

# IN CHAMBERS

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**EXPERT EVIDENCE:** Supreme Court Chief Justice John L. Hill delivers his State of the Judiciary speech to a joint session of the Legislature.

Pinpointing the state's trial courts as the judiciary's prime trouble spot, Supreme Court Chief Justice John L. Hill urged legislators to streamline the judicial process, increase court fees and raise judges' pay.

"We must declare war on unnecessary court delay at the trial level," Hill told a joint session of the Legislature in his State of the Judiciary address January 22.

"Many of our trial courts are behind in dispos-

## Chief Justice seeks aid to eliminate trial court delays

ing of cases. In some areas, the situation is critical. Believe me...the situation is bad and worsening, especially in some of our urban areas," he said.

"We are serious about cutting out dilatory trial tactics that unnecessarily slow down the process and help clog our court dockets."

To speed up the judicial process, Hill said trial courts need help from the Legislature in three primary areas: administrative support, higher pay and computer-aided transcription systems and technology.

Hill requested legislative approval of a support fund of \$27,500 to each district court, similar to that provided the state's district attorneys, to allow each judge to hire an administrative assistant.

"I agree with Governor White that our need is not for new courts, but rather to provide the courts we have with the tools and resources they need to more effectively do their job," he said.

And to "help keep the good judges we presently have and to continue to attract top men and women to

the trial bench" Hill called for district judge salary increases.

Texas ranks eighth among the states in intermediate appellate judge salaries but 24th for district judge salaries.

"This disparity is not justified and is false economy," he told the legislators.

Preparing court records and testimony is a prime culprit in perpetuating clogged dockets, Hill, a former Texas attorney general, said. Creating a fund to modernize trial courts'

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### the Lines

## - LEADING REMARKS -



BY DISTRICT JUDGE  
RAUL L. LONCORIA,  
Chairman,  
Judicial Section

*The importance of an independent judiciary cannot be understated.*

*The recent U.S. Supreme Court decision in Pulliam v. Allen should have every judge concerned about the erosion of laws protecting them in their performance of judicial and administrative functions.*

*Judicial liability insurance is not a panacea, but it may be an effective stop-gap measure during the interim until permanent solutions can be found.*

*After requests from many judges, I appointed a five-member committee in November of last year to study the problem of judicial immunity and to recommend to the Section's Legislative Committee any action that could be taken to further protect judges against charges falsely filed.*

*Justice John Boyd of Amarillo, who chairs the committee, reports that research is underway on several specific areas of the issue.*

*Judge Charles Mathews of Austin is collecting information on judicial liability policies presently issued by the State Bar and examining their protective offerings, with particular emphasis on personal expenses judges might incur incidental to law suits, such as punitive and exemplary damages.*

*Judge James Clawson of Belton is reviewing the judicial immunity statutes in Texas and the impact recent federal decisions will have on them.*

*Judge W. Ervin James of Houston is investigating the implication of judicial actions under two sections of the federal civil rights statutes (42 U.S.C. 1983 and 42 U.S.C. 1988), and how to obtain federal relief.*

*Judge Melchor Chavez of Brownsville has compiled a list of the administrative duties of Texas trial judges, and is studying the potential liabilities that might arise from their performance. Justice Boyd has prepared a similar study of federal judges' duties. They are preparing recommendations for practical legislative remedies to areas of potential conflict.*

*"Based on our preliminary studies, I think our best chance for protection against suits under the federal civil rights statutes is to seek relief from Congress," said Justice Boyd. "At the same time we need to revise some state statutes."*

*The committee is also exploring the feasibility of having the Legislature incur the expense of liability policies or indemnify judges who get sued.*

*The five-member committee welcomes and encourages suggestions from judges. Any question or information should be directed to one of the above mentioned members of the committee as soon as possible, preferably before their next meeting in March.*

*An independent judiciary cannot be intimidated by suits or threats of suits and remain independent. We must be able to perform our judicial and administrative duties to the best of our abilities without the worry of being taken to court as a defendant by some disgruntled employee, inmate or party to a law suit who may not agree with us carrying out our responsibilities imposed upon us by law.*

## Regional conferences offer topical talks, credit

The latest laws and decisions pertaining to child support, comparative causation and judicial immunity are just a few of the areas in which seventy-five judges who attended the South Texas Judicial Conference are now well-informed.

The conference, held in

South Padre Island Jan. 16-18, was the first of five regional conferences sponsored by the Texas Center for the Judiciary.

The three-day program covered an array of topics presented by Supreme Court Justices William Kilgarlin and James Wallace, Court of

Criminal Appeals Judge Mike McCormick, seven district judges, a representative of the Attorney General's Office and a law school professor.

"I thought the conference was very good," said County Court of Law #2 Judge Juan Velasquez of Victoria.

"We trial court judges found the update on the rules of evidence extremely beneficial. They are of great significance to us since we use them everyday.

"Also, I want to thank the Texas Center for holding these programs because it gives us a chance to get together with other judges and discuss areas of concern involving both judicial ethics and business," said Velasquez.

Concurring with that opinion was 214th District Judge Mike Westergren of Corpus Christi.

"I thought the conference was fantastic," said Westergren. "I particularly enjoyed Justice Kilgarlin's paper because it covered some areas of daily concern to trial judges."

Kilgarlin's speech, entitled "The Judge at the Bar: Lawyer Contempt, Recusal, Disqualification, and Judicial Immunity" offered information and guidance on topics ranging from what the judge should do when contempt occurs to the potential liability a judge faces.

"Use common sense with what you do on the bench," Kilgarlin told conference participants, "and judicial immunity will take care of you."

Concern for certain other people in the courtroom was also discussed. District Judge Michael E. Keasler of Dallas told the judges children need special consideration when in court as victims of crime.

"If children receive benefits as defendants under juvenile law, then it seems reasonable that they should receive special consideration as a victim," said Keasler during his lecture entitled, "The Child-Victim as a Witness."

Children were also the



subject of Cynthia Bryant's talk. Bryant, who is the director of litigation for the Attorney General's Child Support Division, outlined the recent restructuring of federal legislation. The strongest impact on the judiciary will be in the areas of automatic wage withholding, expedited procedures, and guidelines for the amount of child support, she said.

Bryant reported that the San Antonio and McAllen attorney general's offices led the state in collecting child support payments last year by securing and distributing \$1.3 million.

"Even though this is an economically depressed area, children haven't suffered thanks to your help and our office," she said. "We attribute this fact directly to the attitude of judges and their support of the law."

A discussion of proposed measures under consideration by the Texas Legislature was led by District Judge Raul L. Longoria of Edinburg. As chairman of the Judicial Section, State Bar of Texas, Longoria said the Section will work for

**PRELIMINARY HEARING:** Cameron County Judge Moises Vela (at podium) extends a warm welcome to South Texas conference leaders, (from left to right) the Texas Center's Executive Director Roy Rawls, Judicial College Associate Dean Menton Murray, Jr., and Judicial College Dean Richard N. Countiss.

legislation that would:

- create a permanent source of funding for judicial education programs, such as the South Texas conference;

- increase district judges' salaries, setting them at 85 percent of a Supreme Court associate justice's salary;

- create a fund for additional court personnel and technology.

"There is a measure proposed to increase court filing fees," said Longoria. "We support a \$45 increase. The governor wants a \$75 increase. Either way, in my opinion, the judiciary should receive benefits from users' fees."

