

National Conference of Appellate Court Clerks

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*Hilbert Inn
1660 Lincoln St. Denver
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NEWSLETTER

Volume 3, Number 2

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TENTATIVE PROGRAM ESTABLISHED FOR THIRD ANNUAL MEETING

A tentative program has been drawn up for the third annual meeting of the National Conference of Appellate Court Clerks. The meeting has been set for August 1-5 at the Tarrytown Hilton Inn in Tarrytown, New York.

Three panel discussions, a workshop session and a number of distinguished speakers will be featured during the five-day conference. Our Thursday night speaker will be former Watergate Special Prosecutor Archibald Cox. Following the morning business meeting, the balance of Tuesday, August 3, has been left open so that conferees can take advantage of the pastoral and historical attractions of the surrounding Hudson Valley and/or the cosmopolitan ones of nearby New York City.

Program chairman Alexander Stevas is presently gathering suggestions for specific topics to be discussed during the "Appellate Courts in Operation" workshops. The final program, which will be printed during the early part of the summer, will probably not differ radically from the tentative program which appears herein. This should give the membership a good idea of what to expect in Tarrytown; with considerable justification, we are very excited about the annual meeting and hope that NCACC members make every effort to attend what promises to be an outstanding conference.



Education Committee chairman Alexander Stevas, right, and his deputy, Claire Whitaker, seen here at the San Antonio meeting, are major architects of the third annual meeting in Tarrytown.

Please take note of the pre-registration form which is the final page of the newsletter, as well as the Tarrytown Hilton Inn Card enclosed.

TENTATIVE
PROGRAM

SUNDAY, AUGUST 1

5:00 p.m. Executive Committee Meeting/Westchester Suite
 6:30 p.m. Welcoming Reception/Governor's Suite
 7:00 p.m. Dinner/Hendrick Hudson Ballroom

MONDAY, AUGUST 2

9:00 a.m. Welcoming Address/Grand Ballroom
 Hon. James D. Hopkins, Chairman, Appellate Judges'
 Conference

9:30-12 noon Expediting Appeals by Use of Settlement Conferences and
 Docketing Statements

Moderator: Alexander L. Stevas, Clerk, District of
 Columbia Court of Appeals

Panel: Nathaniel Fensterstock, Staff Counsel,
 United States Court of Appeals for the
 Second Circuit

Hon. William R. Hendley, Judge, Court of
 Appeals of New Mexico

Hazel (Happie) Davis, Clerk, Court of
 Appeals of New Mexico

1:30-4:30 p.m. Admissions to the Bar--An Overview of Admissions Policies
 and Procedures

Moderator: Larry D. Donelson, Deputy Clerk, Supreme
 Court of Nebraska

Panel: Hon. James Duke Cameron, Chief Justice,
 Supreme Court of Arizona

Anthony Nigro, President-elect of the
 Committee on Bar Admissions Administrators

7:30 p.m. Dinner/Hendrick Hudson Ballroom
Introduction of Speaker

J. O. Sentell, Clerk, Supreme Court of Alabama

Speaker: Hon. Howell T. Heflin, Chief Justice, Supreme
 Court of Alabama

"Appellate Court Reform"

TUESDAY, AUGUST 3

9:00-10:00 a.m. American Bar Association Proposed Standards for the Admin-
 istration of Appellate Courts

Speaker: Geoffrey Hazard, Professor of Law, Yale University

10:15 a.m. NCACC Business Meeting

1:00 p.m. Hudson Valley Tours (Optional)

8:00 p.m. Theatre (Optional)

WEDNESDAY, AUGUST 4

9:00-12:00 noon Appellate Courts in Operation Workshops

Group A: Clerks of highest courts without intermediate courts

Leader: Frances Smith, Clerk, Supreme Court of South Carolina

Group B: Clerks of the highest supreme courts with intermediate courts

Leader: Joseph Bellacosa, Clerk, New York Court of Appeals

Group C: Clerks of intermediate courts

Leader: Wilfried J. Kramer, Clerk, California Court of Appeals, Third District

1:30-4:30 p.m. Technology in the Administration of Appellate Courts--
Computerization of Transcripts, Files, Micro-filming

Moderator: Loren D. Hicks, State Court Administrator, State of Oregon

Panel: Alan Sager, Director, Computer-assisted Legal Research Systems Evaluation Project of the Federal Judicial Center

J. Michael Greenwood, Senior Staff Associate, National Center for State Courts

Elizabeth McLaughlin, Clerk, Appellate Division, Superior Court of New Jersey

6:00 p.m.

