

# IN CHAMBERS

Vol. 5, No. 4

December, 1978

## ARLINGTON CONFERENCE HIGHLIGHTS Officers, Amendments, Resolutions

The annual conference of the State Bar's Judicial Section held in Arlington in September concluded with the election of officers, the passage of By-Laws amendments, and the adoption of resolutions.

New officers are:

Chairman  
John Boyd  
64th District Court  
Plainview

Chairman-Elect  
Sam Johnson  
Supreme Court of Texas  
Austin

Secretary-Treasurer  
Clarence A. Guittard  
5th Court of Civil Appeals  
Dallas

Presiding at the business meeting, held on the final day of the conference, was Paul W. Nye, Corpus Christi Court of Civil Ap-

**ABILENE CHOSEN  
FOR 1979 SECTION  
CONFERENCE  
(SEE PAGE 5)**

peals chief justice and outgoing Section chairman.

### Amendments

In addition to selecting officers, conferees approved the following amendments to the By-Laws of the Judicial Section:

- Amend article IV, section 2, by deleting the dates December 1 and April 1 and substituting the dates January 1 and June 1, respectively.
- Renumber present section 4 as section 5 and insert a new section 4 reading:

Section 4. There shall be an Ethics Committee composed of nine members. Each chairman of the section shall appoint three members to serve for a period of three years. The Committee shall select one of its members to serve as chairman for a term of one year.

- Amend article V, section 1, by deleting the date June 1 and substituting July 1 and by adding the following:

Immediately following the conclusion of the meeting, a list of the nominees shall be furnished to the Chairman of the Section.

- Amend article VI by deleting the last sentence of section 3 and adding a new section reading:

Section 4. The officers shall be allowed to expend for clerical assistance the sums set by the Executive Committee.

- An amendment proposed from the floor by Judge Bryan Poff of Amarillo increasing the membership of the Section's Legislative Committee from eight members to fifteen. Members are to be appointed one member for each two state senatorial districts in order to provide better contacts with members of the Legislature.

### Resolutions

Four resolutions were also adopted by conferees attending the business meeting. A resolutions committee composed of Judges George E. Miller, chairman, Wendell Odom and Bill Shaver proposed the resolutions as passed. They are:

- After noting the "invaluable assistance" of the State Bar of Texas to the Texas judiciary in

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# AMENDMENTS, RESOLUTIONS PASSED

(Continued from Page 1)

carrying out the judiciary's role in the administration of justice, the Section membership unanimously resolved to "express to the Legislature of the State of Texas that the State Bar of Texas should be recreated as a strong and viable arm of the judicial department of this State and that it be granted sufficient powers to carry on its vital role in the proper administration of justice."

- A resolution extending the appreciation and thanks of the Section for "leadership and dedication" to Robert C. Flowers, executive director of the Criminal Justice Division of the Governor's Office, State of Texas.
- A resolution unanimously adopted supporting and encouraging the "promotion of a favorable vote on the proposed Constitutional Amendment to Article V, Section 6 of the Texas Constitution which would authorize the Legislature to increase the membership of the Courts of Civil Appeals from the present Chief Justice and two Associate Justices to a Chief Justice and two or more Associate Justices and would also permit Courts of Civil Appeals to sit in sections as authorized by Law with concurrence of a majority of Judges sitting in a section necessary to decide a case. . . ."
- A resolution unanimously passed supporting and encouraging "the passage of House Bill 14127, sponsored by Congressman Pickle of Texas and co-sponsored by Congressman Krueger, pending in the United States Congress. . . ." Copies of the reso-

lution were to be sent to each member of the Texas delegation in Congress, and each judge was requested to contact his local representative and urge support of the bill.