Many of the conference participants, such as 341st District Judge Elma Salinas, found the legislative update very useful.

see **REGIONALS**, p. 16

# JUDICIAL SECTION

## LEGISLATIVE COMMITTEE REPORT



*by Judge W. T. McDonald, Jr.*

*Chairman, Legislative Committee, Judicial Section*

The Legislative Committee of the Judicial Section has worked closely for the past several months with the Select Committee on the Judiciary, the Judicial Budget Board, and the State Bar Judicial Financing Committee to produce a legislative program which we feel will make our system of justice more efficient and cost-effective. The highlights of the program follow:

### SELECTION/ELECTION OF JUDGES

Merit selection of and retention elections for appellate judges with local option elections to extend this system to district and county court at law judges. This has been introduced by Senators Caperton and Farabee (SJR 4).

If the merit selection proposal fails, the two alternatives proposed are: nonpartisan elections for all judges except justices of the peace, municipal judges and constitutional county judges (S.B. 56 by Caperton and Farabee) or separate ballot columns for appellate and district judges, unidentified by party (S.B. 57 by Caperton and Farabee).

### JUDICIAL RETIREMENT SYSTEM

S.B. 105 by Farabee and Caperton amends Chaps. 42 and 44, Title 110B, and Arts. 200a, 200b, 200c, 1933a, 2338-1c, and 6252a-8a, V.T.C.S., the Judicial Retirement System (JRS) of Texas to create a two-tiered program in which present provisions of JRS remain intact for all presently sitting and retired judges, and future judges would have a new benefit formula. Current judges and the current JRS are left alone in Plan I, which will continue to operate on a pay-as-you-go-basis. Future judges are placed in a whole separate JRS, called JRS Plan II, with lower benefits. The new JRS Plan II will be a fully funded system. Passed the Senate on Feb. 12 and now pending in the House.

H.B. 377 by Bush provides for designation of active retired judges as Senior Judges. Referred to House Retirement and Aging Committee.

### COMPENSATION, FUNDING FOR COURT PERSONNEL, AND EQUIPMENT

Increase salaries of district judges to 85 per cent of that received by a Supreme Court justice and create a fund to provide support for each district judge not to exceed \$27,500 as determined by the Judicial Budget Board and to lease or buy computer-aided transcription systems for district courts as determined by the Judicial Budget Board. We have had discussions with the legislative leaders on the funding of this part of our program and we are encouraged by their comments. Whether the funding will come from the general revenue fund or from a fund created by the raising of filing fees will be determined as the legislative session progresses.

### FUNDING FOR CONTINUING JUDICIAL EDUCATION

Legislation has been proposed to provide a permanent, adequate source of funds for the continuing legal education of our judges and it is anticipated that such



proposals will be introduced shortly in the Senate by Senator Farabee and in the House by Representative Terral Smith of Austin, both of whom were members of the Select Committee on the Judiciary.

The bill would establish in the Treasury a judicial and court personnel training fund administered by the Supreme Court which would grant funds to statewide professional associations of judges, such as the Texas Center for the Judiciary, Inc., for continuing legal education courses, programs, and projects. The money for the fund will be generated by adding one dollar to most convictions in district, county, justice and municipal courts.

In the event you have any questions, comments or suggestions, please contact one of the members of the Judicial Section Legislative Committee. Their names, addresses and telephone numbers are set forth for your convenience.

It may become necessary for each of us to contact our members of the Legislature regarding the above and other important legislation affecting the judiciary. Your cooperation and input is earnestly solicited by your Legislative Committee.

*For information on a bill's current status, call BILL STATUS toll free at*

*1-800-252-9693 or, when in Austin, 475-3026.*

## JUDICIAL SECTION 1984-1985 LEGISLATIVE COMMITTEE

**William T. McDonald, Jr.**  
Chairman (1987)  
85th District Court  
P.O. Box 1085  
Bryan, Texas 77806  
409/775-7400

**Thomas J. Stovall, Jr.**  
Vice-Chairman (1987)  
Presiding Judge,  
2nd Administrative District  
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Seabrook, Texas 77586  
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**Ray D. Anderson, (1987)**  
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Supreme Court of Texas  
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Austin, Texas 78711  
512/475-2074

**Morris W. Hassell, (1986)**  
2nd District Court  
P.O. Box 196  
Rusk, Texas 75785  
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**Putnam K. Reiter, (1985)**  
77th District Court  
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### EX-OFFICIO MEMBER

**Raul L. Longoria**  
139th District Court  
P.O. Box 182  
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**James H. Russell, (1985)**  
County Court at Law #1  
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Belton, Texas 76513  
817/939-3521

**Joe Spurlock II, (1986)**  
2nd Court of Appeals  
Tarrant County Courthouse  
Fort Worth, Texas 76196  
817/334-1900

**James P. Wallace, (1985)**  
Supreme Court of Texas  
P.O. Box 12248, Capitol Station  
Austin, Texas 78711  
512/475-4615

Listed below are other measures of judicial interest that have been proposed by members of the Legislature as of Feb. 10. Additional information can be obtained by contacting the bill's author, members of the Judicial Section's Legislative Committee, and BILL STATUS.

## **JUDICIAL SELECTION**

- S.J.R. 2 by Jones -- Creates judicial nominating commission and provides for the merit selection of judges of the appellate courts. Referred to Senate State Affairs Committee.
- H.B. 119 by Tejeda -- Nonpartisan election of certain judges. Referred to House Elections Committee.
- H.B. 177 by Wright -- Prohibits straight-ticket voting in judicial races. Referred to House Elections Committee.
- H.B. 178 by Wright -- Increase filing fee in general primary election for district judges from \$700 to \$2,000. Referred to House Elections Committee.
- H.B. 199 by Evans -- Provides for nonpartisan election of all judges except municipal and constitutional county court judges on a section of the general election ballot, with incumbent's name listed first and denoted as incumbent. Referred to House Elections Committee.
- S.B. 74 by Mauzy -- Requires political party affiliation as a prerequisite for participation in elections. Referred to Senate State Affairs Committee.
- H.B. 327 by Wright -- Provides for designation of incumbents on the ballot for judicial races, other than constitutional county judges. Referred to House Elections Committee.
- H.B. 328 by Wright -- Provides for separate ballot columns for judicial races, unidentified by political party. Referred to House Elections Committee.
- H.B. 550 by Patronella -- Increases filing fees for offices regularly filled at the general election for state and county officers. The fee for statewide offices would increase from \$1,500 to \$3,000; courts of appeals from \$750 to \$3,000; district courts from \$700 to \$2,000. Referred to Committee on Elections.
- S.B. 375 by Jones -- Amends Election Code to allow candidates for offices regularly filled at the general election for state and county officers to be nominated by more than one political party.
- HJR 45 by Tejeda -- Provides for the automatic resignation from office of public officials announcing for other elective office when more than one year remains on the term and prohibiting the holding of more than one elective office at a time.
- H.B. 152 by Ambrister -- Prohibits the practice of law by a person retired under the Judicial Retirement System of Texas only if the person elects to continue as a judicial officer. Referred to House Retirement and Aging Committee.
- H.B. 189 by Hudson -- Repeals prohibition to practice law of person retired under the Judicial Retirement System of Texas. Referred to House Retirement and Aging Committee.

