

"Nominations", cont. from p. 1.

Six members, in addition to the officers, serve on the Executive Committee. Each year three new members are elected to two-year terms on the Committee. The Executive Committee is the Board of Directors of the organization and directs the affairs of the Conference.

Chair Glen Clark said "Nominations are extremely important to our organization

because they infuse new blood and new ideas into the Executive Committee. We need good people on our Executive Committee to keep the Conference going and growing."

The deadline for submitting your nominations to the Nominating Committee is February 1 so fill out the nomination form found on page 15 of this publication and return it today!!

F.Y.I.

The Lawyers Conference of the ABA's Judicial Administration Division has produced a videotape entitled *One Customer at a Time*. The videotape is designed to provide concrete examples of small, inexpensive actions that courts can take to improve the experience of litigants, lawyers, jurors, witnesses and other "customers" who come into our courts every day.

The videotape is available for your review and use through the National Center for State Courts. If interested, contact our Secretariat Office at the National Center, P.O. Box 8798, Williamsburg, VA 23187-8798 or at (804) 259-1841. Copies may be purchased from the Lawyers Conference staff at (312)988-5704 for \$24.95 (\$19.95 for ABA members).

AMERICANS WITH DISABILITIES ACT (ADA) RESOURCE & TRAINING MATERIALS MANUAL AVAILABLE

The Court Services Division has compiled a large loose-leaf volume of ADA Resource and Training Materials. This manual will help users develop their own in-house ADA training program. It is available for \$95 (price includes one year of free semiannual updates) from:

Court Services Division
1331 17th Street, Suite 402
Denver, CO 80202-1554
(303) 293-3036

The Docket

News of the National Conference of Appellate Court Clerks

Vol. 23

January, 1995

No.2

A SALUTE TO A.B. NEIL

By Leslie Steen, Clerk, Arkansas Supreme Court

Editor's note: A.B. Neil, Jr., former Clerk of the Tennessee Supreme Court, died on November 7, 1994, from complications following brain surgery. He had been a member of the National Conference of Appellate Court Clerks since 1988, had served on the executive committee and had hosted the conference in Nashville in 1993. Rather than place his obituary in "The Docket", we have asked Leslie Steen to write a short memorial in his honor.

My wife and I attended our first NCACC conference in Charleston, South Carolina in 1989. We had an apprehension much like we had experienced on our first day of school, being the newcomers and all; and, this uneasiness was even more uncomfortable than the Carolina heat and humidity. We were standing by ourselves in the hotel lobby after registering when we were approached by a rather large man with thinning white hair and a loud voice. When he noticed my name tag, he introduced himself as A.B. Neil "from across the river in Nashville." Within a very short period of time, we discovered a mutual affinity for trout fishing and sports. Any reservations Kay and I harbored quickly vanished. As most of you know, it did not take long to get to know and to like him.

Any time after that, I could always locate A.B. by his voice, his laughter or his size, none of which he could hide. A.B. and Laddie more or less adopted us at that first conference and we merely followed in their wake as they introduced us to other members and generally made us feel welcomed. This was a courtesy for which I will always be grateful, and a gesture that says so very much about them.

See "Tribute", cont. on p.2.

NCACC SEEKS NOMINATIONS

The Nominating Committee, chaired by Glen Clark of Arizona, is seeking nominations for the offices of Vice President and Treasurer and for three members to the Executive Committee.

The office of Vice President will become vacant at the close of the annual business meeting in San Antonio when Marilyn Graves, Wisconsin, advances to the

Deadline for Filing Scholarship Applications

Applications for NCACC Scholarships for the 1995 Conference must be postmarked no later than March 1, 1995. An application form and the scholarship guidelines commence at page 10 in this edition of THE DOCKET.

office of President-elect. The Vice President automatically advances to President-elect then the next year to President under the bylaws of the NCACC.

The office of treasurer, currently held by Danielle Schott, Louisiana, is held for two years. The treasurer is responsible for overseeing the receipt by the National Center for State Courts of all dues and monies paid to the Conference. The treasurer also serves as chairperson of the Finance and Investment Committee and is responsible for furnishing a financial report to the membership each year by the annual business meeting.

See "Nominations", cont. on p.16.

"TRIBUTE", cont. from p. 1

At later conferences at Tucson, Saint Louis and Washington, D.C., A.B. entertained many of us with his stories, anecdotes and jokes. He had a folksy Tennessee drawl and a wonderful delivery for his stories; and, when he laughed or smiled, his eyes almost squinted shut. I do not know of anyone who had more fun and enjoyed our conferences any more than he did.

In 1993, A.B. hosted our conference in Nashville. He was proud of his city, his state, his family and his heritage. . . and his Tennessee sour mash whiskey. They were all there for us to see and enjoy. This was only a short time after he had been receiving chemotherapy treatments for lung cancer, and I remember him wearing his baseball cap and making jokes about combs and brushes. I know this must have been painful and tiring for him, but he was usually laughing and smiling and always a gentleman.

