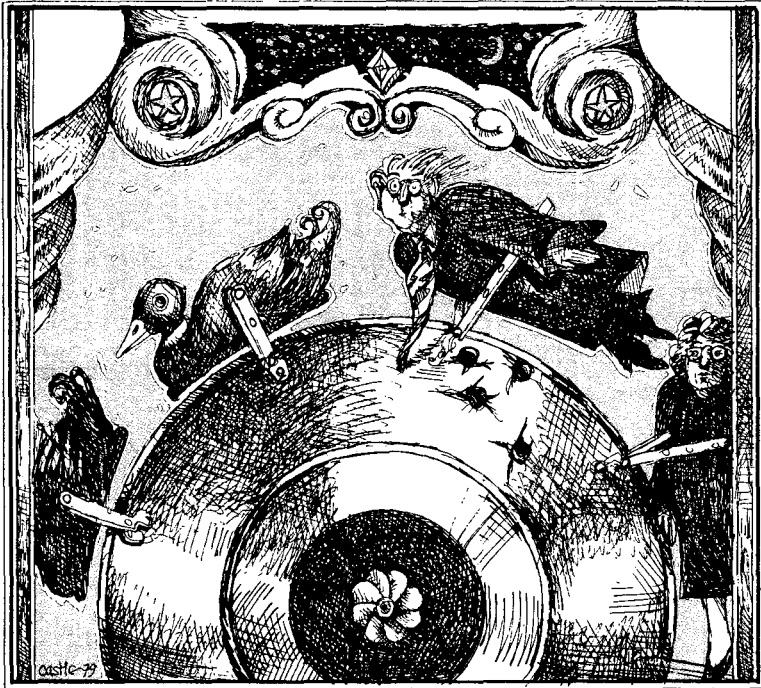


Richardson's attack on judges—most significant June ballot issue?

By ED SALZMAN



The most important question before California voters in next June's state primary election probably won't be the selection of delegates to the Democratic and Republican national conventions. By the time the California primary rolls around, the contests may well be over. Nor will the most significant question be the choice of a Republican opponent for Democratic United States Senator Alan Cranston, who is rated a heavy favorite to win in November. There will be another issue before the electorate that could produce dramatic effects within the state's most important element of government, the judiciary.

Notice is being served that hereafter every judge in the state may become susceptible to the same political pressures as every other candidate for public office. This year, every superior court judge up for re-election to a new six-year term is being examined under a microscope by a prosecutor organization headed by Republican state Senator H. L. (Bill) Richardson. Those who do not meet the standards of Richardson's Law and Order Campaign Committee will find themselves needing to run expensive campaigns to defend their records against high-powered opposition.

Last year, Richardson's organization targeted only one member of the judiciary, Chief Justice Rose Elizabeth Bird, and it came within a whisker of winning enough votes to remove her from the bench. If the 1980 operation is successful, the Richardson group plans to expand in future elections until it covers every rung in the judicial ladder from the municipal courts to the Supreme Court.

There are enormous implications in the attempt by the

committee to extract judges from the comfort of relative political obscurity: Will many judges refuse to accept criminal calendars so they can avoid election-year hit lists? Will judges routinely be forced to raise large sums of money each election year? What will be the source of these funds? Is it proper for judges to use traditional campaign tactics, or do they detract from the dignity of the office? If law-and-order organizations are successful, will prosecutors develop a near-monopoly on judgeships? What will the effect be on the criminal justice system? Will liberal organizations counter-attack with big-bucks campaigns against conservative judges? Eventually, will the competition for judgeships produce the equivalent of partisan elections? In fact, will some future Democratic Legislature carry the trend to its logical conclusion and allow candidates for judicial positions to be identified on the ballot by political party?

