

# The Barker



News of the National Conference of Appellate Court Clerks

Vol. 22

June, 1994

No.4

## SUMMER IN SAN DIEGO

San Diego and our host, Steve Kelly, are anxiously awaiting our arrival in August. Joe Lane and his program committee have put together an exceptional program that is very relevant to the challenges we face in our work environment.

With so many things to do and see, San Diego is a great location for our conference and a great place to bring the family. The climate in San Diego in August is perfect with highs in the 70s and lows in the 60s. San Diego is home to a world-famous zoo, the Wild Animal Park, Sea World of California, the San Diego Chargers football team and Padres baseball team. Other sites include the historic Hotel del Coronado, Old Town Historic Park, and Balboa Park with many museums, art galleries, and theatres. Shopping areas include Seaport Village, the Gaslamp Quarter and Old Town. Activities include airsports (skydiving, skysailing, and sailplane and balloon rides), boat and water activities, fishing, tennis and golf. Just minutes from San Diego is Tijuana, Mexico, if you desire a taste of Mexican culture and a peek at Baja California.

There are numerous golf courses including one of the nation's foremost municipal courses, Torrey Pines Golf Course. Phil Foley and Lee McGraw are planning the fourth annual NCACC golf

tournament so if you are a golfer, come prepared to play!

Things to Remember: Registration will begin on Saturday this year and will continue on Sunday. The Sheraton Grand Hotel has shuttle

transportation to and from the airport. Your swimming suit (just in case you want to take advantage of the water activities) and casual clothes.

A major change this year: The business meeting will begin on Sunday afternoon at 3:00 p.m. and will adjourn until its conclusion on Thursday morning. Early Sunday afternoon will include a vendor's show and there will be a photographer available to take members' photographs for the NCACC directory. Tuesday will begin with the first annual NCACC Fun Walk/Run so check your conference mailer for the entry form. Be there or be square!

### CALL FOR THE ANNUAL MEETING

*President Ron Barrow, through Secretary Foley, and pursuant to the provisions of Article Five, Section Five, of the By-Laws, hereby issues the call for the annual meeting of the National Conference of Appellate Court Clerks to be held at the Sheraton Grand Hotel on Harbor Island, San Diego, California, beginning Saturday, August 6, 1994, and continuing through Friday, August 12, 1994.*

*The President's call for the annual meeting includes the text of the proposed amendments to the By-Laws which are forwarded with this notice*

*Respectfully submitted,  
Nancy T. Foley, Secretary*

The social programs for Tuesday and Wednesday had to be switched after your conference materials were mailed. Please note that the Zoo Excursion will be on Tuesday late afternoon/evening and the Beach Party will be on Wednesday late afternoon/evening.

Steve Kelly has put together a great social agenda for you and your family. Don't miss this one!

## THE DOCKET

### News of the National Conference of Appellate Court Clerks

President	Ron D. Barrow (CA)
President Elect	Ella Williams (MI)
Vice-President	David B. Beach (VA)
Immed. Past-President	Joyce A. Goldsmith (AZ)
Secretary	Nancy T. Foley (MA)
Treasurer	Danielle Schott (LA)
Executive Committee	Cornelia Clark (WI)
	William S. Fulton, Jr. (ARMY)
	Leslie D. Gradet (MD)
	Joe Lane (CA)
	Penny Miller (ND)
	Ed Smith (MT)
<b>Regional Reporters:</b>	
Northeast	Peggy Naylor (DE) (302) 736-4155 (ME, NH, VT, MA, RI, CT, NY, DE, NJ, PA)
Southeast	Bill Ng (202) 879-2725 (DC, VA, WV, NC, SC, GA, AL, FL)
South Central	Leslie Steen (501) 682-6849 (AR, OK, TX, LA)
Midwest	Carol Green (913) 296-3229 (MO, KS, NB, IA, SD, ND, MN)
MidCentral	Loren Strotz (708) 695-3750 (IL, MI, WI, IN, OH, KY, TN, MS)
Southwest	Mike Yerly (408) 277-1004 (NV, NM, AZ, CA, HI)
Northwest	Ed Smith (406) 444-3858 (WA, OR, ID, MT, WY, AK, UT, CO)
Editor	Peggy S. McGraw (MO)

Please submit items of personal or professional news to a regional reporter.  
Articles, letters and other submissions may be sent to the editorial office:

1300 Oak St., Kansas City, MO 64106-2970  
Phone (816) 889-3600 FAX (816) 889-3668



## CLERKS CONFER



As we approach another annual meeting, it is time for the Clerks Confer to take a look back on the history of the conference.

If you can answer the following questions correctly, Steve Kelly has promised to produce a first prize of a brand new car for the winner.

1. Where was the first conference held?
2. What clerk appointed the first members of the nominating committee?
3. How many charter members were at the first National Conference?
4. Who was the only candidate not to be recommended by the nominating committee, to be nominated from the floor when the nominees were presented and actually win the election on the floor?
5. Who were the winners of the first annual N.C.A.C.C. Golf Tournament held in St. Louis in 1991?

In order to be a winner, you must answer all five questions correctly. Steve will present the winner with the first place prize in San Diego. Good Luck!!  
Please send your response to Peggy McGraw, Editor, c/o Missouri Court of Appeals, 1300 Oak Street, Kansas City, Missouri 64106.

## DID YOU KNOW?????????

.....THAT KEN DEBLANC QUIT SMOKING ON JANUARY 9, 1994.....

.....THAT DIANA PRATT GOT MARRIED TO JOHNNY G. WYATT ON APRIL 3, 1994.....

.....THAT DANIELLE SCHOTT HAD A BABY BOY, CHARLES (CHASE) M. PONDER, IV.....  
.....BORN ON FEBRUARY 13, 1994.....

(Seems like those Louisiana Clerks have been busy--CONGRATULATIONS!!!)

## FACTS, FICTION AND FOOLISHNESS

By Leslie Steen, Clerk, Supreme Court of Arkansas



Not only does Peggy McGraw collect the copy, organize and edit *The Docket*, she also supplies material for my column, for which I am grateful.