I can think of no better way to characterize A.B. than to relate his nominating speech when he was elected to our executive committee in St. Louis in 1991. He told a story comparing his nomination to the committee to that of a Tennessee plow mule that was nominated for the Kentucky Derby. When somebody asked the mule's owner why he was going to let the mule run in the Derby when he had no chance of winning, the owner replied that he thought the association with the thoroughbreds would do his mule some good, just as the association on the executive committee would do him, A.B., some good.

As I wrote to his family after his death, I think my association with A.B. Neil, Jr. did me some good. On a final note, below is a short verse a friend (Chris Gaylon) gave to A.B. when A.B. discovered he had cancer. A.B. kept it above his desk on a bulletin board as an encouragement and reminder:

*When we walk to the edge of all the light we have and
take a step into the darkness of the unknown,*

We must believe that one of two things will happen;

*There will be something solid for us to stand on--
or God will teach us to fly.*

The Docket News of the National Conference of Appellate Court Clerks

| | |
|-----------------------|--|
| President | Ella Williams (MI) |
| President-Elect | David B. Beach (VA) |
| Vice-President | Marilyn Graves (WI) |
| Immed. Past-President | Ron Barrow (CA) |
| Secretary | Nancy T. Foley (MA) |
| Treasurer | Danielle Schott (LA) |
| Executive Committee | Thomas F. Granahan (DC) |
| | Louise Livingston (AL) |
| | William K. Suter (U.S. Supreme Court) |
| | Leslie D. Gradet (MD) |
| | Joseph Lane (CA) |
| | Penny Miller (ND) |

Regional Reporters:

| | |
|-------------------------|---|
| Tom Granahan (DC) | (202) 272-1448 (DC, NY, VT, NH, ME, MA, RI, CT, NJ, DE) |
| Jon Wheeler (FL) | (904) 488-6151 (FL, GA, SC, NC, TN, AR, LA, MS, AL) |
| Hank Henson (MI) | (313) 358-2456 (MI, MN, WI, IA, MO, ND, SD) |
| Gist Fleshman (IL) | (815) 434-5050 (IL, IN, KY, VA, WV, OH, PA) |
| Michael Yerly (CA) | (408) 494-2518 |
| Victoria Hernandez (CA) | (209) 445-5789 (CA, NV, UT, AZ, NM, OK, TX, HI) |
| Ed Smith | (406) 444-3858 (AK, WA, OR, ID, MT, WY, CO, NE, KS) |
| Editor | Peggy McGraw (MO) |

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

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

The nomination form which appeared in the October, 1994 issue of The Docket contained an error. The office that Danielle Schott now holds should have read "Treasurer". The form incorrectly listed her as "Secretary". This has been changed in the form below, as has the deadline for returning the form.

NATIONAL CONFERENCE OF APPELLATE COURT CLERKS - NOMINATION FORM

- For the Office of Vice President: (1 year term)
(Office presently held by Marilyn Graves))

Nominee:
Qualifications:
- For the Office of Treasurer: (2 year term)
(Office presently held by Danielle Schott)

Nominee:
Qualifications:
- For Member of the Executive Committee (2 year term)
(Office presently held by Leslie Gradet)

Nominee:
Qualifications:
- For Member of the Executive Committee: (2 year term)
(Office presently held by Joe Lane)

Nominee:
Qualifications:
- For Member of the Executive Committee: (2 year term)
(Office presently held by Penny Miller)

Nominee:
Qualifications:

Name: (Optional) _____

Date: _____

Send by March 15, 1995, to:

Glen D. Clark, Clerk
Court of Appeals, Division One
1501 West Washington Street
Phoenix, AZ 85007

EXECUTIVE COMMITTEE MEETS IN DES MOINES

*By Nancy Foley, Clerk, Appeals Court, Commonwealth of Massachusetts
and Penny Miller, Clerk, North Dakota Supreme Court*

The Executive Committee met on Saturday, November 19, 1994. The Fall Meeting was held at the Embassy Suites Hotel in Des Moines, Iowa, which will be the site of the 1996 Annual Meeting. The committee members arrived in Des Moines looking forward to reviewing the hotel facilities and exploring the social possibilities. None anticipated the exciting visit that followed. Our 1996 Host, Keith Richardson, Clerk of the Iowa Supreme Court, provided the committee with personal experiences of the many exciting things to do in and around Des Moines.

Friday evening, as each member checked into their spacious quarters at the Embassy Suites Hotel, they were able to enjoy the nightly Hotel Manager's party held in the unusual, waterfall, multi-level lobby. After the group assembled, Keith escorted them to a sumptuous dinner at one of the Des Moines country clubs. The prime rib was the best anyone had ever eaten. A warning from the Executive Committee: start dieting now for Des Moines - the food is great!!!!

Saturday morning, after enjoying the Embassy Suites' complimentary full breakfast, the Executive Committee began the conference work. In addition to reviewing each committee report and discussing the particulars of the 1995 Education Program, the committee received welcoming letters from the Governor of Iowa and the Mayor of Des Moines (a very nice touch). A special presentation was made by the Director of the Iowa Convention Bureau. His presentation further highlighted all the entertaining events happening in Des Moines and the immediate area. In particular, he noted that the State Fair will begin at the halfway point of our 1996 Annual Meeting. The Fair's opening parade will pass directly by the hotel. It all sounded wonderful.

