

MINUTES

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

Biennial Meeting via Telephone Conference October 3, 2007

Directors and officers present:	Branch
Hon. Morris S. Arnold	Court of Appeals
Thomas H. Boyd	Court of Appeals
Frances Ross, President	Eastern District of Arkansas
Hon. Jimm L. Hendren	Western District of Arkansas
Katherine C. Gay	Western District of Arkansas
Hon. Robert W. Pratt	Southern District of Iowa
F. Richard Lyford, Vice President	Southern District of Iowa
Hon. E. Richard Webber	Eastern District of Missouri
Ann E. Buckley	Eastern District of Missouri
Hon. Richard G. Kopf, Chair	District of Nebraska
Mary J. Hewitt	District of Nebraska
Hon. Karen K. Klein	District of North Dakota
Hon. Karen E. Schreier	District of South Dakota
Ann Fessenden, Secretary	
Sheila Greenbaum, Treasurer	
Hon. Richard W. Peterson, Ex-Officio Director	

Directors and officers absent were Hon. William R. Wilson, Jr. (Eastern Arkansas), Hon. Linda R. Reade (Northern Iowa), Leonard T. Strand (Northern Iowa), Hon. John R. Tunheim (Minnesota), Hon. Fernando J. Gaitan (Western Missouri), Paul Donnelly (Western Missouri), M. Daniel Vogel (North Dakota), and Donald P. Knudsen (South Dakota). The Minnesota non-judicial position is currently vacant.

Roll Call/Call to Order

Chair of the Historical Society Judge Kopf called the meeting to order at approximately 12:00 p.m.

Approval of Minutes of Last Board Meeting

The minutes from the 2005 meeting, which were previously posted on the Society's web site, were approved without change.

Treasurer's Report

Treasurer Sheila Greenbaum reported the Historical Society parent account at just over \$14,000 (\$14,029.31), minus two checks recently written for a total of approximately \$42 (\$41.76), leaving the current total at \$13,987.55. The Treasurer's report was then approved.

Reelection of Officers

Judge Kopf presented the Executive Committee's nominations for officers, in effect reelections of current positions, as follows:

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.

Creation of an Executive Committee with Broad Powers

Judge Kopf introduced the following proposal:

Be It Resolved that an Executive Committee, consisting of the President, the Vice-President and the Treasurer, is hereby created. Upon the majority vote of the President, the Vice-President and the Treasurer, the Executive Committee is authorized to act for the Board of Directors when the Board is not in session. The Executive Committee may adopt such policies and procedures as it deems appropriate.

Judge Kopf pointed out that while an Executive Committee has been operating, he found there was no official creation of such a committee and felt the need to do so. He explained that because the members of the Board of Directors are physically separated by distance, it is difficult for them to meet, and pointed out that situations arise that require action sooner than the next meeting of the Board. When questioned as to the impetus for this proposal, Judge Kopf stated that it was the need to approve the proposed amendments to the Nebraska Branch regulations. He said that the Nebraska Branch had followed a complex process to amend their regulations by seeking approval from the Branch itself, the judges of the District of Nebraska, and the Nebraska Federal Practice Committee. Another step, scheduling a meeting of the Historical Society Board of Directors, seemed like an awkward process for something that an oversight committee could handle. Someone else questioned if the Executive Committee was being created to replace the existing phone group that met as the Executive Committee, and Judge Kopf clarified that that was not the intent. He further explained that the intention was to create a formal structure to

approve such items as amending branch regulations, as well as to comply more fully with Advisory Opinion No. 104 by restricting power to non-judges. He also clarified that it was not intended that the Committee would act on controversial matters better handled by the Board.

A vote was then taken on the proposal, and it passed without dissent.

Approval of Branch Regulations for Nebraska and Iowa

Judge Kopf then introduced the amended Nebraska branch regulations. He noted that amendment was proposed to allow the regulations to more fully comply with Advisory Opinion No. 104 by making it clear that the court was not in control of the Branch. He said that the amendments invested the Nebraska Federal Practice Committee with the power to control the Branch and appoint its officers, and formalized a financial relationship in which the Branch would look to the Federal Practice Committee for funding rather than to the Court. The motion to adopt the proposed amendments to the Nebraska regulations was passed.

