discussion will include four financial statements in connection with business valuations as a family law matter and alternate methods of valuation being used for appraisal purposes...

Registration for the seminar will be \$5 for Family Law Section members, \$10 for Bar Association members who are not members of the Family Law Section and \$20 for non-members of the Bar Association. Those who are not presently members of the Family Law Section may join prior to the seminar and receive the above discount. Speaking capacity is limited and reservations may be made by sending a check to the Bar Association of San Francisco, 220 Bush St., 21st floor, San Francisco 94104 to the attention of Freda Johnson. Background materials will be sent to those who have registered in advance. Additional materials will be handed out at the seminar. Refreshments will be served. Here's a roundup of other upcoming seminars for attorneys: Trade Secrets and Unfair Competition - June 21, 6:30 p.m. Bank of America Center, 555 California St. Program will focus on preventive planning and litigation, with topics including: protection of the law of unfair competition, unfair competition between employer and employee or competitors; preliminary relief; binding orders, injunctions, and trade names, trade marks, and service marks. Speaker: William S. Johnson, Jr., in-charge with Engineers Club, 190 Sansome. Reservations required; contact Estelle M. Depper, Wells Fargo Bank.

Education of the Bar in Berkeley (642-6221) HONORING PROGRAMS 1977: Processing, Packaging and Preserving - June 24. Meeting Notice Calendar BAR ASSOCIATION Today, Noon Committee on Arbitration, Bar Association of San Francisco, 220 Bush Street, 21st floor. Representatives of industry and environmental groups will discuss the resolution of environmental disputes. For further information contact John Toker, 982-9211. Today, Noon Trial Lawyers Section luncheon meeting, Paoletti's, 565 Commercial. Michael B. Moore will speak, "Is The Law A Sex, A Hero?" Reservations required; contact C. Scanlan (434-1091), Tickets \$6. Saturday, 9 a.m.-12:30 p.m. Family Law Seminar, Hastings College of Law, 198 McAllister St., Classroom B. Topics include valuation of closely held interests, including businesses and professional practices in a family law proceeding. Admission: \$5. Family Law Section members, \$10. Bar Association members, \$20. non-members. For reservations call 392-3960. Monday, June 27, Noon Probate and Trust Law Section luncheon meeting at Engineers Club, 190 Sansome. William S. Johnson, Jr. is in-charge with Engineers Club. Reservations required; contact Estelle M. Depper, Wells Fargo Bank.

HASTINGS ALUMNI ASSOC. Saturday, 6:30 p.m. Associate Justice Wiley W. Maual, associate justice of the California Supreme Court, at Joe Jung's, 881 City Street, San Francisco. Guest speaker, Attorney General Evelle J. Younger. No-host cocktails, 6:30 p.m.; dinner, 8 p.m. For reservations contact Libby Stroube (557-3571). S.F. ASSOCIATION OF LEGAL ASSISTANTS Tuesday, June 21, 5:30 p.m. Dinner meeting at Iron Horse, 10 Maiden Lane. Guest speaker, James Drosnahan, president of S.F. Bar Association. Cocktails: 5:30 p.m.; dinner, 6:30 p.m. Tickets: \$8.50 per person. Reservations required before or on June 17. Contact Marge Walker (543-1111) for more information. S.F. TRIAL LAWYERS ASSOCIATION Wednesday, June 22, 9 a.m. Meeting for officers and board members, offices of George J. Shelby, 600 California St., Room 308. Wednesday, June 22, 6 p.m. Dinner meeting at Leopold Cafe, 140 Front St. San Mateo Superior Court Judge Jerry J. Broderick, "Improving a Superior Court Judge's Practice of Law - A View From the Bench." Tickets: \$8.50, with reservation; \$5, at the door. For reservations contact 673-3550.

will join with other high-level HUD officials and attorneys to examine current syndication techniques emphasizing the areas of taxation and federal and state securities laws. Faculty includes Thomas B. Schwartz of Bronson, Bronson & McKinstry, Co. \$200. For more information contact Practising Law Institute, 180 Seventh Ave., N.Y., New York 10019, telephone (212) 765-7000. Estate Planning for the General Practitioner - 1977 - June 25, 9 a.m. to 4:30 p.m. Hastings College of Law, 198 McAllister St. Faculty includes Thomas B. Schwartz of Bronson, Bronson & McKinstry, Co. \$200. For more information contact Practising Law Institute, 180 Seventh Ave., N.Y., New York 10019, telephone (212) 765-7000. Topics include new planning considerations (carry-over basic rules, effect of lifetime transfers on estate planning, rules on gifts and new marital deductions); new procedures and techniques (transfers to younger generations, special valuation of real property used by farms and closely-held businesses, immediate pre-mortem practices, post-mortem planning and procedures); and new opportunities and new pitfalls. Speakers are D. Keith Biller (moderator), of Truax, Martin, Johnson & Bridges, and William J. Heeher of Pillsbury, Madison & Sutro. Program will be repeated Monday, June 27, and Wednesday, June 29, 9 a.m. at Bank of America Center, 555 California St. Enrollment fee is \$45. For more information contact Practising Law Institute at above address.

Legal Aspects of the Arab Boycott - July 7-8, Stanford Court Hotel. Panelists will discuss such topics as the scope of the Arab boycott and the procedures of the Boycott Office, the Department of Commerce reporting requirements; the effect of the 1976 Trade Reform Act, the antitrust implications and the consequences of the Bechtel case, and State anti-discrimination laws. Faculty includes William H. Bentley of Arthur Anderson & Co. Cost as \$200. For more information contact Practising Law Institute, 180 Seventh Ave., N.Y., New York 10019, telephone (212) 765-7000. Federal Rules of Evidence in Criminal Matters - July 7-8, Hyatt on Union Square. A faculty of trial attorneys will be joined by U.S. District Judge and law professors in examining such topics as hearsay admissibility, witness credibility, expert testimony and privileged communications. A common theme in all the discussions will be the discretion of the trial court in applying the Rules. Faculty includes James J. Bronschi, of Morrison & Foster, Jr.; Joseph M. Berman, of law firm Moriarty, June 27, and Wednesday, June 29, 9 a.m. at Bank of America Center, 555 California St. Enrollment fee is \$45. For more information contact Practising Law Institute at above address.

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E. ROBERT WALLACH
Luncheon Chairman

with all aspects of civil rights, property and consumer law. Tickets for the luncheon are \$50 per person. For more information call Robert Feinberg (433-6013).

Expanded Legal Aid for Elderly

Legal Assistance to the Elderly has announced five new San Francisco locations where legal aid services are now available to low-income senior citizens. Sponsored by the American Jewish Archives, the project helps senior citizens of all denominations with Social Security, Medicare and Medi-Cal beneficiaries. It provides attorneys to deal with matters such as simple wills, landlord/tenant conflicts, consumer complaints, domestic relations and conservatorships and guardianships.

Reagan Backs Override Of Death Veto

Sacramento — Former Gov. Ronald Reagan yesterday called on Californians to urge the Legislature to override Gov. Edmund G. Brown Jr.'s veto of the state's major death penalty bill.

He also cautioned that proposed capital punishment ballot initiatives "at this time could bring on charges of opportunism later."

On Monday, Reagan turned down an offer by Attorney General Evelle J. Younger to lead a proposed drive to put the death penalty issue on the 1978 ballot as an initiative measure.

Yesterday the former governor jumped firmly behind efforts of law enforcement and Republican legislators to override the veto. He noted that in 1972 Californians approved by a 2 to 1 margin a constitutional amendment authorizing the death penalty.

In a statement issued by his office, Reagan said it is "time for the people to once again let their wishes be known to their legislators on the matter of the death penalty."

He charged that by vetoing the death penalty bill Brown "disregarded the will of the people and the provision of the Constitution."

"The next step is for the Legislature to vote to override the Governor's veto," Reagan said, "thus re-establishing the state's ability to invoke the death penalty where it is warranted."

"A great deal of time and money have been spent bringing the issue to where it is," the former governor asserted. "Enough is enough. Any effort to bypass the process at this time

(Continued on Page 6)

Fired Jail

Freedom Of Expression

High Court On Nazi

Washington — The Supreme Court yesterday overturned 5 to 4 an Illinois judge's order barring a Nazi group from parading in uniform or displaying the swastika anywhere in the village of Skokie, Ill.

"If a state seeks to impose a restraint of this kind, it must provide strict procedural safeguards," the justices said in an unsigned opinion.

They said an April 29 injunction issued by the Cook County Circuit Court deprived members of the National Socialist Party of America of their First Amendment right to freedom of expression during court appeals that may take a year or more to complete.

Party members and their leader, Frank Collin, have been trying since late April to march back and forth in military-style uniforms in front of the Skokie Village Hall, display the swastika and signs such as "White

Appeal Court Stays Intl. Hotel Eviction

Tenants facing eviction from the International Hotel got another reprieve yesterday from the First District Court of Appeal.

The court issued a temporary stay of the eviction on a request by the Housing Authority and the International Hotel Tenants Union.

Stockholders Suit—

(Continued from Page 1)
In addition to Public Advocates,

plaintiffs are represented by San Francisco attorney Douglas S. Mc-

Glashan and Professor James D. Cox of Hastings College of the Law.

Reagan Backs—

(Continued from Page 1)
could bring on charges of opportunism later."

A spokesman said Reagan's reference to bypassing the process now referred to taking the issue to the ballot before the Legislature had dealt with it.

Sen. John V. Briggs of Fullerton, a Republican 1978 gubernatorial hopeful, is mounting an initiative campaign to write an "even tougher" death penalty law than was proposed by the bill Brown vetoed.

Briggs said he intends to press the initiative regardless of whether the veto is overridden because he wants

to keep capital punishment alive as a political issue and wants a stronger death penalty law.

Younger, Deukmejian and the law enforcement establishment, meantime, are preparing for an initiative campaign that would be activated if Brown's veto is sustained.

Closed-Door—

(Continued from Page 1)
cantly dented the gains made by the Moscone Act.

"Even as amended, the bill puts a lot of the public's business behind closed doors," Young said. "It would allow many policy-makers who hold public, non-elective, positions to be chosen secretly. Then the local bodies would present a fait accompli to a supposedly 'public' hearing."

Appointments and dismissals of such public officials as planning or zoning commission members, under the Dan-

nemeyer bill, could be considered in executive session. But the local legislators would be forbidden to take final action until after a public hearing is held.

The vote to hire or fire such a public official would have to be public, following the secret deliberations.

"Dannemeyer's big problem was that he couldn't show that in the year the Moscone Act has been in force, there has been a detrimental effect to forcing full public discussion of the public's business," Young said.

Dannemeyer's rationale, he added, was that local governments are already circumventing the Moscone Act's public discussion requirements, so the Legislature should remove an ineffective law.

"If we followed that kind of reasoning, a lot of things people find ways to get around would become real legal all of a sudden," Young said. "The fact is the only way to conduct the public business is to conduct it in public."

New Suits, Filings, Etc.

724384—Joaquin C Cachoja & Perla C C.
disln—D P Donovan
724385—Francis Dixon v Kaiser Fdn
Hosps et al. inj—R J A Cosgrove
724386—In re appln of Carla Rebecca
Steinmetz alias. chge of name—pro

302
26143—Joseph Charles Canepa Jr as (1)
Canepa & Associates & (2) Canepa &
Perr) at 4569 Mission
26144—Janet Sassoon as Janet Sassoon
Exercises at 2787 California
26145—Same as Same at 2121 Market

748546—Same v Same, same \$526
748547—Same v Same, same \$138
748548—Same v Same, same \$77
748549—Suella L Hanlon v Intl Promo-
tions Corp, dmgs \$1174—C T Jensen
748550—V Roth v Mildred Ballard,
monies \$419—Bley and Bley

By Rules of Courts, Official Newspaper for U.S. District Court, San Francisco, California, and County of San Francisco, and the Municipal Court, San Francisco, Calif.

The Vending Machine Vendetta

Putting change into a soda machine and getting back a hot drink can be a frustrating experience.

When it happens one might even bang or kick the machine—perhaps to make it work, but more likely in sheer frustration.

In fact, the National Labor Relations Board now has ruled that kicking vending machines is a non-compliance violation, according to a decision reported in Commerce Theater, House Labor Law II, p. 2.

The board said that kicking a soda machine was a rather trifling offense to warrant discharge. The board advised the firm to restate a confessed machine kicked to pay for any damages.

The board ordered the employer to get rid of a worker who had actively supported a union and had often made

inquiries, and to plant is concerning safety conditions at the plant.

"We do not believe that the soda machine incident was the real reason for the worker's discharge," the board ruled.

In these circumstances, we can only conclude the vending machine incident was a pretext to discharge the worker for his union activity. We therefore find that the Respondent discharged the worker in violation of current labor law and shall order reinstatement with backpay."

Override Vote Set Today On Death Penalty

Sacramento — Sen. George Deukmejian, R-Long Beach, today will attempt to override Gov. Edmund G. Brown, Jr.'s veto of his death penalty legislation in the Senate.

The vote is scheduled for 10 a.m.

Deukmejian's Senate minority floor leader, said he believes support of SB 167, his death penalty bill, will have the 27 votes required in the state Senate to override the veto.

The bill originally passed the Senate on March 21, 2949, before being sent to the Assembly, where it was approved May 16 by a vote of 54-23.

The Senate convened in Assembly amendments 27-10 before the bill went to the Governor's desk.

Deukmejian's attempt to get the override vote will be hampered by the efforts of Sen. John Briggs, R-Fullerton. Briggs has said he will abstain from voting in order to put the death penalty issue before the voters at the next general election.

If the Legislature does not succeed in overriding the veto, it may be placed on the ballot as an initiative measure. The last time that happened, in 1972 after the California Supreme Court declared the state's capital punishment law unconstitutional, the voters came out two-to-one for the death penalty.

Unless the veto is overridden in the Legislature, by the Senate vote today and the Assembly vote in August, an alternate candidate for the Governorship will begin a drive to reinstate the death penalty.

That group, which includes Attorney General Evelle Younger, Los Angeles Police Chief Ed Davis' and Assemblyman Ken Mandry at various, all Republican, have established as their first goal the legislative override, rather than reinstatement by initiative.

Sentencing Rulings Challenged

AG Asks High Court For Prisoner Release

San Francisco — The State of California yesterday asked the state Supreme Court to allow immediate release of eligible prisoners when the new determinate sentence law goes into effect July 1.

In a pair of companion suits, the Attorney General's office urged the state's highest tribunal to set aside Superior Court rulings in Sacramento and San Diego counties that presently block the Adult Authority from carrying out releases under the law which becomes operative on that date.

The petitions, which asked the State Bar to take immediate action and the petition and issue writs, said the issue was of great public importance and should be heard expeditiously.

They said the Superior Court erred in issuing preliminary injunctions. The Legislature may constitutionally structure the discretion of administrative boards dealing with release of prisoners, the petitions said, arguing that it was a matter of separation of powers.

The suits were filed in the name of Howard Way, chairman of the Adult Authority, which presently determines release dates for prisoners.

This function will be taken over in July by a Community Release Board, which will set a specific release date for all prisoners except those serving life sentences.

Instead of indeterminate sentences, ended at the discretion of the Adult Authority, prisoners will get automatic release dates after serving

their terms, less credits for good behavior and program participation.

The petitions said the new board is currently in the process of evaluating 20,000 prisoners and setting up hearings for those considered dangerous. These hearings must be completed by Oct. 1, 1977, according to the new law.

About 20,000 prisoners were due for release July 1 until the Superior Court injunctions were issued, the petition said.

Each Superior Court injunction "places a constitutional cloud over the anticipated release of thousands of state prisoners and jeopardizes millions of dollars' worth of employment for those considered dangerous. These hearings must be completed by Oct. 1, 1977, according to the new law."

