

IN CHAMBERS

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

Volume 13, Number 2

August 1986

Austin to Host Annual Section Conference

Mark your calendars for the upcoming Annual Judicial Section Conference to be held in Austin September 23-26, 1986. Plans are underway to make this an exciting four days of social activities and educational programs. Judge Peter Solito, 164th District Court, Houston, is Chairman-Elect of the Judicial Section and therefore is Chairman of the Program Committee.

As usual, the Conference commences on Tuesday afternoon with registration, golf, tennis, and jogging. That evening the Travis County Bar Association will host a reception for judges and their spouses. An inspirational breakfast is being planned for attendees on Wednesday morning.

Justice Noah Kennedy, Chairman of the Section, will preside over the opening session on Wednesday morning which will include the introduction of new judges. The educational portion of the program commences thereafter and will run through Thursday. Separate programs will be held on Thursday afternoon for trial judges, appellate judges, and retired judges.

The social activities will conclude on Thursday evening with a banquet and special speaker.

The conference will close on Friday morning at the conclusion of the annual business

meeting of the Section.

Be on the lookout for the registration materials which will be mailed in early August. This may be the biggest and best conference ever!

ADULT PROBATION COMMISSION SEEKS INPUT

The 1985 session of the Texas Legislature attached a rider to the Texas Adult Probation Commission (TAPC) appropriations that related to the funding of misdemeanor probation. The rider stated that "adult probation departments should begin developing plans to secure funds from sources other than state funds for services provided to misdemeanor probationers after August 31, 1987." In response to this legislative rider, the TAPC initiated a project in December of 1985.

"Misdemeanor Probation: Managing the Change" is the TAPC project funded by the National Institute of Corrections to implement a planning effort to coordinate activities between the judicial district adult probation departments,

the TAPC, the district and county courts and the Texas Legislature regarding this change. A task force representing the judiciary and probation departments was appointed to direct the misdemeanor project.

The task force members include Judge E. Wayne Bachus, County Court at Law #2 in Belton and Judge Harold Entz, County Criminal Court #4 in Dallas.

A statewide survey and a public hearing in Austin revealed that a majority felt:

- That increased supervision fees or county funding would not provide adequate resources to maintain current level of services

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□ Trial Court Management Seminar Held

Huntsville marked the site of the Trial Court Management Seminar held at the Criminal Justice Center, June 16-20, 1986. Approximately 130 court coordinators and administrators from across the state attended the four-day professional development seminar.

Sponsored by the Texas Center for the Judiciary, Inc., in cooperation with the Texas Association for Court Administration (TACA), the seminar is designed to address and improve systems in court administration. Addressing the participants of the seminar, Bob Wessels, Court Manager/Harris County and faculty member, said, "It is our sincere desire that

through your attendance here you will become better equipped to assist the judiciary of this state in the management and administration of the courts."

Speakers from the judiciary in the three-phase program included Judge Paul Ferguson, 149th District Court, Angleton; Judge Lawrence Gist, Criminal District Court, Beaumont; and James Zimmerman, former judge of the 191st District Court, Dallas. The closing speaker and presenter of certification awards was Justice Robert M. Campbell of the Texas Supreme Court.

Other speakers included TACA Chairman Randy

Kitchen, Eric Boos, Wayne Bowling, Earl Bullock, Bill Carlson, Dr. John Childs, Edith Coffey, Danielle Eubanks, Sonja Flora, Dr. Charles Friel, Dr. Geoff Gallas, Dr. Walter Natemeyer, Dr. Ralph Pease, Greg Shumpert, Douglas Somerlot, and Bob Wessels.

The number of persons who applied to attend all phases of the seminar this year was overwhelming, and many applicants had to be turned down because there were not enough facilities, materials, and faculty to accommodate them. Plans are underway to expand the seminar next year so that many more may receive the training.