The following is an excerpt from a case that is presently pending with her court. One of the attorneys is attempting to explain to the judge why he is not going to use an expert witness, a doctor who he deposed. It is called, "The Deposition from Hell":

MR. BERTRAM: Okay.

That's all I have.

Oh, wait. I have one more thing. I'm sorry, Judge.

I took a videotaped deposition out in Beverly Hills, California.

MR. LOMBARDO: I was there.

MR. BERTRAM: The videotape from hell of Dr. M\_\_ W\_\_. I played this thing back. There were golden retrievers running through Dr. W\_\_'s, and I think Rick can attest to this, Dr. W\_\_'s dining area and we were having to pet the golden retrievers during the videotape. We picked up a Mexican radio station on our mike and you can hear that playing on the videotape. Every five minutes Dr. W\_\_ would have to get a call and go off the record. You could hear lawnmowers and blowing machines in the background. And Dr. W\_\_ would make these bizarre facial features during his deposition. And besides I don't like what he had to say.

Having said all these things, I'm not going to play that videotape or read any part of it to the jury although Rick (Lombardo) made a comment or two I'd like to read to the jury but I'm not going to. Having said that and put it on the record -- I would like -- unless -- I would like the Court to instruct the defense attorneys not to convey to the jury in any sense that I have retained Dr. W\_\_ or that I'm not going to use Dr.

W\_\_ and if they do read a portion of the deposition or if they play a part of the video, I don't think they should be allowed to tell the jury that Dr. W\_\_ was my expert.

MR. LOMBARDO: Well, Your Honor, I agree with Scott's (Bertram's) characterization of the video. I add one thing, the witness winked at Scott quite a bit when he thought he made a point in Scott's favor. We may read part of the deposition and certainly there were questions that were asked of Dr. W\_\_ which would indicate that Mr. Bertram had hired him. So I think under the rules we could read those questions.

MR. BERTRAM: I don't think so.

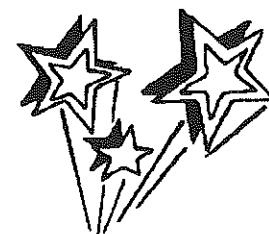
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I was recently visiting with an attorney in my office when my phone rang and it was from a person who was about one flapjack shy of a full stack. When I told the attorney about the call, he told me a story about a former law partner who accepted a call from a patient from the state mental hospital. The man wanted to change his name and the attorney told him he would do it and what the fee would be. After he received the fee, the attorney petitioned the court for a name change for his client.

If you happen to see Thor, Lord of Thunder, tell him we said, "hello."

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When I die, I want to go peacefully in my sleep like my grandfather--not yelling and screaming like the other people in his car did!



### MINUTES OF NATIONAL CONFERENCE OF APPELLATE COURT CLERKS TWENTIETH ANNUAL MEETING THURSDAY, AUGUST 5, 1993 NASHVILLE, TENNESSEE

The Twentieth Annual Meeting was called to order by President Goldsmith.

It was moved by Bill Fulton to waive the reading of the minutes of the Nineteenth Annual Meeting and that the minutes be approved. The motion was seconded and carried.

President Goldsmith called for the following 11 committee reports and two liaison reports and requested that they be considered as a whole:

#### AWARDS COMMITTEE

Chair Ron Barrow informed the membership that a J.O. Sentell recipient had been chosen and the name would be announced at the banquet [Steven Townsend]. He advised that the Morgan Thomas would not be given this year.

#### CONVENTION ASSISTANCE COMMITTEE

Chair Bill Fulton reported that the committee had completed new guidelines and created a set of guidelines for the Committee for Hosts Clerks.

#### FINANCE & INVESTMENT

Treasurer Keith Richardson presented a report consisting of seven exhibits. He announced that the conference remained in good financial condition. The exhibits were: (1) Comparative Statement of Revenues, Expenditure and Changes in Fund Balance--6/30/93 and 6/30/92. Due to decrease in membership dues and 30% less in investment income, the fund balance showed a decrease of

\$7,705.89. (2) Comparative Balance Sheets at 6/30/93 and 6/30/92 showing a fund balance of \$104,466.98. (3) Budget Results for Fiscal Year 1993. (4) Proposed Operating Budget for the Year Ending 6/30/94. (5) Comparative Financial Reports for Annual Conferences Occurring in Calendar Years 1990, 1991, and 1992. Treasurer Richardson noted that for the last three years, scholarships have been awarded. He acknowledged the contributions that do not flow through the budget and also the substantial speaker and travel contributions from the ABA. (6) Proposed Budget for the Annual Conference in Nashville. (7) Investment Committee Report. The conference investments earned \$3,992.80 in interest, with a total fund balance of \$104,466.98. The report showed \$20,379.36 in Merrill Lynch Ready Assets earning 2.68%; \$25,000.00 in a certificate of deposit earning 4.0%; \$25,000.00 in a certificate of deposit earning 3.9%; \$26,008.31 in Virginia Federal Savings Bank savings account earning 3.3%; and \$3,079.31 cash in the bank earning 2.5%. There was discussion regarding changing the fiscal year and it was determined that the best year to use is July through June.

#### MEMBERSHIP COMMITTEE

Chair Ella Williams reported that there were nine new members but that overall membership was down due to the loss of membership of many deputy clerks. She noted that five states do not have members: Idaho, Indiana, Maine, Oklahoma and Utah. Chair Williams advised that a new directory will be issued in the fall of '93 and requested that each member provide any address, telephone or FAX changes.

(see Minutes, cont. on p.4)



(Minutes, cont. from p.3)

### **LONG RANGE PLANNING AND IMPLEMENTATION COMMITTEE**

Chair Frans Labranche deferred to Bill Fulton to present the committee report. He reported that the committee had updated the guidelines and had constructed a form which listed expertises of clerks to be completed by the membership.

### **PROGRAM COMMITTEE**

President Goldsmith advised that no formal report was necessary from Chair Tommy Lowe.

### **PUBLIC RELATIONS COMMITTEE**

Chair Janice Clinkenbeard reported that there had been no changes to the guidelines or other activity.

