

IN CHAMBERS

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Texas officials discuss judicial reforms

Gov. Mark White called leaders of Texas' executive, legislative, and judicial branches together for a rare two-day joint meeting in Austin late last year to garner advice on what changes in the judicial system should be made during the next legislative session.

While not all agreed on what needs to be done, there was a general consensus that the state's judicial system should be reformed.

Justices of the Supreme Court, judges of the Court of Criminal Appeals, 14 Court of Appeals chief justices, nine Administrative District Judges, the past and present chairmen of the Judicial Section of the State Bar, three legislators who lead the Select Committee on the Judiciary, and the State Bar president were invited to the conference held Dec. 9-10, 1983.

At the onset, the Governor outlined the reasons for the assembly.

"The judicial system in Texas has remained basically unchanged for twenty years while the population has grown tremendously and in-



OPENING DIALOGUE: (l-r) Gov. Mark White, Court of Criminal Appeals Presiding Judge John F. Onion, Jr., Sen. Ray Farabee, and State Bar President Blake Tarrt listen as Second Administrative District Presiding Judge Thomas J. Stovall, Jr., lists ways courts can be made more efficient through the use of technology.

creased the burden on the courts," said White.

"This conference is to learn what the courts need to do to overcome existing problems. Do we need more courts? Is technology the answer? What about jurisdictional changes?"

Texas Supreme Court Chief Justice Jack Pope responded by saying; "We don't need new judges, we need more staff and technology. Progress is being made, but the third branch of government needs help."

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Between

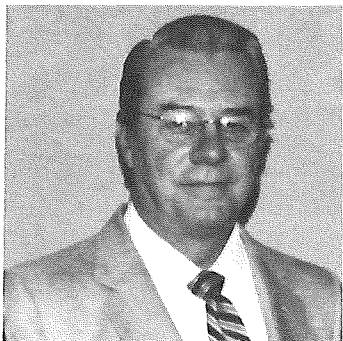
Regional conferences teach judges new laws and rules.....p. 2

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Supreme Court committees study education, technology and budgetary reforms.....p.13

the Lines

- Leading Remarks -



Chairman Cornelius

by Chief Justice
William J. Cornelius,
Judicial Section Chairman

Some very good things came out of the recent Governor's Conference on the Judiciary. Gov. White exhibited an intense interest in improving the judicial system, and pledged the full resources of his office and staff in achieving

needed reforms and advancements.

Several leading legislators also attended the conference, and it was the general agreement that we should move toward: (1) establishment of restitution centers as alternatives to prison incarceration; (2) increased staff and technical support for existing courts and judges rather than creating more courts; (3) adding a small fee to court costs to be used for financing judicial education; (4) use of computer assisted transcription of court proceedings and automated legal research and case management; and (5) revising civil and criminal rules of appellate procedure to make them uniform.

The problems of judicial selection and retirement were not addressed specifically, but the House-Senate Select Committee on the Judiciary is planning to work on those items. If you have suggestions you would like to make regarding any of these matters, be sure to give them to the Governor and/or the Select Committee, whose Chairman is Sen. Ray Farabee.

We have launched upon this year's regional judicial conferences presented by the Texas Center for the Judiciary. The first at Corpus Christi was a great success. The other conferences will be Feb. 15-17 at Huntsville, March 7-9 at Wichita Falls, March 28-30 at Longview, and April 18-20 at Amarillo.

A very fine program is presented at each of these conferences. It covers the new DWI laws, sentencing alternatives including restitution centers, juvenile probation, the new venue statute, discovery and sanctions under the new rules, and proposed changes in the Judicial Conduct Commission. Be sure to make your plans to attend your regional conference.

Judge Longoria and his program committee are working on a great annual conference in September at Galveston. More about that later.

Judges learn new law, rules at conference

Society must learn what motivates drunken drivers because they are as dangerous as loaded and cocked pistols, County Court at Law Judge Robert Blackmon told more than 100 judges attending the South Texas Judicial Conference in Corpus Christi, Jan. 25-27.

The conference, sponsored by the Texas Center for the Judiciary, in conjunction with the Texas Department of Highways and Public Transportation, was the first of five regional seminars of the Texas Judicial College to be held this year.

Judge Blackmon was one of a faculty of 18-- including judges, probation officers, legislative representatives and attorneys -- who lead conference participants in two days of discussions on issues including:

- the elimination of deferred adjudication in DWI cases;

- use of a defendant's refusal to take a blood alcohol test as admissible evidence in court;

- the required use of videotape equipment in all counties with populations greater than 25,000; and

- constitutional issues raised by the new DWI statutes.

"Communities are asking for the courts to crack down on drunken drivers," said the Center's executive director, Jack H. Dillard. "Our goal is to thoroughly acquaint judges with the new laws so they can implement them fully and effectively."

See CONFERENCE, p. 8



Judges Lee Green and Robert Lozano make notes in their benchbooks during one of the 26 presentations made by experienced judges at the College.



Several of the new judges tour the TDC printshop facilities after class.

College for New Judges

500 graduates and counting!

CHOOSE THE BEST ANSWER:

New judges should:

- a) explain courtroom procedures to the jury;
- b) control their visual reactions to happenings in the courtroom in order to avoid the appearance of favoritism;
- c) keep in touch with the community;
- d) be willing to lose reelection to maintain judicial independence; or
- e) all of the above.

If you chose "e", the correct answer, you are probably:

- a) a recent graduate of the 1983 Texas College for New Judges; or
- b) a College alumnus.

If you are either, you are one of an increasing number of Texas judges.

The graduation of 63 recently-appointed jurists from the 1983 Texas College for New Judges brings the total of judges who have completed the nine-year-old educational program to 534.