Pattern of the past

Historically, there have been relatively few incumbent judges removed by the voters, especially in the large urban counties. Last year, some Jerry Brown appointees were challenged, and a few of them lost their judgeships. (Some were Superior Court judges subsequently placed back on the bench by Brown as municipal judges.) Judges usually are defeated when they have handed down exceptionally unpopular decisions or have been vulnerable because of senility or opposition from local lawyer organizations. Last year, Dave Ross, president of the Deputy District Attorneys' Association of Los Angeles County, paved the way for the Richardson campaign by issuing a call in a legal newspaper for prosecutors to run against judges considered to be soft on criminals.

What's new this year is the statewide assessment of judges being attempted by an organization with an ideological goal. In 1978, the attack was centered on Chief Justice Bird, who was known to the general public. In 1980, the targets will be judges known to perhaps 1 percent of the residents of the county; some of these judges may never have handed down a single ruling that ever made the front page of a newspaper. Quite a few judges have never presided at a criminal trial, because the bulk of the Superior Court workload is on the civil side.

The attack on trial judges comes at an ideal time for Richardson's committee. The public image of the judiciary has struck bottom because of the investigation of the Supreme Court by the Commission on Judicial Performance, because of the arrest of Appellate Justice Paul Halvonik of Oakland on marijuana charges and because of the revelations that Superior Judge Robert Stevens of Los Angeles made a series of sex-fantasy telephone calls to his former secretary in Sacramento.

Richardson himself is not handling the nuts and bolts of the judicial campaign. To do that, he has hired John Feliz, 32, who has taken a one-year leave of absence from his job as a sergeant in the Los Angeles Police Department to launch the campaign. Feliz says he confers about every two weeks

with Richardson on the thrust of the campaign but that the senator keeps hands off the details of the operation. The first election campaign for the committee was in 1976, when Richardson attempted to defeat legislators he considered anti-law enforcement. The campaign was less than a roaring success. The next year, the committee spent \$600,000 drumming up citizen support for an override of Governor Brown's veto of a capital-punishment bill. The organization takes credit for moving enough Democrats to the override column to win that battle.

The Bird campaign was Richardson's first direct foray into the judicial-election arena, but he was not alone in organizing a campaign to defeat the chief justice. (The other major group was run by former aides to Senator Ken Maddy and financed largely by agricultural interests.) Feliz joined the committee early this year after running an unsuccessful race as the Republican challenger to Democratic Assemblyman Richard Alatorre.

The salary victory

Under Feliz' leadership, the committee won a major victory this year when it went to court to prevent the state from paying the salaries of the Supreme Court justices. The committee charged that the justices were not entitled to be paid as long as cases were pending before the court for more than 90 days, and a Superior Court judge in Sacramento agreed. A follow-up audit by Controller Ken Cory also supported Feliz' contention. (The justices, incidentally, will collect the back pay if and when the court calendar is cleared of the backlog.) This move by the committee was designed to provide the public with a glaring example of abuse of power by the judiciary, Feliz says, and to inhibit the tendency of the court to resolve cases through judicial law-making rather than by deciding the issues on existing law. This is based on the assumption that it takes more time to establish policy than to interpret the law. In any event, the dramatic move by Feliz brought public respect for judges down another notch and helped prime the pump for the all-out effort against Superior Court judges next year.

How many judges will find their names on the committee's hit list next year? Feliz feels strongly that no more than 18 of the 208 judges up for election next year should be opposed by his organization. First, he doesn't want his resources spread too thin. Second, he doesn't think that more than 10 percent of the judges ought to be removed from the bench. "There are a hell of a lot of good judges," he explains. "About 30 percent are outstanding leaders, and some of them are liberals. About 60 percent are good judges, but they are not leaders. They just do the job. And about 10 percent are giving the judiciary a bad name."