### **PUBLICATIONS COMMITTEE**

Chair Peggy McGraw reported that the committee had published four issues of the DOCKET. As it was difficult to get sufficient information for each issue, it was requested that each member contribute. Chair McGraw also reported that the guidelines had been updated with the recommendation that the Directory be prepared by the Membership Committee. Chair McGraw thanked her whole committee with special thanks to Leslie Steen for his column and Carol Green for preparing all the new clerk items.

### **PAST PRESIDENTS COMMITTEE**

Peggy McGraw on behalf of Kevin Swanson reported that the committee had begun work on guidelines to assist future presidents during their terms. The question of a membership pin was also discussed but with little positive response. She informed the membership that the question of the banner had been resolved in the negative.

### **SCHOLARSHIP COMMITTEE**

Chair Penny Miller reported that five scholarships had been awarded but that due to changes in funding, only three were finally needed. She commented on the excellent committee guidelines prepared by Steve Townsend and found especially helpful the new, more relaxed deadlines. Chair Miller also noted the requirement of a certification that the recipient had attended the educational and business portions of the program.

### **SITE SELECTION COMMITTEE**

Chair Kenneth DeBlanc reported that only one site offer had been made for 1996 and that was Des Moines, Iowa. He noted that the offer had been very well prepared. The proposed hotel is the Embassy Suites in Des Moines.

### **LIAISON WITH ABA**

Steve Townsend reported on his participation with the Work Study Commission regarding delay reduction. He attended the three meetings held in Chicago. The group prepared standards for preparation of appellate records but that report is yet to issue. That report included changes such as the elimination of trial court records preparation and the determination by attorneys as to what should be included in the record.

### **LAWYERS TASK FORCE ON REDUCTION OF LITIGATION COSTS**

Ron Barrow reported that the project was off to a slow beginning and noted that Michael Yerly would be continuing with JAD/LCTF as the NCACC representative.

Frank Drumm moved to accept the preceding reports as submitted. The motion was seconded and carried.

President Goldsmith next called for the report of the Resolutions and Memorials Committee.

**WELCOME ABOARD !**

**A HEARTY WELCOME TO THE NEW MEMBERS OF THE N.C.A.C.C.! BELOW ARE MEMBERS WHO HAVE JOINED SINCE AUGUST, 1993.**

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PEOPLE, PLACES AND THINGS . . .



FOCUS ON . . . . .

**TENNESSEE.** As many of you know, the Tennessee appellate courts maintain clerk's offices in Nashville, Jackson and Knoxville. In the summer of 1993, a major restructuring occurred with one clerk named for the state and chief deputies in each division office. Previously, the three divisions had separate offices, each with a clerk and with procedures which sometimes differed from the others.

On August 1, 1993, Chief Deputy Clerks were hired for each division. The Western Division is headed by Sue R. Walker who had been a deputy clerk in Jackson for over twenty years when Jewell Redden was Clerk. Margaret Faulkner became Chief Deputy Clerk for the Middle Division. She has been with the appellate courts for over thirty years in Nashville. In Knoxville, the Eastern Division, Frankie R. Lewis became Chief Deputy. Prior to coming to the state judicial system in August 1993, she managed a large law firm in Knoxville which specialized in insurance litigation.

In October, 1993, Cecil Crowson was appointed the Appellate Court Clerk for Tennessee. For nearly twenty years, he had been a staff attorney with the Supreme Court and, as such, is uniquely qualified to manage the consolidated statewide system.

We look forward to welcoming this new Tennessee contingent in San Diego!

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**FRANK DRUMM**, Chief Clerk,  
Supreme Court and Appellate Court of

Connecticut, informs us that, while only ONE exciting thing has happened to him recently, that ONE thing was quite impressive. Eilis (pronounced A [as in Nay] leash) Drumm was born April 13, 1994, at 9:03 a.m. and weighed in at nine pounds, three ounces; and was 22.5 inches in length.

**JEAN KENNETT**, Clerk, Supreme Judicial Court for the Commonwealth of Massachusetts, and **Ella Williams**, Chief Clerk, Michigan Court of Appeals and incoming NCACC president, were among the participants at the National Center for State Courts' recent workshop on Procedural Innovations for appellate Courts in Criminal Appeals. The workshop was held in Portland, Maine. Afterwards, Jean and Ella maximized their Maine seacoast experience by spending a couple of days in Kennebunkport.

**G. RONALD DARLINGTON**, Executive Administrator, Commonwealth Court of Pennsylvania, informs us that he and his co-authors have done it again! Pennsylvania Appellate Practice 2d is expected to be published by Lawyer's Co-Op in December of 1994.

On a sad note, **MILDRED E. WILLIAMSON**, Deputy Prothonotary, Supreme Court of Pennsylvania, passed away earlier this year. Upon further inquiry, the Prothonotary's Office told us that Mildred passed away about six months ago. Apparently, her death was unexpected and due to a sudden illness.

**RESOLUTIONS AND MEMORIALS  
COMMITTEE**

Chair Louise Livingston submitted and read the following Resolutions:

The first recognized and gave appreciation to the following for a successful conference: Bureau of National Affairs and Jane Sanchez; West Publishing Company and John Smith; Mead Data Central and C. Lewis Tippet; the Tennessee Bar Association; and all others who contributed to the enjoyment of the conferees and their families visiting Nashville, Tennessee.

The second thanked Host Clerk A.B. Neil, his staff and "Administrative Assistant", Laddie Neil, and the Host Committee for the gift of their talents and efforts expended in planning, organizing and conducting the conference.

The third honored Tommy Lowe and the members of the Program Committee for performing their duties in an exemplary manner and for their dedication to the interests of the Conference in planning the program.

The fourth thanked the staff of the Sheraton Music City for the extraordinarily efficient performance of their duties in connection with the annual meeting.

The fifth honored Sandy Roos, of the American Bar Association, for her outstanding assistance to the conference.

It was moved by Louise Livingston that the resolutions be approved and adopted. The motion was seconded and carried.

