

MINUTES

The Historical Society of the United States Courts in the Eighth Circuit

Biennial Meeting Colorado Springs, Colorado October 20, 2005

Directors and officers present:

Thomas H. Boyd
Frances Ross, Vice-President
Hon. Jimm L. Hendren
Hon. Ronald E. Longstaff
F. Richard Lyford
Hon. E. Richard Webber
Ann E. Buckley
Hon. Richard G. Kopf, President
Hon. Karen E. Schreier
Ann Fessenden, Secretary
Hon. Richard W. Peterson, Ex-Officio Director

Branch

Court of Appeals
Eastern District of Arkansas
Western District of Arkansas
Southern District of Iowa
Southern District of Iowa
Eastern District of Missouri
Eastern District of Missouri
District of Nebraska
District of South Dakota

Guests:

Hon. Harry Barnes
June L. Boadwine, Honorary Member
Mark Killenbeck
Jeffrey B. Morris

Directors and officers absent were Hon. Donald P. Lay (Court of Appeals), Hon. William Wilson (Eastern Arkansas), Katherine C. Gay (Western Arkansas), Hon. Mark W. Bennett (Northern Iowa), Eric W. Lam (Northern Iowa), Hon. John R. Tunheim (Minnesota), Randall M. Tietjen (Minnesota), Hon. Ortrie D. Smith (Western Missouri), F. Russell Millin (Western Missouri), Mary Hewitt Jones (Nebraska), Mark F. Marshall (South Dakota), and Sheila Greenbaum, Treasurer. The North Dakota judicial director position is currently vacant.

Roll Call/Call to Order

President of the Historical Society Judge Kopf called the meeting to order at approximately 2:00 p.m. and asked to depart initially from the planned agenda. He then asked Tom Boyd to introduce his guest, Prof. Jeffrey Morris, who has written a history of the Court of Appeals. Mr. Boyd explained the current status of the project. The manuscript is completed, and has been submitted to the University of Minnesota Press. Editing has been delayed, due to some staffing problems at the Press, but those are now resolved and a publication timetable should be available soon.

Mr. Morris then discussed his work on the history. One of the reasons he accepted the project was because he was not previously too familiar with this part of the country. As part of his research, he was able to visit all of the Circuit states except Arkansas. He explained that the book covers from the mid-nineteenth century to the end of the twentieth. He noted that a virtue of this coverage is that there are many subjects to treat; a weakness is that it was impossible to go into depth on cases. The general format of each chapter is to begin with an overview of the history of the nation and the region for the time period covered by the chapter, and then to focus in on developments in the court's administration, judges, and significant cases.

In response to a question from Judge Kopf, there was then some discussion about how a District might go about commissioning a written history. Mr. Morris explained that district histories are quite a bit different, in that they focus more on individual cases and judges, and on identifying significant trends and how the district differs from others. Tom Boyd noted that there is no one approach that is best for getting a history written. He observed that key elements include getting an author with appropriate credentials, having a flexible timetable, obtaining adequate access to and commitment by the judges, and securing funding.

Secretary's and Treasurer's Reports

The meeting then returned to the agenda and Secretary Ann Fessenden introduced the minutes from the 2003 meeting, which were previously posted on the Society's website. The minutes were approved without change.

She then delivered the Treasurer's report on behalf of Treasurer Sheila Greenbaum, who was unable to attend. Ms. Fessenden explained that new federal court ethics rules forbid court employees from serving as treasurers of court historical societies. Therefore, she resigned as Treasurer last year and now serves only as Secretary. The Executive Committee appointed Sheila Greenbaum, a practicing attorney in the St. Louis area and former Eighth Circuit Senior Staff Attorney, to act as Treasurer. Ms. Fessenden also explained that as part of the transition, she had closed the Society's three accounts in the federal employees' credit union in St. Paul, and that Ms. Greenbaum had established a single money market account in a Clayton, Missouri bank.

Ms. Fessenden noted that there were some unusual expenditures since the last meeting because the State and Federal Court Historical Societies' national meeting was in St. Louis in September, 2004. As host, the Eighth Circuit Historical Society needed to provide for a reception and meeting space. Total expenditures were \$1556.36, though this was partially offset by a donation of \$500 from a St. Louis law firm, Armstrong Teasdale, which was secured through the efforts of Tom Boyd and Ann Buckley. The Treasurer's report was then approved.

In closing, Ms. Fessenden encouraged everyone to be sure to pick up a newsletter and a flyer about the Historical Society's twentieth anniversary, and to view the display on the division of the Eighth Circuit in 1929. She noted that Joan Voelker, Archives Librarian for the U.S. Courts Library 8th Circuit, had prepared the display and was also largely responsible for the newsletter.

Judge Kopf asked her to convey his compliments to Ms. Voelker on the excellent job she had done on these.

Bylaws

Judge Kopf then introduced the proposed changes to the bylaws. [See attachment.] He explained that the Judicial Conference of the United States issued Advisory Opinion 104, which dealt with issues of judicial and staff involvement in historical societies and learning centers. If a court wants to control its historical society, then it cannot solicit funds from outside sources. Alternatively, if it wants to be able to solicit funds from outside sources, then it must relinquish control and also avoid the appearance of control.