A tour of the hotel, conducted by the functions manager, made it clear that the Embassy Suites was the perfect size to accommodate the conference needs but not so large as to overwhelm. The plenary and breakout meeting rooms were conveniently located and well equipped. The guest rooms viewed were large and recently renovated. Most of the suites had lovely views of the river and the city.

At the conclusion of the meeting, our host, Keith Richardson, treated the group to another special evening. The members were chauffeured to a small micro-brewery for a private tour (and tasting !!!) and a wonderful dinner in the adjoining, charmingly restored, old train station.

Sunday, with pleasant memories of Des Moines (and another delicious complimentary breakfast), members returned home to spread the word that Des Moines is a very special city. It is not too early to start getting excited about the 1996 Annual Meeting. The Embassy Suites is a wonderful location for the conference and Des Moines is the perfect place for a visit.

HOW COURT REPORTER TECHNOLOGY BENEFITS THE APPELLATE COURT

By Bruce A. Matthews, President, National Court Reporters Association

Computerized court records at the trial level also help to improve the appellate process. Contributing to this courtroom digital revolution are highly skilled, technologically advanced court reporters, who can convert the spoken word into digitally based text within seconds.

Most court reporters today - about 90% - are computerized. Court reporters call it CAT, or Computer Aided Transcription, which electronically links a stenotype machine to a computer so that a court reporter's stenographic symbols are recorded both on the familiar paper tape and on a computer disk inside the machine. A computer program then translates the stenotype notes into English text that can be researched, corrected, telecommunicated, stored on CD-ROM or other computer media, integrated with a videotape - or simply printed out into a conventional or condensed-format transcript.

Many court reporters are taking their skills and the technology to another level by offering realtime display of the proceedings in court. Realtime is the instantaneous setting of the above CAT technology, and further allows the translated text to be displayed on a computer monitor, printed out as a rough transcript or captured on a floppy disk. Some court reporters have integrated these computer offerings into a courtroom-sized network called a Computer Integrated Courtroom, or C.I.C., so the judge and counsel can view and search the transcript of the day's proceedings as well as load and review prior testimony, perform database searches in court, and otherwise bring the organizing power of the computer to their case.

Of course, transcripts created at the trial level often find their way to the appellate level. In fact, the realtime software court reporters use to create transcripts enables them to keep all courtroom records in a digital format. Once in this format, they can be electronically filed at the end of a case directly to the state's appellate court, saving valuable time. Having the transcript in digital form also means the record of the trial can readily be integrated into the document system at the appellate level, whatever the level of sophistication that system has.

One area where court reporters' technology can be particularly useful for the appellate clerk is docketing. With the court reporter's computerized record, the clerk already has much of the data, such as key dates, names and events, needed to begin the docket record.

Since the court reporter can provide the trial record in ASCII format, the clerk can easily manipulate the information to fit that appellate court's system, and can reduce the time spent entering case related information.

In addition, archiving, storing, and most important, retrieving the record becomes far more efficient for the appellate court when the record is computerized as opposed to being stored in a file cabinet or on microfilm. The court reporter's computerized transcript, in ASCII format, can be saved to disk. So if an appellate court clerk can instantly access 300,000 pages on a CD-ROM, for example, storage costs can be reduced dramatically. And the storage life on these is projected to be at least 100 years, which would comply with all varying laws concerning how long trial and appellate records must be kept.

Local court reporting associations are working with the bar, the appellate courts and other groups to implement these systems across the country. For example, in San Francisco, the Official Court Reporters Association has just begun a program they call "2020 Vision: Advanced Court Transcript Services." The eventual goal of the 2020 Vision program is a fully computerized appellate court system, including C.I.C.s, a court reporter e-mail system, an electronic docketing system, electronic filing of transcripts to the Court of Appeals, CD-ROM imaging for record archives and databases, and a computerized network between court reporters, court administrators, district attorneys, public defenders, city attorneys, private attorneys, and the Court of Appeals.

Many official court reporters in this country have both the hardware and software to provide realtime technology. In this day of instant information, when an attorney leaves the trial and goes immediately to file an appeal on behalf of a litigant, the entire case record can be immediately transferred to the Appeals Court, thanks to the technology that can be provided by official court reporters.

Bruce A. Matthews is president of the National Court Reporters Association which is the professional association for the court reporting industry. Its 33,000 members include captioners, official court reporters and freelance reporters who are responsible for making accurate transcripts of court proceedings, federal and state legislative proceedings, depositions, arbitrations, business and union conventions, and other events that require an exact record of what takes place.