President Goldsmith next called for the report of the Bylaws Committee.

**BYLAWS COMMITTEE**

Chair Glen Clark reported that the committee recommended changes to Art. III, Sec. 1 (Types of Members: by the addition of Retired Members), Art. III, Sec. 2 (addition of the word Retirement), Art. IV, Sec. 4 (addition

of the word Retired to the last sentence), Art. VII, Sec. 1 (addition of Committee Operational Guidelines as Appendix A to the Bylaws) and Art. VII, Sec. 3 (change to number of members of the Bylaws Committee to five regular members). Jill Engel moved for a waiver of the 30-day publication requirement. The motion was seconded and carried. Joe Lane moved for acceptance of the recommended bylaw changes except for the change to Art. IV, Sec. 4. The motion was seconded and carried. An open discussion of the issue of retired members voting followed. Ed Smith moved that Art. IV, Sec. 4 should be amended to give all retired members the right to vote. Joe Lane joined in that motion and requested that the motion state that regular and retired members who are in good standing through the payment of dues pursuant to Art. III, Sec. 4, shall be entitled to vote. The amendment was accepted and Ed Smith restated the joint motion that Art. IV, Sec. 2 of the Bylaws should read: Subject to Art. III, Sec. 4, regular and retired members who are in good standing through the payment of dues pursuant to Art. III, Sec. 4 shall be entitled to vote. After further discussion, President Goldsmith called for a voice vote on the joint motion. Two negative votes were recorded. The motion carried.

President Goldsmith called for the report of the Nominations Committee.

**NOMINATIONS COMMITTEE**

Chair Jill Engel presented the report of the committee and moved that the report be accepted. The motion was seconded and carried. Chair Engel nominated the following members for the Executive Committee: Penny Miller of North Dakota, Joseph Lane of California, and Leslie Gradet of Maryland and moved for their approval. There were no nominations from the floor. The motion was seconded and carried.

Chair Engel next explained that due to the resignation of Patricia Davis, the Executive Committee had named Ed Smith to fill the vacant position to this date. Chair Engel moved that Ed Smith of Montana be approved to fill the remainder of the term. There were  
*(see Minutes, cont. on p.6)*

(Minutes, cont. from p.5)  
no nominations from the floor. The motion was seconded and carried.

Chair Engel nominated Danielle Shott of Louisiana for the position of Treasurer. She moved for approval of the nomination. There were no nominations from the floor. The motion was seconded and carried.

Chair Engel nominated David Beach of Virginia for the position of Vice-President. She moved for approval of the nomination. There were no nominations from the floor. The motion was seconded and carried.

President Goldsmith requested the report of the Special Committee on the Code of Conduct.

**SPECIAL COMMITTEE ON THE  
CODE OF CONDUCT**

Chair Juleann Hornyak reported that the committee had studied the code and proposed certain changes.

The first proposal was a syntax change to the Preamble. James Benway moved to accept the change to the Preamble. The motion was seconded and carried.

The second proposal was stylistic change to Canon I. Tommy Lowe moved to accept the stylistic change to Canon I. The motion was seconded and carried.

The third proposal was an addition to (C) of Canon II regarding gifts. Reba Mims moved to accept the addition to Canon II (C). The motion was seconded and carried.

The fourth proposal was a change in Canon III (B) regarding explanations to litigants. Ken DeBlanc moved to accept the addition to Canon III (B). The motion was seconded and carried.

The fifth proposal was an addition to Canon V (C)(3). Steve Townsend moved to accept the addition to Canon V (C)(3). The motion was seconded and carried.

The sixth proposal was a restatement of Canon V (C)(4). Frank Drumm moved that

Canon V (C)(4) be changed to read: Acceptance by elected clerk of campaign contributions should be governed by any applicable state laws or court rules. The motion was seconded. President Goldsmith called for a voice vote. 26 yes votes and 17 no votes were recorded. The motion was carried.

President Goldsmith expressed her thanks to all the committees and especially to Juleann Hornyak and the Special Committee on the Code of Conduct.

President Goldsmith called for any new business.

**NEW BUSINESS**

President Goldsmith recognized Bill Fulton. He moved that it is the sense of the conference that the Bylaws Committee at the next annual business meeting propose such amendments to the Bylaws as may be necessary to permit regular members whose employment with their court has terminated other than by retirement to continue as associate members. The motion was seconded. Discussion followed. Jill Engel proposed an amendment to the motion that the proposals of the Bylaws Committee will be to clarify the status of those members whose employment has terminated. Bill Fulton accepted the modification. The motion as modified was seconded and carried.

President Goldsmith recognized Ron Barrow. He discussed the current ABA Appellate Delay Reduction Project and the concerns over the 280 day standard. He noted that time standards often become rules. John Wilkinson moved for a conference resolution supporting flexible time standards, with each court to go through the analysis and set individual standards and that the NCACC is an integral part of the process. The motion was seconded and carried with one abstention. (Frans LaBranche).

There was no further business.

Ron Barrow moved to adjourn the Business Meeting. The motion was seconded and carried.

The meeting adjourned at 3:59 p.m.

It was the consensus of your committee that a Strategic Plan should consist of policy goals covering at least the next ten years. It is understood the Futures Planning activities can be frustrating and is certainly not for the impatient.

Using Scenarios from "Future for State Courts of 2020", a number of conclusions were reached and numerous questions raised:

- 1)

How can appellate courts ideally satisfy the expectations of consumers?
- 2)

Keep statistics on types of filings, particularly civil and criminal pro se filings.
- 3)

The need to articulate the mission, goals and expectations of both appellate courts and the NCACC
- 4)

The need and availability of informal consulting teams.
- 5)

Provide our membership with the proper prospective of the clerk's role in the future.
- 6)

How to be more proactive instead of reactive.
- 7)

How to convince the court of our abilities, resources, and plans.
- 8)

Reinforce and develop the role of the clerk as the protector of human values within the system, particularly considering that the clerk in the future may be the only bridge between the community and the court system.
- 9)

Establish and develop the clerk's role in mediation and settlement.
- 10)

Develop the clerk as educator of staff and litigants.
- 11)

Promote the basic values of the Justice System.