## **COMPENSATION**

- H.B. 507 by Rudd -- Provides that salaries of Court of Appeals justices shall be 5 per cent less than the salary of a Supreme Court justice and that district court judges 10 percent less than the Supreme Court. Referred to House Appropriations Committee.
- H.B. 712 by Willis -- Increases the maximum compensation of presiding judges of administrative judicial districts which is set by the Texas Judicial Council, from \$5,000 to \$7,500. (Does not amend subsequent sections dealing with additional compensation for presiding judges who are retired).

## **OTHER BILLS OF INTEREST**

H.B. 452 by Patronella -- Requires competency testing of appellate, district and statutory court judges. Referred to House Judicial Affairs and sent to a subcommittee.

HJR 10/HJR 25 -- Proposing a constitutional amendment granting the Supreme Court jurisdiction to answer questions of state law certified from federal courts. Reported out favorably with substitute on Feb. 6 of Senate Jurisprudence Committee. HJR 25 referred to Judiciary committee.

H.B. 13 by Smith and S.B. 354 by Glasgow -- Allows Court of Criminal Appeals to promulgate rules of procedure. Referred to House Criminal Jurisprudence Committee and Senate Criminal Justice Committee, respectively.

S.B. 354 by Glasgow -- Allows Court of Criminal Appeals to promulgate rules of procedure in appeals of criminal cases. Referred to Senate Criminal Justice Committee.

S.B. 355 by Glasgow -- Allows Court of Criminal Appeals to promulgate rules of evidence for criminal trials. Referred to Senate Criminal Justice Committee.

S.B. 290 by Caperton -- Reapportionment of judicial districts by Judicial District Board or the Legislative Redistricting Board. Referred to Senate State Affairs Committee.

SJR 14 by Caperton -- Creates Judicial District Board and provides for reapportionment of judicial districts by Board or Legislative Redistricting Board. Referred to Senate State Affairs Committee.

S.B. 95 by Mauzy/ H.B. 720 by Adkisson -- prohibits assignment of former district judges defeated for reelection only if defeated for reelection as district judge. Allows assignment of former judges more than 70 years of age. Adds a provision to require the presiding judge to give notice of an assignment to each attorney in the case "if reasonable and practicable and time permits" and provides that if a party to a civil case files a timely objection to the assignment, the judge is disqualified to hear the case. Referred to Senate Jurisprudence Committee.

S.B. 97 by Mauzy/ H.B. 734 by Adkisson --prohibits assignment of judge to district court with family law emphasis unless judge has 30 CLE hours on family law within 24 months. Reported out favorably with no amendments of Senate Jurisprudence Committee.

HJR 45 by Tejeda -- Provides for the automatic resignation from office of public officials announcing for other elective office when more than one year remains on the term and prohibiting the holding of more than one elective office at a time.

## **NEW COURTS**

H.B. 302 by Armbrister -- creates a judicial district to serve Calhoun, DeWitt, Goliad, Jackson, Refugio and Victoria Counties.

H.B. 443 by Tejeda -- creates three county court at law courts in Bexar County.

S.B. 318 by Whitmire -- creates County Criminal Courts of Law numbers 13 and 14 in Harris County.

H.B. 710 by Craddick -- creates the County Court at Law Number 2 of Midland County, and increases the jurisdiction of county court at laws of Midland County to include family law matters and civil cases up to \$50,000.

H.B. 711 by Green -- creates Probate Court number 4 in Harris County.

H.B. 733 by Geistweidt -- creates the County Court at Law of Kerr County.

## JUDICIAL PROGRESS

- ✓ Implementation of mandatory continuing judicial education.
- ✓ Restructuring of the Texas Commission on Judicial Conduct.
- ✓ Expansion and improvement of State Bar CLE programs.
- ✓ New and more stringent rules and procedures for enforcing Code of Professional Responsibility applicable to Texas lawyers.
- ✓ Reorganization of the Rules of Civil Procedure pertaining to pre-trial discovery.
- ✓ Modernization of Civil Rules of Evidence.
- ✓ Elimination of unnecessary and resource-wasting interlocutory appeals due to enactment of new venue statute in 1983.
- ✓ Development of proposal to harmonize civil and criminal rules of appellate procedure as much as possible by advisory committee.
- ✓ Adoption of rules promulgated by Supreme Court setting time standards for disposition of civil cases in trial courts.
- ✓ Adoption of innovative program to fund delivery of legal services in civil matters to low income Texans through the voluntary utilization of interest earned from lawyer's idle trust funds.
- ✓ Clearing of appellate dockets enabled by funding help provided by last two Legislative sessions.

cont. from p. 1

### HILL

case management capabilities with state-of-the-art technology would be "truly money well spent."

"Provide these three things for our trial courts ...and we'll bring you a record of progress in those

courts two years from now -- just as we have brought you a record of progress in the appellate field," Hill said.

To finance these proposals, Hill urged support of a bill sponsored by Sen. Kent Caperton that will raise the money by means of a "user tax", through increased fil-

ing fees.

Hill stressed that the bill provides exemptions for low income Texans to assure their continued access to the courts. Texas' basic civil filing fees are forty-first among the states.

In other proposals, the Chief Justice called for improved case-flow management through court rules, individualized dockets, and the expanded use of arbitration and mediation centers "whose time has come".

An overhaul of the Judicial Retirement System to ensure its solvency, a "reasonable limitation" in campaign contributions from any one source, and a revamping of the state's judicial selection process were also recommended by the Chief Justice.

"The possibility of election to judicial office by reasons detached from ability should disturb us all," he said. "Were this phenomenon to continue from election to election, it would be highly destructive to the morale and stability of our judiciary."

Hill also proposed changes that would alleviate problems in criminal cases, such as granting the Court of Criminal Appeals rule-making authority and unifying rules of evidence in criminal and civil cases.

Appellate criminal courts also need the power to amend punishment assessed in certain cases by juries when those penalties fall outside authorized limits, Hill said.

Citing a recent case reversed by the Court of Criminal Appeals because the jury assessed a term of years and a fine when the statute allowed only the assessment of a term of years, Hill said, "(Presid-



ing) Judge (John F.) Onion and I believe the appellate courts should be given such authority in appropriate cases to prevent unnecessary reversals."

Responses to his speech from legislators, judges and citizens have been numerous and very supportive, Chief Justice Hill said a week afterwards.

"Many legislators have told me that (the speech's) main theme -- cutting down on trial delays -- hit the right chord," said Hill. "They found our proposals sound, and were generally very supportive."

Hill said he was very encouraged by such remarks because both administrative and legislative action are required to implement his proposals.

"You can't have one without the other and expect to get the job done," he said.

Many trial judges, who felt neglected in the past, have also expressed their appreciation to Hill for focusing on their problems, he said.

Hill solicited suggestions from all judges prior to writing his speech. Among the many responses received, the Chief Justice said, "There was general agreement that the most pressing problem was providing better technology for the courts.

"In addition, providing administrative assistance to trial courts and addressing the great disparity that exists between the salary needs of trial courts and appellate courts were common concerns," he said.

Many citizens have also written Hill expressing support of his remarks, he said.