□ Judge/Administrator Workshop Held

"Strengthening the Executive Component of the Court", a workshop designed to enhance the management knowledge, skills, and abilities of the top-level leadership of the Texas Judiciary was held in Huntsville on July 13-16, 1986. Dr. Dale Lefever,



JUDGES and their coordinators analyze the critical issues in "implementing change in the courts"—one of the many topics covered in the Huntsville workshop.

management consultant, Applied Theory, Inc., Ann Arbor, Michigan, and a faculty member of the Denver-based Institute for Court Management was the workshop leader.

In attendance were the presiding judges of the nine administrative regions, along with their administrative assistants, and nine district judges, along with their coordinators, who serve as local administrative judges. The main focus of the program was planning for the successful implementation of change and on improving working relationships.

In addition to lectures and class discussions, the program format featured individual team sessions and small group discussions involving a number of teams. All participants were able to share

their ideas and benefit from the experience of other court leaders.

This professional development workshop, which was co-sponsored by the Texas Center for the Judiciary, Inc., and the Institute for Court Management, was conducted on a trial basis this year and will be evaluated by our Education Committee and the Education Committee of the Texas Association for Court Administration for future integration into our annual Court Management Seminar.

Board of Pardons and Paroles Announces Procedural Changes

The Board of Pardons and Paroles has asked us to publicize the following notice:

"As you know, it has been the practice of the Board of Pardons and Paroles to notify trial officials when an inmate is under consideration for release from prison on parole.

While the practice will continue, the Board has made certain changes in form and procedure that will become effective October 1, 1986.

The purpose of this form is to elicit any relevant and factual information trial officials may have that will help this Board in making its determination.

The form used in the past provided boxes marked "Recommend" and "Protest" for officials to check. The new form does not include these options, but rather encourages officials to write their responses on the reverse side of the form and attach whatever other information they deem important, relevant, and factual.

In addition to changing the form, the Board will no longer use "protest" as a stated reason for denying parole. If parole is denied because of information provided by trial officials or victims, the reason for denial will simply be registered as "other" or "additional" information.

All information furnished by trial officials on the "Statement of Fact" form in the commitment documents, including any recommendations concerning parole, will be considered by parole commissioners and board members voting in a case. Trial

officials will be sent notices of cases under parole consideration as usual, but it will not be necessary that they respond unless they wish to supplement information already provided or wish to change their recommendations concerning parole.

It is the sincere desire of this Board to work closely with all state and local officials, and to solicit their aid and support in making the important decisions regarding releases from our state prisons. We welcome your comments and suggestions and appreciate your continued cooperation."

Board of Pardons and Paroles
8610 Shoal Creek Blvd.
P.O. Box 13401
Austin, Texas 78711
512/459-2700

PROBATION COMMISSION *continued from page 1*

- That public safety would be threatened if the state ceases funding

- That probation system improvements would be lost

- That the maximum fee of \$40 per month should be assessed whenever possible

- That probation fee assessments should be increased.

A final report in August 1986 will include other task force recommendations and an analysis of the rider's impact. For questions or suggestions, please contact Ms. Frances Cox, Project Consultant, Texas Adult Probation Commission, 8100 Cameron Rd., Bldg. B, Suite 600, Austin, Texas 78753, (512) 442-3358.

New Judges

Albert Armendariz
8th Court of Appeals, El Paso
Succeeds William E. Ward
7/86

Bob Burdette
184th District Court, Houston
Succeeds Carroll Weaver
3/86

Ron Chapman
1st Administrative District, Dallas
Succeeds John D. Ovard
7/86

Darrell R. Carey
County Court at Law, Canyon
Succeeds Richard L. Wilcox
3/86

Hollis Godfrey
County Court at Law #3, Denton
Newly Created Court
1/86

Kenneth D. Harrison
165th District Court, Houston
Succeeds Bob Smith
3/86

Curtis B. Henderson
County Court at Law #1, McKinney
Succeeds Richard Schell
2/86

James R. Jordan
44th District Court, Dallas
Succeeds H. Dee Johnson
3/86

Peter S. Peca, Jr.
171st District Court, El Paso
Succeeds Edwin F. Berliner
5/86

Will Pryor
298th District Court, Dallas
Succeeds Sidney Fitzwater
3/86

Madison Sowder
137th District Court, Lubbock
Succeeds Robert C. Wright
3/86

Listed are judges who have assumed the bench or have been appointed to a different court since the last publication of IN CHAMBERS.