- 12)

Understand, adapt to, and control new technology, but do not lost sense of human values.
- 13)

Adopt a goal and implement a plan for placing an appellate court clerk-member on the NCSC Board.
- 14)

Increase the professional visibility of appellate court clerks as a class, group, and organization.
- 15)

Find ways to be heard as loudly and as often as possible.
- 16)

Expand our thinking and development to include not only our own office but the entire appellate system.
- 17)

Issue a vision statement that is compelling and inspiring and which clearly sets forth the preferred future we subscribe to.
- 18)

Brainstorm a list of the forces that we think will be the most important in shaping the administration of justice and dispute resolution in the next ten years.

In conclusion, we suggest that Visioning asks first that we free ourselves from the limits of pragmatism and push the boundaries of our ideals to define what we want to create. We can create our future by being leaders together.

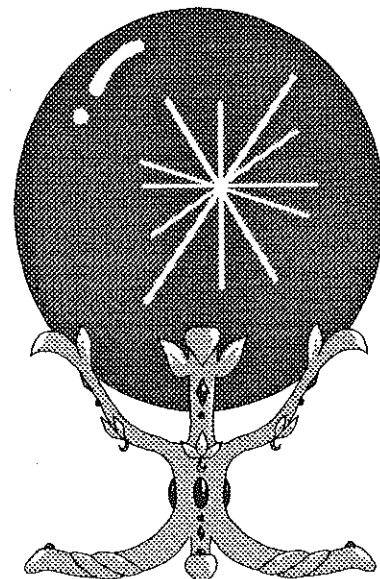
If we articulate our goals clearly, we will improve our ability to create the future we most desire--our vision describes the best that might be. We create the future by our actions--by what we do or fail to do. Vision allows us to create our reality, as George Bernard Shaw put it: "You imagine what you desire; you will what you imagine; and at last you create what you will." Respectfully submitted: David B. Beach, Jean M. Kennett, Glen D. Clark, Ella Williams, William S. Fulton, Jr., William K. Suter and Frans J. Labranche, Jr.

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## 1994 LONG RANGE PLANNING REPORT

This year, your Long Range Planning Committee has tried to look ten years into the future. We looked at such information as, "ALTERNATIVE FUTURES FOR THE STATE COURTS OF 2020", "JUSTICE IN THE NEXT MILLENNIUM: REPORT OF THE COURT FUTURES VANGUARD", "MOVING STATE COURTS CONSCIOUSLY AND CREATIVELY INTO THE 21ST CENTURY; USING VISION TO POINT THE WAY", "COURT FUTURES RESEARCH: THE FIRST STEP IN LONG-RANGE STRATEGIC PLANNING", "THE FUTURE REPORTS OF GEORGIA, VIRGINIA AND MASSACHUSETTS," and the video, "ENVISIONING JUSTICE, REINVENTING COURTS FOR THE 21ST CENTURY".

It is evident that the remainder of the 1990's will be turbulent for all aspects of government, particularly the courts. Social problems, such as poverty, unemployment, and drugs, will persist and generate work for the courts. The courts themselves will operate under the pressures of excessive work loads, declining budgets, and consumer dissatisfaction.



Futures Planning is not forecasting or crystal-ball-gazing. Long Range Strategic Planning "addresses the necessity of managing inevitable change, and there is no doubt that 'we are living at present in a period of considerable change. The Information Revolution is progressing at full pace, bringing fundamental changes that must be dealt with.' The critical components of Strategic Management are:

- 1) creating a new vision of the fundamental responsibilities and purpose of courts;
- 2) defining a strategic mission;
- 3) establishing objectives and performance

targets."

For our purposes, we must not only do Futures Planning for our courts, we must also do Futures Planning for our organization. Actually, Futures Planning can be broken into two phases. The first is Visioning and the second is Strategic Planning. Doing one without the other is meaningless. Futures Planning assumes change and may intimidate some people; however, we need to identify who wants change and why. In this regard, your committee recommends that we hold a semi-annual educational meeting in conjunction with the Long Range Planning Meeting, which will be open to the general membership. In addition, it is recommended that a Visioning Program be presented at a Future Annual Meeting. The structuring of this program would flow out of the Semi-Annual Educational-Long Range Planning Committee Meeting. The structure and participants for that program would be the responsibility of the Long Range Planning Committee in conjunction with the Program Committee. It is expected such a program would include the participation of a Futurist. It is recommended that a visioning segment be included in all future annual meetings.

Peter Senge, in "The Fifth Discipline", emphasizes that two conditions must be met for a vision statement to effect positive change. First, the vision must be a shared vision to which members of the organization are committed. They will stretch themselves and the organization to make it happen, creating the conditions necessary. Second, the organization members must, in fact, believe that they can make it happen: "vision becomes a living force only when people truly believe they can shape their future." Visions say where you want to go. Strategies map out the key paths to get there. Tactics focus on the specific steps.

## PRESIDENT'S PAGE



### THE INVISIBLE FORCE THAT MAKES IT HAPPEN

Well, this is the last you'll hear from me until we meet in beautiful Southern California. The year has been busy and your Executive Committee has worked hard. As with most organizations, once elected, the members of this body of officers tend to become somewhat invisible and nameless to the membership. For all they have given, I want to thank the following Executive Committee members. Their efforts have been 100% and they truly have gone the extra mile on your behalf.

*Ella Williams, President-Elect*  
*Michigan Court of Appeals*

*David B. Beach, Vice-President*  
*Virginia Supreme Court*

*Joyce A. Goldsmith, Past President*  
*Arizona Court of Appeals*

*Nancy T. Foley, Secretary*  
*Massachusetts Court of Appeals*

*Danielle Schott, Treasurer*  
*Louisiana Court of Appeals*

*Cornelia Clark, Exec. Committee Member*  
*Wisconsin Supreme Ct. and Ct. of Appeals*

*William S. Fulton, Jr.*  
*Exec. Committee Member*  
*U.S. Army Ct. of Military Review*

*Leslie D. Gradet, Exec. Committee Member*  
*Maryland Court of Special Appeals*

*Joseph A. Lane, Exec. Committee Member*  
*California Court of Appeal*

*Penny Miller, Exec. Committee Member*  
*North Dakota Supreme Ct.*  
*and Ct. of Appeals*

*Ed Smith, Exec. Committee Member*  
*Montana Supreme Court*

These people have been energetic, innovative and fun to work with. As president, I could not have asked for a finer group of officers.