"These problems affect our whole society. We must not let them go unattended," he said. \*

## JUDICIAL PROPOSALS

- Provide adequate funding for continuing judicial education programs.
- Increase district judges' salaries to 85% of the salary paid to justices of the Supreme Court.
- Provide each judge a \$27,500 "support fund."
- Establish state-administered revolving fund to provide computer-aided transcription systems and other technology.
- Grant Court of Criminal Appeals authority to promulgate new rules of evidence for criminal trial proceedings.
- Grant appellate criminal courts the power to amend or review punishment assessed in certain criminal cases.
- Change Art. 40.03(8) of the Code of Criminal Procedure to prevent the jury from impeaching its own verdict.
- Implement a method to challenge indictments similar to the bill of particulars in federal court cases which would prevent problems on appeal concerning the sufficiency of the indictment.
- Implement the use of mandatory but non-binding arbitration in many types of civil cases, other than family law matters.
- Allow judges to assign civil suits to non-binding arbitration upon the motion of any party if the judge determines that the amount in controversy, exclusive of attorney fees and court costs, is below \$10,000.
- Authorize mediation programs to aid in the resolution of certain types of controversies which arise in family law matters, such as child custody and support disputes.
- Expand the use of neighborhood dispute centers.
- Raise the minimum civil jurisdiction of district courts, and set the maximum civil jurisdiction of county courts at law uniform statewide.
- Make the Judicial Retirement System actuarially sound and self-financing for all persons becoming judges in the future while retaining present system for all judges currently in system.
- Make changes in our method of judicial selection.
- Limit judicial campaign contributions.



**SMALL TALK:** An evening seminar session offering a small-group discussion of common concerns captures the undivided attention of College "students" Cynthia Kent, Joe M. Leonard III, Doyle Willis, and Jon Allen Hughes. The informal sessions led by experienced judges, such as Robert M. Blackmon (right) and Neel Richardson (not pictured), were an experimental addition to the College's format. Judges Jake Cook and Karl Micklitz also participated in the county court at law judges' session.

## College celebrates first decade of service

The Texas College for the Judiciary celebrated its first decade of service to the Texas judiciary with its second largest class enrollment.

After the tumultuous November elections, almost 50 newly-elected judges attended the week-long seminar at the Criminal Justice Center in Huntsville, held Nov. 25-30 of last year.

The College is a training academy offering the "students" a crash course for the significant career change they will make -- from advocate to judge.

A major step in making that transition is to assume judicial ethics that are beyond reproach, the newly-elected Texas Supreme Court Chief Justice John L. Hill told the class at the Thursday evening graduation banquet.

"We've made much progress (in improving the image of judges), but we're not there yet," said Hill. "Too many people are still getting

whipped-sawed by the system.

"There's a question mark over our competency and that's what's hindering our progress. We've got to get our technology moving. If we streamline the process that will make a lot of difference with our work efficiency and, consequently, our public image."

Members of the judiciary must work in unison, Hill, a long-time Democrat speaking to a largely Republican group, said.

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*"Many states have looked to this program as a model for creating one of their own."*

*Justice Richard N. Countiss  
Dean, Texas Judicial College*

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"If we belong to different parties, it doesn't make any difference. There is no Democratic justice. There is no Republican justice. There

is just justice."

Helping the new judges acquire a different perspective of justice was a faculty of 32 experienced Texas judges. Together they presented pertinent, timely information on all phases of both civil and criminal trials.

On the first day of the College a 1983 College alumnus, 345th District Court Judge Juan Gallardo of Austin, chronologized the stages of acclamation he experienced during his first year on the bench.

"The first stage I noticed was amnesia of the law," he said. "Frenzy of methodology, a new perspective of reality, and a glimmer of the bottom line followed."

"As new judges we must learn to judge evidence in its context, not as the entire case; we must try the lawsuit, not incompetent lawyers; and we must correct our mistakes when we make them at a minimal cost to

the system and the parties," said Gallardo.

Trial judges will make mistakes, Presiding Judge Thomas J. Stovall, Jr., told the class during his talk on pitfalls in the trial of civil cases, but mistakes should not create undo concern.

"Appellate judges spend all their professional lives searching for errors," said Stovall. "What you need to remember is you're spending your professional life searching for the truth."

Other topics including a judge's conduct, continuances, special exceptions, and sentencing were covered by speakers such as retired Supreme Court Justice Charles W. Barrow (now Dean of Baylor Law School) of Waco, 172nd District Judge Thomas A. Thomas of Beaumont, and Criminal District Court Judge Larry J. Gist, also of Beaumont.

Judge Gist, who outlined the latest developments in Texas' sentencing and punishment statutes, encouraged the use of restitution centers.

"Let's let them (criminals) put back into society something they drained out," he said.

"For example, put criminals on the side of the road picking up trash. It makes the public feel good to see criminals doing good."

A new addition to the College, Monday evening seminar sessions, gave "students" the opportunity to

further discuss topics of mutual interest. Led by experienced judges such as County Court at Law Judges Robert Blackmon and Neel Richardson; District Judge Linda Thomas, Justice Countiss, and Presiding Judge Stovall, the two-hour long sessions allowed for an uninhibited exchange of opinions, problems, and anecdotal recounts of past experiences on the bench.

"This was the best part of the program," wrote one anonymous conference evaluator, "Because small groups can concentrate on items of major concern and special problems."

"The College is one of the most expansive and prestigious educational programs conducted by the Center," Seventh Court of Appeals Justice Richard N. Countiss of Amarillo said. Countiss has served as Dean of the College since 1982.

"Many states have looked to this program as a model for creating one of their own," he added.

"Everything about the course and our treatment was

absolutely first class," said newly-elected 339th District Court Judge Norman E. Lanford of Houston.

"More significantly, the course was immensely useful in orienting me toward my new career," Lanford added.

Concurring with that opinion, 138th District Court Judge Robert Garza of Brownsville said, "I am sure that what I have learned will greatly benefit my success as a District Judge."

Calling the program "excellent", 272nd District Judge John Delaney of Bryan said, "This week's experience has made me feel a lot more pride in being a member of our judicial fraternity."

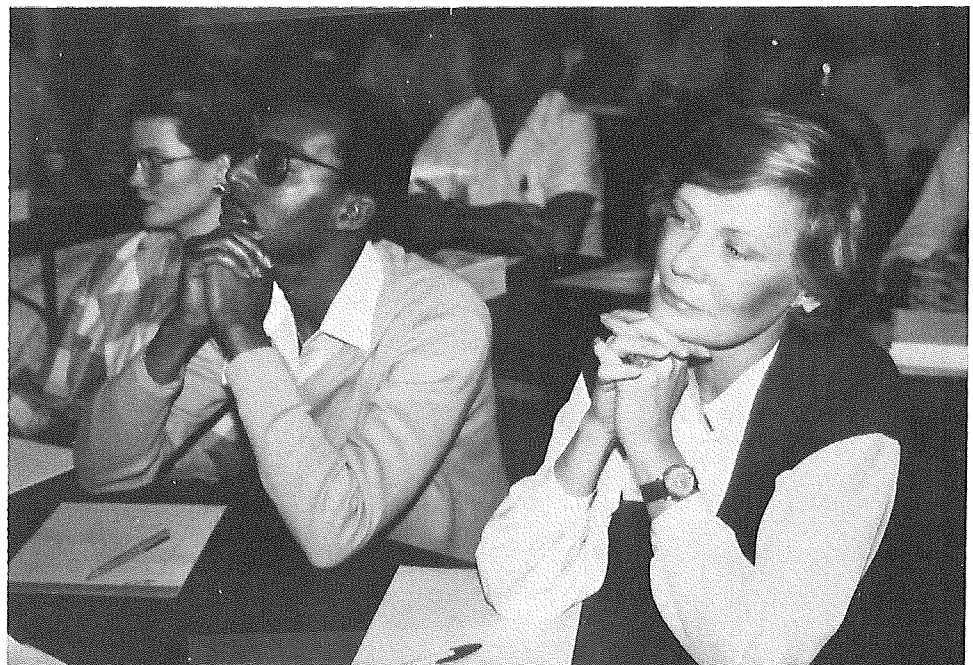
Attendance to the College is now mandatory (contingent on available funds) due to a law enacted by the 1983 Texas Legislature. But over 530 judges have voluntarily attended the College over the last ten years.