Each Superior Court injunction "places a constitutional cloud over the anticipated release of thousands of state prisoners and jeopardizes millions of dollars' worth of employment for those considered dangerous. These hearings must be completed by Oct. 1, 1977, according to the new law."

New Safety Rules Take Effect July 1

Starting July 1, California employers are required to comply with 14 new safety rules covering 41,999 jobs, but covering 1.5 million jobs, according to the Labor-Industry Safety Council.

State Health Director Jerome A. Larkner said the new rules will take effect on July 1, 1977. He said that the new rules will be a wide variety of rules that will affect all manufacturing and construction.

Larkner said the rules represent the "pivotal" part of California's program to prevent occupational cancer and that it is the most comprehensive program of its kind in any state.

The law requires employers to report any of the regulated chemicals to the State Division of Industrial Safety, when administered, the program begins by July 1 or risk a \$200 fine for each violation.

Employers using asbestos and vinyl chloride have until July 1 to report before the \$200 fine applies to them.

Larkner said that users of any of the 15 carcinogenic substances

Senate OK's Jobless Pay For Convicts

Sacramento — The Senate yesterday passed a \$11 million bill that would provide convicts with \$2 a week unemployment insurance for up to six months after they are released from prison.

The bill (SB 224) by Sen. Peter Heller, R-Tulare, was sent to the Assembly on a bare minimum 23-9 vote.

Currently convicted felons are given \$200, called "gate money," when they leave prison.

The bill would make convicts eligible for the minimum \$2 a week payment for as long as six months or until they get a job.

Heller argued that the \$200 is not enough to support them while they look for jobs and the unemployment payment could keep them from turning once more to crime to support themselves.

"Regardless of good intent, many of them return to crime because they can't get jobs and are hungry," Heller said.

He added that it costs about \$200,000 annually to house the average inmate and support his family members, who often receive welfare payments.

Gov's Prison Plan Rejected By Committee

Sacramento — A Senate-Assembly committee on the state budget yesterday refused to approve \$92 million for 10 new state prisons as part of Gov. Edmund G. Brown's plan.

On a 2-3 vote, the committee decided against including the funds in the proposed 1977-78 budget, although supporters pointed out the money

Pro Bono Proposal Before State Bar Board of Governors

A proposed mechanism enabling attorneys to donate their services to fill unmet legal needs will be considered by the Board of Governors tomorrow by the State Bar Board of Governors.

The subject will be taken up during the three-day meeting which begins today in Los Angeles.

The voluntary pro bono mechanism proposed by the Board of Governors is a report from the Special Committee on Legal Services and the Legal Services Section's Board of Directors.

The report lists five categories of services: primary areas of concern; poverty law, civil rights law, public interest law, charitable organization representation, and unrepresented persons; administering legal services programs.

In defining the requirements for each of these areas, the report limits pro bono work to "the actual delivery of legal services and administrative and educational work which directly facilitates such services, and further limits pro bono services to legal work for which paid counsel is not available."

In addition, the report suggests that every California attorney volunteer 40 hours per year to such projects, or donate \$200-\$1,000 per year, or both.

Other special orders of business scheduled are:

- Friday, 10 a.m. — Consideration of a request that the Board clarify the charges of the Bar's Human Rights Committee.
- Friday, 10:30 a.m. — Reconsideration of AB 376, concerning repeal of provisions which require vital statistical information in marriage dissolution, separation and maintenance actions.
- Friday, 11 a.m. — Consideration of a request from the Board of Legal Specialization that the Board authorize creation of consulting groups to define standards for four proposed new fields of specialization — labor law, family law, bankruptcy law and probate law.
- Saturday, 9 a.m. — Discussion of alternatives to a bill (AB 901) which would set up a mandatory lawyer referral system.

Lawyers Club Malpractice Meeting Today

The Lawyers Club of San Francisco will hold a luncheon meeting today at the Inn at the Presidio, 122 Bush St.

Guest speaker is local attorney Ronald Mallen, who will discuss "How to Avoid Malpractice Claims."

Mallen is a partner with Legg & Lovitt and specializes in legal malpractice defense. He has lectured nationally and last May spoke before an AMA national institute on the professional liability of trial lawyers.

A 1967 graduate of Hastings, Mallen will explain the nature of legal malpractice claims from a practical and theoretical standpoint.

Luncheon tickets are \$5 each, including tax and tip. For reservations call Grace Hockett 487-6025.

Supreme Court Reverses Criminal Charge; No Suppression Of Evidence

An alibi witness's refusal to speak to a prosecution state investigator is not a proper basis for excluding testimony, a jury heard in the federal court in California yesterday.

The high court reversed the conviction of Lee Roy Hanson, a charge of attempted robbery and assault with a deadly weapon, because the conviction followed an erroneous jury instruction on that point.

The defense was written by retired Judge Ronald H. Wright, with Justice Melissa Tidmore, Stanley Mosk and Raymond Sullivan signing Wright and Sullivan were sitting on assigned. A dissenting opinion was written by Justice Frank R. Bohlen.

The jury had found Hanson was the assailant who attacked two men in a parking lot outside a restaurant late one night in January of 1974. One of the men was shot when he refused to open the door of the restaurant.

Hanson was identified by the other man as the assailant. The only defense witness was a former room mate of Hanson's, Dillon Brown, who testified he was the assailant the night of the shooting.

The prosecution relied on a D.A. investigator, who testified Brown had

Immunity Bill For Doctors Approved

Sacramento — One again, the Assembly yesterday approved a bill granting immunity from civil malpractice damages to doctors and nurses working in hospital emergency rooms.

The measure (SB 21) by Sen. Harold Robbins, D-Van Nuys, calls for additional review by the Board of Medical Quality Assurance if the employee is a physician. The bill was sent to the Assembly on a 27 to 7 vote.

The opponents charged the bill unfairly would protect only a class of doctors and nurses from medical malpractice damages.

On Tuesday, the Senate passed a bill that would require the firing of hospital employees found responsible for patient deaths.

The measure (SB 21) by Sen. Harold Robbins, D-Van Nuys, calls for additional review by the Board of Medical Quality Assurance if the employee is a physician. The bill was sent to the Assembly on a 27 to 7 vote.

Tickets Sold Out For Judge Palajich Lunch

Tickets are sold out for a retirement luncheon for Judge Palajich of the San Francisco Municipal Court.

The luncheon will be held in the Garden Room at the Toyoko Inn, 1141 Broadway, San Francisco, on Tuesday, June 28, 1977. It will be held at 12:30 p.m.

Palajich, who has served on the court since 1951, will retire effective July 31, 1977. He previously served for 21 years on the California Public Utilities Commission, becoming chief counsel in 1965.

For further information on the luncheon, contact Judge Palajich at 333-1000, or at 333-1000.

Meeting Notice Calendar

ALAMEDA CONTRA COSTA TRIAL LAWYERS ASSOCIATION
Saturday, 9 a.m. - 4 p.m.
Summer seminar at Francisco's Restaurant, Oakland. Topics include legal malpractice, disability benefits, fee matters, \$17.50 non-members, \$20 for members. Contact: ACCTLA, William Gibbs, 436-4411 St. 616 Central Building, Oakland 94612, telephone 832-4400.

BAR ASSOCIATION
Tuesday, June 28, 8:30 a.m.
Corporate Law Department Section luncheon meeting, Figueroa Restaurant, 420 Market, across from Dan Johnson, chairman of the Public Practice Committee, will address a special cocktail reception as "A Crime Resistance Program," starting 7:30 p.m. Reservations call 392-2882.

BARRETTISTERS CLUB
Wednesday, June 29, 11:15 a.m.
Labor Law Committee Brown bag lunch, law offices of Morrison & Morrison, 400 Montgomery Street, Plaza, Spear Street Tower Art Center, chief of the California Division of Industrial Safety and Nevada, partner of Morrison & Foster, will discuss OSHA. For more information call Peter Sussman 983-1900.

COMMONWEALTH CLUB
Thursday, 4:45 - 6:15 p.m.
Theodore C. Kelleys will address a special cocktail reception as "A Crime Resistance Program," starting 7:30 p.m. Reservations call 392-2882.

Official Notice of the Municipal Court

The San Francisco Municipal Court will inaugurate a new unified filing case number system in the Criminal Division effective July 1, 1977.

The current practice of different case numbers for various classes of cases requires the filing of multiple filing systems. The new unified filing system is designed to streamline file retrieval and minimize the potential for mistakes in the Criminal Records Room. The new system will be of benefit to all who need access to criminal records. The case is asking the cooperation of the bar, other governmental agencies and the public in making the transition to the new unified number system as early as possible.

Gov's Prison Plan Rejected By Committee

The California Supreme Court has announced that no cases were accepted for review during the week of June 13, 1977.

In so doing, the court committed error because such a procedure forced the very best permitted the jury to resolve a question of law. Wright wrote for the court.

When confronted with such a situation, a trial court may not straddle the fence. It is the court which must determine whether or not the record contains evidence which, if believed, will support the suggested inference.

The D.A.'s investigator never found out where the attorney had ordered the alibi witness not to talk to the D.A.'s investigator, they could order a conviction of guilt, as this constituted suppression of evidence.

The Supreme Court said even if it had been clearly proved the attorney had ordered the alibi witness not to speak to the prosecution, there was no suppression of evidence. The court also found error in the form of the jury instruction.

Procedural error required reversal of the judgment, the high court ordered.

The trial court should have determined if there was evidence in the record from which suppression of evidence is admissible absent the alleged suppression.

No jury instruction concerning an inference of consciousness of guilt should be given, based on such improperly admitted evidence.

"The essence of the People's argument is that defense counsel attempted to suppress evidence by interfering with the People's attempt to interview a potential witness," Justice Wright wrote. "It is manifest that an either case witness or a free to disregard any order which purports to prohibit them from speaking with a representative of the opposing party, access to potential witnesses should remain open to all parties in a legitimate effort to establish the consciousness of guilt jury instruction, the high court said, the prosecution should have attempted to impeach the alibi witness on the basis of bias. The issue was the consciousness of guilt of the defendant's consciousness of guilt."

Meeting Notice Calendar

Palace Hotel Speaker to be introduced at 2:30 p.m. Reservations required, call 392-982.

LAWYERS CLUB
Today, Noon
Luncheon meeting at Inn Duke, 122 Bush Street. Guest speaker will be Ronald Mallen of Legg & Lovitt. Tickets \$5, including tax and tip. For reservations call Grace Hockett 487-6025.

Thursday, June 28, 11:15 a.m.
Travel Committee, offices of Frank D. Winston, 601 California, Suite 704. Bus Ronald Mallen will tell "How to Avoid Malpractice Claims." Tickets \$5, including tax and tip. For reservations call Grace Hockett 487-6025.

Thursday, June 28, 4:45 p.m.
Travel Committee, offices of Frank D. Winston, 601 California, Suite 704. Bus Ronald Mallen will tell "How to Avoid Malpractice Claims." Tickets \$5, including tax and tip. For reservations call Grace Hockett 487-6025.

FBI Director Speaks At S.F. Reception

Clarence Kelley, director of the Federal Bureau of Investigation, today will address a special cocktail reception sponsored by the Commonwealth Club of California at the Sheraton-Palace Hotel.

The reception is scheduled from 4:45 to 6:15 p.m.

Kelley, due to retire as the FBI's second permanent director in January of next year, will discuss "How to Avoid Malpractice Claims."

The title of his speech refers to the FBI's cooperation with the San Francisco Police Department in establishing a neighborhood crime resistance program.

The program, in effect for the past seven months, has not cost taxpayers additional money for law enforcement, but instead has stressed community involvement in reducing crime levels.

Kelley's speech will be the first public discussion of the program.

Tickets are \$2 for members of the Commonwealth Club and \$3 for non-members. A limited number of tickets will be sold at the door.



RONALD E. MALLEN

The Lawyers Club of San Francisco will hold a luncheon meeting today at the Inn at the Presidio, 122 Bush St.

Guest speaker is local attorney Ronald Mallen, who will discuss "How to Avoid Malpractice Claims."

Mallen is a partner with Legg & Lovitt and specializes in legal malpractice defense. He has lectured nationally and last May spoke before an AMA national institute on the professional liability of trial lawyers.

A 1967 graduate of Hastings, Mallen will explain the nature of legal malpractice claims from a practical and theoretical standpoint.

Luncheon tickets are \$5 each, including tax and tip. For reservations call Grace Hockett 487-6025.

Vendetta

Complaints concerning safety conditions
believe that the soda machine incident
reason for (the worker's) discharge,"

ent's plant, as elsewhere, it is com-
uman beings to bang or kick a ma-
s not deliver the promised goods; yet
is the only employee ever discharged
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continually complaining about safety
as also known to be a union activist.
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chine incident was a pretext to dis-
ker) for his union activity. We there-
e Respondent discharged (the work-
f (current labor law) and shall order
it with backpay."

Senate OK's Jobless Pay For Convicts

Sacramento — The Senate yester-
day passed a \$1.1 million bill that
would provide convicts with \$57 a
week unemployment insurance checks
for up to six months after they are
released from prison.

The bill (SB 224) by Sen. Peter
Behr, R-Tiburon, was sent to the As-
sembly on a bare minimum 27-9 vote.

Currently, convicted felons are given
\$299, called "gate money," when
they leave prison.

The bill would make convicts eli-
gible for the minimum \$57 a week
payment for as long as six months or
until they get a job.

Behr argued that the \$200 is not
enough to support them while they
look for jobs and the unemployment
payment could keep them from turn-
ing once more to crime to support
themselves.

"Regardless of good intent, many
of them return to crime because they
can't get jobs and are hungry," Behr
said.

He added that it costs about \$26,000
annually to house the average inmate
and support his family members, who
often receive welfare payments.

(Continued on Page 7)

Override Vote Set Today On Death Penalty

Sacramento — Sen. George Deuk-
mejian, R-Long Beach, today will at-
tempt to override Gov. Edmund G.
Brown, Jr.'s veto of his death penalty
legislation in the Senate.

The vote is scheduled for 10 a.m.

Deukmejian, the Senate minority
floor leader, said he believes support-
ers of SB 155, his death penalty bill,
will have the 27 votes required in the
state Senate to override the veto.

The bill originally passed the Sen-
ate on March 31, 29-10, before being
sent to the Assembly, where it was
approved May 16 by a vote of 54-23.

The Senate concurred in Assembly
amendments 27-10 before the bill went
to the Governor's desk.

Deukmejian's attempt to get an
override vote will be hampered by the
efforts of Sen. John Briggs, R-Fuller-
ton. Briggs has said he will abstain
from voting in order to put the death
penalty issue before the voters at the
time the present Governor is seeking
reelection.

If the Legislature does not succeed
in overriding the veto, it may be
placed on the ballot as an initiative
measure. The last time that happened,
in 1972 after the California Supreme
Court declared the state's capital pun-
ishment law unconstitutional, the
voters came out two-to-one for the
death penalty.

Unless the veto is overridden in the
Legislature, by the Senate vote today
and the Assembly vote in August, an
alliance of other candidates for the
Governorship will begin a drive to
reinstate the death penalty.

That group, which includes Attorney
General Evelle Younger, Los Angeles
Police Chief Ed Davis and Assembly-
man Ken Maddy of Fresno, all Re-
publicans, have established as their
first goal the legislative override,
rather than reinstatement by initia-
tive.

Sentencing Rulings C

AG Asks I For Prison

San Francisco — The State of Cali-
fornia yesterday asked the state Su-
preme Court to allow immediate re-
lease of eligible prisoners when the
new determinate sentence law goes
into effect July 1.

In a pair of companion suits, the
Attorney General's office urged the
state's highest tribunal to set aside
Superior Court rulings in Sacramento
and San Diego counties that presently
block the Adult Authority from carry-
ing out releases under the law which
becomes operative on that date.