ETHICS OPINION Opinion No. 82

Q. May judges support a county bond election, designated a "law and order election," to fund an expanded and improved jail facility, a new county criminal courts building, and renovation and improvement of civil district and family courts facilities?

A. Yes, with certain limitations. Canon 4 of the Code of Judicial Conduct permits a judge to engage in activities to improve the law, the legal system, and the administration of justice. However, Canon 4 also sets forth certain limitations, "subject to the proper performance of his judicial duties, [a judge] may engage in [such duties], if in doing so he does not cast doubt on his capacity to decide impartially any issue that may come before him."

A possible second limitation may occur if the "law and order" bond issue is not segregated from other issues which do not pertain to law improvement, the legal system and the administration of justice. In our opinion No. 64, this committee was of the opinion that it would be unethical for a judge to actively support a bond election to raise funds to develop a city water project. If the "law and order" bond issue is submitted with other issues and not segregated, ethical considerations may become involved. See, Canon 5.

A possible third limitation may occur depending upon what the judges mean by "support" the bond election. To support a bond issue connotes much more than a mere endorsement. Canon 1 states,

"A judge should uphold the integrity and independence of the judiciary." Canon 2 states, "A judge should avoid impropriety and the appearance of impropriety." Canon 7 states, "A judge should refrain from political activity inappropriate to his office."

Your committee is of the opinion that proper facilities

and equipment for courts and jails are essential to the legal system and the proper administration of justice.

Subject to the limitations set forth above, a majority of the committee is of the opinion that it would not be unethical to support a bond issue for those purposes enumerated in the posed question.

Judicial Calendar

ANNUAL JUDICIAL SECTION CONFERENCE

September 23-26, 1986
Marriott/La Mansion
Austin

TEXAS ASSOCIATION FOR COURT ADMINISTRATION

October 21-24, 1986
Embassy Suites North
Austin

JUVENILE JUSTICE SEMINAR

November 5-7, 1986
Quality Inn South
Austin

TEXAS COLLEGE FOR NEW JUDGES

November 30-December 5, 1986
University Hotel
Huntsville

CONSTITUTIONAL COUNTY JUDGES SEMINAR

(Date, hotel to be announced)
Austin

SOUTHEAST TEXAS JUDICIAL CONFERENCE

February 11-13, 1987
University Hotel
Huntsville

CENTRAL TEXAS JUDICIAL CONFERENCE

February 25-27, 1987
Hilton
Wichita Falls

SOUTH TEXAS JUDICIAL CONFERENCE

March 18-20, 1987
Holiday Inn
Laredo

WEST TEXAS JUDICIAL CONFERENCE

April 1-3, 1987
Plaza Hotel
Lubbock

NORTHEAST TEXAS JUDICIAL CONFERENCE

April 22-24, 1987
Holiday Inn
Longview

CRIMINAL JUSTICE CONFERENCE

May 6-8, 1987
University Hotel
Huntsville

CONSTITUTIONAL COUNTY JUDGES SEMINAR

(Date, hotel, and location to be announced)

COURT MANAGEMENT SEMINAR

June 15-19, 1987
University Hotel
Huntsville

ANNUAL JUDICIAL SECTION CONFERENCE

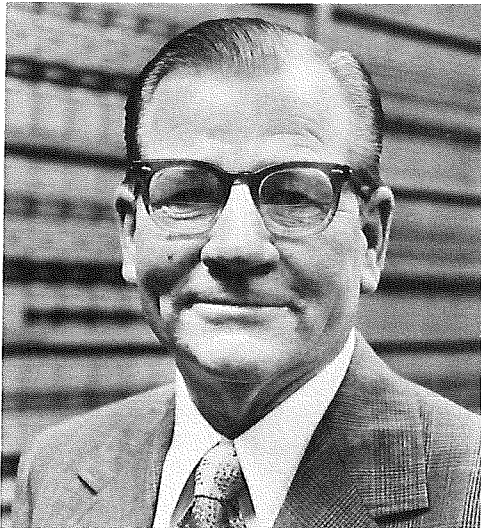
September 29-October 2, 1987
(Date, hotel, and location to be announced)