In 1974, nearly 60 judges graduated from the

first College. The first "student" to receive his diploma that year now sits on the 82nd District Court bench in Marlin.

"I have some of the material they gave me down at the College on my bench right now," said Judge Thomas B. Bartlett, Jr.

"Ten years ago, I thought I knew all there was to be a judge. I went to the College and realized I did not. I think it's wonderful the program is still going. It has saved a lot of us from hearing 'reversed'," he added.

"...I thought I knew all there was to be a judge. I went to the College and realized I did not."

*District Judge
Thomas B. Bartlett, Jr.*

Four hundred and ninety-nine graduates later, that attitude still prevails. County Court at Law

Judge Joe Grubbs of Waxahachie, the celebrated 500th graduate, said of his achievement, "It would have been less embarrassing if I had been number 499 or 501.

"Seriously though, I'm very proud of my certificate. I think the College is an excellent opportunity for a week of concentrated learning and getting to know fellow judges. I hope there will be another 500 graduates from the school."

"180-DEGREE TURN"

The 1983 College, held November 27 - December 2 at the Criminal Justice Center on the Sam Houston State University campus in Huntsville, offered 29 hours of judicial education taught by a faculty of 25 Texas judges with more than 300 years of courtroom experience between them.

Students received a plethora of information on both civil and criminal courtroom procedures.

On the first day of the seminar, Court of Criminal Appeals Judge Tom G. Davis

cont. on next page

told participants, "There is not a transition made in any other profession that is similar to that of advocate to judge. You not only make a 180-degree turn in professional life, but it affects your personal life as well.

"This program is designed to bridge that gap," he said.

Speakers' presentations spanned subjects such as a judge's conduct, trial proceedings and the new rules of civil procedures.

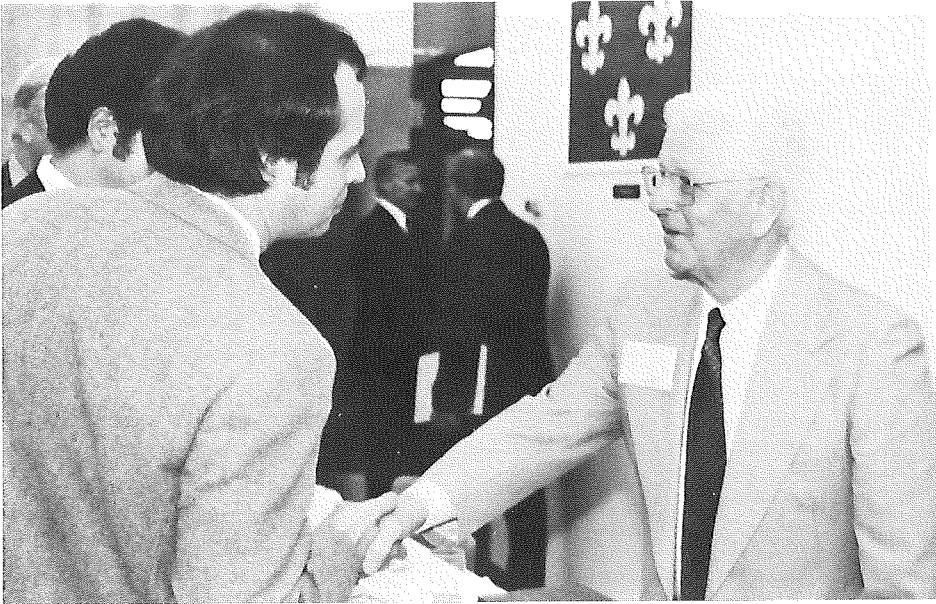
Supreme Court Justice William Kilgarlin gave the first public explanation of the revised civil rules (which becomes effective April 1, 1984) at the College. The rules cover the most costly part of any trial today, he said.

"These new rules give you more latitude and flexibility for handling discovery in your court than ever existed before. It's up to you to use them carefully.

"Remember, if we are to control this litigation which is literally eating us alive, we're going to have to use the tools available to us even if they're not politically popular," Kilgarlin said.

Supreme Court Chief Justice Jack Pope also warned the new judges not to be hesitant in exercising their legal powers.

"A judge must be willing to lose re-election to keep his or her judicial independence," Chief Justice Pope told the new judges.



SHAKY BUSINESS: (Top) Texas Supreme Court Chief Justice Jack Pope greets District Judge Juan Gallardo of Austin after his address to the new judges in which he advised them not to fear losing re-election. (Middle) County Court at Law Judge Ruth Blake of Tyler receives her certificate from College Dean Quentin Keith to become the 30th female judge to complete the College. (Below) District Judge Jorge Rangel of Corpus Christi beams proudly as he accepts his graduation certificate from Dean Keith.

Attendance to the College became mandatory (contingent on available funds) beginning Jan. 1, due to a law enacted by the 1983 Texas Legislature.

"Just 10 years ago they thought all you had to do was get appointed or elected, buy yourself a robe, and you were a judge," District Judge Thomas B. Thorpe (203rd District Court) of Dallas said. "Fortunately for all of us, this program now exists," added Thorpe, a long-time faculty member.

Other members of the College faculty included: Chief Justice William J. Cornelius, Chairman of the Judicial Section, State Bar of Texas; Supreme Court Justice Charles W. Barrow; Texas Court of Criminal Appeals Judges Davis, Charles F. Campbell, Jr. and Sam Houston Clinton; retired Ninth Court of Appeals Justice Quentin Keith of Beaumont, dean of the Texas College for New Judges;

Judge Thomas J. Stovall, Jr., of Houston, presiding judge of the Second Administrative Judicial District; Judge Herman Jones of Austin, presiding judge of the Third Administrative Judicial District; retired Judge Leon Douglas and retired Justice Zollie Steakley, who are now special assistants in the office of Gov. Mark White.