## Legislative Program

After passage of the resolutions, the conferees received a report from the Legislative Committee, chaired by Judge Lee Duggan. The following proposals, constituting the Section legislative program, were approved by vote of the conferees:

- Authorize judges to appoint their own bailiffs.
- Increase the travel expense allowance for judges serving multi-county districts from \$550 to \$1,000.
- Require that transcription of voir dire proceedings in criminal cases be predicated on a point of error requiring it. (By amendment from the floor, this proposal was amended to include also transcription of arguments of counsel.)
- Appropriate judicial salaries for the biennium as follows: Supreme Court and Court of Criminal Appeals—\$55,000/\$58,850, and \$1,500 additional per year for the Chief Justice and Presiding Judge; courts of civil appeals—\$50,000/\$53,000, with \$500 additional per year for each chief justice; district courts—\$42,500/\$45,500; and also a 10% raise for appellate court staffs.
- Amend article 200a, section 2a (4) by increasing the per diem allowance for visiting judges from \$25 to \$50 per day as an added inducement

to encourage judges to undertake the inconvenience of re-assignment.

- Authorize the selection of alternate jurors in criminal cases to avoid mistrials because of illness or absence of jurors.
- Establish guidelines to give trial judges authority to limit the voir dire time in criminal jury selection.
- Require designation of judicial incumbents on primary and general election ballots in cases of judges running for re-election after having been previously elected.
- Limit the right of appeal from municipal corporation and justice of the peace courts by defendants who have pleaded guilty or nolo contendere.
- Appropriate state funds for clerical assistance for the nine presiding administrative judges.
- Establish statewide standard jurisdiction for all county courts at law with civil jurisdiction to include civil matters up to \$20,000 (\$500 to \$20,000 concurrent with the district courts.)
- Provide that the salaries of county court at law judges be \$1,000 less than that paid to the district judge in the same county (including all sources) to be paid as follows: \$20,000 by the State of Texas and the balance by the county.
- Amend the election code to provide that the filing fee of all county court at law judges be the same as that of the district judges (\$700).

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James M. Farris

### Farris Receives 1978 Betts Award

James M. Farris, 317th Family District Court judge in Beaumont, was recently awarded the 1978 Charles O. Betts Award.

The award, sponsored by the Texas Institute on Children and Youth, is annually presented to the "outstanding juvenile court judge in Texas."

Named in honor of a retired juvenile court judge of Travis County, the award was first presented in 1977 to Waco district judge Bill Logue.



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Jack H. Dillard

Editor

Don Holmstrom

P. O. Box 12487, Capitol Station  
Austin, Texas 78711

## ETHICS OPINION

### Opinion No. 39

**Question:** Does a judge subject to the Code of Judicial Conduct violate *Canon 2B* and/or *5C(4)* by accepting an invitation from a firm of attorneys to be entertained with lodging, food and drinks for two nights and three days at a lake lodge? The outing is referred to as the firm's annual "Judicial Conference."

**Answer:** The Committee assumes that the name of the conference was chosen in jest or inadvertently; and, upon such assumption, gives an affirmative answer to the question as presented. Such answer, however, is confined to the precise factual situation presented.

The Committee is of the opinion that when one assumes judicial office he does not forfeit his

right to associate with his friends and acquaintances nor is he condemned to live the life of a hermit. In fact, such a regime would, in the view of the Committee, lessen the effectiveness of the judicial officer.

While a judge should so conduct his personal affairs as to avoid all impropriety and appearance of impropriety, he is not precluded from accepting the hospitality of his friends, attending social activities of bar associations, groups of lawyers, or other citizens.

He should not allow such social relationships to influence his judicial conduct or judgments, nor should he permit others to convey the impression that they are in a special position to influence him.

## NASJE, Baylor Honor Dillard

Jack H. Dillard, executive director of the Texas Center for the Judiciary, recently was honored by the National Association of State Judicial Educators Association (NASJE) and Baylor University for service to those organizations.

He was honored in October by the NASJE for his two-year service as president.

The NASJE plaque, presented to Dillard at the annual convention held in Hyannis Port, Massachusetts, praised him for his "work and leadership . . . in helping shape the destiny of the association, by giving his enlightened support and creative involvement."

Also in October Dillard received the W. R. White Meritorious Service Award, named for a former Baylor University president, "in recognition of note-

worthy service to Baylor University."