MASSACHUSETTS DEVELOPMENTS IN ADMISSIBILITY OF DNA EVIDENCE

*By Jean Kennett, Clerk, Supreme Judicial Court of Massachusetts
and Nancy Turck Foley, Clerk, Appeals Court of Commonwealth of Massachusetts*

The O.J. Simpson case has created national interest and awareness of the critical part DNA evidence can play in criminal trials today. The state and federal courts have been wrestling with the portent of DNA evidence for some time. Recently, for instance, Daubert v. Merrell Dow Pharmaceuticals, 113 S.Ct. 2786 (1993); Arizona v. Hummert, No. 1 CA-CR92-098 (July 26, 1994); People v. Frank Lee Soto, Cal. Ct. App., November 22, 1994; and Commonwealth v. Lanigan, 419 Mass. 15 (1994).

The Massachusetts odyssey through the complexities of DNA and DNA testing began with Commonwealth v. Curnin, 409 Mass. 218 (1991). In that case, the Court found that the evidence which might be appropriately considered did not warrant a conclusion that the testing agency had followed "a generally accepted or obviously logical procedure . . ." The case was remanded for retrial.

Again in 1992, the Court remanded a case in which the admissibility of DNA evidence was called into question because of the testing processes. Commonwealth v. Lanigan, 413 Mass. 154 (1992). The case, now referred to as Lanigan I, was remanded because the Court could not hold that the processes used to estimate the frequency of the DNA profile in this case had found "general acceptance" in the scientific community concerned with population genetics.

ATTENTION JEOPARDY FANS!

Be sure to watch one of America's favorite game shows for the appearance of the Administrative Assistant to the Chief Justice of a major East coast intermediate appellate court on March 20 and 21, 1995!

The Court went on to discuss the 1992 report of the National Research Council. Among the recommendations for DNA testing contained in the report, the Supreme Judicial Court found most important for the judicial system what the NRC report called a "ceiling frequency" for all DNA frequency calculations. The ceiling frequency, according to the NRC report, provides the most conservative estimate of frequency.

The newest criteria regarding the admissibility of DNA was stated in Commonwealth v. Lanigan, 419 Mass. 15 (1994). (Lanigan II was decided November 25, 1994). In this recent development, the Commonwealth used the ceiling principle to support admission of the DNA test results and evidence of the statistical probability of a random match. The Court stated that the Commonwealth had established "the reliability of the process underlying its expert testimony on probability and thus the evidence of probability of a DNA match in a randomly selected population was properly admitted."

Clearly this rapidly changing evidentiary issue is one to watch both on the state and federal level. Anyone wishing to know more about the physical properties of DNA in a capsulized version should read the appendix to the Curnin decision in the Massachusetts Reports.■

NATIONAL CONFERENCE OF APPELLATE COURT CLERKS APPLICATION FOR ANNUAL MEETING SCHOLARSHIP ASSISTANCE

(Note to Applicants: Please complete the entire application. Print or type all answers. Instructions and selection criteria immediately precede this application.)

FUNDING REQUESTED FOR THE ANNUAL MEETING TO BE HELD _____, 19____, AT _____

NAME: _____

TELEPHONE NUMBER: ()-_____

POSITION HELD: _____ NCACC MEMBER IN GOOD STANDING? ☐ YES ☐ NO

NO. OTHER NCACC MEMBERS EMPLOYED BY YOUR COURT: _____ NO. PLANNING TO ATTEND ANNUAL MEETING: _____

FUNDING AVAILABLE FROM YOUR COURT FOR YOUR ATTENDANCE AT ANNUAL MEETING: NONE ☐ PARTIAL ☐
(ESTIMATED TRAVEL \$_____ LODGING/FOOD \$_____ AND OTHER \$_____)

WILL YOUR COURT HAVE FUNDED THE ATTENDANCE OF NCACC MEMBERS FROM YOUR OFFICE TO OTHER EDUCATIONAL PROGRAMS DURING THE TWELVE MONTHS PRECEDING THE ANNUAL MEETING FOR WHICH SCHOLARSHIP ASSISTANCE IS SOUGHT? YES ☐ NO ☐ IF "YES", PLEASE IDENTIFY THE PROGRAM(S) AND THE TOTAL AMOUNT OF FUNDING MADE AVAILABLE: _____

HAVE YOU OR ANY OTHER EMPLOYEE OF YOUR OFFICE EVER RECEIVED A SCHOLARSHIP FROM THE NCACC? YES ☐ NO ☐ IF YES, PLEASE THE YEAR(S) RECEIVED: _____

PLEASE LIST THE AMOUNT OF SCHOLARSHIP ASSISTANCE SOUGHT, UNDER "TRAVEL", YOU MUST LIST THE ESTIMATED COST OF "COACH" OR REDUCED FARE TICKETS FOR AIR OR RAIL USE, WHERE APPLICABLE. THOSE WHO SEEK AUTOMOBILE EXPENSES WILL BE REIMBURSED ON A "PER MILE" BASIS. PLEASE LIST THE ROUND TRIP MILEAGE FROM YOUR HOME TO THE MEETING SITE. THE "PER MILE" RATE WILL BE SET BY THE EXECUTIVE COMMITTEE. LODGING EXPENSES MAY BE ALLOWED UP TO \$75.00 FOR A MAXIMUM OF FIVE NIGHTS. PLEASE NOTE THAT NOT MORE THAN \$750.00 MAY BE AWARDED ON ANY SINGLE SCHOLARSHIP. SCHOLARSHIP FUNDS ARE NOT AVAILABLE TO DEFRAY COSTS OF MEMBERSHIP IN THE NCACC.