Courts of Appeals justices on the faculty were: Justices Earl W. Smith, Austin; Shirley W. Butts, San Antonio; James K. Allen, Dallas; Chief Justice Charles L. Reynolds, Amarillo; Richard N. Countiss and John T. Boyd, both of Amarillo.

Trial judges serving as faculty included: George M. Thurmond, Del Rio; Temple Driver, Wichita Falls; Robert C. Wright, Lubbock; Thomas A. Thomas, Beaumont;

faculty member, attended four days of the College.

Many of the new judges, such as Judge Bobby L. Cummings, 52nd District Court, of Gatesville, said they had.

"I feel like I've learned a great deal and am definitely more confident of my ability to serve as district judge," said Cummings.

Judge Ken Dale Harrison of the 334th District Court, Harris County, also said he

thought the judicial college was a good idea.

"They've gathered up some of the greatest legal minds in Texas and are letting us tap into their knowledge and experience," he said.

"I'm delighted with the college and think it should have been mandatory years ago," Harrison added.

Newly-appointed Judge Jorge Rangel, 347th District Court, Corpus Christi agreed, saying, "I do not know what judges did before the Col-

lege was available."

They learned through trial and error, a costly method in both time and money, according to Chief Justice Reynolds.

"Jurists who have attended the College generally make better decisions and are reversed less frequently on appeal," Reynolds said. ☉



ANOTHER MILESTONE: Judge Joe F. Grubbs (center) becomes the 500th jurist to graduate from the Texas College for New Judges. College Dean Quentin Keith (left) and Jack H. Dillard, executive director of the Texas Center for the Judiciary, celebrate the auspicious occasion by presenting Judge Grubbs with his certificate. The two made 32 similar presentations afterwards, bringing the total number of judges who have completed the coursework of the College to 532.

Patricia R. Lykos, Houston; Thomas B. Thorpe, Dallas; Linda B. Thomas, Dallas; Larry Gist, Beaumont; and B.B. Schraub, Seguin.

ADDING CONFIDENCE

Judge Linda Thomas, said, "I only hope the new judges learned half as much as I did during the week." Judge Thomas, a first time

WORDS OF EXPERIENCE

The following are some suggestions faculty members made during their presentations to the new judges.



- ✓ Keep the two-volume benchbook containing written copies of each faculty member's presentation in reach. You'll get home and dig out these books and find a paper on a problem that will save yourself three hours of digging elsewhere.
- ✓ The judge is indeed, the trustee of a just society.
- ✓ Occasionally read Canon 1 of the Judicial Code of Ethics.
- ✓ Memorize the jury charge, use a court reporter to record everything, and make a clear, concise record.
- ✓ Watch your language and don't react visually to anything while in the courtroom.
- ✓ Keep the jury informed as to court proceedings and state the jury voir dire in plain, easily-understood language.
- ✓ Don't let the job consume you. Try to do something non-judicial everyday.
- ✓ Take a 15 minute recess to check the law and you will avoid many pitfalls.
- ✓ Respect your legal instincts.
- ✓ Utilize sanctions not merely to punish offenders but to deter violations by others.
- ✓ Stay in touch with your community. Speak to civic groups, appear on television or radio talk shows, and participate in Bar activities.
- ✓ You must be willing to lose re-election in order to maintain your judicial independence.



"It's hard to look up to a judge who has his ear to the ground--"

Winston Churchill

cont. from p. 1

DISCUSSIONS

Ninety-eight percent of all judgments are by state courts, Pope said. And Texas courts sign four times as many judgments as all Federal courts.

"The work of the courts is bursting," Pope said. "If the judiciary is going to achieve excellence, judges must have character and courage, knowledge and wisdom, and skills in administration of justice".

Many jurists at the conference said the unique forum gave them optimism about implementing effective reforms. Supreme Court Justice Ted Robertson said, "I think this conference will help us bring the judiciary up to the 21st century, where we belong. We've been in the vineyards for too long."

Supreme Court Justice Franklin Spears added, "It's going to take this kind of 'trialogue' -- if you will -- to make this thing work."

The Governor's conference covered five major subjects. They included:

Criminal justice policies -- The issue of removing sentencing decisions from juries was greeted with lively debate. Sen. Ray Farabee (D-Wichita Falls), a strong advocate of placing the responsibility for sentencing solely with judges, said such a system would reduce the disparity of sentences and reduce the backlog of cases found in nearly every state court.

But several appellate court members, including Justice William Kilgarlin, Justice Clarence Guittard, and

See DISCUSSIONS, p. 12

1983 TEXAS COLLEGE FOR NEW JUDGES



FIRST ROW, l-r:

Robert Lozano, San Antonio
 Thomas J. Stovall, Jr. Houston
 Linda Thomas, Dallas
 Temple Driver, Wichita Falls
 Quentin Keith, Beaumont
 Sam Houston Clinton, Austin
 Marilyn Aboussie, San Angelo
 Maxine Darst, Kaufman
 Jack Dillard, Austin
 Elma Teresa Salinas, Laredo
 Lee Green, Pecos
 Jay Miller, San Antonio

SECOND ROW, l-r:

Charles Campbell, Austin
 L. Clifford Davis, Fort Worth
 Ruth Blake, Tyler
 Robert Burdette, Houston
 Brian Carper, Fort Worth
 Donald Ross, Henderson
 Maryellen Hicks, Fort Worth
 Tom Stansbury, Richmond
 Michael Schattman, Fort Worth
 Alonzo Rodriguez, Sinton
 Davie Wilson, Houston
 Jorge Rangel, Corpus Christi
 Mary Bacon, Houston
 Juan Gallardo, Austin

THIRD ROW, l-r:

Andrew Vogel, Fort Worth
 Juan Velasquez III, Victoria
 Norman Lee, Houston
 Daniel Sklar, Wharton
 Harold Towslee, Caldwell
 Ray Grisham, Sherman
 Frank Sullivan, Fort Worth
 Richard Bosworth, Greenville
 Joseph Terracina, Houston
 George Crowley, Fort Worth
 Gus Strauss, Hallettsville
 Lupe Salinas, Houston
 Jay Johnson, Tulia
 Hugo Touchy, Houston
 John Thoma, Galveston
 Paul Davis, Austin

FOURTH ROW, l-r:

Joe Grubbs, Waxahachie
 Bobby Cummings, Gatesville
 Joseph Hart, Austin
 Carroll Wilborn, Jr., Anahuac
 Mickey Pennington, Uvalde
 Tom Schrandt, Seymour
 Joe Bruce Cunningham, Fort Worth
 Jack Pickren, Houston
 Jose Baca, El Paso
 Russell Drake, Houston
 Charles Dean Huckabee, Houston
 Ken Harrison, Houston
 Weldon Berry, Houston
 Jerry Sandel, Huntsville
 Jack Salyer, Bay City

NOT PICTURED: Earl B. Stover, Kountze.

CONFERENCE

Judge Blackmon of Corpus Christi, who lead a discussion on sentencing alternatives, said one of the most significant changes in the DWI statutes is the requirement of certain mandatory minimum jail sentences to second and subsequent offenders.

"The Legislature has broadened the authority of a judge in setting conditions of probation where probation is granted. If a court is to make any significant inroads pertaining to problem drinkers who drive, a judge must understand the extent of his or her authority in these cases," Blackmon said.

"These conferences will help judges to understand their broadened responsibilities," he added.

All of the speakers on DWI urged the conference participants to study the new bill thoroughly to understand its complexities.

Former Judge Carl Dally, now an assistant state's attorney, presented a comprehensive review of the statutes to the judges.



HOMETOWN HOSTS: District Judge Jack F. Blackmon, Justice Norman Utter, and District Judge Rene Haas (all of Corpus Christi) greet judges attending the twentieth annual conference as part of their "Host Judges" responsibilities. Judge Blackmon has been an associate dean of the Texas Judicial College for two years.

PRIMA FACIE: Judges John F. Dominquez of Edinburg and Diego Leal of Brownsville prove that the rigorous regiment of judicial education conferences can be endured with a smile.

"There are substantial changes in regard to implied consent; to the taking of blood and breath specimens; in the requisites and conditions for probation; in the penalty structure; in the family and insurance codes;



Judges pay tribute to conference founder

The conference for South Texas judges is a twenty year tradition.

Originally called the Mid-Winter Conference for South Texas Judges, members of the judiciary from San Antonio and any point south, met for their first conference in January, 1964.

The organization and financial support for the conference (the Texas Center

did not sponsor the conference until its first year of operation in 1973) was the responsibility of one man who sat on the 63rd district bench -- Judge John L. Miller of Sinton.

The founding father of the South Texas judges conferences was honored by those who have attended the educational seminars over the last two decades at a evening banquet, Thursday, Jan. 26.

Judge Miller, served as District Judge of the 63rd District court (encompassing Aransas, Bee, Live Oak, McMullen and San Patricio counties) from 1957 to 1979.



DWI DE NOVO: Judges Ricardo H. Garcia and Tony Zardennetta listen to the answers of many questions raised by the new DWI statutes which became effective January 1. Judges attending the conference heard an array of information about the new law, all of which was compiled in a benchbook and distributed by the Texas Center.

and in the definition of intoxication," he said.

"It is important for judges to be aware of all the changes. Each one is very significant. For example, 0.10 percent concentration of alcohol in the blood is now considered per se evidence of intoxication."

Other DWI speakers included Judge J. Q. Warnick, Jr, County Court at Law #2 in Lubbock, who discussed the state's pleadings and court's charges; and Justice Murry B. Cohen, on the First Court of Appeals in Houston,

who reviewed the foundations for DWI evidence.

Harris County Assistant District Attorney Calvin Hartmann and Houston attorney Allen C. Isbell lead a discussion on the constitutional issues raised by the new statutes.

Criminal District Court Judge Larry J. Gist of Beaumont offered suggestions to the judges on ways to handle unjust criticism from the public.

"We work in a fish bowl," he said. "We are public officials with an increasingly demanding public."

"Remember, you are fair game just like anyone else in the political forum. When MADD invites you to their meetings, do you go? Should you engage in private conversations with the relatives of victims?"

"Always think before you act," Gist said.

The conference's agenda also included an update on the revised rules of civil procedures and an overview of Gov. Mark White's program to relieve prison overcrowding through the use of restitution centers.

Three Supreme Court justices-- James P. Wallace, Franklin S. Spears, and William K. Kilgarlin -- discussed the revised civil rules which become effective April 1.

"The new rules cover the most costly part of any trial today," faculty member Justice Kilgarlin told the judges.

"Only if we are willing to utilize our sanction's

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Accolades and presents were offered by former judge Solomon Casseb of San Antonio, Justices Noah Kennedy and Joe Kelly of Corpus Christi, and Chief Justice Paul Nye also of Corpus Christi.

"The conferences have been successful only because judges, like yourselves, have attended," Judge Miller said.