The petitions, which asked the Su-
preme Court to take immediate juris-
diction and issue writs, said the issue
was of great public importance and
should be resolved promptly.

They said the Superior Court erred

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Pro Bono Proj State Bar Boa

A proposed mechanism enabling at-
torneys to donate their services to
fill unmet legal needs will be con-
sidered as a special order of business
tomorrow by the State Bar Board
of Governors.

The subject will be taken up during
a regular three-day meeting which
begins today in Los Angeles.

The voluntary pro bono mechanism
will be considered by the Board at
9:30 a.m. tomorrow, June 24. As out-
lined in a report from the Board Com-
mittee on Legal Services and the
Legal Services Section's Special Com-
mittee on Pro Bono Legal Services,
the proposal recommends that exist-
ing lawyer referral service systems
be used to match lawyers wishing to
volunteer with clients needing their
services.

The report lists five categories of

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By Rules of Courts, Official Newspaper for U.S. District Court, N. California, Superior Court, City and County of San Francisco, and the Municipal Court, San Francisco, Calif.

Judge Lawrence Mana

Superior Ct. Elects New Presiding Judge

Judge Lawrence S. Mana was elected the new presiding judge of the San Francisco Superior Court last night at the annual meeting of the court.



LAWRENCE S. MANA

Mana, 49, was born in San Francisco and graduated from the University of California at Berkeley with a B.S. in 1951. He was admitted to the bar in December 1952 and practiced with Brobeck, Phleger & Harrison one year prior to entering military service.

Mana has served on the Superior Court since 1969, following his appointment by Gov. Ronald Reagan before that, he served on the San Francisco Municipal Court. He was appointed to that court in 1962 by Gov. Edmund G. "Pat" Brown.

Hearing On Dennis Banks Extradition

The California Supreme Court yesterday granted a request by Gov. Edmund G. Brown Jr. for a hearing on the question of whether or not to grant extradition papers for Indian leader Dennis Banks.

Banks left South Dakota after being convicted of assault with a deadly weapon during the 1973 Carter Center house demonstration and before he could be sentenced on that conviction. The California Supreme Court order was signed by four justices with Chief Justice Rose Bird refraining.

'Prison: Not A Public Forum' Supreme Court Roadblock To Inmate Union Organizing

Washington—In a ruling disincorporating a "giant step backward" for prisoner rights, the Supreme Court yesterday ruled that states may prohibit inmate unions from organizing.

Prison officials must be permitted to take "reasonable steps" to avoid violence inside prison, Rehnquist said. He argued that such a union necessarily adopts an "adversary role" with prison officials and "surely would rank high on anyone's list of potential trouble spots."

The lower court said there is a clear danger to prison security or discipline if inmates, receive newsletters and hold meetings under the same controls "as are neutrally applied to all inmate organizations."

Inmate unions already are restricted in federal prisons and several states, including Connecticut, Michigan and New York. They have been formed in Rhode Island and Delaware, and a study by the American Bar Association recently supported their creation.

Bridging The Gap Program Tomorrow

The Barriers Club of San Francisco will present the second and final session of its annual "Bridging the Gap" program for new law graduates tomorrow, June 25, from 9 a.m. to 4 p.m.

The program will be held at Hastings College of the Law, Classroom A, 180 McAllister St. The first session was held last Saturday, June 18, and was held in cooperation with the Alameda County Barriers Club.

LA Barristers Urge Change In Bail System

Los Angeles—Los Angeles Barristers want to end the bailbondman system on grounds it discriminates against the poor and costs the courts too much money.

Close Senate Override On Death Penalty

Sacramento—Governor Brown's veto of a bill reinstating California's death penalty was overridden yesterday by the Democratic-dominated state Senate.

Compromise Bill Approved To Toughen New Sentencing Law

Sacramento—A Senate-Assembly Conference committee yesterday approved a compromise version of a law to toughen the new sentencing law.

Appointments Parent-Child Legislation To PUC And FEP Division

Sacramento—The Assembly yesterday approved two bills affecting the parent-child relationship. One passed unanimously, the other passed only by a one-vote margin.

Official Notice Of The Municipal Court

The San Francisco Municipal Court will inaugurate a new unified filing case number system in the Criminal Division effective July 1, 1977.

Official Notice Of The Superior Court

RE: SHOWING AND FILING ORDERS OF COURT. In order to facilitate the business of the Superior Court, all Orders to be presented for the signature of any judge shall recte fully in the caption the nature of the Order, pursuant to Rule 20(c), California Rules of the Superior Courts. This directive also applies in those actions where an Order is included with another document, i.e., Stipulation and Order.

Official Notice Of The Superior Court

Honorable Claude D. Persano has been designated by Presiding Judge Henry H. Rolph to be available for the week June 22 through June 26, 1977, in order to perform the duties required by law of the Superior Court. Section 124, Code Civ. Proc., Sections 810, 1269 b, 1269 c.

Meeting Notice Calendar

ALAMANDA CONTRA COSTA TRIAL LAWYERS ASSOCIATION. Saturday, 9 a.m. - 4 p.m. Summer seminar at Franciscan's Restaurant including topics: legal malpractice, disability benefits, problem cases and medical liens.

Meeting Notice Calendar

BARRETT'S CLUB. Wednesday, June 29, 12:15 p.m. Labor Law Committee brown bag lunch, law offices of Morrison & Forrester.

New Site For Estate Program

Continuing Education of the Bar has chosen a new location for its seminar tomorrow on "Estate Planning for the General Practitioner."

Official Notice Of The Municipal Court

Honorable Richard P. Figueas will be available the weekend of June 24, (and on any holiday that occurs through the following Thursday) pursuant to Section 114 of the Code of Civil Procedure to issue bail and perform the duties.

Official Notice Of The Municipal Court

All reference to cases generated after July 1 and papers filed after the respective file number and will not be changed to the court number.

LA Barristers—

(Continued from Page 1)
taxpayers money by absorbing the costs of apprehending and returning

persons who do not appear for court. The group cited a recent county grand jury report indicating that

more than 90 percent of such persons are eventually apprehended by public law enforcement agencies.

Compromise Bill—

(Continued from Page 1)
Community Release Board, up to a year to complete review of the cases of inmates sentenced before July 1; increase sentences for repeat and violent offenders;

increase parole time for one year to 18 months; and make it easier to decrease time off for good behavior. The conference committee appropriated \$7 million to the Department

of Corrections, which estimated it would be holding about 1,000 more prisoners than if the fixed-sentencing law had gone into effect without revision, and \$2.5 million to the Community Release Board.

Close Senate—

(Continued from Page 1)
Briggs favors a proposed "even tougher" capital punishment initiative.

For two hours, the override hung one vote short of approval until Sen.

Alex P. Garcia, D-Los Angeles, showed up to cast the go-ahead 27th vote. He said he was absent temporarily on "personal business."

Sen. Alfred Song, D-Monterey Park,

chairman of the Judiciary Committee, cast a "no" vote on the override, although he previously voted to approve the bill when it first cleared the Senate.

Parent-Child—

(Continued from Page 1)
help available to minors over 12, backers pointed to the epidemic proportions of alcohol and drug abuse among minors.

In precisely the cases where parents

are responsible in part for their child's condition do social workers and other professionals have the most difficulty getting parents' permission for treatment.

"If your communication with your

children is good," Egeland said, "This bill will not affect you."

"This is another example of us moving in the direction of diminishing parental authority," opponent Papan said.

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The Real Estate Scene
by Carol Benfall

Rents are increasing by 50 to 100 percent over a few years' time and people who afford the increases are being forced out of the parks and onto the welfare rolls, he says.

Smith didn't sign that bill because he thought it would be a political liability. He would like to see the bill passed, but he doesn't want to be politically very close to it.

A battle between mobile home owners and mobile park landlords over alleged rent-gouging practices has erupted into an angry confrontation in the State Legislature.

The California Association of Realtors, the California Mobile Home Dealers Association and the Western Mobile Home Association say the measure, AB 450, is an opening wedge for rent control in all types of housing, an effort to the free enterprise system, and penalizes the wrong people for an admittedly bad situation.

Local governments, caught in a squeeze between inflating costs and taxpayer protest, see mobile home parks as a poor source of revenue. Parks pay lower taxes than an apartment complex or a business built on the same land.

Homeowning taxpayers protest because mobile home occupants use school, police, and fire services, but do not pay property taxes to support them.

Park owners also say if they are foreclosed from that which consider their profits, they will use the land for a better-paying purpose and close the doors.

San Diego owner of a mobile park chain recently sued 90-day eviction notices to his tenants, saying if the Ogden bill passed he would be forced to close down.

Goggin sees that letter as an attempt to flex political muscle, not a reaction to financial pinch.

"Most people in mobile homes are retired and on a fixed income," Goggin says. "It costs \$2,000 to \$3,000 to move a mobile home—if someone can find a place to move it to."

LEGAL BRIEFS— The Defense Rests ...

Robert Grossman and Richard Weisman announce the formation of the firm **Grossman and Weisman, Attorneys at Law**, 1950 Wilshire Blvd., Suite 1400, Los Angeles 90024. Telephone, 412-8693, 475-6772.

Paul A. Gellis announces the opening of a second office at 157 S. Thompson St., Newport Beach, California, 92660. Telephone, (619) 929-1123.

Howard D. Plick and Morris Weiss announce the formation of the firm **Weiss and Plick, Attorneys at Law**, 4040 Avenue of the Stars, Los Angeles, 90007. Telephone, 553-5544.

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NOTICE TO CREDITORS

No. 0379. State of California, County of Los Angeles, In and for the Superior Court of the County of Los Angeles. Franklin Pence, Decedent. Notice is hereby given to creditors of the estate of Franklin Pence, deceased, that all claims against the estate must be filed or presented as provided within the time specified in this notice. The date of the first publication of this notice is June 28, 1977. The date of the last publication of this notice is July 12, 1977.

Executor of the will of said decedent: **ROBERT E. BRASSER**, Trust Officer, 4111 Wilshire Blvd., Suite 204, Los Angeles, California 90048. Telephone: (213) 483-2119.

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Executor of the will of said decedent: **ROBERT E. BRASSER**, Trust Officer, 4111 Wilshire Blvd., Suite 204, Los Angeles, California 90048. Telephone: (213) 483-2119.

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Lawyers On the Move

Robert Grossman and Richard Weisman announce the formation of the firm **Grossman and Weisman, Attorneys at Law**, 1950 Wilshire Blvd., Suite 1400, Los Angeles 90024. Telephone, 412-8693, 475-6772.

Paul A. Gellis announces the opening of a second office at 157 S. Thompson St., Newport Beach, California, 92660. Telephone, (619) 929-1123.

Howard D. Plick and Morris Weiss announce the formation of the firm **Weiss and Plick, Attorneys at Law**, 4040 Avenue of the Stars, Los Angeles, 90007. Telephone, 553-5544.

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LOST WILL

Notice to attorney who prepared last will and testament of **Katherine Anna Horlik** subsequent to January 17, 1974, residing at 120 Woodbury Dr., Los Angeles, Cal. Please contact David S. Friedberg, Esq., (212) 71-6760. URGENT!

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Members and guests of the Foothill Bar Association home of Mr. and Mrs. Henry Hege' last week for a banner. Getting it all together are, from left, Eric Faith, ident; Fred Kennedy, president-elect; and Henry (Buzz)

Photo by Jim Linck

Harold Greenberg
Richard Brownstein
associate of the
14003 Ventura
Oaks, 91423.
22.

Pitchess Scores Solon on Move to Defeat Death Bill

Sen. John Briggs, who has organized a group backing Gov. Edmund G. Brown's veto of the death penalty bill, has been criticized for forming the group by Los Angeles County Sheriff Peter Pitchess.

In a letter to Briggs released Saturday, Pitchess said:

"I am shocked that you, or any other human being, would try to make a cheap partisan show out of a matter of such grave consequence.

"I do not intend to stand idly by while you allow the death penalty issue, a matter of critical importance to the safety of our citizens, to degenerate into a sideshow to dramatize your own political ambitions."

NOTICE TO CREDITORS No. NWP 14221

Superior Court of the State of California, for the County of Los Angeles. In the Matter of the Estate of MICHAEL R. SCHWARTZ, Deceased. Notice is hereby given to creditors having claims against said decedent to file said claims in the office of the clerk of the aforesaid court or to present them to the undersigned at the office of Martin L. Sturman, A Professional Corporation, 15915 Ventura Blvd., Ste. 200, Encino, CA 91436, which latter office is the place of business of the undersigned in all mat-

to the undersigned court or to the undersigned at the c Straub, 741 E. Third Street, CA 90802, which latter office of business of the under matters pertaining to said claims with the necessary v be filed or presented as afc four months after the first this notice.

Dated June 21, 1977.

SARAH
Executer of the will of sa
Betse Straub, Attorney-a
E. Third Street, Long
90802.
(J83108 Tues) Jun 28 Ju

NOTICE TO CREDI No. 630987

Superior Court of th
California, for the County of
In the Matter of the Estate
GRAY, Deceased.

Notice is hereby given, having claims against said file said claims in the office of the aforesaid court or to the undersigned at the off Livingston, Esq., 315 S. Beverly Hills, CA 90212, office is the place of bus undersigned in all matters said estate. Such claim necessary vouchers must presented as aforesaid months after the first public notice.

Dated June 23, 1977.

MABEL A
Executer of the will of sai
Arthur Livingston, Esq.
Beverly Dr., Beverly Hills,
(J83128 Tues) Jun 28 Jul

Notice. No. CV 77 2120-F. U District Court, Central California. United States Plaintiff, v. Three Booklets, "A", Defendant. In obed Warrant for Arrest to me dir above-entitled cause, I have, day of June, 1977, seized and my possession the following defendants to wit: Three EXHIBIT "A": Seizure No.; Merchandise: 77270400617-2, Box 1069, San Francisco, Ca. Booklet Entitled Nymph Lo 77270400617-7, Mr. Joel Carp Sunnyvale, Ca. 94088, On Entitled Children Love 77270400617-8, Mr. Norman Santa Clara Valley Chapter Electrical Contractors Assn. Avenue, San Jose, Ca. 95126, C Entitled Children Love No.

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IAM GOLDBERG,
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aka Maggie Edna
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or to present them



The World In 2027

'Time Capsule' To Be Sealed Today

Statements by leading national and local personalities, reflecting their opinions of the world in 50 years, will be sealed in a time capsule during opening ceremonies at the World Affairs Center, 312 Sutter St. today, Nov. 3, beginning at 5:45 p.m.

The World Affairs Council asked representatives of government, business, education, the arts, the media, and community organizations to speculate on the changed state of the Bay Area and the world fifty years from today.

Their predictions, along with microfilms, tapes and photographs of present-day life, will be locked

in a seismic vault of the new international center until Nov. 3, 2027.

The citizens of 2027 will find that the overriding concern of the 1977 leaders is world energy resources. Most see war as a diminishing threat, as national interdependency and communication increases.

They foresee a few prophets of doom, the majority have expressed faith in the individual to overcome new challenges and foresee a world where peace and social justice prevail.

Nev. Damage Limit Doesn't Apply Here

Nevada's statutory limitation on the amount of damages for which the state may be sued does not apply to the case of a California resident injured in California by an employee of the University of Nevada, driving a state vehicle on state business, the First District Court of Appeal, Division Four, has ruled.

The ruling in *Harris v. University of Nevada and State of Nevada*, Civ. 40838.

The ruling in this case relied on an earlier California Supreme Court ruling denying Nevada's claim that, under the doctrine of sovereign immunity, the State of Nevada was not subject to suit in California.

At issue here is Nevada's further contention that a Nevada law limiting the amount of damages which may be assessed against the state for an action sounding in tort should operate to limit the California court's judgment.