Reception/Riverboat Foyer

7:30 p.m.

Dinner/Hendrick Hudson Ballroom

Introduction of Speaker

John E. Powers, Clerk, Supreme Judicial Court of Massachusetts

Speaker: Honorable Archibald Cox, Professor of Law, Harvard University

THURSDAY, AUGUST 5

9:30 a.m.

Critique, Review and Planning Session

Leader: J. O. Sentell, Clerk, Supreme Court of Alabama



NCACC officers at Executive Committee Meeting in San Antonio, Texas, March 1976. (from left) Hy Gamso, president; Morgan Thomas, president-elect; Jean Kennett, secretary-treasurer; Ronald Dzierbicki, vice president.

FOOTNOTES AND MISCELLANY. . .

"Appellate Court Structure" Distributed to Membership

Wilfried Kramer, Clerk of the California Court of Appeal, Third District, and a member of NCACC, recently compiled a volume entitled Outline of Appellate Court Structure in the United States. The individual state summaries were contributed primarily by NCACC members, and the book was printed for the conference (as the front cover explains) "with the compliments of West Publishing Co." A copy of the book has been sent to each NCACC member and the remainder will be sold at a price of \$7.50 to libraries and anyone else who is interested. The proceeds will of course go to the conference coffers.

By-Law Amendments

April 1 was the deadline for filing by-law amendments with Secretary-Treasurer Jean Kennett. Jean reports that no such amendments have been filed.

Membership Drive

Membership Committee Chairwoman Claire Whitaker recently initiated a new membership drive. Conference members (there are now 117) received letters asking them to indicate all appellate clerks in their jurisdictions who are or are not NCACC members. When a sufficient number of these surveys have been returned to the National Center for State Courts, the second phase of the drive will begin. This involves mailing membership solicitation materials to all appellate court clerks who the responses reveal are not presently members of the Conference.

NCACC Questionnaire

Enclosed with this issue of the newsletter is a comprehensive questionnaire which seeks to elicit basic information from each member about his position and the court in which he is employed. The results will be tabulated and analyzed at the National Center for State Courts and published in the Newsletter later this year.

Tarrytown

February's Newsletter to the contrary, the third annual meeting of NCACC will in fact take place in Tarrytown, New York. Tarrytown is located on the east bank of the Hudson River directly to the north of New York City. It lies in Westchester County and is easily accessible by car; La Guardia in New York City is the nearest major airport. Tarrytown is in the middle of the historic lower Hudson Valley, the famous "Knickerbocker Country" in which Washington Irving set many of his stories. The hilly countryside is lush and beautiful and is dotted with centuries-old Dutch manors and estates. Yet the "big apple" with all that it offers is less than an hour's drive away. In sum, the site of our third annual conference seems to offer the best of several worlds.

New Secretariat Services Coordinator at National Center

Geoffrey Mort joined the National Center for State Courts in mid-February as full-time Liaison for Secretariat Activities. As such, he will be responsible for coordinating the various secretariat services which the National Center provides for NCACC. A native of Washington, D. C., Mr. Mort is a graduate of the University of Denver College of Law's Masters Program in Judicial Administration. He worked as a writer-editor and forms analyst for the Federal Price Commission in 1972, and before entering graduate school was a technical writer for two years with a Denver management consulting firm in the field of business psychology. Most recently he worked in Utah's Office of the Court Administrator, designing several studies of that state's judicial system. Mr. Mort also received his Bachelor's Degree from the University of Denver.

VIDEOTAPE EXPERIMENT

A 2½ year experiment with videotape recording of criminal trials in an Ohio court has been discontinued, and two additional court reporters have been hired to see if they can produce the same volume of criminal work as the videotape.

The Common Pleas Court in Franklin County, Ohio, voted seven to three on December 2, 1975, to discontinue the videotape experiment after January 1, 1976.

The decision, according to Elliot Welch, Court Administrator for the General Division of the Court, was a means of compromising differing views.

"The trial court felt the videotaping was excellent, especially on pleas," said Mr. Welch. "But the National Shorthand Reporters Association strongly objected to the program, and the Court of Appeals judges, while making no recommendation, found no advantage in videotape."

As a result, it was decided to discontinue the program. If the hiring of additional court reporters does not prove satisfactory, there is a possibility the videotape could be restored, Mr. Welch said.

The Franklin County experiment received national attention during its 2½ year existence. Its estimated total cost of \$272,000 was met mainly by grants from the Law Enforcement Assistance Administration and by contributing funds from the county.