A standing ovation followed Judge Miller's brief speech. ●

INTER VIVOS: Former Judge Solomon Casseb, Jr. and Justice Noah Kennedy present Judge John H. Miller with a "small token of appreciation for the many years of sound counseling" as his wife, Wilma, looks on.



ENDURING FRIENDSHIP: Judge and Mrs. John H. Miller are surrounded by long-time well-wishers (l-r) Chief Justice and Mrs. Paul Nye and Presiding Judge Joe Kelly.

authority are we going to avoid a serious problem."

Conference participants also learned how to establish restitution centers in their communities, a timely lesson for many whose counties -- including Nueces, Bexar, Hidalgo, Cameron, Bee, McMullen, and Live Oak -- are currently conducting studies and preparing grant applications to create such centers.

Mel Hazlewood, counsel for the Senate-House Select Committee on the Judiciary, said, "The enabling legislation for the creation of restitution centers passed with a consensus from the Texas leadership. Their intent was not to flush out TDC and put more criminals into communities."

The underlying rationales for the passage of the bill included cost effectiveness, rehabilitation of offenders, additional sentencing alternatives for the judiciary, and victim restitution, Hazlewood said.

"You can't send violent offenders or people with a drug abuse history to a center," he explained.

The executive director of the Adult Probation Commission, Don Stiles, narrated a slide presentation depict-

ing an established, working center. It also detailed the concept's development in Texas.

"We had the first center under way only 28 days after the legislation was signed by the governor," he said.

Other conference speakers included: District Judge Jerry F. Shackelford of Amarillo, who gave an overview of the Juvenile Probation Commission; the Juvenile Probation Commission's Executive Director Bill Anderson, who spoke on the duties and liabilities of juvenile boards; and Chief Justice William J. Cornelius of the 6th Court of Appeals in Texarkana, who gave a report on the Judicial Section of the State Bar of Texas. [see LEADING REMARKS, p. 2]

Also, the proposed alterations to the state Commission on Judicial Conduct were discussed by Justice John T. Boyd of the 7th Court of Appeals in Amarillo

"The constitutional amendment to be voted on in November makes some very radical changes to the Commission, and deserves serious consideration," Boyd, chairman of the Commission, said.

A recommendation to remove a judge from the bench,

for example, will no longer go to the Supreme Court, but to a tribunal of seven appellant justices, he said.

Attendance to the regional conferences, including the South Texas Judicial conference, satisfies a portion of a judge's 1984 mandatory judicial education requirements. A law passed by the 1983 Legislature requires all Texas judges to receive 16 hours of judicial education per year.

Many judges who attended the South Texas conference said they did so regardless of a mandate.

"I had a lot of questions about the DWI statutes," said County Court at Law Judge Joaquin Villarreal of Corpus Christi. "After attending the conference, the answers are clearer to me."

Judge Antonio A. Zardetta, 11th District Court in Laredo, said, "I found the conference very helpful and most appropriate. It was very informative and helpful in understanding the different facets of the law."*

*Texas Center
for the Judiciary, Inc.*

IN CHAMBERS

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AG OPINION:

Where can a County Court at Law convene?

The office of the Attorney General has recently released an opinion related to the judiciary. A complete copy of the opinion listed below may be obtained from the Attorney General of Texas, Supreme Court Building, P.O. Box 12548, Austin, 78711.

OPINION NO. JM-90
(Issued Nov. 9, 1983)

RE: Whether a county court at law must be located at the county seat.

Section 1 of article V of the Texas Constitution provides in part as follows:

The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof... County courts at law are established under authority of this provision. Sterrett v. Morgan, 294 S.W.2d 201 (Tex. Civ. App. -- Dallas 1956, no writ). The constitutional county courts are established by article V, section 15 of the Texas Constitution.

There is no constitutional provision which would require county courts at law to conduct their proceedings at the county seat.

Article 1602, V.T.C.S., provides that all terms of the county court be held at the county seat. However, this statute refers to county courts and not to county courts at law. Moreover, a statute is subject to amendment or implied repeal by a later statute. See, e.g. Popham v. Patterson, 51 S.W.2d 680 (Tex. 1932); Townsend v. Terrell, 16 S.W.2d 1063 (Tex. 1929). Section 4 of article 1605a-5, V.T.C.S., authorizes a commissioners court to designate facilities outside

of the county seat as auxiliary courts for purposes of conducting non-jury proceedings.

The constitutional provisions regarding county courts at law may be contrasted with article V, section 7, which provides that a district court "shall con-

duct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law."

OPINION SUMMARY: The legislature may create a county court at law to sit at some location in the county other than the county seat. ●

ETHICS OPINIONS

OPINION NO. 71

QUESTION: May a judge serve on the Institutional Review Board of the Mexia State School?

FACTS: The Mexia State School is a state eleemosynary institution. Tex. Rev. Civ. Stat. Ann. art. 3263c (Vernon 1968). The Institutional Review Board, appointed by the Superintendent of the School, is responsible generally for reviewing and overseeing research at the School.

ANSWER: The committee is of the opinion that service on the Mexia State School Institutional Review Board would violate the Code of Judicial Conduct. Canon 5G restricts a judge's service on governmental boards by providing that a judge should not accept appointment to a governmental committee, commission or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice.

OPINION NO. 72

QUESTIONS: (1) Can a judge place an advertisement in the personals section of the newspaper classified ads to inform the public that he will perform marriages? The ad would read either "Weddings by Judge -- home phone number," or "Weddings Performed -- home phone number."

(2) Can a judge charge a fee to perform a wedding? Does the location of the wedding matter as to whether there can be a fee, i.e., in chambers vs. a house call or other private place?