That Nevada limit is \$25,000. The California court here awarded the injured minor, John Michael Hall, \$1.15 million for personal injuries resulting from a collision between a vehicle he occupied and one driven by the University of Nevada employee.

The statute limiting damages to \$25,000 was part of legislation by which Nevada had waived its immunity from suit. In effect, it was arguing here that if California was going to hold Nevada subject to suit in California courts, it would also have to accept the \$25,000 limitation.

Brown's Views On Uniform Sentencing

Patadena—Gov. Edmund G. Brown Jr. yesterday said California's determinate sentencing law gives authorities the "legal tools" to put more convicted felons in prison but any law is not the full answer to the crime problem.

Brown said it is up to the individual California to rehabilitate himself and society also plays a part in the fight against crime. Punishment is emphasized in the determinate sentencing law, he pointed out.

In an address before the Peace Officers Research Association, Brown said:

"Across a broad spectrum of criminal activity, the legal tools have been given to the judiciary in California. If they have the will and the commitment to impose sentences, they are there."

"It will take the cooperation of the police, the judiciary and the community to make the legal machinery work," he said, explaining, "The government has inherent limits."

Brown did not appear enthusiastic about programs for rehabilitation of criminals. He said numerous studies show the unpredictability of the criminal reform programs.

"That's why we wrote the determinate sentencing law—that the purpose of the criminal system is to provide punishment for those who violate the law," he said. "Whether or not they can reform themselves, that's really up to the individual."

Hearst Conviction Upheld

The 9th U.S. Circuit Court of Appeals yesterday upheld Patricia Hearst's 1976 conviction for robbing a San Francisco bank while underground with the Symbionese Liberation Army.

The government said she will be permitted to remain free on bail pending further appeal.

The federal appeals court said it found "no reversible error" in the celebrated two-month trial of Hearst, who was found guilty and sentenced to seven years in prison for participating in the bank robbery 16 weeks after she was kidnapped by the terrorist SLA.

She has been free on \$12 million bail since November of last year, and would be eligible for parole after serving one-third of her term.

U.S. Attorney James Browning Jr., who prosecuted the case, said the government would not seek to have her bail revoked and have her returned to custody until her attorneys decide whether to appeal to the U.S. Supreme Court.

There was no immediate word from Hearst's attorneys on whether they would appeal further.

Patricia Hearst, 23, was found guilty by a U.S. District Court jury of participating in the April 15, 1976, bank robbery. She remained in hiding for a year and a half after the kidnapping, and was arrested in San Francisco in September, 1976.

Hearst had contended that she was forced to take part in the robbery after undergoing weeks of torture and torture while locked in a closet by members of the SLA following her kidnapping. Her attorneys argued that if she had not been kidnapped in the first place, she never would have been involved in the robbery.

In a 35-page opinion, the appeals court said: "We conclude on the basis of well established principles that no reversible error occurred and that the judgment must be affirmed."

Hearst raised several points in her appeal. First, she said trial judge Oliver J. Carter had improperly allowed testimony about her subsequent activities with the SLA following the robbery, particularly a shooting in which she participated in at a Los Angeles sporting goods store a month later.

The appeals court said because her defense was that she participated under duress, the court had to prove that was not true.

"The evidence of appellant's involvement in the Los Angeles activity was relevant because it tended to show appellant's ongoing involvement in other criminal activity with persons of the same group at a time not unduly remote from the offense."

She also contended that the trial judge erred in allowing the government to cross-examine her on the stand about a "missing year" of her time underground. She took the fifth amendment against self-incrimination 42 times when questioned about it.

The appeals court said "a defendant who testifies in his own behalf waives his privilege against self-incrimination with respect to the relevant matters covered by his direct testimony and subjects himself to cross-examination by the government."

The court also rejected defense contentions that the judge erred in admitting a fallacious tape recording of a conversation between Hearst and (Please Turn to Page 6)

Landmark Legislation Senate Panel Approves New Criminal Code

Washington—The Senate Judiciary Committee yesterday approved landmark legislation that would revise and update the vast hodgepodge of federal criminal laws and consolidate them into a single code.

By a 12-2 vote, the committee approved the most sweeping reform of criminal justice administration in the nation's history, and sent the bill to the Senate floor for consideration, probably early next year.

Casting the "no" votes were Sens. James Allen, D-Ala., and James Flournoy, D-S.D.

The criminal code bill is the product of a year of liberal-conservative compromise work led by Sens. Edward Kennedy, D-Mass., and John McClellan, D-Ark., who attached together a code package to a majority on both sides of the panel's political spectrum.

Before completing action on the overall bill, the committee approved, 7-4, an amendment allowing federal intervention in "child snatching" cases where one parent kidnaps a child who is lawfully in the custody of the other and transports it across state lines.

At present, cases involving a child's lawful parents do not fall under federal kidnapping statutes.

The new consolidated criminal code would repeal more than 3,000 federal laws enacted piecemeal over the past 200 years and described by Kennedy as "a tower of Babel."

One of its major objectives is to establish a federal sentencing committee to set punishment guidelines for various federal crimes and reduce the vast range of sentences judges now may impose for the same crime in different parts of the country.

It also attempts to establish guidelines for making sentences fit the crimes.

The sentencing guidelines would be distributed to all federal judges, who would be expected to follow them.

Maximum terms imposed, for example, could not exceed minimum

terms for the same crime by more than 25 percent.

A judge imposing a higher sentence would have to justify it in writing, and the prisoner could appeal.

The bill also would vastly restrict the concepts of parole, the amount by which a sentence may be reduced for good behavior, and concepts of rehabilitation in the prison system—all steps designed to increase certainty of punishment.

The new code also would repeal numerous federal statutes the committee considered archaic, such as the 1799 Logan Act that prohibits private communications with a foreign government.

During the anti-war movement of the late 1960's and early 1970's, the federal government sometimes attempted to use the Logan Act to prosecute American citizens who tried to promote peace directly through contacts with the North Vietnamese government.

New provisions to be added to the statute books would include a detailed series of election laws prohibiting Watergate-style subterfuge of political campaigns, and a system of compensation for victims of certain violent federal crimes.

Updated Rules Proposed

ABA Chief Backs Discovery Reform

The president of the American Bar Association has called for wide-ranging reforms in the discovery rules of the Federal Rules of Civil Procedure.

In a recent speech at the North Carolina State Bar, William B. Spann, Jr., said a model for new rules has been prepared by two ABA committees and will be submitted to the House of Delegates at the group's mid-year meeting in February.

Contemporary discovery procedures have their roots in tortious parties unwilling to reveal facts, Spann said, in a recent suit attacking the removal clause of the standard player contracts of the National Football League, he said he was able to make the subject matter of the suit was "football and the business of conducting it."

Under the proposal, lawyers involved in a case would be required to formulate their own plan and schedule of discovery in relation to the issues.

If they are unable to agree, a trial court would hold a pretrial conference on the subject of discovery, if requested to do so. A court order based on the plan ultimately agreed upon would be issued by the judge following the conference.

Another contemplated proposal would make discovery of discovery

more flexible. The present rule requiring a court order prior to recording testimony taken during discovery by any other means than by stenography "amounts to nothing more than a full employment act for court reporters," and should be abandoned, Spann said.

The committee is making this recommendation, he said, in the belief that in this day and age electronic recording is reliable.

The committee also will recommend that trial courts are given the power to make sure there are sufficient sanctions to stop discovery abuse, Spann continued. At the present time there are few sanctions.

"The committee proposes a new rule which will give flexibility to the trial court in the form of a general (Please Turn to Page 6)

Precedent Welfare Payments Ruling

Timely appeals can be made of any Employment Development Department notice of overpayment of benefits, whether the notice is the initial one, or one which corrects, adds or recalculates the matter, the California Unemployment Insurance Appeals Board has ruled.

The ruling came in the case of a woman who failed to file a timely appeal from a notice of overpayment which had sued her owed the Department \$24 in benefits erroneously paid to her.

When the Department later mailed another notice changing the amount of the overpayment to \$690, and telling her to disregard the earlier notice, she did file a timely appeal.

The administrative law judge who heard the second appeal said he didn't have jurisdiction to hear the matter, because the issue in the case had already been decided by the judge who dismissed the first appeal for untimeliness.

A four-person majority of the Unemployment Appeals Board found him in error. They ordered his decision vacated and remanded the case for hearing on the merits.

One Board member dissenting, pointing out the second notice of overpayment, although different in amount, was based on the same facts which precipitated the first notice. The Board, he said, had no power to reopen the matter of the overpayment, since the administrative law judge's decision from a notice of overpayment became final.

Section 1377 of the Unemployment Insurance Code, the majority wrote, "is unequivocal in providing for an appeal from a Department notice of overpayment."

Here, where there were two notices of overpayment, one altering the amount, there were also two timely appeals.

The second notice, the majority of

the Board explained, "raised a whole new factual issue. . . . The crucial factor is that each new Department determination by its very nature raised a new set of facts and circumstances which are challengeable by an appeal."

If the decision of the second administrative law judge were upheld, they said, "there could result."

Instead of lowering the amount of the alleged overpayment from \$690 to \$600, they suggested, the Board might have raised it to \$6,000. If the administrative law judge then refused to hear a timely appeal, because of the dismissal of the first appeal, "there could indeed be a grave miscarriage of justice."

The court also criticized the second administrative law judge's apparent application of the principle of res judicata in refusing jurisdiction.

(Please Turn to Page 6)

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The court also rejected defense contentions that the judge erred in admitting a fallacious tape recording of a conversation between Hearst and (Please Turn to Page 6)

Compromise Vote Expected On Abortion

Washington — Senate negotiators adopted new language yesterday in an effort to end the long and bitter struggle over federal funding for abortions.

Although the new formula falls short of House demands, there was hope that Congress would accept the new wording and pass the \$60 million bill for the Department of Labor and Department of Health, Education and Welfare.

Negotiators for the Senate drafted the new language and offered it for acceptance or rejection after a conference between the House and Senate broke up in disagreement Monday.

The new proposal likely will go before the full Senate today. If approved, it would make discovery

Insurance Death Penalty Drive Planned

A group working on an "insurance death penalty," just in case the recently enacted state law is unconstitutional, says it intends to go to court in November 1978 before the U.S. Supreme Court.

"The Citizens for an Effective Death Penalty," who claim the backing of former Lt. Gov. Ed Rinecke and Senator John Briggs, R-Fullerton, were formed immediately after the Legislature's override of Brown's death penalty vote.

The group claims the new death penalty does not go far enough, reserving capital punishment only in some circumstances surrounding the crime of murder.

The current death penalty includes fifteen categories of crimes punishable by death including multiple homicide, killing a law enforcement official, and acts of terrorism.

According to spokesman Don Frazier, the group is drafting a "more inclusive measure" while conducting a mail campaign for support to "take us a position to help us."

The group expects to be "formally operational" in about two months.

Criminal Trial Lawyers Meet Tomorrow

Judge Walter F. Calogzo, master calendar judge of the San Francisco Superior Court, will be the guest speaker at the San Francisco Association of Criminal Trial Lawyers meeting tomorrow.

The noon program will be held at Bardell's Restaurant, 243 O'Farrell St. The topic of Judge Calogzo's remarks will be, "Master Calendar—From Soup to Nuts."

Luncheon tickets are \$6 per person. Reservations may be made today by calling Association headquarters, 875-3560.

Moscone To Speak Today At Hastings

Mayor George Moscone will discuss San Francisco city government at 11:30 a.m. today at Hastings College of the Law, 138 McAllister St.

Moscone, a 1966 graduate of Hastings, will talk about his experiences as mayor and the issue of district elections for supervisors. A question and answer period will follow the discussion.

The event is being sponsored by the Hastings Democratic Club, which will also hold a debate tomorrow, Nov. 4, featuring the three candidates for City treasurer. The debate will be held from 11:40 a.m. to 1:40 p.m. in Classroom B. The public is invited to attend.

Meeting Notice Calendar

ASSOCIATION OF LEGAL ADMINISTRATORS
Thursday, Nov. 10, Noon
Systems/Technology Section brown bag lunch at Landels, Ripley & Diamond, 450 Pacific. Topic: Decision making for word processing equipment.

BAR ASSOCIATION
Tuesday, Nov. 8, 8:45 p.m.
Committee on the Rights of the Injured, 220 Bush St., 21st floor. Sally Paul, M.S.W., will discuss mental health problems of geriatric patients.

Monday, Nov. 14, Noon-1:30 p.m.
Real Property Section brown bag lunch, Golden Gate University, Room 297, 536 Mission Law Professor Roger Bernick. Dismissed Bar Association Conference Room, 220 Bush St., 21st floor. Sally Paul, M.S.W., will discuss mental health problems of geriatric patients.

BARRISTERS CLUB
Today, 12:15 p.m.
Non Victim Crime Committee, Bar

Association Conference Room, 220 Bush St., 21st floor. Discussion of criminal code revision, encounter parlor ordinance, prostitution, and non-inclusion of 1978 chairpersons. For more information call Richard Scholer (553-1671).

TODAY, 4 p.m.
Economics of Litigation Committee, Bar Association Conference Room, 220 Bush St., 21st floor. Discussion on new law and motion manual for S.F. Court Reporter. Dornie Kahn, Richard J. Stratton, co-chairmen.

CONTINUING EDUCATION OF THE BAR
Today, 6:9 p.m.
"Handling a Decedent's Estate," In-Continuing Education Bar Association Conference Room, 1101 Van Ness. Auditorium. For more information call Cooke Gambucci (424-0223).

Monday, Nov. 7, 6:30 p.m.
"Financing Real Property Transac-

tions," Part I, (Part II, Wednesday, Nov. 9, 6:30 p.m.), A.P. Giannini Auditorium, Bank of America Center, 555 California St., Cost: \$42. For more information call Cooke Gambucci, 424-0223.

Thursday, Nov. 8, Noon-2 p.m.
Videoage on "The New General Corporation Law," Part I, (Part II, Tuesday, Nov. 15, Noon-2 p.m.), 11th floor conference room, Wells Fargo Building, 44 Montgomery St., Cost: \$28. For more information call Cooke Gambucci, 424-0223.

Thursday, Nov. 10, 6:45 p.m.
"Current Approaches in Compelling and Limiting Discovery," A.P. Giannini Auditorium, Bank of America Center, 555 California St., Cost: \$37; \$27 for attendees residing that night in conference room, Wells Fargo Building, 44 Montgomery St., Cost: \$28. For more information call Cooke Gambucci, 424-0223.

Friday, Nov. 11, 8 a.m.-1:30 p.m.
"Personal Property Secured Transactions," Grand Ballroom, St. Fran-

co Hotel, Union Square. Cost: \$50. For more information, call Cooke Gambucci, 424-0223.

CRIMINAL TRIAL LAWYERS ASSOCIATION
Friday, Noon
Luncheon at Bardell's Restaurant, 243 O'Farrell, Judge Walter F. Calogzo, master calendar judge of S.F. Superior Court. "Master Calendar—From Soup to Nuts." Tickets: \$6. For reservations call 875-3560.

NORTH BAY WOMEN LAWYERS
Friday, 7 p.m.
Dinner honoring judges of Marin and Sonoma County. Speakers: Chief Justice Rose Bird and Associate Justice Wiley Manuel. Tickets: \$12. To make reservations write Sandy Springs, P.O. Box 4062, Civic Center Branch, San Rafael 94903, or call Lois Prentice (392-1941) or Barbara Molton (863-3101) no later than Oct. 28.

QUEEN'S BENCH
Tuesday, Nov. 15, 6 p.m.
1977 Annual Judges' Dinner honoring San Francisco Municipal and Superior Court judges. Guest speaker, Justice Frank F. Newman, of California Supreme Court. Tickets: \$15. For reservations, call Shirley Yawitz (397-5123).