Including the 1984 class, the College now has an alumni roster of 582 Texas judges.

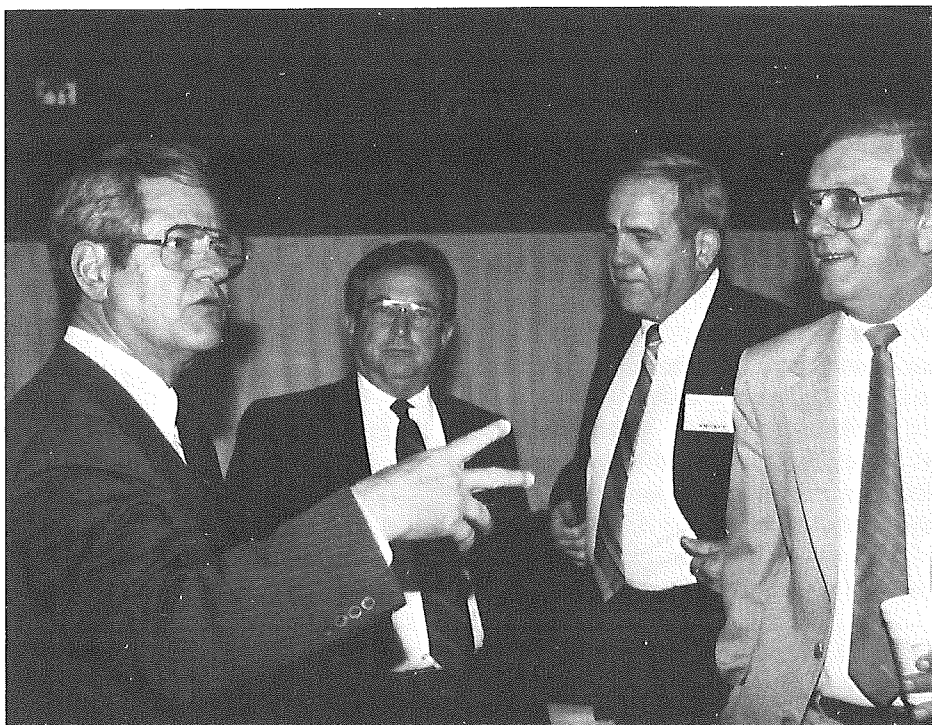
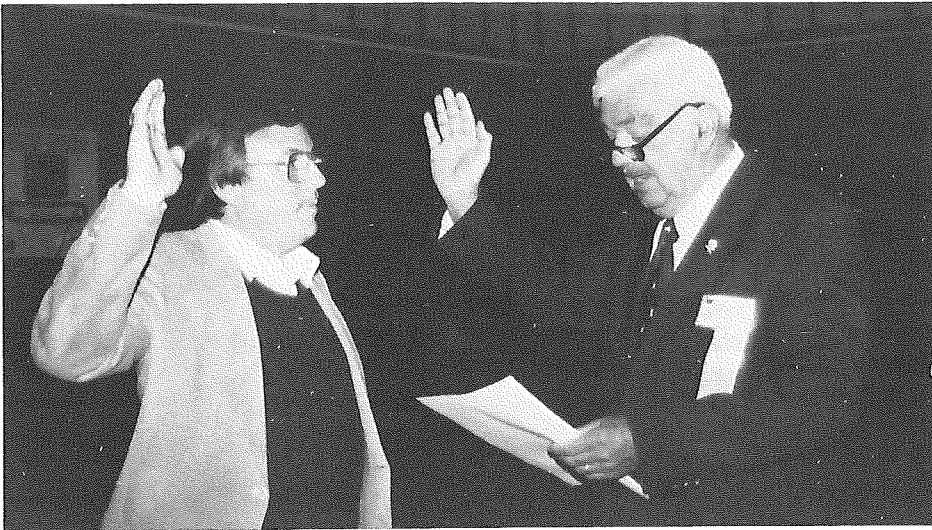
A portion of the 1984 College expenses were de-

*continued on next page*

**ABSTRACT OF RECORD:** Judges Catherine Crier, Larry Baraka and Frances Maloney, all of Dallas, hear an abbreviated College history during opening remarks of the tenth annual session. Attendance at the College is now a mandatory part (contingent on availability of funds) of a new judges' annual continuing judicial education requirements.







frayed by a grant from the Texas Bar Foundation. Financial assistance was also provided by the Houston Bar Foundation.

Other members of the College faculty included: Court of Criminal Appeals Judges Tom G. Davis, Sam Houston Clinton, and Mike McCormick; and Supreme Court Justices William Kilgarlin and James P. Wallace; and former Court of Criminal Appeals Judge Leon Douglas, who is now a special assistant to the Governor.

Courts of Appeals justices on the faculty were: Justices Shirley W. Butts of San Antonio; Chief Justice William J. Cornelius of Texarkana; James K. Allen of Dallas; Chief Justice Charles L. Reynolds of Amarillo; and John T. Boyd of Amarillo.

Trial judges serving as faculty included: David Hittner of Houston; Donald Metcalfe of Dallas; George M. Thurmond of Del Rio; Temple Driver of Wichita Falls; Pat Priest of San Antonio; Robert C. Wright of Lubbock; Patricia R. Lykos of Houston; Thomas B. Thorpe of Dallas; B. B. Schraub of Seguin; and Tom Blackwell of Austin. ●

**SWEARING MATCH:** Presiding Judge Thomas J. Stovall, Jr. administers the oath of office to David West, who assumed the judgeship of the 269th District Court in Houston. West and Merrill Hartman of Dallas were both sworn in during a brief ceremony in front of fellow classmates, underscoring the fact that the Texas College for **New Judges** is just that.

**AT ISSUE:** Newly-elected Supreme Court Chief Justice John L. Hill expands on his proposals for eliminating trial court docket backlogs to Judges John T. Forbis, Earl M. "Smokey" Stover and Clayton Evans. "We've got to get our technology moving," Hill told College participants at the Thursday evening graduation banquet.

**COURT CERTIFIED:** The first of 52 to receive diplomas, Judge Catherine Adamski of Fort Worth receives congratulatory remarks from College Dean, Justice Richard N. Countiss. For its first decade, the College lists 582 Texas judges as alumni.



