

MINUTES OF THE  
SUPREME COURT ADVISORY COMMITTEE

FEBRUARY 16, 1990

The Advisory Committee of the Supreme Court of Texas convened at 8:00 o'clock a.m. on Friday, February 16, 1990, pursuant to call of the Court.

Members present: Chair Luther H. Soules III, Justice Nathan L. Hecht, Justice Lloyd Doggett, Gilbert T. Adams, Jr., Pat Beard, Doak Bishop, David Beck, Elaine Carlson, John E. Collins, Tom H. Davis, Kenneth Fuller, J. Hadley Edgar, Charles F. Herring, Franklin Jones, Jr., Russell McMains, Charles Morris, Tom L. Ragland, Anthony Sadberry, Broadus A. Spivey, Harry L. Tindall, and Sam D. Sparks. Also present were Pat Hazel, Tom Leatherbury and Holly J. Halfacre.

Members absent were: Chief Justice Austin McCloud, Judge Solomon Casseb, Jr., Judge Sam Houston Clinton, Judge David Peoples, Judge Raul Rivera, Michael A. Hatchell, Vester T. Hughes, Jr., Harry Reasoner, Frank Branson, William V. Dorsaneo III, Gilbert Low, Steve McConnico and John M. O'Quinn.

A request for amendment to proposed TRCP 206 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRCP 216 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

An assignment was made to all subcommittees to study and report on a uniform way to spell "non-jury".

A request for amendment to proposed TRCP 245 was reported on, motion was made, and the committee voted House to 1 to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRCP 296 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRCP 306 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRCP 298 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRCP 297 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRCP 305 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRCP 308a was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A change in the comment to TRCP 305 was unanimously recommended.

A request for amendment to proposed TRCP 200 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRCE 614 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRCP 208 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRCE 703 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRCP 534 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRCP 536 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRCP 536a was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRCP 749c was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRCP 749a was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRCP 751 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRCP 76a was reported on, motion was made, and the committee voted 11 to 4 to recommend that the Supreme Court promulgate the requested amendments to paragraphs C, D, and E and the committee voted 12 to 3 to recommend that the Supreme Court promulgate the requested amendments to TRCP 76a as a whole.

A request for amendment to proposed TRCP 166(b)(5) was reported on, motion was made, and the committee voted 10 to 7 to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRCP 271-275 was reported on, motion was made, and the committee voted 13 to 1 to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRCP 167a was reported on, motion was made, and the committee voted House to 1 to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRAP 4 was reported on, motion was made, and motion died for lack of a second.

A request for amendment to proposed TRAP 9 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 12 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 20 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 40 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 41 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRAP 46 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRAP 47 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRAP 49 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRAP 51 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 52 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 53 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 54 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 57 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 72 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 74 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRAP 90 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 91 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 100 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRAP 130 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRAP 131 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 132 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to proposed TRAP 133 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to proposed TRAP 181 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

Motion was made and the committee voted unanimously to recommend that the Supreme Court adopt the amendments to the rules promulgated by the Court of Criminal Appeals on June 5, 1989.

A request for amendment to TRCP 13 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 20 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 45 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for a new TRAP 76a was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 57 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 74 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 47 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 47a was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to TRCP 63 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 67 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 98 was reported on, motion was made, and the committee voted unanimously to refer same to David Beck's subcommittee.

A request for amendment to TRCP 103 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to TRCP 324 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 140a was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to TRCP 156 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 166b was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 166c was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 167 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 168 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 169 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 170 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 176 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 188 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 206 was reported on, motion was made, and the committee voted unanimously to refer same to David Beck's and Steve McConnico's subcommittees.

A request for amendment to TRCP 215 was reported on, motion was made, and the committee voted unanimously to refer same to the Committee on Administration of Justice.

A request for amendment to TRCP 216 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 241 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 242 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 243 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 249 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 307 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 324 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 696 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 698 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 708 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 744 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRCP 792 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 176 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

The subject of electronic filing in all courts was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

The subject matter of the letter from Frank G. Evans to Chief Justice Thomas R. Phillips (page 737 of February Agenda) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 3(b) was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 4 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.



A request for amendment to TRAP 5(b)(5) was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 11 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 12 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 13 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 16 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 40 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 41(a)(2) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 41(b) was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 42(a)(3) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 43(g) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 44 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 46(e) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 48 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 51(c) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 53(k) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 80(c) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 54 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 57 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 61 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 72(i) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 74(h) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 75(f) was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 86 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 87 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 88 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A request for amendment to TRAP 120 was reported on, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

A report on the reformatting of the Texas Rules of Civil Procedure with numerical order of Federal Rules of Civil

Procedure was made, motion was made, and the committee voted unanimously to refer same to the appropriate subcommittee.

Meeting adjourned.