TRAVEL: Airfare \$ _____
Rail \$ _____
Auto \$ _____
Lodging: _____ nights @ \$ _____ per night = \$ _____

YOU MAY USE THE FOLLOWING TO MAKE ANY STATEMENT OR COMMENTS YOU CARE TO IN SUPPORT OF YOUR APPLICATION. (Feel free to continue on a separate piece of paper if necessary.)

I HEREBY CERTIFY THAT THE FOREGOING ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I ACKNOWLEDGE AN OBLIGATION TO KEEP THE NCACC APPRISED OF ANY CHANGES IN MY FUNDING STATUS THAT MIGHT AFFECT MY ELIGIBILITY FOR SCHOLARSHIP ASSISTANCE. I UNDERSTAND THAT MY ATTENDANCE AT ALL EDUCATIONAL PROGRAMS IS REQUIRED SHOULD I RECEIVE SCHOLARSHIP ASSISTANCE.

DATE: _____ SIGNATURE OF APPLICANT: _____

(Approved: 12/2/89)

SCHOLARSHIP APPLICATION INSTRUCTIONS

- A. Postmark your completed application by **March 1, 1995**.
- B. Send the application to:
- Ms. Shelly Rockwell
National Conference of Appellate Court Clerks
c/o National Center for State Courts
300 Newport Avenue
Williamsburg, VA 23185
- C. The following are the selection criteria for the award of scholarships as contained in guideline "L" of the Scholarship Committee:
1. Membership in the NCACC in good standing (a prerequisite for applying);
 2. The amount of Court funding available for the applicant's attendance at the annual meeting;
 3. The amount of Court funding expended on other educational programs for the applicant since the last annual meeting of the NCACC;
 4. The number of employees in the applicant's office who will attend the NCACC's annual meeting with court funding;
 5. The nature of the applicant's position;
 6. The location of the applicant's court;
 7. Whether the applicant has previously received a scholarship award; and
 8. Whether any employee of the applicant's court has previously received a scholarship award.



SAN ANTONIO IS THE SITE AND TEXAS HOSPITALITY WILL BE ABUNDANT AT 22ND ANNUAL MEETING

River City's Getting Ready!!

By Herb Schaefer, Clerk, Texas Court of Appeals, 4th District

HISTORY - FUN - FOOD - Follow the sun to beautiful San Antonio, home of the historically famous cradle of Texas liberty--THE ALAMO -- located just 1 block away from the site of this year's conference of the National Conference of Appellate Court Clerks. The luxurious 4-star Hilton Palacio Del Rio, situated in the heart of San Antonio on the banks of the tranquil San Antonio River, welcomes you and your family to a fun-filled week August 6-11, 1995 - where the romantic culture of Old Mexico and the rowdy history of the Texas cowboy co-exist in perfect harmony.

Enjoy golfing at one of the nation's best golf courses or take a trolley ride to El Mercado for a frosty Margarita and spicy Mexican food at one of the many outdoor cafes while being serenaded by roving mariachis. Then shop at the many Mexican curio shops. Experience a romantic stroll down the winding Riverwalk to the Arneson River Theater for a performance under the stars by lively Mexican dancers and

musicians or take a water taxi further on down the river to the newly-opened Hard Rock Cafe.

Not to be missed is the annual Texas Folklife Festival, located on the vast grounds of the Institute of Texan Culture, and within walking distance from the Hilton Palacio. The Folklife Festival celebrates the many rich cultures of Texas with food, music, arts and crafts.

A must on your agenda is a visit to the enormously popular Fiesta Texas Amusement Park located in the beautiful Texas hill country for good family fun. For the courageous, ride the Rattler, the world's tallest wooden roller coaster, or for the weaker of heart, enjoy one of the many musical shows.

San Antonio is filled with non-stop fun, the city where the party never stops, where you'll find a Fiesta around every corner, where there is always a reason to celebrate. Come celebrate with us!!!

EXCITING EDUCATIONAL PROGRAM PLANNED FOR SAN ANTONIO

By Leslie Gradet, Clerk, Maryland Court of Special Appeals

Your Program Committee is planning a stimulating and thought-provoking program for the San Antonio convention. We have lined up an all-day **Myers-Briggs Type Indicator** seminar. (Briefly, for those of you who are unfamiliar with MBTI, it is a questionnaire which identifies natural personality preferences. These preferences, in turn, influence the manner in which we communicate. Perception, judgment, decision-making and energy flow are factors which comprise personality type. The facilitator will analyze each questionnaire and will structure the seminar to our group, enabling us to gain insight into why we think and behave the way we do, and to maximize the advantages of similarities and differences between ourselves and the people we communicate with--our judges, staffs, attorneys, and the general public.) There will be small and large group exercises that will be eye-opening and fun. **YOU WILL RECEIVE YOUR MBTI QUESTIONNAIRE WHEN YOU SEND IN YOUR REGISTRATION MATERIALS. PLEASE COMPLETE IT PROMPTLY SO THAT THE FACILITATOR CAN TAILOR THE SEMINAR TO OUR GROUP'S NEEDS.**

