

# IN CHAMBERS

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

Volume 15, Number 2

April 1988

## 19th Annual Criminal Justice Conference to Be Held May 11-13 in Huntsville

*Over 300 Judges to Attend*

Plans are completed for the 19th Annual Criminal Justice Conference which will be held May 11-13 at the Criminal Justice Center on the campus of Sam Houston State University in Huntsville. The conference, sponsored by the Texas Center for the Judiciary, Inc., in cooperation with the Texas Court of Criminal Appeals, the Texas Department of Corrections, and the Criminal Justice Center at Sam Houston State University, will offer 9 hours of continuing judicial education.

On Wednesday afternoon, May 11, there will be a prison tour conducted by the Texas Department of Corrections (TDC), for judges who have not previously toured the TDC facilities. On Wednesday evening, the Texas Center will host a barbecue dinner at the Goree Recreation Area, starting at 6:00 p.m.

Conference participants will be lodged at the University Hotel and Holiday Inn in Huntsville. Any overflow will be accommodated at the refurbished Sam Houston Inn, which is now called the Home Place Inn. The Texas Center will make all room arrangements.

Classes commence at 8:30 a.m. on Thursday and conclude at noon on Fri-

### Conference Schedule

#### Thursday, May 12

*Recent Decisions of the U.S. Supreme Court*

Hon. M. P. Duncan, III  
Judge, Court of Criminal Appeals  
Austin

*Recent Decisions of Texas Court of Criminal Appeals*  
(Speaker to be announced)

*Criminal Law Legislative Update*  
Dain P. Whitworth, Esq.  
Austin

*Evidence-Relevancy and Its Limits*  
Alan Levy, Esq.  
Assistant District Attorney  
Fort Worth

*Evidence-Privileges*  
Kerry P. FitzGerald, Esq.  
Dallas

*Ethics and Contempt*  
Hon. Michael Keasler  
Judge, 292nd District Court  
Dallas

*Overcrowding in the Criminal Justice System*

Steve Bickerstaff, Esq.  
Bickerstaff, Heath & Smiley  
Austin

#### Friday, May 13

*Original and Post-Conviction Writs in the Court of Criminal Appeals*

Richard Wetzel  
Executive Administrator  
Court of Criminal Appeals  
Austin

*Jury Selection Problems (including Batson problems)*

Hon. Thomas B. Thorpe  
Judge, 200th District Court  
Dallas

*Confessions*

Hon. Lawrence J. Gist  
Judge, Criminal District Court of  
Jefferson County  
Beaumont

## State Bar Convention Scheduled for June

The 1988 State Bar Convention will be held June 9-11 in Fort Worth at the Hyatt Regency and Worthington Hotels. A judicial seminar is scheduled for Thursday, June 9 from 1:00 - 4:30 p.m. at the Hyatt Regency Hotel. The Honorable Richard Countiss, Justice on the Amarillo Court of Appeals and Chairman of the Judicial Section of the State Bar, will serve as moderator for the afternoon. Speakers and their topics are: Justice David Keltner, 2nd Court of Appeals, Fort

Worth, *Changes in Pleading Practice*; Russell H. McMains, Esq. McMains and Constant, Corpus Christi, *Changes in Special Issue Practice*; Justice Nathan L. Hecht, 5th Court of Appeals, Dallas, *Common Evidence Problems*. Registration forms for the State Bar Convention were included in the April issue of the *Texas Bar Journal*. For additional registration forms or information, contact Diana Corbin at (512) 463-1515.