LAWYERS CLUB
Thursday, Nov. 10, Noon
32nd Annual Installation Luncheon, Grand Ballroom, Sheraton-Palace Hotel. Guest Speaker, Justice Robert F. Kane, of First District Court of Appeals. Tickets: \$7.50. For reservations call 875-4625.

STATE BAR
Friday, Nov. 18, 6:30 p.m.
50th Anniversary Dinner, Grand Ballroom, Sheraton-Palace Hotel. Dinner tickets: \$18.50 per person or \$185 for a table of ten. Reservations may be made by sending a check payable to the State Bar, to 50th Anniversary Dinner, State Bar of California, 881 McAllister St., San Francisco 94102.

Special Committee for
Discovery Abuse and the
Litigation.

They have proposed putting
the scope of discovery,
They will ask that the
be amended so that dis-
covered to issues involved
on.

Litigation should cut down
directed and wide ranging
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tional Football League,
was able to make in-
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financial affairs of all 26
NFL on the theory that
matter of the suit was
the business of conduct-

proposal, lawyers in-
crease would be required
their own plan and sched-
ule in relation to the

unable to agree, a trial
hold a pretrial confer-
subject of discovery, if
do so. A court order
plan ultimately agreed
is issued by the judge
conference.

contemplated proposal
recording of discovery

JUDGES' BENCH

Nov. 15, 6 p.m.

Judges' Dinner honor-
sco Municipal and Su-
dges. Guest speaker,
J. Newman, of Califor-

'Insurance Death Penalty' Drive Planned

A group working on "an insurance
death penalty," just in case the re-
cently enacted statute is found un-
constitutional, says it intends to go
ahead with an initiative effort for the
November 1978 ballot.

"The Citizens for an Effective
Death Penalty," who claim the back-
ing of former Lt. Gov. Ed Reinecke
and Senator John Briggs, R-Fuller-
ton, were formed immediately after
the Legislature's override of Brown's
death penalty veto.

The group claims the new death
penalty does not go far enough, re-
serving capital punishment only in
some circumstances surrounding the
crime of murder.

The current death penalty includes
fifteen categories of crimes punish-
able by death including multiple homi-
cide, killing a law enforcement of-
ficial, and acts of terrorism.

According to spokesman Don Fize-
more, the group is drafting a "more
inclusive measure" while conducting
a mail campaign for support to "those
in a position to help us."

The group expects to be "formally
operational" in about two months.

Criminal Trial

Briggs Launches Death Penalty Initiative Drive

BY GEORGE SKELTON
Times Political Writer

SACRAMENTO—State Sen. John V. Briggs (R-Fullerton), who is running for governor, launched a ballot initiative campaign Wednesday to enact the most sweeping death penalty in the nation.

"I intend to make this a very big part of my gubernatorial campaign. I don't mind telling you," he said.

"The people of California need to know that they have been 'relied out' and fooled one more time by the politicians into thinking they have death penalty protection, when in fact they don't."

The death penalty bill enacted by the Legislature in August over Gov. Brown's veto, he said, was "weak and unconstitutional" and did not adequately protect "the average citizen" from murderers.

"Every effort to provide this needed protection has been thwarted by the powerful coalition of permissive judges, soft-on-crime politicians and Jerry Brown," the conservative legislator told a press conference in the state Capitol.

Briggs said the goal was to collect 312,000 voter signatures by next May in order to qualify the initiative measure for the November ballot—the same ballot on which Brown is expected to be running for reelection.

A recent Mervin D. Field California Poll showed that Brown's stand against the death penalty led a list of specific things people disliked about

Please Turn to Page 20, Col. 1

S.F. Police Chi

BRIGGS LAUNCHES DEATH PENALTY INITIATIVE DRIVE

Continued from Third Page
the governor. His long-standing opposition to capital punishment could become a campaign issue if Briggs' proposal qualifies for the ballot.

Briggs clearly hoped the initiative drive would spark interest in his underdog campaign for the Republican gubernatorial nomination, to be decided in the June primary.

A California Poll released today shows Briggs running last among five potential GOP nominees when Republican voters were asked whom they would prefer as governor. (Briggs was preferred by only 3% of those sampled, compared to 39% for front-running state Atty. Gen. Evelle J. Younger.) In fact, 64% said they had "never heard of" Briggs.

In addition to the death penalty initiative, Briggs also is pushing a proposed ballot measure that would require the firing of teachers who advocated homosexuality or publicly engaged in it.

Briggs appeared at the press conference with Don Hel-

ler, a former assistant U.S. attorney who prosecuted Lynette (Squeaky) Fromme, convicted of attempting to assassinate then-President Ford two years ago.

Briggs and Heller noted that, if Fromme had killed Ford, under present California law she would not have been subject to the death penalty.

In most cases, they said, a person must have committed two crimes—murder and robbery, murder and rape, murder and kidnapping—before that person could be sentenced to the gas chamber. One exception, they said, was the murder of a peace officer.

The present law also could send persons to the gas chamber who murdered for hire, murdered a witness to prevent courtroom testimony, torture murdered, mass murdered or murdered with a bomb.

In addition, the Briggs initiative would subject to the death penalty persons who murdered for financial gain, murdered a fireman who was performing his duties, murdered any government official in retaliation or to prevent

the performance of his duties, murdered a witness in retaliation for his testimony, murdered by ambush, murdered because of race, religion or nationality or murdered by poison.

Briggs said the death penalty initiative, written by Heller, would be submitted formally to the attorney general, the first step in the signature-gathering process. The campaign will be sponsored by a law enforcement-dominated organization called "Citizens for an Effective Death Penalty."

Fire Empties Rosemead School

A Rosemead elementary school of approximately 700 students was evacuated Wednesday after a fire broke out in a furnace near the auditorium. Five county fire units quickly quelled the 11 a.m. blaze at the Mildred B. Janson Elementary School. No injuries were reported.



Lawyers Club Installation Luncheon Today



JUSTICE ROBERT F. KANE

The Lawyers' Club of San Francisco will hold its 32nd annual installation luncheon today in the Grand Ballroom of the Sheraton Palace Hotel. The 10:30 a.m. luncheon will be presided over by Justice Robert F. Kane, of the First District Court of Appeal, Division Two. His topic will be "Court Reform: A Differential Diagnosis—A Differential Diagnosis." Other speakers will include: Hon. Robert F. Kane, retired presiding justice of the First District Court of Appeal. He will administer the oath of office to John Oakley, president; Morris D. Brown, president-elect; Jerome Marks, vice president; Richard J. Wall, treasurer; and Frank D. Winston, secretary. Nine members of the board of governors will also take the oath of office for 1977-79. They are: Steven J. H. Greig Fowler, Duane B. Garbutt, Eugenia Macdonald, Raymond (Please Turn to Page 6)

New Death Penalty Proposal Unveiled

Sacramento—Sen. John Briggs yesterday unveiled his proposed "Peoples' Death Penalty" initiative, a ballot measure aimed at toughening the state's new capital punishment law. Briggs, a Republican gubernatorial candidate, told a news conference the proposal would be submitted to the Attorney General for approval. He said it would take 312,000 signatures collected by next June for the measure to be placed on the November general election ballot. Briggs, the only Senate Republican to vote against overriding Gov. Edmund G. Brown Jr.'s veto of the death penalty bill, called the current law "weak and unconstitutional." "This is the peoples' death penalty bill," he said of his initiative. "The other was the Legislature's."

Essentially, the proposal would broaden the categories of "special circumstances" under which a person found guilty of first degree murder can be sentenced to death. For example, the current statute provides for death if the murder victim is a policeman. The Briggs measure would make death the penalty for the murder of all elected and appointed state and local officials as well as firemen. It also would provide the death penalty for persons convicted of "especially heinous, atrocious or cruel" murders. Briggs said that phrase was used in the state's first average citizen jury is not protected now. The proposed ballot measure was drafted by former Assistant U.S. Attorney Donald Heller, who successfully prosecuted Manuel Luyate for the murder of the attempted murder of President Ford. Heller said the current law is unconstitutional because it does not properly allow the jury to weigh miti-

Griffin Bell To Address Meeting Here

gating and aggravating circumstances of the crime. He said if passed, the initiative would be the broadest and toughest in the nation. The proposal also would increase the penalties for first degree murder in which special circumstances were not proved from life in prison to 25 years to life. The possible sentence for second degree murder would be changed from five, six or seven years in prison to 15 years to life with parole possible in 10 years. Briggs said he intended to tie the passage of the initiative to his campaign work because of deliberate delaying tactics and suggested the best way to stop the delays would be to televise trials to the public. Younger said television coverage would permit the public to see the delays and other procedural matters that are slowly grinding the wheels of justice to a halt. Younger, an announced candidate for the Republican gubernatorial nomination, dismissed criticism that television would open the door to grandstanding by participants wanting to make a good impression in front of the camera. "You can bore a hole in me (Please Turn to Page 6)

Called 'Burden On Lawyers' Bar Board Opposes Social Security Hike

The State Bar Board of Governors has sent telegrams to all members of California's Congressional delegation, urging them to oppose pending federal legislation to revise the system for funding Social Security. During its recent meeting here, the board resolved to oppose the legislation because the proposed provisions "would place an unconscionable burden on professional corporations and self-employed practitioners of the law as well as on all other self-employed persons." The board resolution was passed 11-8, with one abstention by a roll call vote after the board questioned Thomas F. Kostic, San Francisco attorney and member of the Bar's Taxation Section Executive Committee, on the impact the legislation would have on lawyers and other self-employed persons. The board resolution was passed 11-8, with one abstention by a roll call vote after the board questioned Thomas F. Kostic, San Francisco attorney and member of the Bar's Taxation Section Executive Committee, on the impact the legislation would have on lawyers and other self-employed persons. The board resolution was passed 11-8, with one abstention by a roll call vote after the board questioned Thomas F. Kostic, San Francisco attorney and member of the Bar's Taxation Section Executive Committee, on the impact the legislation would have on lawyers and other self-employed persons. (Please Turn to Page 6)

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State Courts Close Tomorrow

State and local courts and offices will close tomorrow, Friday, Nov. 11, for Veterans' Day, a legal holiday. Federal courts and offices, which celebrated Veterans' Day on Oct. 24, will remain open. The Recorder will not be published tomorrow. Attorneys with legal notices requiring first publication on Monday, Nov. 14, should contact our Legal Advertising Department, 125 Twelfth St., or our representative in Room 317, City Hall, by 3 p.m. today.

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Cal Supreme Court Cases Accepted For Review

The California Supreme Court has announced it accepted the following cases for review during the week of Oct. 31, 1977: No. 74-166—Cooper v. Bray, L.A. 3865, (2 Civ. 4834) Unpublished opinion. Petition for hearing after the court of appeal reversed a judgment on plaintiff in an action for damages arising out of an automobile accident. The principal question presented is whether Vehicle Code section 17158, authorizing recovery for ordinary negligence to a vehicle owner injured while riding as a passenger in the owned vehicle, denies such person equal protection. No. 74-167—E. L. White, Inc. v. City of Huntington Beach, L.A. 30868, (4 Civ. 1712) Unpublished opinion. Petition for hearing after the Court of Appeal affirmed a judgment of dismissal for an order sustaining a demurrer to an implied indemnity action. The question presented is whether a contract...

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CTLA Elects New Officers, Bd. Members

Sacramento—Attorney Ralph D. Drayton has been elected president of the 500-member California Trial Lawyers Association. Results of the mail ballot were announced yesterday as the state trial bar opened its annual convention here at the Hyatt Regency Hotel. The officers to serve as vice-presidents for 1978 were: H. Craig Fowler and Arne Werlich of San Francisco and Sanford M. Cass of Berkeley Hills. In an unprecedented action, two candidates tied for the fourth vice-presidential office. Dr. Samuel Shere of Los Angeles and James R. Ross of Encino will share in a run-off ballot. The new officers will be formally installed at an installation banquet Saturday evening at which San Francisco Mayor George Moscone will be honored guest. Also elected were 24 members of the 25-person board of governors, with the 25th to be elected after the vice-president run-off. They are: (Indicates re-elected.) San Francisco—Edwin Train Caldwell, Paul A. Elsler, Ronald Rouds and Charles Warner. San Mateo—Terry Anderlini. East Bay—Richard Brigman* of Oakland and Peter Hinton* of Pittsburg. Sacramento area—Laurence Paltino of Sacramento and Lorenzo Drizin* of Tracy. Santa Clara County—Sal Liccardo* and Fred Michael* of San Jose, and James Frost of Cupertino. Los Angeles area—Browne Greengard, Jan Herzog* and Robert Steinberg* of Los Angeles, G. Dana Hohart of Cupertino. (Please Turn to Page 6)

Meeting Notice Calendar

FOOTPRINTERS ASSOCIATION
Friday, 6:30 p.m.
Installation dinner dance at Holiday Park, Fishermen's Wharf, 1200 Jefferson, sponsored by San Francisco Chapter. N. No-host bar, 6:30 p.m.; dinner, 7:30 p.m. Tickets: \$9 per person. For reservations, phone Tom Vergano (584-5140).

Secretaries Dinner Meet Set Tuesday

Chandler Visser, Assistant District Attorney for the City and County of San Francisco, will address the San Francisco Legal Secretaries Association at its membership dinner meeting Tuesday evening, Nov. 15, at the Holiday Inn, 750 Kearny St. Visser's topic will be "Protecting Yourself From Consumer Fraud." A social period begins at 5:30 p.m., with dinner at 6:15 p.m. The tab is \$125. For reservations, call Eleanor Moran (771-0871) by noon tomorrow.

Order Sought To Halt 160 Acre Limit

Sacramento—The Pacific Legal Foundation plans to seek a court order to prohibit the federal government from instituting the 160-acre limit on irrigation water until an environmental impact report is prepared, an attorney said yesterday. Rod Rivett said the Foundation would file a suit on behalf of Kings County in U.S. District Court in Fresno, probably today. The U.S. Department of the Interior is conducting hearings on proposed changes in the 192 Reclamation Law, which would require strict enforcement of the 160-acre limit. Rivett said the Department has not considered the impact of increased or shifting populations and the resultant need for more public services such as roads, schools and police. He said the American Farm Bureau Federation and California Farm Bureau Federation would file similar suits.

U.S. Attorney Induction Tomorrow

G. William Hunter will be inducted as U.S. Attorney for the Northern District of California at 4 p.m. tomorrow. The induction will take place in the Ceremonial Courtroom on the 19th floor of the Federal Building. U.S. Attorney General Griffin Bell is expected to attend the ceremony. Guest speakers will include California Supreme Court Chief Justice Rose E. Austin, U.S. District Attorney Michael J. Hunter, and San Francisco District Attorney Joseph Freitas. The court will sit en banc with Chief Judge Robert F. Packham administering the oath of office. Other guest speakers will include Lowell Jensen, District Attorney of Alameda County; attorney Michael Ito, of the Asian American Bar Association; Judge Clinton White, of the Alameda County Superior Court; and Andrea Ordun, U.S. Attorney, Central District of California, Los Angeles. Hunter, an Oakland resident, has worked in the San Francisco District Attorney's Office, and the Alameda District Attorney's Office. He was also director of the Berkeley Neighborhood Legal Services and worked for the Alameda County Legal Aid Society. He belongs to the American Bar Association, National Bar Association, Charles Houston Bar Association, the National and California District Attorneys Associations, and the Alameda County and Democratic Lawyers Associations. Hunter, 35, received his B.A. in 1964 from Syracuse University, and his J.D. in 1970 from Howard University School of Law. He attended Boalt Hall School of Law in Berkeley, which awarded him an L.L.M. in 1971.

Official Notice Of The Superior Court

Commissioner Paul F. Springer has been designated by Assistant Presiding Judge Francis W. Mayer to be available for the week November 14 through November 13, 1977, in order to perform the duties required by law of judges of the Superior Court while on an implied indemnity action. The question presented is whether a contract...