ANSWER: The committee is of the opinion that a judge who advertises the performance of weddings and charges fees for weddings violates the Code of Judicial Conduct. Section 1.83 of the Family Code (Vernon Supp. 1982) authorizes a judge to perform weddings. To advertise and charge fees for a service the judge can perform only because of his judicial office violates Canon 5C(1) which requires a judge to refrain from financial dealings that exploit his judicial position.

DISCUSSIONS

Chief Justice Howard Fender, opposed the idea.

"It's not going to be a popular thing to get through the Legislature," Kilgarlin said. "It's also going to be expensive because of the additional probation officers needed for presentence investigations."

Others said that the appeal of sentences might overload appellate courts, adding that the retention of the "human factor" provided by juries in sentencing is essential in defining the public's concept of "justice."

Effective use of judicial manpower -- Chief Justice Pope suggested experimenting with transferring underutilized judges into urban courts a certain number of weeks each year in an attempt to achieve equalization of district court dockets.

Supreme Court Justice C. L. Ray also urged the continued use of masters, referees, and magistrates.

Judicial structuring (jurisdictional and budgetary reform) -- Jurisdictional reform proposals included the drafting of legislation to provide a uniform differentiation between the jurisdiction of the District Courts and the County Courts at Law. The statutory establishment of a statewide, uniform jurisdiction for District Courts and County Courts at Law was also suggested.

Budgetary reform discussions centered on the creation of a Judicial Budget Board and a revamp of the judicial retirement system.

Rep. Bob Bush and Governor White said the chances for budgetary reform would be increased if a judge's public image of accountability was different.

Governor White commented: "Judges must be cognizant of press relations: for example, are courtrooms occupied at 8 a.m. and on Thursday afternoons?"

Blake Tarrt, president of the State Bar of Texas, added, "We must educate the public to realize that a dark courtroom does not mean the judge is not working."

Judicial education -- The discussion on developing a permanent funding source for judicial education programs was lead by Supreme Court Justice Charles Barrow

"A well-trained judge can save an astronomical amount of money," he told the Governor. "But the problem facing the Texas Center for the Judiciary is funding."

Barrow suggested increasing court costs by \$1 to establish a fund administered by the Supreme Court to fund the Center's continuing judicial education programs.

Technology and the courts -- In order to expedite the preparation of trial records, Chief Justice Evans recommended placing computer-assisted transcription technology in counties where trial courts have sufficient case volume to effectively use them.

On Saturday, the conferees passed five resolutions:

- supporting a program to explore all viable alternatives to incarceration, including restitution centers, and support of programs to acquaint and educate the public and the judiciary about such alternatives;

- commending the Supreme Court and the Court of Criminal Appeals for expediting the promulgation of uniform rules of appellate criminal and civil rules of procedure;

- supporting the creation of a Judicial Budget Board and recommending a uniform budget for the judiciary;

- recognizing the need for continuing judicial education, and urged the Legislature to assess \$1.00 for all filings of civil cases in district and county courts, and \$.50 for all justice court civil filings and allow the Supreme Court to distribute the funds for financing judicial educational programs; and

- supporting the study and implementation of technological advancements to the courts, including the implementation of automated case management systems, computerized assistance for court reporter's transcription of records, and automated legal research.

Not every question raised was answered to the satisfaction of all. Nonetheless, the communication lines that were strung between the government branches during the conference were a welcomed innovation, many participants said.

"I've been in the judiciary for 20 years, and this is the first time I've felt comfortable with a dialogue between the three equal branches of government," Chief Justice Charles Reynolds said.

Chief Justice Evans added, "We met here today because we have a governor who is not only interested in the system, but understands the system and is courageous enough to do something to change it."*

Committee drafts unified proposal

"We must all hang together or assuredly we shall hang separately," Benjamin Franklin once said.

Members of the Judicial Budget Board, who first met in Austin on Feb. 3, might consider adopting Franklin's words as their motto.

Created to prepare and submit a unified budget for the judicial branch to the 1985 Legislature, the 18-member Board met to discuss a 40-page proposal of policy considerations.

The proposal touched on six major topics, including: a simplified appropriation format; judicial salaries; the personnel needs of presiding judges of administrative judicial districts and district courts; and the judicial retirement system.

Before the meeting, Chief Justice Jack Pope said, "There is a great deal of unrest among the judiciary about this report. But I think we can thrash out our differences and come in with a unified approach."

That optimism spread to other members of the Board until they broached the subject of judicial salaries.

"This is the most potentially divisive thing that will affect our unified efforts," District Judge B.B. Schraub of Seguin said.

The chair of the Board, Supreme Court Justice Robert M. Campbell said, "The problem is not how [judicial salaries] rank in the nation, but the disparity that exists between the supplemented and unsupplemented counties."

Salaries of Texas appellate justices rank 6th in the nation, while district judge salaries are 20th according to a survey of judicial salaries published by the National Center for State Courts in November, 1983. The rankings are based on the lowest salary of the range or on salaries without supplements, the survey notes.

After a lengthy review of the proposals, the Board

agreed to recommend:

- using a simplified appropriations format that would include only two items -- "Salary of Judges" and "Other Administration."

- placing an unexpended balance authority both in the appropriations for the individual courts and as a general rider at the end of the appropriations for the judiciary;

- setting salaries of district judges at 85% of the salary provided for the justices of the Supreme Court;

- transferring appropriated funds from one Court of Appeals to another on approval of the affected Courts of Appeals and the Supreme Court;

- adding personnel and resources to the Presiding Judges of the Administrative Judicial Districts to develop their offices into "viable managerial offices for the trial courts";

- establishing a

cont. on next page

What's needed?