Prepare to have your way of looking at the court system and society challenged and expanded by two half-day programs. In one, planned by the Program Committee and the Long Range Planning Committee, we will be looking at possible changes in the court system in the 21st century due to technology, science, the economy, the environment, and social and political

demands. Dr. Ramon de Arrigunaga, a specialist in the area of **Futures**, will guide us through exercises to envision and plan for the court system of the not-so-distant future.

The Program Committee is very pleased that Judge James P. Gray of the Orange County (California) Superior Court will present a program on **U.S. drug policy** and how it is adversely affecting the court system and society as a whole. Together we will discuss options for a more workable and effective approach to the problem.

We also will have a half-day **Ethics** program. With a panel of NCACC members, we will examine a number of scenarios spotlighting ethical dilemmas facing non-judicial court personnel, and discuss different ways of handling the situations.

Finally, in the works are four to six **breakout sessions** covering topics of day-to-day court administration. (Program Committee members will be contacting NCACC members to be session leaders. Please don't be shy--agree to share your experience and expertise with your fellow clerks. You will be making a valuable contribution to the conference.)

More information on the Program will be published in the next Docket. See you in San Antonio!

I. Successful applicants shall be informed of the amount of their award and of the allocation of the funds by type. Further, the notice shall provide that the Treasurer will direct the applicant's reimbursement to the extent of the award after the conclusion of the annual meeting on receipt of satisfactory evidence of the payment of the covered expenses and the applicant's attendance at the educational portion of the annual meeting.

J. No applicant shall receive more than two scholarships in any four-year period.

K. Members of the Executive Committee and the Scholarship Committee shall not be eligible for a scholarship award.

L. SCHOLARSHIP ASSISTANCE - SELECTION CRITERIA

The actions of the Scholarship Committee and the Executive Committee, in respect of scholarships, full or partial, shall be based on an evaluation of the following criteria:

1. Membership in the NCACC in good standing. (Failure to meet this requirement shall result in the automatic rejection of the application).

2. The amount of Court funding available for the applicant's attendance at the annual meeting. (Applicants who have no funding available shall have a preference over those who are eligible for partial or full funding.)

3. The amount of Court funding expended on other educational programs for the applicant since the last annual meeting of the NCACC. (This

includes programs such as ICM seminars and meetings of other professional organizations. Applicants who have had no opportunity to participate in educational programs at court expense shall have a preference over those who have.)

4. The number of employees in the applicant's office who will attend the NCACC's annual meeting with court funding. (Applicants whose office receives no funding will have a preference over those who have one or more fellow workers attending the NCACC meeting at their Court's expense.)

5. The nature of the applicant's position. (To the extent practicable, scholarships shall be awarded to a mix of clerks, deputy clerks, and other eligible members of the NCACC).

6. The location of the applicant's court. (To the extent possible, scholarships shall be awarded to individuals in a manner that reflects the geographical diversity of the organization.)

7. Whether the applicant has previously received a scholarship award. (Applicants who have never received assistance shall have a preference over those who have.)

8. Whether an employee of the applicant's court has previously received a scholarship award. (Applicants from courts who have never received a scholarship shall have a preference over those who have.)

ADOPTED: December 2, 1989

As amended November 13, 1993.

SCHOLARSHIP ASSISTANCE GUIDELINES

A. Pursuant to Article VII, Section 5, of the Bylaws, the Scholarship Committee shall consist of three members appointed by the Executive Committee. In addition, the members shall serve for a term of one year. They may be reappointed. The President shall designate the Chairman.

B. Scholarships shall be awarded as a means of promoting attendance at annual meetings of the NCACC by members who would otherwise be unable to attend due to limitations in Court funding.

C. The Committee shall recommend to the Executive Committee the award up to \$3,750 in scholarships annually. No individual scholarship may exceed \$750. Of the total amount awarded to each recipient, no more than \$500 may be allocated to travel expenses and no more than \$375 may be allocated for hotel accommodations (a maximum of \$75/night for no more than five nights). Each award shall specify the amounts allocated by type.

D. Scholarship funds shall not be applied to defray the cost of membership in the NCACC.

E. The membership shall receive annual notice of the availability of scholarship funds. Interested members shall obtain application materials from the National Center for State Courts (NCSC) as Secretariat of the NCACC. Applications shall be filed with the NCSC, postmarked no later than April 1 of each year. The NCSC shall forward copies of all applications to the Scholarship Committee for its consideration.

F. Applicants shall be responsible for presenting the Scholarship Committee with reasonable estimates of the cost of travel. Reimbursement for air or rail transportation shall be based on "coach" or reduced fares. Travel by automobile shall be reimbursed for the direct distance between the applicant's home and the meeting site (round trip) at the per mile rate set by the federal government for business travel by government employees (currently \$.24 per mile).