Association of Legal Administrators

Today, Noon
Systems/Technology Section brown bag lunch at Landels, Ripley & Dionne, 450 Pacific. Topic: Decision making for word processing equipment.

Continuing Education Of The Bar

Today, 6:45 p.m.
Current Approaches in Compelling and Limiting Discovery, A. P. Giannini Auditorium, Bank of America Center, 555 California St. Cost: \$37; \$27 for attorneys certifying that they were admitted to the bar less than five years ago. For more information, call Cookie Gambaceli, 642-9223.

Lawyers' Club

32nd Annual Installation Luncheon, Grand Ballroom, Sheraton-Palace Hotel. Guest Speaker, Justice Robert F. Kane, of First District Court of Appeal. Tickets: \$7.50. For reservations call Eleanor Moran (771-0871).

Queen's Bench

Thursday, Nov. 10, 11:30 a.m.
1977 Annual Judges' Dinner honoring San Francisco Municipal and Superior Court judges. Guest speaker, Justice Frank R. Newman, of California Supreme Court. Tickets: \$15. For reservations, call Shirley Yawitz (397-5122).

Golden Gate University Law Alumni

Thursday, Nov. 12, 11:30 a.m.
Second Annual Luncheon, Four Seas Restaurant, 721 Grant. No-host bar, 11:30-12:30; lunch 12:30-1:30 p.m. Tickets: \$12.75 per person. Reservations required by Monday, Nov. 14; telephone 391-7800.

Official Notice Of The Municipal Court

Honorable Louis Garcia will be available the weekend of Nov. 11, (and on any holiday that occurs through the following Thursday), pursuant to Section 134 of the Code of Civil Procedure to issue bail and perform the duties required by law. He may be reached by calling 553-3363. HON. FRANK E. HART, Presiding. DANIEL F. DONOHUE, Clerk. Dated: Nov. 10, 1977.

DO NOT PHONE ANY JUDGE OR
CALL AT HIS HOME.
HON. FRANCIS W. MAYER
Assistant Presiding Judge
FREDERICK J. WHISMAN
Executive Officer
Dated: November 7, 1977

Club
on
day

New Death Penalty Proposal Unveiled

Griffin I
To Add
Meeting

Sacramento—Sen. John Briggs yesterday unveiled his proposed "Peoples' Death Penalty" initiative, a ballot measure aimed at toughening the state's new capital punishment law.

Briggs, a Republican gubernatorial candidate, told a news conference the proposal would be submitted to the Attorney General for approval. He said it would take 312,000 signatures collected by next June for the measure to be placed on the November general election ballot.

Briggs, the only Senate Republican to vote against overriding Gov. Edmund G. Brown Jr.'s veto of the death penalty bill, called the current law "weak and unconstitutional."

"This is the peoples' death penalty bill," he said of his initiative. "The other was the Legislature's."

Basically, the proposal would broaden the categories of "special circumstances" under which a person found guilty of first degree murder can be sentenced to death.

For example, the current statute provides for death if the murder victim is a policeman. The Briggs measure would make death the penalty for the murder of all elected and appointed state and local officials as well as fireman.

It also would provide the death penalty for persons convicted of "especially heinous, atrocious or cruel" murders. Briggs said that phrase was included to protect "the average citizen who is not protected now."

The proposed ballot measure was drafted by Former Assistant U.S. Attorney Donald Heller, who successfully prosecuted Manson cultist Lynette Fromme for the attempted murder of President Ford.

Heller said the current law as unconstitutional because it does not properly allow the jury to weigh miti-

gating and aggravating circumstances of the crime.

He said if passed, the initiative would be the broadest and toughest in the nation.

The proposal also would increase the penalties for first degree murder in which special circumstances was not proved from life in prison to 25 years to life. The possible sentence for second degree murder would be changed from five, six or seven years in prison to 15 years to life with parole possible in 10 years.

Briggs said he intended to tie passage of the initiative to his campaign and, if the measure is approved, will seek signatures on petitions at campaign stops.



F. KANE

San Francisco annual installation Grand Ball Palace Hotel. at 11:30 a.m., on.

Justice Rob-First District ion Two. His form or Court nential Diagno-

be John Mo-justice of the ppeal. He will office to John orris D. Bome-rome Marks, rd J. Wall, Winston, sec-

the board of the oath of re: Steven J. uane B. Gar-an, Ephraim 'age 6)



U.S. ATTY. GEN.

U.S. Attorney Ge will be the keynote weekend at the se meeting of the Amer tion's Section of Liti

Bell will address at the Hyatt Regenc day, Nov. 12, and w a press conference a at Hastings College

The Attorney Gene make a major policy "crisis in the court: tice Department sa

The ABA meeting 10-13, will feature a opment program at l after the National Advocacy.

New York City at Manning is section ing him in presenti Section Chairman-I Lundquist, of San more informatio Parker at the ABA,

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Younger said television coverage would permit the public to see the delaying motions and other procedural matters that are slowly grinding the wheels of justice to a halt.

Younger, an announced candidate for the Republican gubernatorial nomination, dismissed criticism that television would open the door to grandstanding by participants wanting to make a good impression in front of the camera.

"You can bore a little hole in the (Please Turn to Page 6)

Briggs Hits 'Weak' Death Penalty Law

BY RICHARD BERGHOLZ

Times Political Writer

State Sen. John V. Briggs, a Republican candidate for governor, charged Monday that a GOP-sponsored bill to restore the death penalty in California was "deliberately designed to be very weak."

The Fullerton lawmaker told the Wilshire Republican Club that the measure, which passed the Legislature over Democratic Gov. Brown's veto last year, contained "ridiculous" limitations on its application.

The measure was sponsored by state Sen. George Deukmejian of Long Beach, currently a candidate for the GOP nomination for attorney general, and strongly supported by Atty. Gen. Evelle J. Younger, one of Briggs' four rivals in the gubernatorial race.

Briggs did not explain why Younger and Deukmejian would sponsor a "deliberately" weak bill but he said he is sponsoring a death penalty measure of his own—a proposed initiative that would greatly extend the crimes that would be subject to the death penalty.

The legislator also chastised former Los Angeles Police Chief Edward M. Davis for what he said was Davis' refusal to back the new death penalty initiative.

"He (Davis) owes it to the voters to support the toughest capital punishment measure we can get," Briggs said.

He said he recognized that he is beginning to get some criticism from GOP ranks for his contention that Davis and Younger, in particular, should promise to give up "double-dipping"—taking both a taxpayer-supported salary and pension at the same time—in the event either is elected governor.

Both men are beneficiaries of handsome pensions for public service and Younger would get a combined salary of more than \$82,000 a year and Davis \$97,000 a year in the event of election.

But he is going to keep raising the "double-dipping" issue, Briggs said, because "although it may be nice for us Republicans to hide our heads and avoid the issues, we've got to face these things as they really are."

Sen. Briggs: 'Your life is in danger'

By W.E. Barnes
Political Writer

"Dear Jane. You can protect yourself from the ruthless killers who are walking the streets of San Francisco if you sign this petition and return it to Citizens for an Effective Death Penalty today."

Thus begins a special message going out to hundreds of thousands of registered voters around the state as part of a campaign to qualify a tough death penalty initiative for the November ballot.

It is signed by Sen. John Briggs of Fullerton, a candidate for the Republican gubernatorial nomination who is hoping to use this and a second initiative (banning homosexuals from teaching in public schools) as springboards to the governor's office.

Along with the petition and a letter from Briggs is an accompanying brochure that declares: "Your life is in danger, killers still walk the streets!"

It also contains the chilling message: "If Charles Manson sent his family of drug-crazed killers to slaughter your family, Manson would not face the death penalty under California law."

The entire package comes in an envelope designated "official document," and the petition is marked "official document" — return immediately.

The salutation on each letter includes the addressee's first name, and the city where the addressee lives is named in the text — as in the case of the letter quoted



JANE MCKASKLE MURPHY
'I am really offended by your note'

above, received by Police Commissioner and former Supervisor Jane McKaskle Murphy.

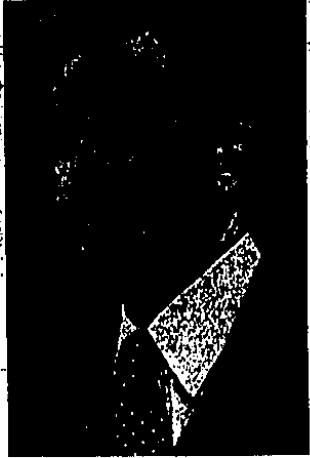
A liberal Democrat, Murphy was so outraged by the hysterical appeal she responded with two letters of her own.

The first, to The Examiner, began: "I was shocked and offended to receive from State Senator Briggs a scurrilous letter regarding his support for a so-called Effective Death Penalty. . . I was so upset by his blatant and demagogic approach that I wrote him the following letter, which I hope you will print."

Murphy's letter to Briggs is blunt and to the point:

"I am really offended by your note to me.

"In the first place you don't know me and certainly do not have my permission to



SEN. JOHN BRIGGS
'Killers still walk the streets'

address me by my first name.

"Secondly, I do not agree with anything you stand for. I happen to be a member of the San Francisco Police Commission and can assure you I am not afraid to walk the streets of San Francisco."

After praising The City's "very capable police force" and stating "there is absolutely no evidence" the death penalty serves as a deterrent, Murphy concludes:

"I, therefore, would not support your efforts. On the contrary, I would do everything in my power to thwart them, and I do mean all of them."

Briggs could not be reached for comment, but a staff member in his Fullerton office said she had no knowledge of Murphy's letter and that such reactions were "rare."

No charge fo

LOS ANGELES (UPI) — Authorities said yesterday there was yet enough evidence to file no charges against Peter Mark, prime suspect in two Hillside-gler deaths, but more evidence expected soon. Police meanwhile examined the contents of his apart

Jones, 37, originally of E was booked Thursday on suspicion murdering Kathleen Robinson and Jill Barcomb, 18, the 5th a in the list of 13 young women girls named among the strangl tim.

Jones can be released on a habeas corpus Tuesday if no charges are file.

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Rulings Summarized

*Following are condensed versions of the latest opinions of the Supreme Appellate Courts and selected opinions of the Ninth and 10th U. S. Circuit Courts of Appeals. These brief statements of the law are posted for quick checking by the attorney. The full text of the opinions should be read before any case is cited in litigation. It will appear in the near future in the weekly Appellate Report supplement.

Insurer Breached Duty to Deal Reasonably and in Good Faith

The State Supreme Court has held that there was substantial evidence before the jury to support a finding that the defendant insurer had breached its duty to deal reasonably and in good faith with its insured. Mrs. Frances Neal, now deceased, was gravely injured in an automobile accident. She filed this action seeking compensatory and punitive damages for the "bad faith" failure of Farmers' Service Exchange to pay uninsured motorists benefits to her in accordance with a policy of car insurance under the terms of which drivers had declined to pay the policy limit of \$15,000 under uninsured motorist coverage. When Mrs. Neal died during the pendency of the action, the complaint was amended to substitute her husband William Neal as plaintiff.

Proposal Called 'Unnecessary,' 'Unlawyerlike'

State Bar Delegates Urge Defeat of Prop. 7 Initiative

By Bob de Carteret and Glenn Work

SAN FRANCISCO - The State Bar Conference of Delegates is urging defeat of Proposition 7, calling the death penalty measure "unnecessary, unlayyerlike and irrational."

The conference, in a unanimous voice vote, adopted the resolution submitted by both prosecutors and defense lawyers.

"The raising (death penalty) law was carefully drafted by experienced legislators who support the death penalty and want to see it used effectively," said Jerome H. Falk of the Bar Association of San Francisco.

Falk said the proposition would triple the number of circumstances

under which the death penalty can be imposed, allow an unlimited number of repeat trials and eliminate the requirement that the commission of the murder.

Sheldon Partman, Santa Clara County public defender, said the present death penalty law is being studied by the courts.

"Enactment of Proposition 7 would only cloud the issue of the death penalty," he said.

In another matter, the conference voted 225-200 to adopt a proposal to back legislation making it a crime for a husband to rape his wife.

The Women Lawyers' Association of Los Angeles told the more than 500-member conference that

the law would have more of a philosophical significance in reevaluating equality between spouses, rather than encouraging more rape prosecutions.

Adding some levity to the heated debate was William C. O'Donnell of the Whittier Bar Association, who asked Conference Chairman Luke K. Herbert:

"More as a parliamentary inquiry, after being married for 29 years, I'd like to know what the statute of limitation is on this."

Robert Wechs of the Santa Clara County Bar Association, argued that husbands can be prosecuted for crimes such as assault if the situation arises, rather than being prosecuted for rape.

But proponents countered that

these other crimes are less significant than the crime of rape, both in punishment and distaste of the community.

The conference voted, by an overwhelming voice vote, to oppose the passage of Proposition 7 on the November ballot, the so-called Briggs initiative that would outlaw the employment of school employees who engage in "public homosexual activity" or "conduct."

Opponents of the initiative argue that the definition of the word "conduct" is so vague that it includes many permissible forms of speech, and would expose anyone who "advocates, solicits, encourages or promotes private or public homosexual conduct directed at or

likely to come to the attention of actual children and/or other employees" to investigation and possible dismissal.

David Hollman of the Bar Association of San Francisco, said the proposed changes in the Education Code are "repressive, harsh, and intrude the state into peoples' private lives."

Kenneth Welch of the Long Beach Bar Association, said his group had called up the resolution to oppose the initiative for limited debate, not because it is taking a stand on the merits of the measure but because "we are disgusted with the tremendous number of resolutions that are introduced every year that go beyond the scope and intent of the conference. This is a political issue,

and it will be on the ballot in 80 days."

But Steven Bomsa of the San Francisco contingent, who had called the measure at a Gay Lawyers' caucus Saturday "one of the most patently unconstitutional measures I have ever come across as a lawyer," told the conference that "we as lawyers should be able to say so."

The only substantive opposition to the initiative came from San Francisco lawyer Ed Heavey, not a delegate, but a long time fixture at bar conventions remembered for his attacks on communism.

Heavey argued there is "no right of sexual perversion, and if there is, it's high time it was abridged."

See Page 8 - DELEGATES

By Rules of Courts, Official Newspaper for U.S. District Court, N. California Superior Court, City and County of San Francisco, and the Municipal Court, San Francisco, Calif.

IN THE NEWS

Daniel H. Weinstein, 27, will be sworn in as San Francisco Municipal Court's youngest judge on Friday, Oct. 23, 5 p.m. in the United Theatre of the Veterans War Memorial Building...

The Irish Israeli B'nai B'rith Society of San Francisco will hold its traditional Columbus Day luncheon in 1978 on Oct. 10 at the Sheraton Hotel...

When local attorney Raymond Garrison, Jr., said it takes intense involvement to defend a man's life, he was speaking about his brother, Larry, who was shot in the back...

Garrison said the purpose of suing in the 1970s was to end and prevent the automatic use of a battery of regulations, limitations made them standard on cars today...

Attorney Timothy H. Fine will be leading a workshop at the first ABA Forum on Franchising in San Francisco on Oct. 20. Fine said the ABA studied the committee last year to help on problems and issues that concern both franchisors and franchisees...

A whole new body of law is developing, said Eric Franchising law touches on corporate activities in New York state and federal laws have already been passed and very few attorneys are familiar with franchise laws in other states...

Five-and-a-half percent of the 1978 franchise establishments in the U.S. for more information on the ABA meeting, write to the Forum Committee on Franchising, 1155 K St., N.W., Washington, D.C. 20005.

Superior Court Presiding Judge Francis W. Mayer has announced the formation of a special court committee to study implementation of new mandatory arbitration legislation which will take effect July 1, 1979.