Members of the Supreme Court Education Committee are studying proposals to implement the mandatory judicial education bill passed by the 1983 Legislature and will probably have their recommendations ready within the next several weeks.

Appointed by the Supreme Court on October 31, the nine-member Committee is chaired by Associate Justice Richard N. Countiss of the 7th Court of Appeals in Amarillo.

Justice Countiss, Court of Criminal Appeals Judge Tom G. Davis of Austin; and

137th District Court Judge Robert C. Wright of Lubbock County, will serve six-year terms.

Four-year terms will be held by 164th District Court Judge Peter S. Solito of Harris County; County Court at Law Judge Robert Blackmon of Nueces County; and County Court Judge C. Edward Miller of Bowie County.

Criminal District Court Judge Ron Chapman of Dallas, and Professor J. Edgar Hadley, Jr. of Lubbock County, will serve on the committee for two years.

A one-year term will be served by Chief Justice William J. Cornelius, Jr., 6th Court of Appeals in Texarkana, who is Chairman of both the Board of Directors, Texas Center for the Judiciary, and the Judicial Section, State Bar of Texas. Ⓢ

statewide fund to provide support personnel and equipment to individual district judges (to be administered by the Judicial Budget Board);

- including a solution to the funding problem of the Judicial Retirement System in any package of legislation affecting the judiciary; and

- maintaining the current benefits for all judges presently in the Judicial Retirement System.

"This meeting helped us establish priorities. Now we are seeking input from appellate and district judges to fine tune the proposals," Justice Campbell said.

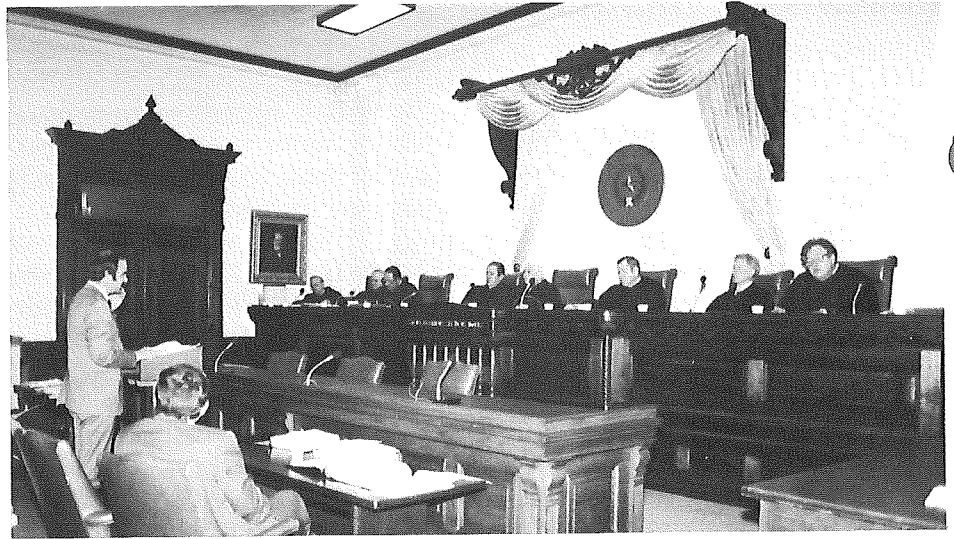
The Board will meet again in Austin on March 30. Their final budget proposals will be submitted to the Supreme Court June 15.

Members of the Board include: Chief Justice Pope, Justice Campbell, Chairman; Court of Criminal Appeals Judge Michael J. McCormick; and the following Chief Justices of the Courts of Appeals: Frank G. Evans, Houston; Austin McCloud, Eastland; and Paul W. Nye, Corpus Christi; Associate Justices Bob Gammage, Austin; Lee Duggan, Jr., Houston; Bob Shannon, Austin; and Joe Spurlock II, Fort Worth.

District Judges on the Board include: Ray D. Anderson, Brownfield; Neil Caldwell of Angleton; Barbara G. Culver, Midland; Ben Z. Grant, Marshall; Raul L. Longoria, Edinburg; W.T. McDonald, Jr., Bryan; and Charles Murray, Fort Worth.

Hi-tech justice

Chief Justice Jack Pope also appointed a Technology Advisory Committee to study the use of automated equipment and legal research by Texas appellate courts.



DEJA VU: The Supreme Court hears oral arguments every Wednesday, but usually not in the setting pictured above. The Old Supreme Courtroom on the third floor of the State Capitol building has not seen the likes of black-robed judges and blue-suited lawyers for a quarter of a century. The historical event occurred Jan. 12, after a circuit breaker in the Supreme Court Building blew, leaving not only the Supreme Court but the Court of Criminal Appeals and the Third Court of Appeals in the dark.

Chief Justice Jack Pope originally suggested that each court set up shop under the big trees on the lawn. "It's cold enough to shorten arguments," he said. Reasonable doubt in the minds of other court members prevailed. They dissented, and Chief Justice Pope quickly arranged the change of venue.

The economic feasibility of implementing computerized transcription and automated systems headlined the committee's first meeting in December.

"Everyone has a bias," said First Court of Appeals Chief Justice Frank G. Evans, committee chairman. "We've appointed subcommittees to look at the equipment and to prepare specifications and cost estimates."

Those proposals, which could include locating a centralized digest system at the state law library or the State Bar, will be presented to the Court by the end of March, Evans said.