G. The Scholarship Committee shall review all applications in the light of the criteria set forth in these Guidelines. Supplemental information may be required from applicants should the Committee deem it appropriate. The Scholarship Committee shall report its conclusions and recommendations in respect of all applications to the Executive Committee through the President by May 1st. Recommendations that are not unanimous shall be identified as such.

At its spring meeting, the Executive Committee shall designate, in its discretion and consistent with these Guidelines, those who are to be offered scholarships and the amounts to be received, allocated by type of assistance. The Executive Committee shall not be required to expend all budgeted funds or to award the maximum number of scholarships.

H. The Secretary shall, within two weeks of the meeting of the Executive Committee, notify each applicant in writing in respect of the action taken by the Executive Committee. Copies of the correspondence shall be forwarded to the President and the Treasurer. (cont. on next page)

PEOPLE, PLACES AND THINGS



MARGIE THOMPSON, Clerk of the Court of Appeals, First District of Texas, would like to "blow her own whistle" about her twin daughters, Brandi and Toni. The girls were only 10 months old when Margie began working for the Court of Appeals, so they have more or less "grown up" with the Court. Both girls are in the top 5% of their high school class, are members of the National Honor Society and have maintained an above average grade point while taking Honors courses throughout high school. Both girls, who will graduate in June, 1995, plan to attend college. Margie hopes that all those lawyer/judges jokes haven't discouraged them.

DARRELL N. PHILLIPS was named Chief Clerk of the Hawaii Supreme Court on February 1, 1994. He previously served as a deputy clerk with the court. The court's street address is 417 S. King St., Honolulu, Oahu, Hawaii 96813.

IMOGENE ALLEN, Clerk, Tenth Court of Appeals for the State of Texas, has been Clerk since April 1, 1994. Bob Watts resigned as Clerk on October 22, 1993, effective December 31, 1993. She

was Chief Deputy at the time and was appointed Clerk Pro Tem at that time. The Court appointed her as Clerk on April 1, 1994. She has been with the Court since July 10, 1978, in the Capacity of Deputy Clerk I, II, and III.

RUSSELL L. SIMMONS, Clermont County Clerk of Courts, who serves as the clerk of the Court of Appeals in Ohio plans to retire, effective March 31, 1995. He has spent 40 years in service to the government including 26 years as Clermont County Clerk of Courts but will give it all up for a change to a different lifestyle.

Russ plans to spend time at his homes in Florida and Ohio with his wife, Barbara, and to visit his 6 adult children and 8 grandchildren. He also plans to write a book about his life.

Russ stated in a letter to the editor that he plans to pay his dues to the NCACC "just to visit some of the meetings and to see all of you fine people." We hope to see you too, Russ, and wish you the best of times in your retirement.

FRANS LABRANCHE, Clerk of the Supreme Court of Louisiana, would like to announce the birth of his granddaughter, Gabrielle Delphine Gonzales, born January 8, 1995. She weighed five pounds and 10 1/2 ounces and was 18 3/4 inches long. Congratulations Frans and Del!

J. O. SENTELL AWARD NOMINATION

The Awards Committee seeks the membership's suggestions for nominees for the J.O. Sentell Award. This award is given to recognize distinguished service by a member of the National Conference of Appellate Court Clerks who has contributed substantially to the objectives of the conference. The award is usually, but need not be, given annually. Previous recipients have been: J. O. Sentell, Ronald L. Dzierbicki, Wilfried J. Kramer, Morgan Thomas, Lewis Carter, Mary Ann Hopkins-Young, Alexander L. Stevas, Luella Dunn, Jean Kennett, John Scott, Joline Williams, Frans LaBranche, Jill Engel, Reba Mims, Steve Townsend and Peggy Stevens McGraw.

Please make your recommendation below and briefly give your reason for it. If you do not believe the award should be given this year, please so indicate in the space provided. Please try to submit these to Jean Kennett, Clerk, Supreme Judicial Court, 1412 Court House, Boston, Massachusetts 02108 by February 15, 1995.

NOMINATION: _____

REASONS: _____

NO NOMINATION: _____

WHAT'S IN A NAME? (AND OTHER THINGS)

By Hank Henson, Assistant Clerk, Michigan Court of Appeals

Your mid-west correspondent has been asking our members about the usage of the term "Court Administrator". Of 16 states surveyed, only two, California and Minnesota, have people using the title who also have responsibilities as Clerk of the Court. Two of the courts surveyed have "Administrative assistants to the Chief Judge" (Michigan & Massachusetts) who act on matters outside of the clerks office, and Pennsylvania has a "Marshals Office" that acts in a capacity similar to the Administrative Assistants. In Oregon, the State Court Administrator also has the titles: Chief Clerk of the Supreme Court, Chief Clerk of the Court of Appeals, and State Reporter of Decisions. (Could we abbreviate that as SCAO/CCSC/CCCA/SRD?) Virginia Rossman, who has succeeded Carol Justis as the primary mover and shaker of those things our members usually do, has the title of "Acting Appellate Court Records Manager". The position of the SCAO/CCSC/CCCA/SRD is vacant.