The committee is chaired by Judge Donald B. King. Serving on the committee are Judge John E. Brown, Jr., Eugene F. Lynch and Henry R. Ralph.

The new chairman of the Advisory Committee on Adult Delinquency is attorney John J. Murray of Langer, Murray & Burke.

The Advisory Committee on Adult Delinquency consists of six members who are appointed by the Superior Court's presiding judge, the sheriff, and the Board of Supervisors.

The additional five members of the committee are Nancy G. Walker, director of the Victim Witness Assistance Program, William C. Deany, investigator for the public defender's office, and Judge Robert L. Lewis, bar committee member.

We also are planning a series of public hearings so that former inmates and their relatives can make recommendations. The committee's next written report will be issued in 1979.

Journalist and attorney Beth R. Lieberman will speak at a national symposium on Oct. 17, the University of San Francisco, on the "Age of Specialization."

Joining Lieberman for afternoon and evening events will be the director of the state Department of Consumer Affairs, Richard B. Spohn.

Other speakers will be from the University of San Francisco philosophy and government departments. The symposium is free and open to the public.

MALDEF (the Mexican American Legal Defense and Educational Fund) is sponsoring a photography exhibit to celebrate its 10th anniversary.

The exhibit, "Ejejeje: Reflections of the Mexican American," opened over the weekend in both Oakland and Chicago and will run through Nov. 28 at the Oakland Museum.

High Court Sends Farber Back To Jail

Washington: The Supreme Court has cleared the way for New York Times reporter Myron Farber to return to jail for refusing to let a judge inspect his files on a New Jersey mob hit man.

The full court Friday ended a stay order which Judge Potter Stewart had issued on Sept. 26 just before Farber was to report to the Bergen County Jail.

Justice Thurgood Marshall dissenting, saying Farber's case raised substantial constitutional issues. Justice William Brennan has dissented since the start of the case.

Farber's investigation and articles on 15 mysterious deaths at the State Bar Hospital that helped lead to a reworking of the case.

All Farber's papers were subpoenaed to defend lawyers during the physician's trial on charges of murdering three patients with overdoses of morphine.

When Farber and the Times objected, trial Judge William Arnold ordered the subpoenaed materials turned over to him for inspection in his chambers.

The New Jersey Superior Court temporarily freed the paper Aug. 30 pending its review of his case. But Farber was allowed to remain free only because of the order he obtained from Stewart, who also suspended the daily fine against the Times for the time being.

The papers are expected to consider in the next month or so whether Farber should testify on Oct. 11.

State Bar Plans Hearing On In-Person Solicitation

A controversial proposal to allow lawyers to advertise to personally solicit prospective clients for legal business will be heard at a hearing on Thursday, Oct. 19, at the San Francisco office of the State Bar.

The proposal to lift the state's ban on in-person solicitation has sparked vigorous debate within the legal community.

Seven by six as a legal extension of the trend toward attorney advertising, the proposed change in the Rules of Professional Conduct nevertheless has met with the vehement opposition of many of the state's attorneys.

By a vote of 12-4 at its August meeting, the governors tentatively approved the rule change on the second

rounding of the board's committee on Professional Responsibility.

Since then, the committee has received hundreds of comments, according to Eugene M. Averedo, the bar's deputy general counsel.

While the rule change is slated to include regulations against in-person overreaching and other abuses, he says, many lawyers have expressed grave concern that permitting solicitation will result in virtually unrestricted "ambulance" chasing.

Proponents of the rule change, including the majority of the Board of Governors, cite the recent U.S. Supreme Court solicitation decisions in their favor.

Although the ethical decision re-

viewed an attorney's claim that he must never be restricted from soliciting a client, the Supreme Court justices seemed to base their decision on the aggressive methods employed by the attorneys, rather than on the practice of solicitation in general.

At the same time, by the 5-4 vote, the court ruled specifically that state bar associations could not prohibit solicitation by attorneys who offer their services on behalf of nonprofit organizations that engage in litigation to further elective political expression.

Through the Board of Governors' debate, San Francisco attorney Kurt W. Melnick said the two decisions indicated that the court would tolerate a ban on solicitation only if it applied exclusively to non-affiliated private law-

The majority of the board agreed with him that such a ban would discriminate against attorneys in private practice and would place these lawyers at a competitive disadvantage in the legal marketplace.

After two hours of heated discussion, the board tentatively approved the rule and set it out for comment. Averedo says that anyone wishing to comment on the proposed rule change should write to the Committee on Professional Responsibility, Board of Governors, The State Bar of California, 555 Franklin St., San Francisco 94102.

The deadline for receipt of written comments is Oct. 27. Averedo also encourages those who wish to speak at the hearing to call him in advance at 548-8333.

In 1971, plaintiff filed the class action suit on behalf of all those whose claims for medical reimbursement were denied by the company on similar grounds during the preceding four years, the applicable statute of limitations.

Her attorney identified 172 insureds who were members of the company's 1969-1971 records, but the company had destroyed pre-1969 records.

Rather than objecting to the motion for summary judgment because class members' names had not been notified, the insurance company chose to argue on its merits and fact.

The court ruled, as a matter of law, that the plaintiff's proposed interpretation of the insurance policy was correct. In effect, it found no merit to the plaintiff's affirmative defenses of the insurance company.

Barristers Vote 'No' On Prop. 7

The board of directors of the Barristers' Club of San Francisco has voted unanimously to oppose Proposition 7, the Briggs death penalty initiative, because it is "unnecessary, poorly drafted and irrational."

Action by the Barristers' Club, an organization of more than 2,000 legal officers, follows a similar resolution which was overwhelmingly passed by the State Bar Conference of Delegates at its annual meeting here last month.

Proposition 7 would create new death penalty provisions in California law and would replace the existing law enacted last year.

Since the existing law was fashioned by experienced legislators and supported by law enforcement officials, the provisions should not be replaced because it has been tested, the board said.

"Proposition 7 would radically increase the number of special circumstances which would permit a death sentence," the board said.

Split Decision Defendant Ordered To Pay Notice Costs In Class Action

Trial court orders granting partial summary judgment in class action suit and ordering defendant insurance company to pay for notifying class members are not unconstitutional deprivation of due process, a four-justice majority of the California Supreme Court has held.

The company refused to pay \$500 of a claim plaintiff submitted for medical coverage, because that was the amount covered by Blue Shield under a separate policy.

The underlying class action involves a challenge by a woman against the insurance company's interpretation of the coverage provided in its policy.

The majority said since the insurance company did not object to the trial court's enlargement of the motion for summary judgment on the grounds members of the class had not been notified, it waived whatever constitutional right it may have enjoyed to require the court to postpone determination of the summary judgment motion until after class notification.

As to the order to pay costs of notification, the majority said provisions of the Insurance Act give the court discretion in a class action "to direct either party to notify each class member."

Although defendant further contends that this statutorily authorized procedure violates its due process rights, the relevant constitutional authorities establish that the trial court order clearly conformed with governing principles of both substantive and procedural due process.

The court ruled, as a matter of law, that the plaintiff's proposed interpretation of the insurance policy was correct. In effect, it found no merit to the plaintiff's affirmative defenses of the insurance company.

Comden Rule Change Proposed By Bar Governors

The State Bar is seeking comments from lawyers and judges on a proposal to lift the current rule prohibiting attorneys from acting as the dual role of counsel and litigation in litigation.

The production rules from the California Superior Court's decision last April in Comden v Superior Court, 20 Cal 2d 906, which requires trial counsel to withdraw from an action if it becomes apparent or should become apparent that he or she is a member of his law firm should testify on behalf of a client.

In a 4-3 ruling, the high court also gave trial counsel and opposing counsel the power to remove from an action attorneys who might be called to testify.

The proposal to change the Comden rule was tentatively approved by the State Bar Board of Governors last month at the bar's annual meeting in San Francisco. The proposal would amend Rule 2-111 (A) (4) of the Rules of Professional Conduct, and was submitted by then-board member Kurt Melnick, of San Francisco, chairman of the Board of Committee on Professional Responsibility.

Under the proposed rule change, an attorney who is asked to testify on behalf of a client, the attorney must fully advise the client of the implications of such testimony.

If the client wants continued representation by the attorney, that consent must be in writing and should include the client's agreement that he or she has been advised of the implications of the attorney's testimony.

"The Comden decision has been a springboard for motions to disqualify counsel as part of the tactics of an adversary proceeding, and it has been suggested that some courts are literally applying the rule," Melnick said in his recommendations to the board.

"This, it is important to publish now a rule change for comment so that it is a fair proposal can be promptly completed and submitted to the California Superior Court," he said. "The full

Comments on a proposed amendment to rule 2-111 (a) (4) of the Rules of Professional Conduct are due from members of the bench, bar and public by Friday, Dec. 1, 1978. They should be addressed to the Board Committee on Lawyers Services, attention: Ellen P. Bretschke, The State Bar of California, 555 Franklin St., San Francisco 94102.

The full text of the rule amendment follows, with boldface type indicating new wording.

(4) If upon or after undertaking employment, a member of the State Bar known or should know that the member or lawyer in the member's firm might be called as a witness on behalf of the member's client in litigation concerning the subject matter of the such employment the member may continue employment only with the written consent of the client given after the client has been fully advised regarding the possible implications of such dual role as to the outcome of the client's cause and has had a reasonable opportunity to seek the advice of independent counsel on the matter, to work independently, the written consent of the client shall be filed with the court not later than the commencement of trial. In criminal proceedings the written consent need not be filed with the court but the member has the duty, before testifying, of advising the court that such consent has been obtained. The client's consent need not be obtained in the following circumstances:

(a) If the testimony will relate solely to an unrelated matter, or

(b) If the testimony will relate solely to the nature and value of legal services rendered to the client by the lawyer or his firm to the client.

"Any feared danger to the integrity of the judicial process or to the legal profession in the eyes of the public from the dual role of the advocate/witness exists only at trial. The great majority of civil and criminal actions do not go to trial since they are disposed of by summary judgment, plea bargain or dismissal as agreed upon (in a criminal matter) by agreement, returning counsel to withdrawal at the pre-trial stage is an overboard remedy to protect the actual threat to the administration of justice."

"At a trial where a judge sits as the trier of fact, the dangers of confusion or prejudice to an opposing party do not exist since judges are familiar with sophisticated rules of evidence and are seeking credibility. Thus, the rule mandating withdrawal should not apply at trial."

"During a trial before a jury, the danger to the appearance of impartiality or confusion is minimal where one member of the firm is called to testify on behalf of the client and another member conducts the trial."

"The adversary system and rules of evidence governing for testing the credibility of witnesses and for impaneling a witness for interest in the outcome of litigation protect against any such abuse. Any contention on the part of the jury can be cured by instructions."

"Furthermore, attorneys claiming the integrity of their clients or their firms' causes by use of their own testimony play with a two-edged sword because the other side can argue that the attorney's testimony and advocacy are tainted."

"The danger to the appearance of impartiality or confusion of the jury when a lawyer assumes the dual role of advocate and witness may also be minimized by vigorous advocacy of opposing counsel and by the foregoing rules of evidence."

"The appearance of impartiality is no greater than any other witness who is close to the client or the client's cause, e.g., a relative or business associate."

"Moreover, potential criminal and/or disciplinary actions are adequate deterrents to deter an attorney from giving misleading testimony. Furthermore, the potential danger to the appearance of impartiality is outweighed by the public disclosure of the client's choice of counsel, by the financial burden imposed upon the client in obtaining new counsel, and by the use of this rule as a tactical device."

"Whether there is a threat to the client's cause by the impairment of the lawyer/witness' testimony and advocacy is an issue for the court to consider. This is entirely the client's concern after full disclosure of the implications of the advocate's giving testimony. It should not be the concern of the other side or the courts."

Notice of the Superior Court

Notice published in THE RECORDER. No applications of any nature, criminal or civil, will be heard EXCEPT during the following periods: Mondays from 7:00 p.m. to 10:00 p.m., and on Wednesdays from 10:00 a.m. to 4:00 p.m. and from 7:00 p.m. to 10:00 p.m. Only matters within the jurisdiction of the Superior Court will be heard. Applications from outside jurisdictions will be entertained.

Please phone KRAMER 8410 to contact the Judge, MARRIG 1572 with reference to all Juvenile Court CALL AT HIS HOME.

DO NOT PHONE ANY JUDGE OR CALL AT HIS HOME. HON FRANCIS W. MAYER, Presiding Judge. HERSCHEK J. WEISMAN, Executive Officer.

October 9, 1978

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Barristers Vote 'No' On Prop. 7

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Action by the Barristers Club, an or-
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which was overwhelmingly passed by
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at its annual meeting here last month.

Proposition 7 would enact new death
penalty provisions into California law
and would replace the existing law en-
acted last year.

Barristers Club directors said they
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the board said:

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Split Decision Defen Notice

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relationship with the defendant. In other cases, a defendant may want to avoid discovery or other litigation expenses entailed in notification which may be eliminated if the plaintiff's claim is rejected on the merits at an early stage of the proceedings." Tribner wrote, adding that such considerations may have led the insurance company to attempt to argue on the merits of the summary judgment in this case.

In the disputed part of the opinion, the majority upheld the validity of the Consumer Legal Remedies Act's provision for shifting the burden of costs of notification from the plaintiff to the defendant in certain class actions.

"In the absence of such a cost-shift

Notice and a full hearing on the matter was provided prior to the order, the court noted, and, as statutes in other areas of interim cost allocations indicate, it is not necessary to await final determination on the merits to preserve procedural due process.

Further, at the time the order to defendant to pay for notification was given, the court had already granted partial summary judgment against key defenses, thus "realistically assuring) the plaintiff class of at least a partial victory in its lawsuit."

If defendant does prevail, under the terms of the order, it can recover up to \$10,000 of the costs of notification from plaintiff.

The dissenters insisted there was not even a tentative adjudication of liability

either parties. Under its provisions, only in cases where the court has determined there is no defense to the action may the defendant be forced to pay, the dissenters held.

The dissenters further said class certification and notice, as indicated in certain appellate court opinions, are necessary before any substantive issues can be adjudicated.

The dissenters suggest that the traditional method for financing class actions be used here—advancement of costs by counsel.

"If counsel does not have sufficient confidence in his cause to advance costs, he should not burden our courts with questionable claims of clients who have not retained him," Justice Clark wrote.

High Court Sends Farber Back To Jail

(Continued from Page 1)

to hear arguments and rule on Farber's formal appeal, or whether to let stand the New Jersey Supreme Court

decision.

In their request to lift Stewart's order, Jaselevich's lawyers said Jaselevich's trial was drawing to a close,

and they could not properly examine Farber on the witness stand so long as he continued to refuse to produce the documents.

Barristers Vote 'No' On Prop. 7

(Continued from Page 1)

sentence. In that respect, Proposition 7 could make practically all first-degree murders punishable by death.

Present law requires that for the death penalty to be imposed, certain categories of defendants must intend

to cause death and be personally present during the commission of certain crimes resulting in death, Proposition 7 would do away with these requirements.

"In addition, Proposition 7 would al-

low the impanelling of three or more separate juries in a single murder case. The board concluded that Proposition 7 create an irrational system for making decisions about the most severe sanction that society can impose.

State Bar Plans Hearing On In-Person Solicitation

(Continued from Page 1)

The proposal is included among a package of new State Bar rules on attorney advertising intended to accommodate current discipline rules on

the U.S. Supreme Court's Bates & O'Steen decision, which outlawed bans on lawyer advertising that is not false and misleading.

The rules are scheduled to be taken

up for final action at the Board of Governors' Nov. 17-18 meeting in Los Angeles. If approved there, they will be submitted to the state Supreme Court for final action.

