

California Grand Juries Have Broad Jurisdiction

By Jim Davis

"You and each of you, will support the Constitution of the United States and of the State of California, and all the laws made in pursuance thereof and in conformity therewith, diligently inquire into, and true presentment make, of all public offenses against the people of this state, committed or triable within this county, of

which you shall have or can obtain legal evidence." That is the first sentence of the oath taken by grand jurors in California.

It was that first sentence which prompted the reporters' curiosity when the Santa Cruz county grand jury began making recommendations on salaries of elected officials.

A further perusal of the grand jury statutes reveals to the writer no obligation to recommend on salaries.

In addition to specific duties pointed up in the California codes, The California Law Review recently published an article on grand jury history and duties.

This lengthy article pointed up the fact that "The California grand jury has very broad jurisdiction (in criminal matters). It may inquire into all public offenses committed or triable within the county. It is not to act on mere rumor or suspicion. Also it is not to act as a supervising administrative agency over the public officers in the county by inquiring into any of their activities it may choose; it is only to inquire into the willful or corrupt misconduct in office of such officers."

The grand jury actually is an arm of the superior court and designed primarily to investigate allegations of a criminal nature.

California is one of 19 states where a person may be tried for a felony without first being indicted by a grand jury.

However, this does not mean that a California grand jury cannot indict. Actually, a state constitution amendment in 1879 provides:

"Offences heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment as may be prescribed by law."

Although early English common law requires a grand jury membership of 23, California grand juries number 19 persons, 12 of whom must be in accord for rendering an indictment. Under the common law requirement of 23 members, 12 is the number who must be in accord on an indictment.

The earliest record on a grand jury we found in Santa Cruz county was that of 1905. This was a list of people who served on the panel.

What they did was not disclosed in the volume of grand juror's names on file in the county clerk's office.

Reports of grand jury activities have been filed as each jury was discharged since 1950. These indicate that only one criminal matter has been probed by a panel in recent times.

That matter was the Jehl-Moore fracas which resulted in the imprisonment of Raymond Jehl and the resignation of Charles Moore as district attorney last year.

The first grand jury probably

was established in ancient Athens and functioned as an accusing body prior to trial.

An early Anglo-Saxon king, Aethelred, who reigned from 980 to 1016 A.D. also sanctioned such a body which was sworn "neither to accuse any innocent man nor spare any guilty one."

King Henry II decreed in 1166, "For the preservation of peace and the enforcement of justice, inquiry shall be made in every county . . . through 12 or more lawful men . . . (if) there is any man accused or publicly known as a robber of murderer or thief, or any one who has been a receiver of robbers or murderers or thieves, since the lord king has been king."

These men serving as an accusing jury, were also allowed to sit on a trial jury.

In 1176 the list of crimes to be probed by them was expanded to include forgery, treason and arson. In 1290, the list again was enlarged and since then has grown to encompass every crime which we today consider felonious.

In the year 1314, the bodies were charged with probing into "neglect of police and other duties of countries and their subdivisions; the misdoings of all officials; the usurpation or misuse of franchises; and the proprietary rights of the crown, such as escheats, wardships and other sources of revenue."

An interesting turn in the tale of the grand jury was taken in 1933 when the system was abolished in England, the land where it received its greatest growth, if not birth.

Many American judges today consider the grand jury an obsolete method of investigation.

California Supreme court has ruled that is not the duty of the grand jury to "detect" crime. This, the court has said, is the duty of the sheriff, the district attorney, and other enforcement agencies.

Duties include the investigation of transfers of ownerships of land which might escheat to the state, examination of books, records and accounts of county officers and city boards of education together with the right to order the district attorney to institute suit to recover any monies which appear from such examination to be due the county. The grand jury also is obligated to inquire into the condition and management of the public prisons and into the case of every person imprisoned in the county jail who has not been indicted.

Under California law, a grand juror discharged from duty may not serve on the next succeeding grand jury panel. However, the court is not obligated to discharge a grand jury and appoint a new one each year. He may hold the panel over, if he so desires.

Among recommendations made by Santa Cruz grand juries since 1950 are that the county employ a county administrative officer; that county ordinances be codified; that the offices of coroner and sheriff be consolidated; that these offices not be consolidated; that the offices of district attorney and public administrator be consolidated; that these offices not be consolidated; that the offices of county clerk and county recorder be consolidated; that these offices not be consolidated; that county records be microfilmed for ease of storage, and that the offices of county surveyor and county road commissioner be consolidated.

Since 1950 the grand juries have scored the county's apathy toward the county probation department, contending the probation officer is overworked

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— * (Author's Name Below) —

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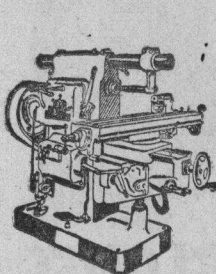
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