Oregon, Iowa, Wisconsin & Minnesota all have combined the titles of clerk for the Supreme Court and the Court of Appeals in one person. In both Michigan and Massachusetts, at least, the Clerk has statutory responsibility for the "Administration of Justice", but does not carry a title that reflects that responsibility to the general public. I once asked Ron Dzerbicki why he didn't use the "Court Administrator" title (It is very popular in the Trial Courts of Michigan) and he replied, "The term **Chief Clerk** is an historically accurate title for an old and honorable profession. Changing the name would not change that fact one whit." I couldn't argue with his history lesson, and am fond of the association it gives us with

Blackstone. However, I suspect that those of us who find ways to adopt or add the newer title will find that their jobs are better understood by people who are not members of the NCACC.

Other interesting things learned while pursuing the news:

1. Marilyn Graves expects a new Court rule making the Clerk's electronic copy of the court's opinion the "official" copy, and she, as Chief Clerk, will issue the official citation. Each opinion will be given a consecutive number when it is released, and all opinions released will have numbered paragraphs. 1996 Wis 1, 6 would be a proper cite to the 6th paragraph of the first opinion released in 1996. It is a method for citing cases that have not yet been bound in books. With more and more of us filing, and distributing, opinions electronically, the Wisconsin experience could prove very valuable. Those interested in the topic may wish to obtain a copy of the Wisconsin State Bar report entitled "Proposed Citation System for Wisconsin" dated June 22, 1994. The report summarizes other efforts in Colorado, Louisiana and the United States 6th Circuit Court of Appeals.

NCACC members will recall that our friends in North Carolina pioneered the use of a computer Bulletin Board for public access to electronic copies of opinions, but Christie Price's office informs me they still cite them as slip opinions. (The bulletin board is accessed roughly 10,000 times a year, so they should get some applause for leading the way on the basic process.)

Here in the mid-west Keith

Richardson reports that the State Bar of Iowa acts as his agent for the purpose of distributing opinions to the parties, press and public. The Bar also maintains a subscription service for others who wish copies of the opinions, and distributes floppy disks to those willing to pay for the service. (Proceeds from the sales are not shared with the court.) But, at present, there is no formal way to cite those disks pending distribution of the publishers copies. In Michigan we offer a subscription service, but for paper copies only. Electronic distribution is done for several publishers, but not for the general public. Plans and/or discussion of court operated electronic bulletin boards for public distribution of opinions also exist in Minnesota, Missouri, New York and Virginia among those courts contacted this month.

2. A third of the sixteen courts surveyed have central staff preparing proposed opinions (going beyond the traditional idea of a "Bench Memo") but few states are willing to publicly acknowledge the work of staff attorneys the way Washington state does with their court rule providing for "Commissioner's Rulings". Missouri comes close by sometimes releasing bench memos as attachments to "order opinions" (one paragraph opinions) for cases that appear to have no potential value as precedent. In one instance, your correspondent had to promise not to report a new program for staff attorneys because the bench of that state is apparently reticent about admitting that opinions are sometimes drafted by staff before the cases are seen by the Bench. Some years ago, Senator Phil Hart (from Michigan I'm proud to say) sponsored a series of bills in Congress that became known as "Truth" laws. "Truth in Packaging", "Truth in Advertising", et cet. They apply to other folks, but outside of Missouri and Washington they apparently don't apply to some of these efforts to make our Court's more efficient.

3. Iowa gets a \$3.00 per page filing fee for FAX filings but accepts them only for

motions of 5 pages or less. Missouri accepts FAX filings for motions of up to 10 pages, but aren't yet imposing a fee for the service. Fees for FAX filings were approved for a test program in the trial courts of Michigan, but nothing has yet been authorized for the Appellate Courts.

4. In Missouri, former judges can earn retirement credits by accepting assignments to sit as visiting judges to help with crowded dockets. That seems sensible to me, but it isn't done in Michigan.

5. On the political front, Missouri and South Dakota survived ballot proposals that could have had disastrous consequences for the court budgets in those states had the voters not shown such good judgment. Here in Michigan, our voters approved a constitutional amendment that will allow a more expeditious handling of Criminal appeals from defendants who pled guilty in the trial court. Believing, as I do, that the Courts are the backbone of American democracy, I think some of these little victories are more important than most of the public issued more commonly reported as **NEWS** at our local supermarkets.

On a more personal note, Kevin Swanson in California (Chief Clerk & Court Administrator) reports a new granddaughter born Christmas day and aptly named "Noel". Penny Miller in N. Dakota is seeking a State Championship in her "other life" as coach of a girls volley ball team. Fred Grittner's CD of his musical compositions has been released, and I have discovered that Shirley Forrest, Clerk of the 9th District in Texas is an aunt to a High school sweetheart of mine. Memories, memories

Happy New Year to all!!!