The decision to discontinue videotape followed a November meeting of the court's Videotape Committee. Video Record, Inc., the firm which had contracted to provide the videotape services, recommended a renewal of the contract. The National Shorthand Reporters Association strongly opposed continuation. The Court of Appeals judges, while making no recommendation, said that "after more than two years of using videotape as a transcript of proceedings in most criminal cases, this court has found no decisive advantage in the use of videotape." The committee voted to leave the final decision to the entire bench.

Mr. Welch said the main Court of Appeals objection was that it took them too long to view tapes. To try to remedy that, two transcription typists were hired to make a hard copy from the audio tapes, he said. In the end, however, the decision was made to discontinue the program and hire the additional court reporters.

MEETING PUBLIC CRITICISM

The American Bar Association's Task Force on Courts and the Public recently released a small booklet entitled "Meeting Criticism of Bench and Courts." We will be reprinting this document in the Newsletter in several installments, beginning with this issue. Few institutions in our society are so frequently--and unjustly--maligned as are the courts. This series can hopefully provide some worthwhile insights into how to deal with a persistent problem.

WHY RESPOND TO CRITICISM?

Much has been written and said about the lowered esteem of the public for the legal profession generally--judges and courts as well as lawyers.

The effect on our judicial system is reduced confidence, which in turn fosters a lack of respect for orders made by the courts. While most disputes are settled outside the courtroom, it is vital that people who must go to court believe that courts and decisions are fair. This is not always true under the best circumstances. It is much less true in an atmosphere of doubt, criticism and lack of respect. *We should make no attempt to prevent just criticism. But we should make every effort to prevent or answer unjust criticism.*

There are bad judges [of whom] criticism is deserved, and even reasonably good judges who are sometimes justifiably criticized. The causes of such criticism, not the criticism, should be eliminated.

But there is criticism which results from a lack of understanding of the system--the reason for a decision, for a sentence, for a courtroom action. Such criticism should be answered.

The judge usually is in no position to defend his own action and ought not to be put into that position.

Who then can speak? Who can answer? Throughout the country, from time to time, a bar spokesman is heard defending the court or a judge. The Lake County (Indiana) Bar Association, the Los Angeles County Bar Association and others have policies and speak in appropriate circumstances. Why shouldn't more bar associations speak out when the criticism is general enough to warrant it?

The usual reason is that a prompt response is required and there isn't time to obtain authority or develop the appropriate response.

What is proposed here is that the project of answering criticism of bench and courts be undertaken, authority given and thought be given to various kinds of appropriate responses.

Hopefully the ones asked to participate will find the work light, criticisms few, but their preparation adequate if the situation arises.

What Criticism Should be Answered?

Only "important" criticism should be answered by anyone. If no damage can come from the criticism, or if no benefit can come from a reply, no answer should be made.

When the criticism appears to merit an answer, the facts should be obtained. Was the criticism accurately reported? If not, the "critic" himself may ask for the correction so that what he really said is reported. If it was accurately reported, is the criticism true? If it is true, does it require an explanation?

Most, but not all, critical comment that deserves reply is a result of a lack of understanding of the process.

The Conference of California Judges in 1971 adopted a policy in meeting criticism of bench and courts. Paragraphs B and C from that policy may be helpful, but should be modified to truly represent the policy of the organization which is adopting that policy.

- B. *The Kinds of Cases In Which Answering Criticism is Appropriate Except in Unusual Circumstances:*
1. When the criticism is directed to a judge but is actually an attack upon another element of the system of justice, *e.g.*, grand jury, district attorney, etc.
 2. When the critic is so obviously uninformed about the judicial system that a correction can be made on a factual basis.
 3. When the controversy offers opportunity to inform the public about some important aspect of the administration of justice, *e.g.*, factors in sentencing, nature of evidence.
- C. *Kinds of Cases In Which Answering Criticism Is Not Appropriate Except in Unusual Circumstances:*
1. Where the feuds between the critic and the judge are largely local, *e.g.*, during an election campaign.
 2. Where the judge is adequately defended by himself or by the local bar.
 3. Where there is a likelihood that a complaint against the judge will be presented to the Judicial Qualifications Commission.
 4. When the controversy appears likely to be long-lived.
 5. When we might need a long investigation to learn the true facts.
 6. When the issue is one of substantive law or requires legislative determination, *e.g.*, capital punishment.
 7. When the controversy involves a pending proceeding.

(To be continued next issue.)