# 1984 TEXAS COLLEGE FOR NEW JUDGES



## FRONT ROW, l-r:

Robert D. Jones, Austin  
 Joe B. Dibrell, Austin  
 Jake Cook, Fort Worth  
 David Cleveland, Mineral Wells  
 Richard N. Countiss, Amarillo  
 Linda B. Thomas, Dallas  
 Catherine J. Crier, Dallas  
 Thomas A. Thomas - Beaumont  
 Karl N. Micklitz, Hempstead  
 Edwin P. Slater, Lockhart

## SECOND ROW, l-r:

George M. Thurmond, Del Rio  
 Lana K. Varney, Austin  
 Norman E. Lanford, Houston  
 Joe M. Joiner, Sherman  
 John M. Delaney, Bryan  
 Cynthia Stevens Kent, Tyler  
 John T. Forbis, Childress  
 Melvin D. Whitaker, Palestine  
 Johnny R. Kolenda, Houston  
 David Hittner, Houston  
 Gene L. Dulaney, Snyder  
 E. J. Jack O'Neill, Houston  
 Catherine Adamski, Fort Worth  
 Merrill L. Hartman, Dallas  
 Gary R. Stephens, Dallas  
 William R. Powell, Jr., Houston  
 Jack H. Dillard, Austin

## THIRD ROW, l-r:

Doyle H. Willis, Jr., Fort Worth  
 William A. Thomas, Abilene  
 Earl B. Stover, Kountze  
 Richard Pennell, Sherman  
 Romeo M. Flores, Alice  
 Frances J. Maloney, Dallas  
 Robert Garza, Brownsville  
 Joe M. Leonard, III, Greenville  
 David West, Houston  
 James K., Walker, Levelland  
 Eugene Chambers, Houston  
 Homer Salinas, Edinburg  
 Mike Westergren, Corpus Christi  
 Alex R. Gonzalez, Fort Stockton

## BACK ROW, l-r:

Tryon D. Lewis, Odessa  
 Roy J. Rawls, Austin  
 David Hajek, Seymour  
 James R. Fry, Sherman  
 Britton E. Plunk, Silsbee  
 Jon Allen Hughes, Houston  
 Thomas J. Stovall, Jr., Seabrook  
 Ralph H. Walton, Jr., Granbury  
 Larry W. Baraka, Dallas  
 William T. Harmon, Houston  
 John Street, Fort Worth  
 John R. MacLean, Cleburne  
 John Cornyn, III, San Antonio  
 Temple Driver, Wichita Falls  
 Clayton Evans, Burnet

NOT PICTURED: Marsha D. Anthony, Houston  
 J. Albert Pruett, Jr., Houston

# Juvenile judges learn of innovative programs

Many children who were placed in foster care have been lost in the system according to a survey conducted by the National Council of Juvenile and Family Court Judges.

"Originally, they were separated from their natural parents and placed in what was intended to be temporary care. But we found many had been moved repeatedly from place to place. They were lost in the maze," said Marjorie MacAdams, president of a national organization which helps juvenile court judges place children and monitors the execution of court orders.

MacAdams discussed the survey results with more than 70 Texas judges with juvenile jurisdiction who attended the annual Juvenile Justice Conference held in Austin, Nov. 7-9, last year.

The conference, sponsored by the Texas Center for the Judiciary and chaired by 19th District Court Judge Bill Logue of Waco, also included updates from state agencies and discussions by two noted experts in Texas Family Law, University of

Texas Law School professors John J. Sampson and Robert O. Dawson.

The Texas Youth Commission, the Criminal Justice Division of the Governor's Office, the Juvenile Probation Commission, and the Texas Mental Health and Mental Retardation department all had representatives on the conference program.

In addition, the director of the National Center for Juvenile Justice, Richard Gable, spoke to the judges about Center operations.

The National Center is a clearinghouse of information and statistics on serious juvenile crime in the nation, as well as a monitor of the effectiveness of states' juvenile offender programs.

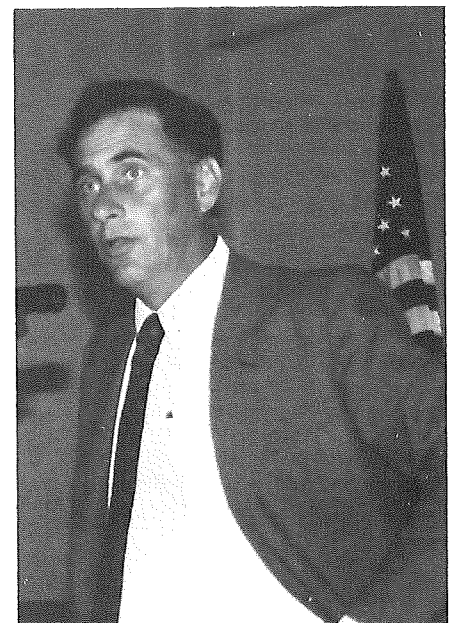
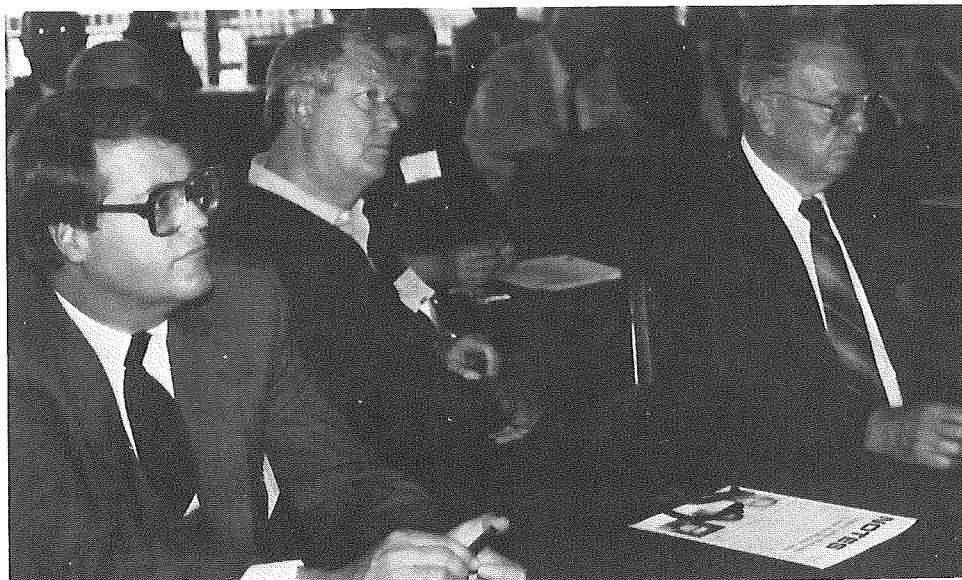
One state's innovative approach to juvenile detention centers was highly praised by Gable. Colorado has created a special treatment center for the rehabilitation for juvenile murderers and rapists that is extremely effective, Gable said when introducing its director to the judges.

"Colorado has not reacted like other states by lowering the age of offender eligibility for adult corrections units so that now children can go (to prison) practically in their neonatal state," said Colorado's Closed Adolescent Treatment Center Director Vickie Agee.

"Rehabilitation is an elusive goal," Agee said, "but we believe the most effective method of reaching juvenile offenders is by placing them in secure facilities that offer good treatment programs by a qualified staff of sufficient quantity for an adequate time."

Judge Betty Jenkins of Houston said after the conference, "Ms. Agee gave insight to detention centers that I didn't know about."

**LEADING QUESTION:** (RIGHT) University of Texas Law School Professor Robert O. Dawson, a member of the Juvenile Justice conference faculty for more than ten years, answers inquiries about his annual "Dawson's Instant Case Finder" list from conference participants, such as (LEFT, from l-r) Judges Craig Penfold, Bob Dohoney and Andrew Baker. "At these annual events, we usually talk about transfer proceedings more than any other topic," Dawson told the judges. "But that's changing now because you all are doing things differently."





**AURAL REMARKS:** Judges Scott Moore and Bill Logue attentively listen to one of the twelve speakers on the conference's agenda. The conference curriculum, organized by Judge Logue as chair of the Section's Juvenile Justice Committee, offered 10.5 hours of judicial education.