### New Judges

**Robert C. Arellano**  
150th District Court  
San Antonio  
*Succeeding Fred Biery*

**G. Thomas Cannon**  
County Court at Law #3  
Lubbock  
*Newly Created Court*

**Barbara G. Culver**  
Supreme Court of Texas  
Austin  
*Succeeding Robert M. Campbell*

**F. Harold Entz, Jr.**  
194th District Court  
Dallas  
*Succeeding James Ed Kinkeade*

**Jack Grant**  
County Court at Law #1  
Abilene  
*Succeeding John Saringer*

**Edward Jarrett**  
County Court at Law  
Lockhart  
*Succeeding Michael D. Berg*

**James Ed Kinkeade**  
5th Court of Appeals  
Dallas  
*Succeeding John McCraw*

**N. Sue Lykes**  
303rd District Court  
Dallas  
*Succeeding Merrill Hartman*

**Randall Lee Rogers**  
County Court at Law #2  
Tyler  
*Succeeding Cynthia Stevens Kent*

**Barbara Rollins**  
County Court at Law #2  
Abilene  
*Succeeding Ross Adair*

**Dean Rucker**  
318th District Court  
Midland  
*Succeeding Barbara G. Culver*

**Kellis W. Sampson**  
County Court at Law #2  
Sherman  
*Succeeding Lloyd W. Perkins*

**Ralph Taite**  
County Criminal Court #4  
Dallas  
*Succeeding F. Harold Entz*

**Don E. Wittig**  
125th District Court  
Houston  
*Succeeding Michael O'Brien*

## Judicial Calendar

### Criminal Justice Conference

May 11-13, 1988  
University Hotel, Huntsville

### Trial Court Management Seminar

June 13-17, 1988  
University Hotel, Huntsville

### Judicial Section Annual Conference

September 27-30, 1988  
Worthington Hotel, Fort Worth

### Texas Association for Court Administration

October 18-21, 1988  
Wyndham Southpark Hotel,  
Austin

### Juvenile Justice Seminar

November 2-4, 1988  
Driskill Hotel, Austin

### Constitutional County Judges Seminar

November 15-18, 1988  
Hotel to be announced, Austin

### Texas College for New Judges

December 4-9, 1988  
University Hotel, Huntsville

#### Just a Reminder . . .

The videotapes on "Search and Seizure" by Judge Charles E. Moylan, Jr. are still available for viewing. Reviews so far have been excellent! If you would like to borrow one of the tapes for a few days, at no cost to you, please contact by telephone or letter our Publications Coordinator, Tricia Stringer.

# ETHICS OPINIONS

## No. 110

Issued: Jan. 29, 1988

*Q. Is there a violation of the Code of Judicial Conduct if the court personnel in a judge's office solicit funds for charitable organizations, churches, or civic projects?*

**A.** Canon 5B(2) prohibits a judge from engaging in such activities or from using or permitting the use of the prestige of his or her office for such activities.

Canon 3B(2) requires that a judge should require his or her staff and court officials subject to the judge's direction and control to observe the standards of the code of judicial conduct.

The purpose of Canon 3B(2) is not to infringe upon the rights or liberties of court personnel, but to assist the judge in: (1) upholding the integrity and independence of the judiciary, and (2) to avoid impropriety and the appearance of impropriety by the personnel under the judge's direction and control.

The committee perceives no violation of the Code of Judicial Conduct by court personnel engaging in the described activities so long as: (1) the judge's prestige or the prestige of the court is not being used to solicit funds, (2) the solicitation of funds does not interfere or conflict, in any manner, with the official duties of the court or the person doing the solicitation, and (3) there is no impropriety or appearance of impropriety in the manner of solicitation and in being a representative for the organization for which the solicitation is being done.

## No. 111

Issued Jan. 29, 1988

*Q. Is there is violation of the Code of Judicial Conduct for the court personnel of a judge's office to sell girl scout cookies or other items to benefit community, school, civic, or community organizations?*

**A.** This committee's answer, in our Opinion No. 110, is applicable to the posed question. Subject to the limitations set forth in that Opinion, the committee perceives no violation of the Code of Judicial Conduct in the described activities.

## No. 112

Issued Jan. 29, 1988

*Q. Is it a violation of the Code of Judicial Conduct for court personnel in a judge's office to be a director on a girl scout council board? Duties would include giving budget and investment advice.*

**A.** Canon 5B(3) prohibits a judge from giving investment advice to such organizations.

Canon 3B(2) requires court personnel under the direction and control of the judge to observe the standards of the Code of Judicial Conduct.

For the reasons stated in this committee's Opinion No. 110, we perceive no violation of the Code of Judicial Conduct in the described activity provided the limitations set forth in that Opinion are followed.

## No. 113

Issued Feb. 9, 1988

*Q. Would it be a violation of the Code of Judicial Conduct for a constitutional county judge to serve as a director or member of the following type organizations?*

1. *A metropolitan transportation organization that reviews and develops transportation needs for the county and cities in the county in which the judge is the county judge. Service is voluntary.*

2. *A tax increment financing district that oversees the development of public work projects and contracts for such projects in a city in the judge's county. Service is voluntary.*

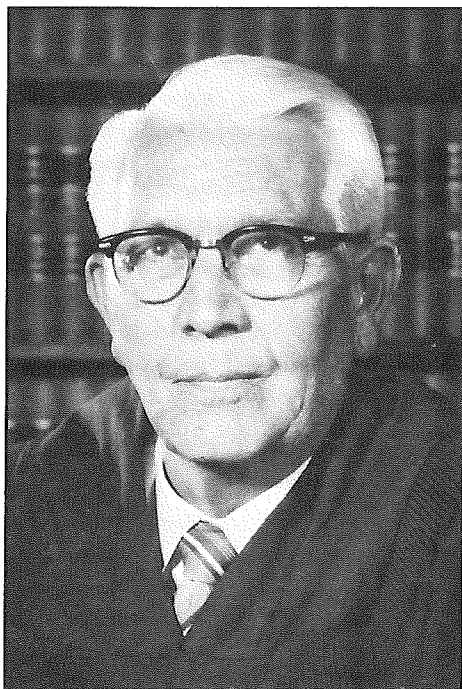
3. *A regional planning commission, established by state law, for the development of cooperation between cities, counties and other governmental entities in the region. Further, to discourage duplication of service in the region. Service and governmental membership is voluntary.*

