

THE OCCASIONAL BULLETIN

TEXAS LODGE OF RESEARCH
March 2020 Number 3

April Meeting Saturday, April 4th

Cibolo Lodge No. 151
Alzafar Shrine Temple
901 N. Loop 1604 W.
San Antonio, TX 78258

Doors open at 9am
Meeting begins at 10am
Lunch will be served at noon
Installation to follow

Host Hotel

Hampton Inn Northwoods
2127 Gold Canyon Dr.
San Antonio, TX 78232
(210) 404-1144

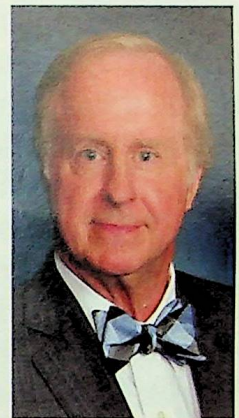
Friday "No Host" Dinner

Jacala Mexican Restaurant
606 West Avenue
San Antonio, TX 78201
(210) 732-5222

From the Master's Desk

I would like to thank everyone who has participated in the Texas Lodge of Research this year. All of you have made this an enjoyable year for me. It has been an honor and privilege for me to serve as the Worshipful Master this year. We have had informative meetings, insightful papers, an Anson Jones Lecture that was presented on a topic that most of us had not thought about, and good food and fellowship at every meeting.

I especially want to thank my officers who have carried the water for the Lodge. Truitt has made this year easy for me and has kept me informed on what I needed to do. Christian has taken over the Occasional Bulletin and also did the lion's share of the work in finding a new provider for our full member aprons. Kevin kept the tables and sidebar full at the Friday night socials with delicious dips and finger food.



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Texas Lodge of Research 2019-2020 Officers

From the Master's Desk

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We are not through for the year. There is one more meeting on April 4, 2020 at Cibolo Lodge that meets at the Alzafar Shrine Temple. There will be several papers presented as well as elections and installation of the new corps of officers. It is bittersweet to turn over the leadership of the Lodge but I know that Charles Maddox will handle the task with the same professionalism that he displays in all his undertakings. If you can schedule it on your calendars please try to show up for this meeting.

Sincerely and Fraternaly,

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Future Meetings

April 4th
San Antonio

June 13th
Austin

Masonry, The Texas Supreme Court, and the Law of Texas

By Jack E. Hightower, PGM, FMR

When Judge Rose Spector of San Antonio stood to take the oath of office as Justice of the Supreme Court of Texas on 1 January 1993, she was the first woman to join the 150-year-old Court for an elective term. The interpretation of the Texas Constitution and the Statutes of the Court, as well as the development of the common law, had been the work of men and 51 of those 126 Justices have been Freemasons. Having served as a Justice on the Court from 7 December 1988 to 1 January 1996, I am honored to count myself among the Masons who were Justices.

Law is a tool used by men to organize society, and laws are the building blocks of civilization. Freemasons understand the analogy to architecture, and to understand the law fully, we must seek to understand the makers of the law and their historical background. Certainly, the development of law within our culture is far too complicated to be explained by a study of a small segment of the society in which it developed. Such a study is dwarfed by the realization that the law of the State of Texas is a small part of English jurisprudence. Similarly, although Texans take pride in their state, the decisions of the Supreme Court of Texas are but a miniscule part of the law of this land. Identifying as Masons many of the opinion makers who have directed the development of the law while serving on the Supreme Court of Texas only permits speculation as to the influence of the Fraternity on their interpretation or development of the law. However, this speculation regarding the participation of men with an identifiable philosophy, Masonic in this case, is worth examination.

Masons cannot be lumped into a general category and defined. All Masons are not alike any more than all Baptists, all Catholics, all Democrats, or all Republicans are alike. Their identity as Masons, however, can be helpful. As Masons, they share many philosophical ideas or concepts. The depth of their philosophic convictions, however, is varied and unknowable. Each man by becoming a Mason has professed a belief in God. Each has assumed fraternal obligations in regard to his fellows and their families. Each has agreed to seek the common good. These things they hold in common. Justice Joseph W. Hale, a Member of the Fourth Court of Civil Appeals in Waco, Texas, wrote: "While there is no standard yardstick by which to measure the degree of influence which the Masons, individually or collectively, exerted upon the early life of Texas, it is interesting to note the large number of that fraternity who held high positions of leadership in the establishment and operation of the government under the Republic."

As one considers the role of Masons serving on the Supreme Court, the first issue should be the propriety of their participation in cases where Masonry is involved. The law requiring a Justice of the Court to recuse in a case in which he has an interest or for any reason may be disqualified has been the law of Texas since the Constitution of 1845. The key words in the law are "disqualification by virtue of interest."

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In a 1924 case involving the Woodmen of the World, a fraternal organization, three members of the Court recused themselves. Certainly, the Justices in this case, being members of this mutual benefit society, would have had a financial interest in the outcome of the case. "Interest," as in this case, has historically been defined as pecuniary interest.

Although some might claim that membership in the Masonic Fraternity could cause bias or prejudice on the part of the judge, mere bias or prejudice does not constitute interest and is not grounds for disqualification. A litigant may complain of an erroneous ruling, but it is the error in the ruling and not the judge's prejudice that gives the litigant the right to complain. As the case of *Shriner v. Simmons* in 1972 noted: a judge is not disqualified "because of opinions formed, held or expressed by him, concerning the issues involved, or because he has a personal knowledge of the facts of the case."