Members of the committee are: Chief Justice Evans, Supreme Court Justice Robert M. Campbell; Court of Criminal Appeals Judge Michael J. McCormick; 14th Court of Appeals Justice Paul C. Murphy; the Chairman of the Board of the Houston-based Rockwell Fund, Inc., Joe M. Green, Jr.; El Paso attorney Don F. Hagans II; and Austin attorney Jerry Keys. ♦



JUDICIAL NOTICES

Retired judges select new group leader

"Back to Work Judges", a group formed last year to encourage retiring judges to remain active judicial officers, will again convene at the Annual Judicial Section Conference.

Judge Thurman M. Gupton, retired from the Court of Criminal Appeals, will chair the meeting of retired judges to be held during the convention, which is scheduled for Sept. 25-29 in Galveston.

Suggestions for agenda topics should be sent to Judge Gupton, 509 E. Bernard, Box 777, West Columbia, Texas, 77486.

HOPKINS, JUNELL REAPPOINTED TO COMMISSION

Judges Harry Hopkins and William E. Junell will remain members of the Commission on Judicial Conduct for six more years as a result of appointments made in December, 1983.

Originally appointed to fill two years of an unexpired term on the Commission in 1981, Judge Hopkins (43rd District Court) of Weatherford was reappointed by the Supreme Court and is the Commission's Vice-Chairman.

Until his recent election to the Executive Committee of the Judicial Section of the State Bar, Judge Hopkins had served nine years as a member of the Section's Ethics Committee.

Judge Junell, associate justice on the 14th Court of Appeals in Houston, was also reappointed by the Supreme Court.

Other Commission members include: Judge John T. Boyd (7th Court of Appeals, Amarillo), Chairman; Judge Raul L. Longoria (139th District Court, Edinburg); Jamie Clements; Mike Maros; Robert Parsley; Col. Nathan I. Reiter, Jr.; Robert D. Rogers; and Scott Taliaferro, Secretary.

NEW JUDGES ON THE BENCH

Jake Cook was named by Tarrant County commissioners to preside over the newly-created County Criminal Court No. 5 in Fort Worth, Dec. 1, 1983.

John M. Delaney replaces Judge J. Bradley Smith on the 272nd District Court bench in Bryan. Judge Delaney was appointed Jan. 19, 1984.

Alex R. Gonzalez is now judge of the 83rd District Court which covers Brewster, Jeff Davis, Pecos, Presidio, Reagan and Upton counties. Gov. Mark White appointed Gonzalez to the bench following the Jan. 31 retirement of Judge William H. Earney of Marfa.

John R. MacLean replaces Judge C. C. "Kit" Cooke, III on the 249th District Court bench which covers Johnson and Somervell counties as Jan. 31.

Joshua W. E. Taylor assumed the 303rd District Court bench in Dallas County on New Year's Day. Taylor was appointed to replace Judge Dan Gibbs of Dallas who retired on the last day of 1983.

William A. Thomas, Jr. started the new year as judge of the newly-created 350th District Court in Taylor County.

Mike Westergren sits on the 214th District Court in Nueces County as of Jan. 2. He was appointed to fill the vacancy created by Judge Steven W. Fieldcamp's resignation.

Melvin D. Whitaker was named to the new 349th District Court bench which encompasses Houston and Anderson counties Jan. 1.

TEXAS CENTER CONTRIBUTIONS

The Texas Center for the Judiciary, Inc. received the following contributions since publication of the last "In Chambers:"

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MEETINGS OF IMPORTANCE

Senate-House Select Committee on the Judiciary Sub-committee Meetings

March 2, 1984
9:00 a.m.

Room 309, Capitol Building
S/C on Indigent
Representation

March 9
9:00 a.m.

Room 100E, Reagan Building
S/C on Judicial Selection

March 16
9:30 a.m.

Room 309, Capitol Building
S/C on Judicial Education
and Court Reporters

March 16
1:30 p.m.
Room 309, Capitol Building
S/C on Jurisdiction and
Administration

March 23
10:00 a.m.
City Hall, Houston, Texas
S/C on Compensation and
the Retirement System

**Executive Committee,
Judicial Section,
State Bar of Texas**

March 23, 1984
Austin, Texas

June 28, 1984
San Antonio, Texas

**Board of Directors,
Texas Center for
the Judiciary, Inc.**

March 30, 1984
Longview, Texas



JUDICIAL CALENDAR



1984 CONFERENCES

Central Texas Judicial Conference
March 7-9, 1984
Wichita Falls, Texas

**Northeast Texas Judicial
Conference**
March 28-30, 1984
Longview, Texas

West Texas Judicial Conference
April 18-20, 1984
Amarillo, Texas

Criminal Justice Conference
May 9-11, 1984
Huntsville, Texas

**Constitutional County
Judges' Judicial Conference**
May 23-25, 1984
Quality Inn South
Austin, Texas

Court Management Seminar
June 18-22, 1984
Huntsville, Texas

**Annual Judicial
Section Conference**
September 25-29, 1984
Galveston, Texas

**Texas Association of
Court Administration**
October 23-26, 1984
Austin, Texas

Juvenile Justice Seminar
November 9-11, 1984
Austin, Texas

Texas College for New Judges
November 25-30, 1984
Huntsville, Texas

On the Docket

Texas Supreme Court Chief Justice Jack Pope tops the list of speakers who will address an estimated 100 constitutional county judges when they convene at the first judicial education conference sponsored by the Texas Center designed specifically for them.

The conference is scheduled for May 23-25 and will be held in Austin. The tentative schedule includes discussions on the new DWI laws and court docket management.

Complete conference information in the next, In Chambers.

Texas Center for the Judiciary, Inc.
P.O. Box 12487, Capitol Station
Austin, Texas 78711

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