Upon embarking on the Superior Court project, Feliz found that very few people had any idea who the judges were and what they were doing. He found only one organization, Earl Huntting's Citizens for Law and Order, that had made any sustained effort to keep tabs on the performances of judges. Huntting covered only a few Bay Area counties, and he was operating on a shoestring. So Feliz put together a team of researchers to compile background information on all judges up for election. He sent each judge a long questionnaire. He is attempting to establish advisory committees in each area to interview judges and make recommendations. These review committees will consist of local leaders who agree with the organization's stand on law-enforcement issues.

"But we are not going to give anyone a litmus test," Feliz adds. He says it is entirely possible that some conservative judges may get on the list if they are adjudged to be senile or otherwise incompetent. Eventually, the organization will publish a list of those judges it considers "most outrageous," and will help find opponents for them. Most of these challengers

will be prosecutors or former deputy district attorneys. Background checks will be run on each individual who seeks to oppose an incumbent, to determine whether the alternative is any better than the sitting judge. The committee also will help some incumbent judges with opponents that do not meet the organization's standards.

The urban targets

Most of the judges on the hit lists will come from urban counties, and about half probably will be in Los Angeles. "These are the counties in which an individual gets lost in the shuffle and there is no accountability," Feliz emphasizes.

One of the key issues is the implementation of the determinate sentencing act, which forces judges to decide which of three sentences to give each convicted felon. Under this relatively new law, it is possible to compile statistics showing which judges hand out average, above average and below average sentences. Yet, Feliz feels the law is not being administered properly because there are tremendous sentence variations throughout the state and because plea bargaining is being used to evade the intent of the law.

How much money will Richardson raise for the campaign? He has set a target of at least \$800,000, the amount he collected in his successful 1977 campaign for the death-penalty override. The money will be raised through a sophisticated direct-mail campaign run by Stephen W. Mitchell and Associates of Washington, D.C. The typical contributor is a 45-year-old woman in a lower middle-class neighborhood

18 questions

Lawyers and judges throughout the state protested after the Law and Order Campaign Committee distributed these questions to Superior Court judges scheduled to seek re-election next year:

- * What is the primary purpose of the Criminal Justice System?
- * Of the following branches of the Criminal Justice System, which do you feel to be the most important: rehabilitation, deterrence, retribution, restitution, and why?
- * What is your opinion of the exclusionary (search and seizure) rule?
- * Given that Californians rate crime as the state's number one problem, what do you feel could or should be done to improve our quality of justice?
- * Do you feel that increasing sentences would affect the crime rate?
- * Do you ever revoke probation?
- * Under what circumstances?
- * What is the purpose of bail?
- * Should factors such as potential danger to the victim or potential witnesses be taken into account?
- * What is your opinion of capital punishment?
- * What effect do you feel gun control laws would have on violent crimes?
- * Do you utilize alternative forms of sentencing?
- * Under what circumstances?
- * What is your opinion of determinate sentencing?
- * Should time off for good behavior be earned or automatic?
- * How do you feel about judicial elections?
- * What is your opinion on Judicial Sentencing Disclosure?
- * What would you want your constituents to know about you if you were opposed and running for office?

with a concern about the degeneration of discipline in America, the committee has determined. She will send about \$10 and will get a periodic newsletter from the organization. Odds are only 8-7 that she is a Republican.

The committee's candidates will not be run as a slate — that's hardly realistic. It will be up to local groups to tailor each campaign to the community and to raise funds locally. How much money each candidate will get will depend upon the results of the appeal, the cost of obtaining funds and the number of incumbents that get help.

Ross will probably play a major role in Los Angeles. The 37-year-old president of the 400-member prosecutors' organization wants it made clear that he is acting independently both of the Richardson committee and the association he heads. He is interested only in judges handling criminal cases and wants information published regularly on their sentencing records. He intends to continue his campaign to encourage prosecutors to seek judgeships, but he knows of only one in Los Angeles who is already organizing a campaign.