We'll be compelled to have a similar one in Texas soon, especially if (Colorado's) center continues to show progress.

"Her remarks will be useful in the design and implementation of our center," Jenkins added.

Other portions of the program were also found "timely and informative" by participants, such as Judge Bob Brown of Houston.

The legal updates from Professors Sampson and Dawson will be particularly

useful, Brown said.

"Their speeches were exceptionally well-done and timely. The information goes a long way in futhering our legal education."

Judge Thomas O. Bowden of San Saba said he found the overall conference "fantastic."

"I have pages of notes of information. I just started handling juvenile cases this year and find it to be the most rewarding part of my job.

"This conference has provided us with information that will help in selling juvenile programs to commissioner's courts, and in the long run will help judges do a better job," Bowden added. ●

## Rawls, LaPlant join Texas Center staff

The new year brought two new additions to the staff of the Texas Center for the Judiciary.

Roy J. Rawls is now the Center's Executive Director and Mitch LaPlant has assumed the position of Associate

Director. Effective Jan. 1, Rawls replaced Jack Dillard, who directed the Center for more than 10 years.

"Jack will be a tough act to follow because he directed the Center so well for such a long time, but I look forward to the challenge," said Rawls.

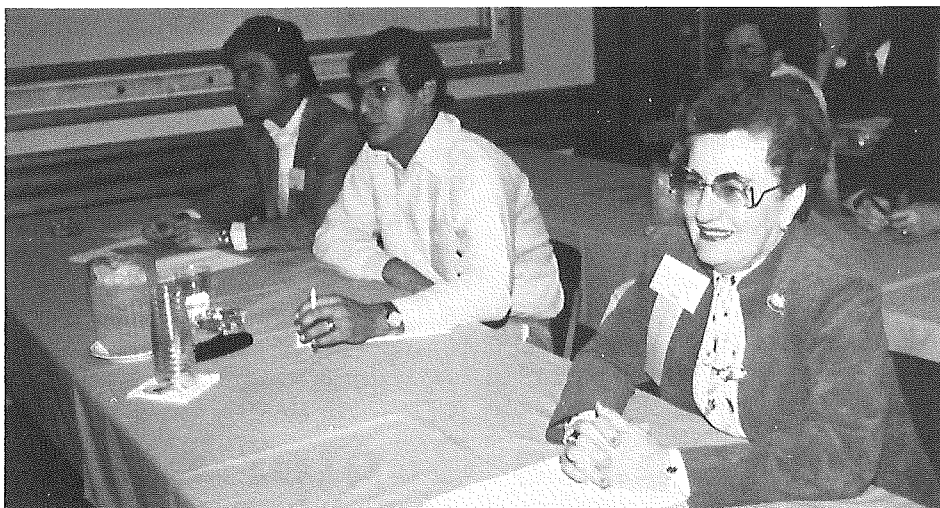
"Although we are going through a rather lean time now because the grant funds are drying up, I am optimistic that the Legislature will provide us with an adequate, permanent source of funds this year to continue our judicial education and training programs," Rawls added.

see **STAFF**, p. 16



**RING LEADERS:** The Center's associate director, Mitch LaPlant (left), and executive director, Roy J. Rawls (right), review conference plans with a member of the Center's Board of Directors, Judge Clarence Stevenson.





*cont. from p. 3*

## REGIONALS

"Judge Longoria was helpful in that he informed us about the measures being considered which are so vital to us, such as computer-aided transcription," she said.

"Overall, the conference was very worthwhile and one of the best I've ever attended," said 107th District Judge Melchor Chavez of Brownsville.

The conference offered judges an opportunity to earn over half of their annual 16 hours of continuing judicial education requirement. ☉

**STATE'S EVIDENCE:** (Above, left to right) Judge Arturo Guerra, Justice Pete Benavides and Judge Carol Haberman and (BELOW, left to right) District Judges Raul L. Longoria and Clarence Stevenson and Presiding Judge Joe Kelly take notes during a conference session on the new federal child support. The seminar offered participants 8.5 hours of continuing judicial education.

*cont. from p. 15*

## STAFF

Both of the new administrators have an extensive knowledge of the Texas court system. For six years, Rawls served as Executive Administrator of the Court of Criminal Appeals, and for a year prior to that was an assistant to Presiding Judge John F. Onion, Jr.

Rawls has played an active role in planning the Center's annual Criminal Justice Conference for many years, and has been a featured speaker at that conference and at the annual Judicial Section conference.

After earning a Bachelor of Arts degree from the University of Texas at Austin, Rawls went on to receive

his Doctor of Jurisprudence from UT in 1956.

He entered the Navy immediately upon graduation from law school, attained the rank of captain in the Judge Advocate General's Corps, and retired from the service in 1977.

While in the Navy, Rawls was a trial judge and was appointed as an appellate judge on the Navy's highest military court in 1973. He also served in the nation's capital for several years in the Secretary of the Navy's Office of Legislative Affairs and was the Deputy Director and General Counsel of the Office of Naval Petroleum Reserves.

He and his wife, Jennifer, have three children. The Center's new Assoc-

iate Director, Mitch LaPlant, was admitted to practice law in 1958 and has experience in both private practice and state government. In addition he has over 21 years of legal experience with the U.S. Army Judge Advocate General's Corps.

LaPlant earned a Bachelor of Business Administration in accounting and his LLB from the University of Wisconsin.

Before retiring from the Army with the rank of Colonel in 1983, he served eight years as a trial judge. He has attended the regular session and the court administration specialty course at the National Judicial College at Reno.

LaPlant and his wife, Peggy, have two daughters. ☉



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# ***In Memoriam:***

## ***County Court at Law Judge S. B. Davies***

S. Benton Davies of San Antonio, the first judge of the Bexar County Court at Law #3, died July 11, 1984. He was 93.

After attending the University of Texas School of Law, Davies was admitted to the Texas Bar in 1912. He practiced law in San Antonio for 33 years.

Davies served as assistant city attorney, assistant county attorney and assistant district attorney before he was appointed to the newly-created county court at law bench. He served on that bench for 17 years.



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## ***County Judge Jim W. Weatherby***

Former District and Kerr County Judge Jim W. Weatherby of Kerrville died January 3. He was 74.

Judge Weatherby was born in Hubbard, and attended Hubbard public schools. He later attended Baylor University where he received his B.A. and law degrees.

He served as Kerr County attorney, Kerr County judge and county school superintendent. He also served as district attorney and later as judge for the 38th Judicial District.

Weatherby was also a member of the Texas Constitutional Revision Commission, and was first chairman of the Texas State Property Tax Board.

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## ***Associate Justice Horace S. Young***

Horace S. Young of Corpus Christi, who was a member of the Texas judiciary for more than 35 years, died Jan. 6, 1985. He was 65.

Born in West Texas, Young graduated from Sweetwater High School, and attended SMU on an athletic scholarship until he graduated in 1942.

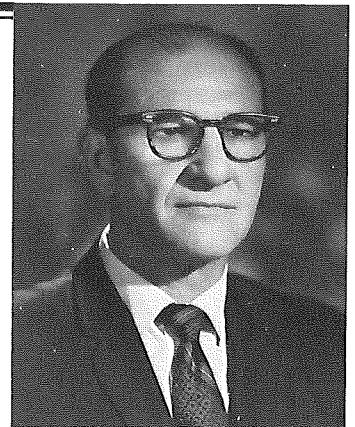
He served three years in the European Theater of Operations before entering SMU School of Law. After receiving his law degree, he entered private practice in Bishop.