Special mention also must go to the chairpersons and members of our committees. Here again, more often than not, the identities of these individuals tend to get lost during the year. Without the exemplary efforts of your committees, I doubt that we could have accomplished nearly as much as we did. The following committee chairpersons have my special thanks for a job well done:

*Frank J. Habershaw, Awards Committee*  
*Glen D. Clark, Bylaws Committee*  
*John H. Wilkerson, Jr.,*  
*Convention Assistance Committee*  
*Danielle A. Schott,*  
*Finance and Investment Committee*  
*Frans J. Labranche, Jr.,*  
*Long Range Planning Committee*  
*Ella Williams, Membership Committee*  
*Michael Yerly, Nominations Committee*  
*Joseph A. Lane, Program Committee*  
*Peggy Stevens McGraw,*  
*Publications Committee*  
*Debbie E. Causseaux,*  
*Public Relations Committee*  
*Louise B. Livingston,*  
*Resolutions and Memorials*  
*Janice S. Cltinkenbeard, Scholarship*  
*Tom F. Lowe, Site Selection*  
*Joyce A. Goldsmith, Past Presidents*

A special note on committees. If you can, plan to join a committee this next year. The primary work of the Conference is done through our committees and good people are always needed. I am sure that Ella will make a special pitch for people to sign-up in San Diego. Please, if you can spare a little time, get involved and join a committee.

This has been a fun year for me. I've learned a lot and been given the opportunity to get to know many of you much better. My thanks go to all the members of the NCACC for their support. See you in San Diego!

*Lon Fulton*

## **NOMINATING COMMITTEE SELECTS MEMBERS FOR POSITIONS WITHIN THE N.C.A.C.C.**

The Nominating Committee was charged with the duty of recommending members of the NCACC for the positions of Vice-President, Secretary, and three Executive Committee members. Pursuant to the Committee Operational Guidelines set forth in the NCACC Bylaws, The Nominating Committee presents its recommendations as follows:

### **VICE-PRESIDENT - ONE YEAR TERM (SUCCEEDING PRESIDENT ELECT)**

**MARILYN GRAVES** - Clerk of the Supreme Court and Court of Appeals of Wisconsin. Marilyn received her B.A. degree in Business Administration from Edgewood College. She has been with the clerk's office since 1967. Marilyn was appointed Deputy Clerk of the Supreme Court in 1975 and appointed Clerk of the Supreme Court and then newly created Court of Appeals in 1978. She has been a member of NCACC since 1975 and chaired and served on numerous committees, including serving as Program Chairperson in 1991.

### **SECRETARY - TWO YEAR TERM**

**NANCY TURK FOLEY** - Clerk of the Appeals Court of Massachusetts. A member of the Massachusetts Appeals Court since its inception in 1972, Nancy began as the Court's budget and personnel officer, working her way to Clerk while completing law school. Nancy is very active in the NCACC, having twice chaired the Membership Committee and chairing the 1992 Educational Program Committee. She is married to Philip J. Foley, a partner in the Boston law firm of Cornell & Gollub. An avid horsewoman, she enjoys tennis and has helped her husband become a scratch golfer.

### **EXECUTIVE COMMITTEE - TWO YEAR TERM**

**LOUISE B. LIVINGSTON** - Louise is the Assistant Clerk of the Supreme Court of Alabama. She received a B.S. degree in 1963 and a M.S. degree in 1966 in Business Education from Auburn University and was employed as a secretary by Tennessee Eastman Company; she represented Tennessee Eastman Company at the 1965 New York World's Fair as a Product Specialist at the Kodak Pavilion; she taught business law and typing at Sidney Lanier High School in Montgomery from 1966-1970 and college business courses at Birmingham-

Southern College in 1971-72; she was employed by the Supreme Court of Alabama in 1973 as Secretary for Justice Thomas S. Lawson, Sr.; was appointed Executive Assistant to Justice James N. Bloodworth in 1974; Confidential Assistant to Hon. J.O. Sentell, Clerk in 1980 and Assistant Clerk to Hon. Robert G. Esdale, Clerk, in 1984. Louise has been a member of the NCACC since 1989 and has chaired the Memorials and Resolutions Committee and been a member of the Site Selection Committee. Louise enjoys volunteer work with the American Cancer Society. She enjoys needlework, collecting cookbooks and antique wall pockets, traveling, and is married to Edwin K. Livingston who practices law in Montgomery.

**WILLIAM K. SUTER** - Bill is the nineteenth clerk of the United States Supreme Court since 1790. Bill received his degree from Trinity College located in San Antonio, Texas and attended law school at Tulane University where he graduated in 1962. Upon joining the Army, Bill served in a variety of supervisory and litigating JAG assignments in Kentucky, Vietnam, Thailand, Alaska, Virginia, and Washington, D.C. He served as chief of personnel plans and training in the Office of Judge Advocate General from 1980-81, the Judge Advocate General's School in Charlottesville, Virginia, from 1981-1984 and the U.S. Army Legal Services, 1984-1985 as well as serving as chief judge U.S. Army Court of Military Review. He retired as a Major General from the United States Army after serving 28 years. Bill has been a member of the NCACC since 1990.

**THOMAS F. GRANAHAH** - Tom served on active duty in the United States Navy for twelve years, at first as a supply officer and, thereafter, as a judge advocate. He received his A.B. degree from Fordham University, New York, in 1963 and his Juris Doctor degree from Brooklyn Law School, where he graduated *cum laude* in 1971. Upon leaving active military service in 1975, Mr. Granahan was appointed to the Staff of the United States Court of Military Appeals, where he served on the Central Legal Staff and as Counsel for Extraordinary Writs and Motions until his appointment as Clerk of the Court in July, 1981. He has been a member of the National Conference of Appellate Court Clerks since 1984. In addition, he is a member of the National Association for Court Management and the Bars of the Supreme Court of the United States, the United States Court of Military Appeals, and the New York Court of Appeals.