He explained that the Executive Committee had discussed possible approaches and concluded that the ability to conduct fund-raising was important. Therefore, the Committee developed an approach, reflected in the proposed bylaws, which dilutes the voting power of the judge-directors and also prohibits a judge from serving as President. A judge could hold the honorary title, Chairman of the Board, which was already provided for in the bylaws but not previously used. The only officer position which could be filled by a court staff member would be that of Secretary. He explained that the proposed bylaws had been reviewed by Chief Judge Loken, Appeals Judge Morris Arnold, and the District Chief Judges, and that they accepted this approach. It was moved and seconded that the bylaws change be adopted. Discussion of the proposal followed.

Major points in the discussion included concerns about the possibility that “rogue” members could take the Society in an inappropriate direction and the general distaste some had with the solution of judges having less than a full vote. Judge Kopf explained that elimination of the Society as it currently exists in favor of control by each court had been considered, but there was concern that, since courts had previously declined to support their branches with attorney admission fee funds, they would not do so under this scenario. On the other hand, he noted that the Executive Committee had been concerned that the Society would die without the continuity provided by involvement of judges and court staff.

Some concern was also expressed regarding changing of the bylaws. An amendment to the proposal was made and seconded to add to paragraph 15 the language “and subject to paragraph 16” as indicated in italics below. This amendment passed.

15. ALTERATION, AMENDMENT, OR REPEAL OF BYLAWS. These bylaws may be altered, amended, or repealed at any regular meeting of the board of directors, or at any special meeting of the board of directors if notice of the proposed alteration, amendment, or repeal be contained in the notice of such special meeting. *→However, and subject to paragraph 16, no alteration, amendment, or repeal of these bylaws shall be made which has the purpose or effect of giving control of the corporation or the board of directors of the corporation to federal judges or employees of the federal court.*

16. COMPLIANCE WITH ETHICS RULES: These bylaws and the activities of the corporation, its branches, officers, and members shall be construed and conducted in a manner that complies with the codes of conduct, rulings, and advisory opinions promulgated by the Judicial Conference of the United States for United States judges and employees of the federal courts.

A vote was then taken on the amended proposed bylaws and passed without dissent.

Nominations

Tom Boyd presented the report of the nominations committee, which recommended the following nominations:

Chairman of the Board:	Judge Richard Kopf
President:	Frances Ross
Vice President:	F. Richard Lyford
Secretary:	Ann T. Fessenden
Treasurer:	Sheila Greenbaum

It was moved and seconded that the slate be approved and the motion passed unanimously.

Branch Reports

Judge Kopf then invited the branch representatives to report on their activities if they wished to do so.

Court of Appeals

Tom Boyd noted that the main activity had been the written history, which had previously been discussed. He also introduced visitors June Boadwine, the original Secretary-Treasurer of the Society, and Mark Killenbeck, and thanked both for their efforts.

Arkansas Eastern

Frances Ross noted that both Arkansas districts continued to work on biographical essays of the judges.

Arkansas Western

Judge Hendren noted that the branch currently does not have any funds, is not currently meeting, and is uncertain how to proceed.

Iowa Southern

F. Richard Lyford reported that a portrait of Judge Peterson has been hung in Council Bluffs, and that an oral history of Judge Fagg has been completed. He also noted that they have asked Judge Peterson to update the district's history, which was originally prepared by a journalist.

Minnesota

There was no director representing Minnesota present, but Tom Boyd reported that the branch has not been meeting during the past year, but that the court is working with the Landmark Center to develop an exhibit program. The Landmark Center has gotten a matching grant for this program.

Missouri Eastern

Judge Webber reported on a number of activities that are underway. Several subcommittees have been established and are working on developing projects on oral histories, notable cases, notable persons, architecture and a written history. A proposal for the oral histories is expected from the Southeastern Missouri State video department. The notable cases group has identified sixteen cases and members of the group will research and write reports on the cases and develop video presentations to be used in the new Eagleton Courthouse Learning Center. The book subcommittee will interview a potential author soon.

Nebraska

Judge Kopf noted that work on the written history continued, and that a video history of Judge Ross was just completed.

South Dakota

Judge Schreier reported that the goal of the South Dakota branch for the next year is to do videotaped oral histories of the senior judges in the District.

Open Discussion

Judge Kopf then opened the floor for discussion of any matters that might be of interest to the members, and to get things started, asked what major areas the members would like the Executive Committee to concentrate on in the next two years. Judge Webber suggested that information about various revenue possibilities should be distributed. Mr. Lyford and Judge Peterson described a state “Friends of the Iowa Judiciary” group and wondered if something similar could be done in the federal courts. Ms. Ross suggested we should focus on ways to publicize the Society. Judge Schreier inquired if the St. Louis Learning Center would include information about other parts of the Circuit and Ms. Fessenden said that it would. She suggested that since this was true perhaps we could focus on fund-raising for it. Ms. Ross suggested that anyone willing to work on some of the areas mentioned should notify the Executive Committee members.

It was then moved, seconded and approved that the meeting be adjourned. The meeting adjourned at approximately 3:30 p.m.

Ann T. Fessenden,
Secretary-Treasurer

Approved:

Hon. Richard G. Kopf,
Chairman of the Board

Frances Ross,
President

Attachments:

Treasurer's Report
Amended and Restated Bylaws (proposal)
Bylaws as amended at meeting
Nominations Committee report