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Issue Editor's Preface

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Issue Editor's Preface

The passing of Professor George W. Goble on September 20, 1963, was a great loss to the legal profession as well as to Hastings College of the Law. A great educator and a wonderful man, he will be greatly missed by both faculty and students at Hastings. It is with respect and admiration that we dedicate this issue to his memory. We present as our first material a memorial to Professor Goble by Albert J. Harno, his former dean at the University of Illinois and long time friend.

The writs of certiorari, mandamus, prohibition, habeas corpus, quo warranto, and supersedeas are often called "extraordinary writs" because they can be invoked only when ordinary remedies are unavailable or inadequate. These writs provide a review which is concurrent with the normal review by appeal, the subject to which the last issue of the JOURNAL was devoted. The requirement that there be "one final judgment" before an appeal may be taken is a fundamental principle of appellate practice in the United States. However, certain final orders and judgments are not appealable. The extraordinary writs provide review when final orders and judgments are not appealable, when appeal is not presently available, and when available appeal appears inadequate. The purpose of this issue is to consider the rules applicable to the issuance of these writs and to present discussions of some of the current problems in this field.

In "One Supreme Court and the Writ of Certiorari," J. Warren Madden, a judge of the U. S. Court of Claims from 1941 to 1961 and now a Professor at Hastings, presents an historical picture of the judicial power of our government. The Act of March 3, 1891, introduced an important innovation into federal procedure — review by the writ of certiorari. By this device a long step was taken in the direction of bringing order and uniformity into federal decisional law. Judge Madden discusses certain changes since the Act of 1914 with regard to the Supreme Court's review by certiorari, and he points out that we are by this writ now getting the best that it is practicable to give us.

William B. Boone, member of the Sonoma County Bar and a specialist in appellate practice, follows with "Prohibition: Use of the Writ of Restraint in California." Mr. Boone presents an illustrative review of the principles affecting the issuance of prohibition and its use before, during, and after trial. He concludes that the writ has served as a useful, important, and even vital means of review in instances where a prompt determination of the fundamental rights of parties is essential to justice.

Carlo S. Fowler, a San Francisco attorney, next discusses the principles relating to the nature and effect of discretionary jurisdiction

of California appellate courts over original proceedings in mandamus in his interesting article, "Mandamus as an Original Proceeding in the California Appellate Courts." Mr. Fowler points out that if certain conditions are met, the advantages of filing a petition for mandamus as an original proceeding are that the benefit of an appellate court decision is immediately available without the necessity of taking an appeal to that court and that a final authoritative decision can more expeditiously and economically be obtained.

Rounding out the lead material is "Review of Criminal Convictions by Habeas Corpus in California," by Deputy Attorney General Robert R. Granucci. This article deals with the most challenging and controversial aspect of habeas corpus — its availability to review a final judgment of conviction. Mr. Granucci explains how the writ has been developed into a remedy which supplements but does not substitute for appellate review. His discussion of the procedure for habeas corpus, including the matters reviewable and the prerequisites for review, should be very helpful in understanding the use of the writ.

Following these lead articles are student notes dealing with problems concerning the writs of certiorari, quo warranto, prohibition, and supersedeas and a book review by Professor Judson A. Crane.

Departing once again from our usual format, we have included Professor Richard R. B. Powell's timely article, "The Relationship Between Property Rights and Civil Rights," in which he discusses the important problem of the United States' treatment of its minorities. He relates numerous situations in which property owners' rights have been cut down to assure the larger liberties of other human beings, for the promotion of social welfare. Professor Powell suggests that it is contrary to both the safety and general welfare of white Americans to continue practices of discrimination within our borders which hurt the self respect of untold millions around the world and which furnish to our ideological enemies the strongest arguments against our sincerity.

The staff extends its gratitude to the authors, student writers, and the many others whose efforts and assistance are represented by this issue.

SAMUEL A. B. LYONS
Issue Editor