Respectfully submitted: Michael Yerly, CA, Chairperson; Jean Kennett, MA; George Miller, TX; Ken DeBlanc, LA; Peggy McGraw, MO



**MINUTES OF NATIONAL  
CONFERENCE OF APPELLATE COURT CLERKS  
TWENTIETH ANNUAL MEETING  
THURSDAY, AUGUST 5, 1993  
NASHVILLE, TENNESSEE**

The Twentieth Annual Meeting was called to order by President Goldsmith.

It was moved by Bill Fulton to waive the reading of the minutes of the Nineteenth Annual Meeting and that the minutes be approved. The motion was seconded and carried.

President Goldsmith called for the following 11 committee reports and two liaison reports and requested that they be considered as a whole:

**AWARDS COMMITTEE**

Chair Ron Barrow informed the membership that a J.O. Sentell recipient had been chosen and the name would be announced at the banquet [Steven Townsend]. He advised that the Morgan Thomas would not be given this year.

**CONVENTION ASSISTANCE  
COMMITTEE**

Chair Bill Fulton reported that the committee had completed new guidelines and created a set of guidelines for the Committee for Hosts Clerks.

**FINANCE & INVESTMENT**

Treasurer Keith Richardson presented a report consisting of seven exhibits. He announced that the conference remained in good financial condition. The exhibits were: (1) Comparative Statement of Revenues, Expenditure and Changes in Fund Balance-6/30/93 and 6/30/92. Due to decrease in membership dues and 30% less in investment income, the fund balance showed a decrease of

\$7,705.89. (2) Comparative Balance Sheets at 6/30/93 and 6/30/92 showing a fund balance of \$104,466.98. (3) Budget Results for Fiscal Year 1993. (4) Proposed Operating Budget for the Year Ending 6/30/94. (5) Comparative Financial Reports for Annual Conferences Occurring in Calendar Years 1990, 1991, and 1992. Treasurer Richardson noted that for the last three years, scholarships have been awarded. He acknowledged the contributions that do not flow through the budget and also the substantial speaker and travel contributions from the ABA. (6) Proposed Budget for the Annual Conference in Nashville. (7) Investment Committee Report. The conference investments earned \$3,992.80 in interest, with a total fund balance of \$104,466.98. The report showed \$20,379.36 in Merrill Lynch Ready Assets earning 2.68%; \$25,000.00 in a certificate of deposit earning 4.0%; \$25,000.00 in a certificate of deposit earning 3.9%; \$26,008.31 in Virginia Federal Savings Bank savings account earning 3.3%; and \$3,079.31 cash in the bank earning 2.5%. There was discussion regarding changing the fiscal year and it was determined that the best year to use is July through June.

**MEMBERSHIP COMMITTEE**

Chair Ella Williams reported that there were nine new members but that overall membership was down due to the loss of membership of many deputy clerks. She noted that five states do not have members: Idaho, Indiana, Maine, Oklahoma and Utah. Chair Williams advised that a new directory will be issued in the fall of '93 and requested that each member provide any address, telephone or FAX changes.

(Minutes, cont. from p.3)

### **LONG RANGE PLANNING AND IMPLEMENTATION COMMITTEE**

Chair Frans Labranche deferred to Bill Fulton to present the committee report. He reported that the committee had updated the guidelines and had constructed a form which listed expertises of clerks to be completed by the membership.

### **PROGRAM COMMITTEE**

President Goldsmith advised that no formal report was necessary from Chair Tommy Lowe.

### **PUBLIC RELATIONS COMMITTEE**

Chair Janice Clinkenbeard reported that there had been no changes to the guidelines or other activity.

### **PUBLICATIONS COMMITTEE**

Chair Peggy McGraw reported that the committee had published four issues of the DOCKET. As it was difficult to get sufficient information for each issue, it was requested that each member contribute. Chair McGraw also reported that the guidelines had been updated with the recommendation that the Directory be prepared by the Membership Committee. Chair McGraw thanked her whole committee with special thanks to Leslie Steen for his column and Carol Green for preparing all the new clerk items.

### **PAST PRESIDENTS COMMITTEE**

Peggy McGraw on behalf of Kevin Swanson reported that the committee had begun work on guidelines to assist future presidents during their terms. The question of a membership pin was also discussed but with little positive response. She informed the membership that the question of the banner had been resolved in the negative.

### **SCHOLARSHIP COMMITTEE**

Chair Penny Miller reported that five scholarships had been awarded but that due to changes in funding, only three were finally needed. She commented on the excellent committee guidelines prepared by Steve Townsend and found especially helpful the new, more relaxed deadlines. Chair Miller also noted the requirement of a certification that the recipient had attended the educational and business portions of the program.

### **SITE SELECTION COMMITTEE**

Chair Kenneth DeBlanc reported that only one site offer had been made for 1996 and that was Des Moines, Iowa. He noted that the offer had been very well prepared. The proposed hotel is the Embassy Suites in Des Moines.

### **LIAISON WITH ABA**

Steve Townsend reported on his participation with the Work Study Commission regarding delay reduction. He attended the three meetings held in Chicago. The group prepared standards for preparation of appellate records but that report is yet to issue. That report included changes such as the elimination of trial court records preparation and the determination by attorneys as to what should be included in the record.

### **LAWYERS TASK FORCE ON REDUCTION OF LITIGATION COSTS**

Ron Barrow reported that the project was off to a slow beginning and noted that Michael Yerly would be continuing with JAD/LCTF as the NCACC representative.

Frank Drumm moved to accept the preceding reports as submitted. The motion was seconded and carried.

President Goldsmith next called for the report of the Resolutions and Memorials Committee.