Why aren't Feliz and Ross working hand in hand? One reason is that, Ross says, "I don't always approve of all the techniques used by the committee." That was an obvious reference to the way Feliz distributed questionnaires to judges asking their views on the criminal justice system and more. Some judges howled that the source of the questionnaire was unclear, and they were given indications that it was part of a student research project. Feliz himself concedes that he probably should have shown the questionnaire to legal organizations before using it. But he makes it clear that he probably would not have changed a word. The key element in judging the judges appears on the committee's summary sheet: "Tendency to impose appropriate sentences." (See box for the 18 questions in the committee's basic questionnaire.)

Heavy attack

The questionnaire came under heavy attack within the legal profession. An organization called the California Attorneys for Criminal Justice asked the State Bar to investigate whether attorneys and law students working for the Richardson committee had violated any rules of professional conduct. The request was made by the organization's president, Charles R. Garry, who received worldwide publicity as counsel for the People's Temple. Wrote Garry: "We understand that deceptive practices may have been used in an attempt to entice Superior Court judges to respond to a politically loaded questionnaire. The questions constitute an invitation to the judges to violate the Canons of Judicial Ethics by commenting on legal issues pending before them."

Directly and indirectly, the committee has been attacked by Chief Justice Bird and many other members of the bench. State and local bar officials have accused the committee of attempting to politicize the judiciary. The outgoing president of the California Judges Association, Harry A. Low of San Francisco, warned of a danger that judges will start deciding cases "with the roar of the crowd." The Richardson-Feliz challenge poses a dilemma for judges. Should they go out and raise money for traditional campaigns? Or should they maintain low profiles and try to convince the public that the judiciary will be harmed by undignified politicking?

So far, the latter course has been followed. The Los Angeles Superior Court recently celebrated its 100th anniversary. Presiding Judge Richard Schauer made a point of the fact that there was no fanfare, consistent with the "low judicial profile" prescribed for judges by the constitutional separation of powers. But once the campaign begins and the Law and Order Campaign Committee establishes its hit list, it will be every incumbent for himself or herself. Those

judges who hope to survive had better start raising money in a big way and start emulating politicians. Where will judges, especially those who are not independently wealthy, raise campaign bankrolls that may have to exceed \$100,000?

Richardson's organization has inserted a new dimension into judgeship contests — an independent citizens' committee outside the legal community. Traditionally, judges facing opposition go back to their pre-judiciary political friends if they have maintained these ties. Otherwise, they try to get a few attorneys to raise money for them. Feliz feels there is no proper way for a judge to raise money. "Judges are left out of political view," he added. Since nobody knows anything about them, the only people who contribute are those with a financial interest in court decisions." Thus, judges will be opposed for the most part on their criminal sentencing records but will seek funds from those interested almost exclusively in civil cases.

The danger of corruption

Preble Stolz, a professor of law at the University of California in Berkeley, feels that the fund-raising procedure carries the danger of corrupting the state's judiciary. This is because parties to civil suits — doctors, insurance firms and others with large sums at stake — will establish financial links to judges through campaign contributions. The solution, according to Stolz, is the establishment of campaign-contribution limits, something that has been declared unconstitutional by the United States Supreme Court for legislative or executive offices. Stolz feels that there might be a constitutional basis for limits covering judicial races. A judge, explains Stolz, is not supposed to be susceptible to the demands of the general electorate but is supposed to be limited to what the law allows. In a conflict between the roar of the crowd and the law, a judge is required to follow the law.

The Richardson committee recognizes that ballot-box conflict is not the ideal way to upgrade the judiciary. The committee's attorney, John T. Doolittle, has just finished drafting a judicial-appointment reform plan that will be introduced by Senator Richardson in the Legislature next month. Key features of the proposed constitutional amendment:

- *All judicial appointments would be subject to Senate confirmation.*
- *The State Department of Justice would conduct detailed background investigations of each nominee.*
- *A permanent investigative staff — with minority and majority counsels — would be established by the Senate Judiciary Committee to investigate every appointee.*
- *No individual could be appointed to an appellate court without at least two years of experience on a trial court. (This would have banned Bird from the Supreme Court.)*
- *Terms of justices on the Supreme Court and courts of appeal would be reduced from 12 to eight years.*

Richardson realizes that this proposal has relatively little chance of getting the necessary two-thirds vote in both houses of the Legislature. But he is going to give it a try before starting to mount an initiative campaign on behalf of the reform plan.