One of only five persons to ever receive the award, Dillard was the first full-time alumni director at Baylor from 1948-54, and is a former national president of the Alumni Association.



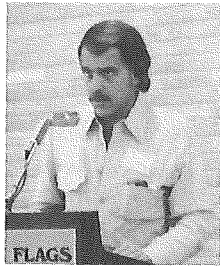
Jack H. Dillard

# The Arlington Conference

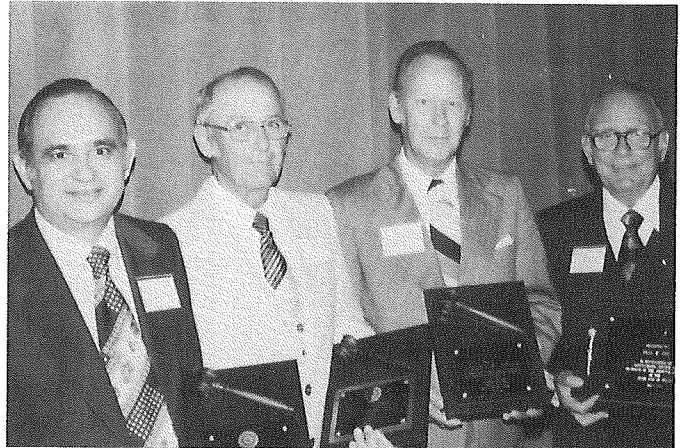
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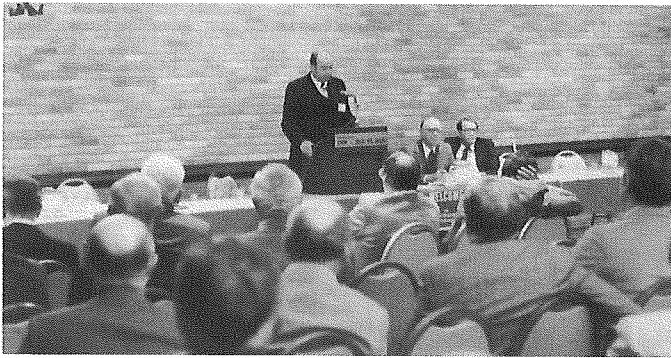
Jenks Garrett  
President  
Arlington Bar



Jeff Walker  
Local Committee  
Chairman



George Thurmond, James F. Clawson, Charles Reynolds, and Paul W. Nye, l-r, were presented plaques at the conference banquet. Nye is outgoing chairman, and the other recipients were honored for their service on the Executive Committee.



David Walker of Lufkin, CLE Committee chairman, delivers his committee's report at the Conference's opening session.



Judge and Mrs. Sam Johnson greet U.S. Atty. Gen. Griffin Bell after Bell's luncheon address.



Paul W. Nye throws out first ball at Rangers-Twins game.



Lee Duggan, Legislative Committee chairman, delivers his committee's report.



New Section chairman John T. Boyd, right, stands with new chairman-elect Sam Johnson.

# SECTION CONFERENCE

(Continued from Page 2)

- Amend article 3912K, section 3, giving county court at law judges authority to raise court reporters' salaries (like that of the district judges).
- Amend the Judicial Retirement Act to allow participants in judicial retirement to designate alternate beneficiaries. (This amendment would be subject to the approval of the Retirement Committee of the Section.)
- Allow return of an indictment by a grand jury without the presence of the judge.

In addition, the following proposals from the floor were adopted:

- Amend the Adult Probation Act to provide state funding for juvenile probation officers and bring them within the jurisdiction of the State Probation Commission. Proposed by Judge Darrell Hester.
- Establish a juvenile board in every county that does not have one. Proposed by Judge Hester.
- Judicial Section supports the constitutional amendment to be voted on in the election on November 7 to increase the jurisdiction of the justices of the peace.

Selection of the site for the 1979 Section Conference was officially delayed by vote of the conferees who urged the Executive Committee to consider the bid of Texarkana in addition to Abilene. (See story this page.)



## Executive Committee Chooses Abilene For 1979 Conference

Abilene was chosen as the site of the 1979 Judicial Section Conference by the Section's Executive Committee meeting in Austin November 3.