**A.** The Code of Judicial Conduct, as amended December 16, 1987, recognizes the fact that constitutional county Judges have a dual status: (1) their administrative capacity as head of their county governments, and (2) their judicial capacity as judges of their constitutional county courts. Thus, where Canon 5G prohibits most judges from accepting appointments to most governmental committees or commissions, Canon 8C(1) provides an exception that permits constitutional county judges who perform judicial functions the right to engage in duties which relate to the judge's role in the administration of county affairs, regardless of other code restrictions. In addition, the code in Canon 8C(2) makes Canon 5G not applicable to constitutional county judges.

The committee is of the opinion that a constitutional county judge may be a member or director of the three described organizations, and that such activity is not a violation of the Code of Judicial Conduct, provided compliance with other provisions of the code are met; i.e., (1) such activities do not interfere with his or her judicial duties (Canon 5B); (2) investment advice is not given to the organization by the judge (Canon 5B3); (3) the organization does not engage in proceedings that would ordinarily come before the judge, in his judicial capacity, or will be regularly or frequently engaged in adversary proceedings in any court [Canon 5(1)].

(Continued on page 4)

## IN MEMORIAM



### Judge Charles O. Betts

Judge Charles O. Betts of Austin died January 31, 1988. He was 80 years old. Judge Betts was admitted to the Texas Bar in 1933 and practiced law in Austin from 1933-41. From 1941-46 he served as the first Travis County Court at Law Judge. He served as the 98th District Court Judge of Travis County from 1946 until he retired in 1977. He served in the United States Army from 1944-45, and in the Judge Advocate General's Corps in the Texas State Guard Reserve from 1948-60. Judge Betts was the former chairman of the Travis County Juvenile Board and was recently honored by the naming of the Gardner-Betts Juvenile Justice Center for Travis County.

### Justice Walter E. Jordan

Justice Walter E. Jordan of Fort Worth died February 8, 1988. He was 69 years old. Judge Jordan received his LL.B. from the University of Texas in 1947 and was admitted to the Texas bar that same year. He served as Judge of the 48th District Court,

Tarrant County, from 1963 until 1981 when he was elected to the Second Court of Appeals. He authored several publications including: "Trial Handbook for Texas Lawyers," "Modern Texas Discovery," "Texas Trial Handbook," and "Jury Selection."



### Judge Wardlow Lane

Judge Wardlow Lane of Center died February 8, 1988. He was 86 years old. After graduating from the University of Texas School of Law, he returned to Center in 1929 to practice law. He was elected to the position of Shelby County Attorney and later district attorney, where he served until 1942. In 1943, he was elected to the Texas Senate and served as a state senator until 1962. From 1968-75 he served as Judge of the 123rd District Court of Shelby County.

### Judge William Scanlan

Judge William Scanlan of Brownsville died April 7, 1987 at the age of 79. Judge Scanlan received his undergraduate and law degrees from the University of Texas.

## ETHICS (continued)

### No. 114

Issued Feb. 9, 1988

*Q. Would it be a violation of the Code of Judicial Conduct for a constitutional county judge to be an ex officio member of a private nonprofit corporation created for the purpose of increasing economic development in the judge's county? The corporation solicits funds to sustain its operational costs.*

*A. The corporation appears to be engaged in a function that is highly beneficial to a county. A county judge, in his administrative capacity as titular head of the county commissioners court, has a duty to encourage projects which are beneficial to his or her county. Canon 8C(1) of the Code permits a county judge to engage in such activities so long as they relate to the administration of the county.*

The committee is of the opinion that it would not be a violation of the Code of Judicial Conduct for the judge to be a member provided the judge does not personally solicit funds (Canon 4C), or let the prestige of his office for that purpose, and further provided no other canons of the Code are violated. ■

He was admitted to the Texas Bar in 1930. Judge Scanlan practiced law in Brownsville from 1930-33 and again from 1945-58. He was a member of the Cameron County district attorney's staff from 1933-42, and served in the United States Foreign Service in Caracas, Venezuela from 1942-45. He was judge of the 103rd District Court in Cameron County from 1958-79.

### Judge W. T. Phillips

Judge W. T. Phillips of Waco died Nov. 19, 1987 at the age of 74. He received his undergraduate and law degrees from Baylor University in 1935 and 1937. He was elected to the Texas Court of Criminal Appeals in 1976 and served until 1982.

# Contributions to the Texas Center

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