In the meantime, he will be busy trying to rid the system of the 10 percent of judges he rates as "outrageous." But the Law and Order Campaign Committee realizes that its effort may result in public opposition to all judges and not just to those on the hit list. In that case, there isn't a judge in California — except those who run unopposed — who doesn't face the real threat of removal from office. That's why the fight over judgeships may be more important for Californians next June than even the presidential primary. 🏠

KING (ED) CARTER AND THE 75 CORPORATE KNIGHTS OF

The California Roundtable

By TONY QUINN



It is somewhat like John Kennedy's quip that the greatest gathering of talent at the White House may have been when Thomas Jefferson dined alone. Any meeting of the California Roundtable is, by definition, the greatest gathering of corporate power and talent to be found west of Wall Street.

The little-known California Roundtable is a voluntary association of the presidents, chairmen and chief executive officers of California's largest and most powerful corporations. About 75 corporate heads form the Roundtable's board of directors, and if the name of the Roundtable itself is unfamiliar, the names of some of its officers and directors may ring a bell.

There is current chairman Ed Carter of Carter Hawley Hale Stores, David Packard of Hewlett-Packard, Justin Dart of Dart Industries, Robert Fluor of Fluor Corporation and Helen Copley of Copley Press. Members also include political activists like Walter Shorenstein, a Democratic party fundraiser, Jaquelin Hume, long active in Republican affairs, and William French Smith, Ronald Reagan's personal lawyer. Among the better-known chief executives active with the Roundtable are A. W. Clausen of Bank of America, George Shultz of Bechtel Corporation, Roy Anderson of Lockheed and Fred Hartley of Union Oil.

What brings all these people together? The California Roundtable is patterned after the Business Roundtable in Washington which exists to promote a pro-business position in national policy-making. The California Roundtable's goal is exactly the same: to foster a pro-business, pro-free enterprise climate in California government. "We want business leaders to make their voices heard, to be effective in advancing our positions," says Roundtable chairman Carter.

One chairman and three vice-chairmen, with the positions

usually rotating between Northern and Southern California, run the organization, assisted by a 25-member policy committee. Each member company pays annual dues based on its size. Those companies with after-tax profits in excess of \$75 million pay \$10,000 annually. Other participants pay \$5,000, \$2,500 and \$1,000 in dues. The Roundtable maintains an administrative office in Burlingame.

Off the sidelines

The Roundtable is not just a business lobbying operation or an association of corporation giants. Neither is it, as some critics charge, a "secretive committee" bent on ruling the state. Rather, it represents an organized effort to marshal California's major corporate leaders into influencing government policy-makers directly.

For many years, California businessmen were satisfied to advance their goals through traditional organizations such as the Chamber of Commerce and through lobbyists for the various interest groups. The corporation heads themselves, somewhat disdainful of the often grubby world of politics, usually remained on the sidelines. Politically active corporation presidents often helped out with fund raising and sometimes participated as members of a gubernatorial "kitchen cabinet." But direct, day-to-day contact with the politicians was usually shunned.

Then came Watergate and other embarrassing revelations of corporate misconduct, the Arab oil boycott and the gasoline shortage, and a rising anti-business feeling in the country. The Business Roundtable in Washington emerged to help stem the anti-business tide, and several corporate leaders in California, led by Packard, Dart and Southern Pacific chairman Ben Biaggini, saw a need for a similar organization in California, particularly after the election of Jerry Brown as governor.

The California Roundtable was formed to battle what was

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