He was appointed Justice of the Peace for the Bishop area in August, 1949. He was twice reelected to the post and served through 1954. During that time, he also served as attorney for the city and school district.

Elected to the County Court at Law #1 bench in 1954, Justice Young served on that bench for 8 years before he was elected to the 117th District Court bench in 1962.

In 1972, he was elected to the 13th Court of Appeals where he served until his death.

Young had served on the Executive Board of the Judicial Section, State Bar of Texas.



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*EDITOR'S NOTE: Memorial funds are established through donations to the Texas Center for the Judiciary. Acknowledgement of a donation to the Center in memory of a judge is sent to the family. Contributors' names are also published each month under the "JUDICIAL NOTICES" column of this publication.*

# NEW JUDGES

JUDGE	COURT	CITY	SUCCEEDS	EFFECTIVE
Richard Bosworth	354th District	Greenville	NEWLY-CREATED	1/1/85
Jimmy Carroll	3rd Ct. of Appeals	Austin	Bob Shannon	1/1/85
J. Bonner Dorsey	13th Ct. of Appeals	Corpus Christi	Horace Young	1/21/85
Joe Drago II	Criminal District #4	Fort Worth	Gordon Gray	1/21/85
Buddie J. Hahn	260th District	Orange	John Burgess	12/13/84
Gilberto Hinojosa	County Ct. at Law #2	Brownsville	Menton Murray	1/1/85
Menton Murray	357th District	Brownsville	NEWLY-CREATED	1/1/85
Jack W. Prescott	264th District	Temple	Bill Bachus	1/18/85
Bob Shannon	Chief Justice, 3rd Ct. of Appeals	Austin	John C. Phillips	1/1/85
Bill White	Ct. of Criminal Appeals	Austin	Wendell A. Odem	1/1/85

\* The above chart lists judges who have assumed the bench or have been appointed to a different court since the last publication of In Chambers.

New additions approved by the Supreme Court Education Committee are now part of the list of accredited programs that offer continuing judicial education programs that will fulfill a judges' annual attendance requirement.

All judicial education programs sponsored by the following organizations are approved for credits:

1. Texas Center for the Judiciary, Inc.
2. Judicial Section of the State Bar of Texas.
3. National Judicial College, Reno, Nev.
4. Appellate Judges' Conference of the American Bar Association, Chicago, Illinois.
5. American Academy of Judicial Education, Washington, D.C.
6. Institute of Judicial Administration, N.Y.U., New York, New York.
7. Texas College of Probate Judges.
8. National College of Probate Judges.
9. Master of Laws in the Judicial Process, University of Virginia School of Law.

The following specific programs are approved for credits:

1. Advanced continuing legal education programs sponsored by the State Bar of Texas.
2. Judicial training portions of the Special Session for County Judges and Commissioners' Conference of the V.G. Young Institute of County Government, Texas A & M University.
3. Educational portions of the annual State Bar convention program.

Further, legal education programs and continuing legal education programs sponsored by the following entities are approved for credit:

1. an accredited law school;
2. a local, state, or national bar association;
3. a professional organization devoted to improvement of the legal profession (such as the Texas Association of Defense Counsel and the Texas Trial Lawyers Association); and
4. The Texas Association of Counties, the County Judges and Commissioners Association of Texas and the V.G. Young Institute of Texas A&M University.

# JUDICIAL NOTICES

## SMITH TO CHAIR ETHICS COMMITTEE

Justice Jackson B. Smith, Jr. who sits on the 1st Court of Appeals in Houston has assumed the chair of the Judicial Section's Ethics Committee.

Smith, who has been a member of the nine-member committee since 1975, replaces Justice Richard N. Countiss.

This is the second time Justice Smith has led the committee. In 1980, he was elected chairman and served in that position until 1983.

Questions concerning judicial ethics and the Code of Judicial Conduct should be directed to the Committee via Justice Smith at 1307 San Jacinto, 10th Floor; Houston, Texas, 77002.

## EVERYWHERE, INCLUDING TEXAS

While it might have Texas-size proportions, prison and jail overcrowding is

### IN CHAMBERS

Texas Center  
for the Judiciary, Inc.

**Managing Editor**

Roy J. Rawls

**Editor**

Lana Kay Varney

not unique to the Lone Star State.

A recent nationwide survey of top state and local officials conducted for the National Institute of Justice shows that the most important issue facing them today is the lack of space in their prisons and jails.

County Court at Law Judge Robert M. Blackmon of Corpus Christi and District Judge Patricia Lykos of Houston have been selected to participate with 102 other judges from across the nation in a National Judicial Conference on Jails and Prisons.

The development and implementation of judicial practices which will address problems of jail and prison overcrowding is the main goal of the conference scheduled for March 12-15 at the College in Reno, Nevada.

The conference is sponsored by the National Conferences of State Trial Judges and of Special Court Judges of the American Bar Association, the National Institute of Justice and the National Judicial College.

One judge of a general jurisdiction court and one judge from a special jurisdiction court are being invited from each state, the District of Columbia and Puerto Rico. A legislator will also be invited from each state to participate in the deliberations.

Judges Blackmon and Lykos were selected because of their "demonstrated leadership skills and willingness to assume responsibilities," according to the National Judicial College's Associate Dean, V. Robert Payant.

PLEASE PASS

## THE PAMPHLETS

"A juror's duties are defined by laws which are the product of some centuries of experience, an experience which has taught us that they are essential to the impartial administration of justice by jury trial," the late Chief Justice of the United State Supreme Court, Harlan F. Stone, said.

As an aide for informing jurors of their duties, the State Bar of Texas has prepared a pamphlet entitled "Trial by Jury." Designed to be given by local judges to jury panels, the Bar has an abundance of the pamphlets now available for judges free of charge.

Judges interested in informing juries of their important role in civil and criminal trial procedures can request copies of the pamphlet by contacting: Hope Lochridge, Coordinator of the Law-Related Education Division, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711, (512)475-1033.

## CONTRIBUTIONS TO THE TEXAS CENTER

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

**Founder's Membership**  
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John and Nancy Onion

**In Memory of**  
**S. Benton Davies**

John and Nancy Onion

**In Memory of**  
**Justice Horace S. Young**

Temple Driver

**In Memory of**  
**Irvin J. Vogel**

Temple Driver

☆ **JUDICIAL CALENDAR** ☆

**1985 CONFERENCES**

**Central Texas Judicial Conference**

March 13-15, 1985  
Quality Inn  
Austin

**Court Management Seminar**

June 17-21, 1985  
University Hotel  
Huntsville

**West Texas Judicial Conference**

April 10-12, 1985  
Holiday Inn  
Del Rio

**Annual Judicial  
Section Conference**

October 1-4, 1985  
*Facilities to be announced*  
McAllen

**Northeast Texas Judicial  
Conference**

May 22-24, 1985  
*Facilities to be announced*  
Nacogdoches

**Texas Association  
for Court Administration**

October 22-25, 1985  
Quality Inn  
Austin, Texas

**Criminal Justice Conference**

May 1-3, 1985  
University Hotel  
Huntsville

**Juvenile Justice Seminar**

November 6-8, 1985  
Quality Inn  
Austin

**State Bar Convention**

June 6-9, 1985  
Anatol Hotel  
Dallas

**Texas College for New Judges**

December 1-6, 1985  
University Hotel  
Huntsville

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