THE JOB MART

There is an opening for Chief Clerk for the U. S. Bankruptcy Court in Denver. They are looking for someone with court administration experience or equivalent education. The special requirements stated in the job announcement are: proven ability as personnel administrator; knowledge of Bankruptcy Act and Rules desirable; and problem analysis and systems design knowledge and/or experience desirable.

The starting salary is between \$13,400 and \$14,000. Maximum salary is \$25,000. If you are interested, contact Mr. Steve Ehrlich, U. S. Bankruptcy Court, Room 145, U. S. Court House, Denver, CO., 80202, telephone: 303-837-3433. Mr. Ehrlich indicates that the court will want to interview anyone that they hire, but that they cannot afford to bring people to Denver for an interview. Therefore, if you are applying from outside the Denver area, you should be aware of the fact that you may have to come here for an interview.

Florida's Twelfth Judicial Circuit is seeking applicants for the position of CIRCUIT COURT ADMINISTRATOR. The position is to be filled on or after October 1, 1976.

The Circuit Court Administrator engages in responsibilities assisting the Chief Judge of a three-county, 14-judge judicial circuit in coordinating and supervising a variety of complex non-judicial administrative functions.

Qualifications: College degree with major course work in public administration, business administration or judicial administration and at least three years' experience in executive administrative management or court administration.

Experience in working with a multi-judge trial court is highly desirable.

At the discretion of the Chief Circuit Court Judge, a master's degree in one of the above areas may be substituted for one year of the required experience, or advanced training or experience in judicial, executive or public administration may be substituted for the required college degree.

Salary: \$16,516 to \$23,052 annually, depending on qualifications and experience.

Location of Office: Sarasota, Florida. Application Deadline: August 1, 1976. Resumes should be submitted to: Honorable Lynn N. Silvertooth; Chief Judge, Twelfth Judicial Circuit; Sarasota County Courthouse; Sarasota, Florida 33577.

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The South Central Regional Office of the National Center for State Courts is taking applications for a staff associate position. A masters degree in Public Administration, law degree, or extensive experience in court administration required. Salary competitive. Equal opportunity employer. Send resumes to: Grant Davis, Regional Director; National Center for State Courts; South Central Regional Office; University of Oklahoma - Law Center; Norman, Oklahoma 73069.

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Internal Auditor for Colorado Courts

Salary: \$1216-1630

Duties: Participates or conducts performance-type audits to determine effectiveness and efficiency of the use of Judicial Department resources, adequacy of management controls, and sufficiency of non-judicial internal procedures and personnel use.

Prepares audit reports and recommendations.

Performs financial management special reviews at the request of the State Court Administrator, the Director of Audits, or other management officials.

Education and Experience: Graduation from an accredited four year college or university with major course work in accounting, two years of experience in auditing.

APPLICATIONS TO: Robert C. Cassidy, State Court Administrator's Office; 323 State Capitol; Denver, Colorado 80203 by May 31, 1976.

NCACC

STATEMENT OF REVENUE & EXPENDITURES--1975

<u>Fund Balance</u>	12/31/74		\$2,007.35
<u>Revenue</u>	1975		
Dues - Members		\$1,775.00	
Dues - Associate Members		525.00	
Conference - Flagstaff		<u>1,619.69</u>	
		\$3,919.69	
	Total Revenue		\$3,919.69
<u>Expenditures</u>	1975		
Executive Meeting		\$ 70.00	
Office Expense			
Postage, Newsletter		142.10	
Postage, General		54.64	
Photocopy		25.91	
Supplies		60.00	
Printing - Newsletter		194.70	
Printing - Membership		19.35	
Conference		502.98	
*Miscellaneous		<u>60.64</u>	
		\$1,130.32	
	Total Expenditures		\$1,130.32
			\$2,789.37
	Fund Balance 12/31/75		<u>\$2,789.37</u>
			<u>\$4,796.72</u>
<u>*Breakdown of Miscellaneous Expenses</u>			
Check #1002 Alden House, Inc. - Engraved Gavel		\$23.14	
Check #1007 Jean Kennett - Departure Gift/Mills		<u>37.50</u>	
		\$60.64	

BALANCE SHEET FINAL 1975 As at 12/31/75

<u>Assets</u>		
Cash in Bank		\$5,262.10
Accounts Receivable		100.00
Total Assets 12/31/75		<u>\$5,362.10</u>
<u>Liabilities and Fund Balance</u>		
Accounts Payable		\$ 565.38
Fund Balance 12/31/75		<u>4,796.72</u>
Total Liabilities and Fund Balance		<u>\$5,362.10</u>