The records do not reflect that a Justice of the Supreme Court of Texas ever recused from a cause of action citing his membership in the Masonic Fraternity. An examination of the cases that have been decided by the Supreme Court of Texas since the original court in 1836 in which the word "Mason," "Masonry," or "Freemasonry" appears, leads to the conclusion that Masons have not been a litigious lot. Many of the cases of record appear to involve Lodges of black Masons which were not recognized by the Grand Lodge of Texas that was organized in 1845. Many such cases involve fraternal benefit societies, and the questions at issue were contract interpretations of insurance claims.

Here are four cases decided by the Texas Supreme Court in which Masonic Lodges are involved or in which the issue turns on some question affecting a member of the Masonic Lodge.

In *Morris v. Lone Star Chapter No. 6, Royal Arch Masons* in 1887, the Chapter claimed it was exempt from taxation as an "institution of purely public charity." The court agreed the Chapter was a tax-exempt charity, but noted that the Chapter had rented areas in its three-story building for purposes of profit; thus this profit was taxable. Justice John William Stayton, a Mason, concurred without written opinion.

In *City of Houston v. Scottish Rite Benevolent Association* in 1903, a trial court ruled in favor of the Association and its "Scottish Rite Cathedral" as organizations "for the relief of needy Masons, their wives, widows, mothers, and children." Upon appeal to the Texas Supreme Court, the decision was reversed. The property was used by the Masonic organizations to "enable them to pursue their work as Masonic Lodges," but such work was deemed only partially charitable. The record does not reflect whether Justice William Pierson, a Mason, made a disclosure of his membership in the Fraternity. Considering the result, it is of no consequence.

In *Burrell et al. v. Michaux* in 1926, the officers of a white Shrine complained against the officers of a black Shrine. The fact of the case occurred long before the desegregation cases of the 1950s. Therefore, echoing white sentiments of the era, the Texas Supreme Court ruled: "It cannot be denied that one of the chief values, and one of the strongly attractive features, of the complaintants' order consists in the fact that none but white males are entitled to its benefits. In thus restricting the rights of membership,

the order has violated no legal right of any person excluded." Judge Ocie Speer, Commissioner of the Supreme Court and a Mason, wrote the opinion.

In *City of Amarillo et al. v. Amarillo Lodge No. 731* in 1972, a Justice wrote that this is "another in a long line of cases in which various fraternal organization have asserted that their property is exempt from the payment of ad valorem taxes." The trial court concluded that the property was not exempt, but the Court of Appeals held to the contrary. The Supreme Court considered the question and agreed with the trial court. Justice Sears McGee, a Mason, dissented from the majority opinion. Other Justices, who by their silence joined the majority opinion, were: Chief Justice Joseph R. Greenhill and Justices Zollie Steakley, Jack Pope, Thomas M. Reavley, James G. Denton, Price Daniel, and Sam D. Johnson, all Masons.

It is clear that none of the cases above decided by the Supreme Court of Texas involved any possible pecuniary interest that could have enriched any members of the Court. English common law practice at the time of the establishment of the American court system disqualified for financial interest. No other disqualification was permitted.

There are many cases in the vast volumes of decisions that have been handed down by the Supreme Court of Texas since 1836 deciding issues relating to fraternal organizations. I am sure there are many that settled issues of great personal importance to individual Masons. The four cases described above are the only cases that I have found that directly affected the Grand Lodge of Texas. Future scholars may find others, but I believe that the issues will remain the same.

Since the record is clear that the Justices on the Texas Supreme Court did not permit their membership in the Fraternity to influence decisions in cases directly involving the Fraternity, it would seem to follow that any bias or prejudice based on their philosophy would also be difficult to determine. Bias and prejudice are negative concepts. As pointed out, such matters are not grounds for recusal of a judge. Positive influences are even harder to identify because they may be part of the culture of our time...

It is the genius of our system of government, with its coordinate branches that divide the responsibility of legislating (law-making), governing (law-enforcing), and a judiciary with responsibility to interpret and apply the law, that has made the United States the envy of the world. Americans can and do vent their political frustrations through their elected legislative representatives at the city, county, state, and federal levels.

The twig bent by our Founding Fathers has produced a strong tree of stable government that has withstood great winds of political and social change for over 150 years. It is hoped that its strong roots continue to give it life and strength for centuries to come.

This is an excerpt from an article that appeared in *The Plumbline*, published by the Scottish Rite Research Society, in Fall 2002. It was first published by the Texas Lodge of Research after being presented as the 1999 Anson Jones Lecture.

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From the Secretary

I have had numerous requests for Texas Lodge of Research name badges. Texas Lodge of Research members can now order directly from Eternity Creations at sales@eternitycreations.com. The cost for a name badge is \$26.50.

If you have had a change of address and have not let me know, please email me at: secretary.texaslodgeofresearch@gmail.com or send a note to the Lodge mailing address at



**PO Box 686
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as soon as possible so I will have a correct mailing address for you.

Fraternally,
Truitt L. Bradly, PM
Secretary
Fiat Lux