Although Abilene was the original choice of the Site Selection and Executive Committees at the annual Section conference in Arlington in September, judges attending the conference voted to request a delay in the final site selection until the city of Texarkana could be considered.

A site committee, consisting of Judges Sam Johnson, Paul W. Nye and Leonard Hoffman, was appointed by Section Chairman John Boyd. The committee toured convention and hotel facilities in Texarkana in October, and presented the details to the Executive Committee November 3.

After a thorough review of both Texarkana and Abilene, Abilene was selected as the 1979 conference site by the Executive Committee.

### Benchbook Revision Mailed

A revision of Part I of the *Benchbook for Texas Trial Judges*, which deals with criminal law, has been completed and mailed to Judicial Section members by the Texas Center.

The revision was prepared by Judge Quentin Keith of Beaumont, with assistance from Judges Carl Dally and Tom Davis of Austin.

Additional copies of the revision may be obtained by writing:

Texas Center for the  
Judiciary  
P. O. Box 12487  
Austin, Texas 78711  
Attn: Don Holmstrom

## AG Opinions

Two Texas Attorney General Opinions of particular interest to the state judiciary were released in early October.

Opinion No. H-1251, dated October 2, 1978, concerns the setting of salaries of a county auditor and assistant county attorney of Hutchinson County.

The questions asked were:

Does the district judge of Hutchinson County possess the discretion to set the annual salary of the county auditor at an annual sum in excess of that being paid by Hutchinson County to the tax assessor-collector?

Do the grievance procedures set out in Vernon's Annotated Civil Statutes, 3912k, Section 2, apply to the assistant county attorney of Hutchinson County?

The three-page opinion contained the following summary:

"The District Judge of Hutchinson County may not set the salary of the county auditor at a level higher than that being paid to the tax assessor-collector. The County Attorney of Hutchinson County may not appeal the salary of the assistant county attorney to the grievance committee established pursuant to article 3912k, section 2, V.T.C.S."

The second opinion, Opinion No. H-1252, dated October 5, 1978, concerns the applicability of the Texas Speedy Trial Act to juvenile cases.

The one-page opinion is summarized:

"The Speedy Trial Act does not extend to juvenile court proceedings conducted under Title 3 of the Texas Family Code."

Complete copies of the above opinions can be obtained by writing: The Attorney General of Texas, Supreme Court Building, P. O. Box 12548, Austin 78711. Phone number: (512) 475-3744.

## SECTION DUES NOW DUE

Judicial Section dues for 1978-79 are now due and payable, Secretary-Treasurer Clarence A. Guittard announced in October.

A letter has been sent to eligible judges enclosing a membership card and a return envelope for dues payment. The amount for active judges is \$25 and for retired and former judges \$12.50.

The dues have remained unchanged for several years, Guittard said.

Judges should mail dues payment to:

Chief Justice Clarence A. Guittard  
Court of Civil Appeals  
2nd Floor, County Courthouse  
Dallas, Texas 75202

## APPELLATE JUDGES APPOINTED

Eight state district judges and a municipal judge have been appointed to nine new courts of civil appeals judgeships created by the passage of a constitutional amendment in the November 7 general election.

Gov. Dolph Briscoe made the following appointments November 14:

### 1st Court of Civil Appeals, Houston

- Henry E. Doyle, Municipal Court, Houston
- James F. "Bud" Warren, 12th District Court, Huntsville
- James Wallace, 215th District Court, Houston

### 5th Court of Civil Appeals, Dallas

- Spencer Carver, 191st District Court, Dallas
- Charles Storey, 95th District Court, Dallas
- Joe Bailey Humphreys, 44th District Court, Dallas

### 14th Court of Civil Appeals, Houston

- George E. Miller, 113th District Court, Houston
- Paul Pressler, 133rd District Court, Houston
- Felix Salazar, Jr., 312th District Court, Houston

The new justices were sworn-in December 1.

### In Chambers

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State Bar of Texas  
P.O. Box 12487, Capitol Station  
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