In Memoriam

Judge Edwin F. Berliner

District Judge Edwin F. Berliner of El Paso died March 22, 1986. He was 67 years old. After graduating from the University of Texas Law School, Judge Berliner served as a lieutenant in the Air Corps. He entered private practice in El Paso in 1945, and then served as El Paso District Attorney for six years. On September 1, 1965, he was appointed as judge of the 171st District Court and presided in that Court until his death.

In 1979, Berliner was selected to receive the National Humanitarian Award of the National Jewish Hospital and Research Center. He was active in the El Paso Historical Society and on the board of the Temple Mt. Sinai for many years.



Judge Bun L. Hutchinson

Justice Bun L. Hutchinson died Saturday, November 30, 1985 in his home in Texarkana. He was 66 years old.

Born in DeKalb, Texas, Jus-

tice Hutchinson was a graduate of the University of Texas Law School. He was a member of Williams Memorial United Methodist Church, and a veteran of World War II.

Hutchinson was appointed as Judge of the 5th District Court in April, 1973, and presided in that court until October 1, 1978, when he was appointed to the Sixth Court of Appeals. He retired from that court shortly before his death.

Judge Esco Walter

Retired appellate Judge Esco Walter died April 16, 1986 in Abilene. He was 77 years old.

Judge Walter earned his undergraduate and law degrees from Baylor University. After graduation from law school, he was elected justice of the peace, serving a two-year term. He served three terms as Taylor County attorney and was 104th District Attorney for one term.

Appointed by Gov. Price Daniel in 1957 to the 11th Court of Civil Appeals in Eastland, Judge Walter retired in 1978 after 40 years of public service.

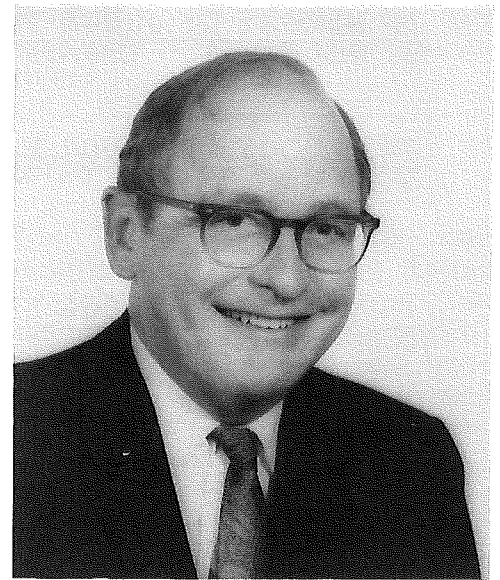
Judge Walter was past president of the Abilene Bar Association, Baylor Law School Alumni Association and the District and Counties Association of Texas. He was a member of the Texas State Judicial Qualification Commission and very active in his church and local community.

Judge Carroll S. Weaver

Carroll S. Weaver, Judge of the 184th Criminal District Court died February 24, 1986. He was 59 years old.

A graduate of Texas A & M University, Weaver served in the U.S. Army 44th Infantry Division. He received his LLB from South Texas College of Law in 1953. Weaver formed a law partnership in 1953, and he remained in general practice for almost 30 years. In 1982, Weaver was elected to the bench.

He was a member of the State Bar of Texas, Houston Bar Association, North Harris County Lawyers Association, Harris County Criminal Lawyers Association and the Judicial Section.



Judge William E. Ward

Justice William E. Ward of El Paso died February 22, 1986. He was 70 years old. Ward received his LLB from the University of Texas Law School in 1939. In 1949, he served as Special Judge, County Court at Law, and then District Judge from 1955-1969. In 1969, Judge Ward took the bench on the Eighth Court of Appeals, El Paso County, and presided in that court until his death.

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