### **RESOLUTIONS AND MEMORIALS COMMITTEE**

Chair Louise Livingston submitted and read the following Resolutions:

The first recognized and gave appreciation to the following for a successful conference: Bureau of National Affairs and Jane Sanchez; West Publishing Company and John Smith; Mead Data Central and C. Lewis Tippet; the Tennessee Bar Association; and all others who contributed to the enjoyment of the conferees and their families visiting Nashville, Tennessee.

The second thanked Host Clerk A.B. Neil, his staff and "Administrative Assistant", Laddie Neil, and the Host Committee for the gift of their talents and efforts expended in planning, organizing and conducting the conference.

The third honored Tommy Lowe and the members of the Program Committee for performing their duties in an exemplary manner and for their dedication to the interests of the Conference in planning the program.

The fourth thanked the staff of the Sheraton Music City for the extraordinarily efficient performance of their duties in connection with the annual meeting.

The fifth honored Sandy Roos, of the American Bar Association, for her outstanding assistance to the conference.

It was moved by Louise Livingston that the resolutions be approved and adopted. The motion was seconded and carried.

President Goldsmith next called for the report of the Bylaws Committee.

### **BYLAWS COMMITTEE**

Chair Glen Clark reported that the committee recommended changes to Art. III, Sec. 1 (Types of Members: by the addition of Retired Members), Art. III, Sec. 2 (addition of the word Retirement), Art. IV, Sec. 4 (addition

of the word Retired to the last sentence), Art. VII, Sec. 1 (addition of Committee Operational Guidelines as Appendix A to the Bylaws) and Art. VII, Sec. 3 (change to number of members of the Bylaws Committee to five regular members). Jill Engel moved for a waiver of the 30-day publication requirement. The motion was seconded and carried. Joe Lane moved for acceptance of the recommended bylaw changes except for the change to Art. IV, Sec. 4. The motion was seconded and carried. An open discussion of the issue of retired members voting followed. Ed Smith moved that Art. IV, Sec. 4 should be amended to give all retired members the right to vote. Joe Lane joined in that motion and requested that the motion state that regular and retired members who are in good standing through the payment of dues pursuant to Art. III, Sec. 4, shall be entitled to vote. The amendment was accepted and Ed Smith restated the joint motion that Art. IV, Sec. 2 of the Bylaws should read: Subject to Art. III, Sec. 4, regular and retired members who are in good standing through the payment of dues pursuant to Art. III, Sec. 4 shall be entitled to vote. After further discussion, President Goldsmith called for a voice vote on the joint motion. Two negative votes were recorded. The motion carried.

President Goldsmith called for the report of the Nominations Committee.

### **NOMINATIONS COMMITTEE**

Chair Jill Engel presented the report of the committee and moved that the report be accepted. The motion was seconded and carried. Chair Engel nominated the following members for the Executive Committee: Penny Miller of North Dakota, Joseph Lane of California, and Leslie Gradet of Maryland and moved for their approval. There were no nominations from the floor. The motion was seconded and carried.

Chair Engel next explained that due to the resignation of Patricia Davis, the Executive Committee had named Ed Smith to fill the vacant position to this date. Chair Engel moved that Ed Smith of Montana be approved to fill the remainder of the term. There were  
(see Minutes, cont. on p.6)

*(Minutes, cont. from p.5)*

no nominations from the floor. The motion was seconded and carried.

Chair Engel nominated Danielle Shott of Louisiana for the position of Treasurer. She moved for approval of the nomination. There were no nominations from the floor. The motion was seconded and carried.

Chair Engel nominated David Beach of Virginia for the position of Vice-President. She moved for approval of the nomination. There were no nominations from the floor. The motion was seconded and carried.

President Goldsmith requested the report of the Special Committee on the Code of Conduct.

#### **SPECIAL COMMITTEE ON THE CODE OF CONDUCT**

Chair Juleann Hornyak reported that the committee had studied the code and proposed certain changes.

The first proposal was a syntax change to the Preamble. James Benway moved to accept the change to the Preamble. The motion was seconded and carried.

The second proposal was stylistic change to Canon I. Tommy Lowe moved to accept the stylistic change to Canon I. The motion was seconded and carried.

The third proposal was an addition to (C) of Canon II regarding gifts. Reba Mims moved to accept the addition to Canon II (C). The motion was seconded and carried.

The fourth proposal was a change in Canon III (B) regarding explanations to litigants. Ken DeBlanc moved to accept the addition to Canon III (B). The motion was seconded and carried.

The fifth proposal was an addition to Canon V (C)(3). Steve Townsend moved to accept the addition to Canon V (C)(3). The motion was seconded and carried.

The sixth proposal was a restatement of Canon V (C)(4). Frank Drumm moved that

Canon V (C)(4) be changed to read: Acceptance by elected clerk of campaign contributions should be governed by any applicable state laws or court rules. The motion was seconded. President Goldsmith called for a voice vote. 26 yes votes and 17 no votes were recorded. The motion was carried.

President Goldsmith expressed her thanks to all the committees and especially to Juleann Hornyak and the Special Committee on the Code of Conduct.

President Goldsmith called for any new business.

#### **NEW BUSINESS**

President Goldsmith recognized Bill Fulton. He moved that it is the sense of the conference that the Bylaws Committee at the next annual business meeting propose such amendments to the Bylaws as may be necessary to permit regular members whose employment with their court has terminated other than by retirement to continue as associate members. The motion was seconded. Discussion followed. Jill Engel proposed an amendment to the motion that the proposals of the Bylaws Committee will be to clarify the status of those members whose employment has terminated. Bill Fulton accepted the modification. The motion as modified was seconded and carried.

President Goldsmith recognized Ron Barrow. He discussed the current ABA Appellate Delay Reduction Project and the concerns over the 280 day standard. He noted that time standards often become rules. John Wilkinson moved for a conference resolution supporting flexible time standards, with each court to go through the analysis and set individual standards and that the NCACC is an integral part of the process. The motion was seconded and carried with one abstention. (Frans LaBranche).

There was no further business.

Ron Barrow moved to adjourn the Business Meeting. The motion was seconded and carried.

The meeting adjourned at 3:59 p.m.