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 97840 Deborah A. Brown
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 97598 Dennis A. Crivello, 11350
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 96417 Lucinda M. Moyers, 11350
 H.S.
 97599 James H. Robinson, 1071

97807 Gilbert A. Baera, 10851
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 97808 Willie L. Bolds, 211 (2 cts),
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 97809 Michael W. Childers, 459,
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 97810 Thernal Warren, 211 P.C.
 97811 Carolyn Rhogasteh, 487.1
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 97812 Donald R. Neal, 459, 211.

97765 Coca I. Wilson
 97765 Gregory L. Barrett
 97765 Jacqueline Bishop
 97765 Elizabeth Colbert
 97765 Margie Ree Johnson
 97765 Mandell Youngblood
 97765 Patricia Ann McCoy
 97765 Lawrence McCoy
 97835 Jennifer K. Major
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97851 Douglas M. Navas
 97853 Edward C. Smith
 97853 Danny O. Wilson
 97854 Billy Averhart
 97857 Charles Richard King
 97857 Alex Herrera
 97859 John Henry Nixon
 97859 Michael V. Robinson
 97860 Frederick Webster
FOR HEARING

John Briggs Models a Role

By Ron Javers

Noon in Castro Valley. And the guys from Rotary and the Lions have come together for a luncheon meeting at the Willow Park Golf Course. After the pledge to the flag many of the 100 or so members break into a crazy, laugh-filled song called "Hello, Hello." There are loud guffaws and catcalls, as one businessman needles another.

"Don't mind all this stuff," one somber Lion tells a reporter. "It's just Rotary B.S."

The big "Hello" is for today's guest, state Senator John Briggs, who has come to spread the word about his Proposition 6, the anti-homosexual schoolteacher initiative.

"I'm happy to be here because I am a Rotarian," Briggs tells them before launching into an explanation of the dangers of homosexuality in the schools. When he finishes there is the kind of polite applause well-mannered people give a guest — any guest. But from the tone of their questions and their comments afterward, it is obvious that many of them aren't buying what Briggs is selling.

Now it is evening. Another meeting. The choir of toothpaste-bright young people dressed in red, white and blue has finished the Pledge of Allegiance and one chorus of "My Country 'Tis of Thee."

In a little while the dozen American flags flanking the big stage in the Sacramento Community Center will revolve to reveal two huge, green Statues of Liberty holding aloft red torches that shine like state police car dome lights.

But first, this message from Senator Briggs on Proposition 6: "It's not a question of civil rights or human rights, but a simple matter of morality," the man in the blue suit tells this crowd of several thousand born-again mothers, fathers, teenagers and wide-eyed toddlers drawn from a host of Northern California fundamentalist churches.

Briggs appears nervous in the bright spotlight as he mumbles his message in a slightly sibilant voice. He speaks for ten minutes, gets a standing ovation, thanks Jack Wyrzten, the traveling evangelist who allowed him to appear on the program, and the show goes on.

Wyrzten, of the fundamentalist, New York-based Word of Life Bible Institute, is on a 43-day, 43-city national tour.

And Briggs, the politically ambitious born-again sponsor of Proposition 6 — and of Proposition 7, which seeks to strengthen capital punishment — has sneaked under the flap of the revival tent to mix politics with the star-spangled musical mélange offered up by the silver-haired preacher and his band of Pat Boone and Lennon Sister look-alikes.

Among the things opposed by Wyrzten, a 68-year-old radio preacher, are homosexuals, sex education, women's liberation, the ERA, abortion, grain sales to Russia, alcohol, rock music, Johnny Carson, where-



By Stephanie Voss

STATE SENATOR BRIGGS
He talked about setting an example

**'Jarvis Was Nowhere
Until I Entered His Life'**

funds. I put him in touch with all the right people."

And now Jarvis is a household word, a proclaimed folk hero — and John Briggs is running twin campaigns against murderers and homosexuals — hardly popular opponents — while hoping for victory and maybe much more.

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Francisco radio reporter after the pair got into a shouting match.

In this era of polished, glib politicians who often rely more on image than message, John Briggs is something of a throwback. He is conducting an entire campaign on issues. In his unsuccessful bid for the gubernatorial nomination earlier this year — he finished with less than one percent of the vote — Briggs was not the classic one-issue candidate. He was a two-issue candidate.

His "other" issue, which has paled in the glare of controversy surrounding Proposition 6, is Proposition 7. That initiative would

would vote yes on Proposition 6, as against 43 percent no. In August, the numbers were 61 percent yes and 31 percent no. In August there were 8 percent undecided; in September, 12 percent.

Though John Briggs is not yet the household name that Howard Jarvis is, he insists that he is getting there. A year ago he was a little-known and undistinguished Southern California politician.

He was defeated twice for the state Assembly before being elected in 1966. He won a state Senate seat in 1976 and might well have remained there in relative obscurity had he not latched onto the capital punishment and homosexual issues, collecting and spending nearly \$1 million to qualify his two initiatives for the statewide ballot on November 7.

Because of those initiatives, Briggs says, his name recognition among California voters — a key to electability — went from around two percent before last spring's primary campaign to about 80 percent today.

"That's as good as Evelle Younger's," he boasts.

Briggs' own religious connection came early. He is the son of a South Dakota fundamentalist preacher. The family moved to California in 1935 and Briggs says he was "born again" — experienced a religious conversion — at the age of eight. He converted to Catholicism as an adult at the urging of his wife, Carmen. Before entering politics, Briggs started an insurance agency in Fullerton, a business he still maintains.

Denying charges by critics that he, his 21-year old son and a son-in-law stand to profit financially from the campaign for Propositions 6 and 7, where they have collected nearly \$50,000 in "consultants' fees, Briggs says that all three have mortgaged their homes to lend money to the campaign and may indeed come out financial losers unless enough money is collected from contributors to repay the loans. The tangled financial details of Briggs' initiative and gubernatorial campaigns — where a tremendous amount of money shuffling went on — remain to be sorted out, although no charges of illegality have been filed against him.

A bitterly combative campaigner, Briggs concedes when pressed that he is using the initiatives to further his political career. "I've been told by many of my friends that, come November, I could well end up being America's newest and biggest folk hero — someone who will make a good candidate against (Senator Alan) Cranston in 1980 — or I could very well end up being the world's biggest chump," he has told a reporter.

Briggs shrugs off the obvious and frequently mentioned political parallel to the late Senator Joseph P. McCarthy, who in the Cold War 50s sought to make the issue of Communists in the U.S. government his own ticket to higher office.

Briggs' wild, shoot-from-charges and attacks on, considers his opponents.

He has maintained that every three San Francisco teachers is homosexual teachers in Los Angeles wing homosexual couples rooms to explain "in the details" how they have sex.

He has charged that Brown, Assembly major Leo McCarthy, Los Angeles Tom Bradley, San Francisco Dianne Feinstein, are "pandering" to ho because of large political donations made by gays.

Briggs has a tendency realities that do not help. When told by reporters for example, that former Ronald Reagan opposition 6, Briggs first said wasn't so — even though was on record as being. When the reporters in Reagan was indeed proposed, Briggs then said matter anyway.

On the death penalty fond of recalling that he attended California's last at San Quentin in 1967 and convicted killer Aaron Mitchell die in the gas of while Jerry Brown, then citizen, -marched with penalty protesters outside on walls.

"I watched it all," B The Chronicle. "It was unreal. This man came in strapped him down — an was dead. And nobody forward to help him. It was ing. But it was necessary.

Briggs acknowledges initiative on homosexual more a plebiscite on openness than anything else existing laws already in the dismissal and criminalment of any teacher guilty molesting. He concedes it boards could, in effect, ignore the measure by noting it in their districts. The tion provides that school must hold private hearing side guilt or innocent teacher charged with an open homosexuality.

In taking aim at open of homosexuality by other school employees following the line of inance.

"If people won't e against homosexuals in th where will they do it?" he is hoping to extend the string of decisions against the pols as so-called g ordinances have been o in Dade county, Fla.; West and St. Paul, Minn.

Unlike the actions states, where laws prohibit, crimination against gays pealed by the voters, Prop is aimed directly at teach other school professor practice or advocate open

JOB TOLD THIS GROUP OF SEVERAL thousand born-again mothers, fathers, teenagers and wide-eyed toddlers drawn from a host of Northern California fundamentalist churches.

Briggs appears nervous in the bright spotlight as he mumbles his message in a slightly sibilant voice. He speaks for ten minutes, gets a standing ovation, thanks Jack Wyrzten, the traveling evangelist who allowed him to appear on the program, and the show goes on.

Wyrzten, of the fundamentalist, New York-based Word of Life Bible Institute, is on a 43-day, 43-city national tour.

And Briggs, the politically ambitious born-again sponsor of Proposition 6 — and of Proposition 7, which seeks to strengthen capital punishment — has sneaked under the flap of the revival tent to mix politics with the star-spangled musical mélange offered up by the silver-haired preacher and his band of Fat Boone and Lennon Sister look-alikes.

Among the things opposed by Wyrzten, a 65-year-old radio preacher, are homosexuals, sex education, women's liberation, the ERA, abortion, grain sales to Russia, alcohol, rock music, Johnny Carson, whore-mongers, bratty kids and adulterers.

Among the things he is for are God, Country and Proposition 6.

The grand finale of the preacher's 2½ hour pageant is a triple-screen slide show that intersperses mammoth images of Anita Bryant and Jesus Christ, while Anita's recorded voice renders "The Battle Hymn of the Republic."

But by this time, John Briggs is long gone. The man who would like to roll back sexual liberation the way Howard Jarvis rolled back property taxes cannot afford to spend too much of his waning campaign time by preaching to the converted about those he considers the perverted.

At every turn in a busy two days of campaigning last week, the conservative Republican from Orange county sought to identify with Jarvis and the success of Proposition 13.

"We want to send the politicians another message," he told a Castro Valley Rotary-Lions Club meeting earlier the same afternoon. "Just like we sent them with Proposition 13."

Yet for all his strategic attempts to capitalize on the Proposition 13 fervor, Briggs can be astonishingly blunt when talking about Jarvis, who endorsed Briggs' bid for the GOP gubernatorial nomination in the June primary. Briggs came in last.

Now, Briggs sounds more than a touch bitter that it was Jarvis — and not the state senator from Orange county — who rode the property tax issue to statewide victory and national acclaim.

"Do I wish I thought of it first? he answers a reporter's question wistfully. "Well, what do you think?" In fact, Briggs maintains, "Jarvis was going nowhere until I walked into his life."

I showed him how to raise

STATE SENATOR BRIGGS
He talked about setting an example

'Jarvis Was Nowhere Until I Entered His Life'

funds. I put him in touch with all the right people."

And now Jarvis is a household word, a proclaimed folk hero — and John Briggs is running twin campaigns against murderers and homosexuals — hardly popular opponents — while hoping for victory and maybe much more.

The buzz phrase in Briggs' campaign against homosexuals is "role remodeling," a piece of sociological jargon that means setting an example. He repeats the phrase wherever he goes. It is also a big phrase with Anita Bryant: Briggs went to Dade county, Fla., to help Bryant in her successful crusade against homosexuals there, but she will not come to California to help him, he says, "because of threats on her life."

Briggs himself is no stranger to such threats and the beefy man who drives the senator on his Proposition 6 rounds is a state cop who wears three-piece suits, looks like Ernest Borgnine and identifies himself only as "executive security."

Sometimes the cop keeps Briggs' foes away from him; sometimes it is the other way around: last Wednesday night, after a Briggs debate with Supervisor Harvey Milk, the cop had to step between the senator and a San

Francisco radio reporter after the pair got into a shouting match.

In this era of polished, glib politicians who often rely more on image than message, John Briggs is something of a throwback. He is conducting an entire campaign on issues. In his unsuccessful bid for the gubernatorial nomination earlier this year — he finished with less than one percent of the vote — Briggs was not the classic one-issue candidate. He was a two-issue candidate.

His "other" issue, which has paled in the glare of controversy surrounding Proposition 6, is Proposition 7. That initiative would expand the categories of murder for which the death penalty could be imposed.

Proposition 7 has a good chance of passing in November, according to the most recent polls. It has an equally good chance of subsequently being declared unconstitutional, according to many attorneys, who describe it as vague and confusing.

Proposition 6 is a different matter. The latest statewide polls show the public about evenly divided on the initiative, with the trend moving against it.

Forty-five percent of those questioned in late September by pollster Mervin Field said they

nearly \$50,000 in "consultants' fees. Briggs says that all three have mortgaged their homes to lend money to the campaign and may indeed come out financial losers unless enough money is collected from contributors to repay the loans. The tangled financial details of Briggs' initiative and gubernatorial campaigns — where a tremendous amount of money shuffling went on — remain to be sorted out, although no charges of illegality have been filed against him.

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"People are very vindictive when they don't agree with you," he says. "I've been the object of a hatchet job in the press and from my opponents. They all try to cut you down, make a fool of you."

Briggs criticizes the senator manages likely to do that for himself.

He is described by Senate colleague H. L. Richardson — a fellow conservative, but no admirer — as a representative of the "drop-your-pants school of politics." Briggs' head-down, sharp-tongued style has caused resentment and ridicule in a political world where back-slapping and garrulity are more often the norm.

Legislators often grimace at

quality than anything existing laws already. The dismissal and criticism of any teacher molesting. He concedes, however, that in effect ignoring the measure by ignoring it in their district provides that a must hold private he cide guilt or innocent teacher charged with open homosexuality.

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But isn't the next campaign against p eteles, artist and o her who advocate open h Aren't they "role children, too?"

"They certainly a Briggs. But going af and athletes is "ne constitutional." he Proposition 6 we wa moral line that this s as society can g homosexual lifestyle: what happens with the battle is going to and tougher from her

And John Brigg folk hero in waiting, s the prospect.

Cut in U.S. Funds

Senator's Anti-U.N. Ploy May Work

Washington

A little-noticed amendment in the closing days of Congress may shut off the flow of U.S. dues and other regular support to the United Nations, State Department officials say.

The sponsor of the original amendment, Senator Jesse Helms (Rep.-N.C.), informed of the possible sweeping effect of his legislative handiwork, said:

"Excuse me while I get my handkerchief out and wipe my eyes."

He said he would be pleased if U.N. funds are cut off, and a Helms staff aide said his boss would filibuster any effort to alter the situation.

There is no sign that, at the time the actions were taken in the Senate and House, the lawmakers

understood its implications.

The Helms amendment, adopted by voice vote August 3, struck out \$27 million in U.S. dues payments for international organizations and specified that no part of the U.S. dues money may be used for technical assistance by the U.N. or any of its specialized agencies.

The action did not raise much alarm at the time because the House has opposed this approach, and diplomats counted on the House-Senate conference committee to oppose the Helms amendment.

The conferees followed expectations but, surprisingly, the full House at the urging of Representative John H. Roussetot (Rep.-Calif.) voted two weeks ago to back the Helms amendment and the Senate approach. Roussetot, one of the most conservative members of Con-

gress, is a former official of the John Birch Society.

At the State Department, the next development was the most disturbing: growing indications that the United Nations, under its financial regulations, is unable to provide assurances that none of the U.S. dues money will be used for technical assistance.

For its part, the executive branch of government may not be able to disburse any of the estimated \$200 million in regular assessments to the United Nations or its agencies without a legal assurance that the U.N. cannot provide. And, according to State Department officials, top financial managers of the U.N. and its World Health Organization have said informally that the organizations cannot accept "restricted" funds in any case.

There has been a longstanding controversy about using U.N. as-

sessments — as optional contributions of nations — for the technical assistance.

Helms and Roussetot this question in part the amendment. Their notion that lawmakers their action could im dues money for the U.N.

President Carter, reluctant to veto the ment appropriation bi date, signed it last Tue did so protesting the H ment, which he said "this government's abilit its legally binding finit ions to the United Na specialized agencies." he intended to "promptly" the restor technical assistance fu ination of the restricti