Richard Lyford suggested that approval of the Iowa regulations be deferred as he was not certain that a final version was in place and as the Board members for the Northern District of Iowa were not present.

IRS Filing Requirements

Judge Kopf conveyed that according to information received from the IRS, effective 2008, the Historical Society will have to file a tax return, as the \$25,000 gross earnings ceiling for exemption is being lifted. He outlined that the Historical Society may have its parent organization and the branches each file individually, or the parent may file a group return for the entire organization, and that it is up to the Historical Society to decide how to proceed. Secretary Ann Fessenden commented that she felt it would be good for the parent to file for the branches, but this approach would require that the branches submit their financial reports to the parent organization. Judge Kopf stated that an effective approach may be to email the branches to the effect that the parent will assume that the branches have not received in excess of \$25,000 unless reported otherwise. Treasurer Sheila Greenbaum noted that she would like to gain a better grasp of what would be entailed in our filing.

Richard Lyford noted that he would be in favor of the parent organization being responsible for filing for both the parent and subordinate branches, or in the event that the branches file individually, that the parent be responsible for making sure each branch files individually. He also stated he would favor the Historical Society hiring a tax professional to advise as to which course of action would be better. Ms. Fessenden asked whether it would be up to the Executive Committee to decide how filing would be done. There was some discussion, and then Mr. Lyford amended his initial motion to the following: that the parent organization would be responsible for filing for both the parent and subordinate branches, or that it would be responsible for making sure each branch file individually. The motion continued to stipulate that the parent organization,

in the form of the Executive Committee, would make the decision on whether to file jointly or individually, and that this decision would be based on information the parent receives from a tax professional it would hire this first tax year.

The motion was seconded and approved.

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 reported that the 8th Circuit history will be published this month. The book is already in the University of Minnesota Press' catalog. He also said he will be working with the publisher on publicizing the book. One venue in mind is this fall's 8th Circuit Symposium at the University of Iowa. Judge Morris Arnold suggested to Mr. Boyd that a review copy be sent to all the 8th Circuit law reviews and Historical Societies. Judge Arnold mentioned the *Arkansas Historical Quarterly* and two Arkansas law reviews as likely candidates. It was agreed that this was an excellent idea.

Eastern Arkansas

Frances Ross said that progress was being made on the judges' biographical essay project. All of the essays have been received, and will span the years of 1836 to 1960. The work is in the editing process, and a publisher has not yet been identified.

Western Arkansas

Judge Hendren said that the Branch was excited to learn that the U.S. Marshal Museum will be built in Fort Smith, Arkansas. Judge Parker and the U.S. Marshals have a rich history in the Western District. The Branch is interested in the Museum's development, but not sure yet what its role might be as plans have yet to unfold.

Northern Iowa

Richard Lyford said that he has been working with Chief Judge Linda Reade and Leonard Strand to help the Northern District become more active. The Branch is considering an event next spring to publicize its activity. Another possible project is an interview of Judge David Hansen.

Southern Iowa

Richard Lyford reported that the filming of Judge Fagg's interview has been completed, and he now has to do the editing. He hopes to do the interview of Judge Longstaff, and follow up on a project suggested by Chief Judge Pratt to put together all of the federal cases originating in the Southern District that went to the US Supreme Court. Judge Peterson plans to update the written history of the District.

Minnesota

Tom Boyd of the Appeals Branch, also very active in the Minnesota Branch, reported that the Branch elected new officers in July. He said the Branch converted the oral histories of Minnesota's senior district judges to DVD and was planning follow up interviews. Judge Kopf asked where the DVDs would be maintained. Mr. Boyd replied that in the past, they were held by the District Clerk's Office, but the Branch has considered distributing the DVDs to the local law schools and is considering posting the interviews to the court's web site. He said the Branch also recently created a display in the Minneapolis Courthouse on the life and career of Judge Rensselaer Nelson, the first federal judge for the District of Minnesota. This exhibit was done in coordination with Minnesota's Sesquicentennial.

Eastern Missouri

Judge Webber reported that the subcommittees of the Eastern District were working on various projects. A memo is being prepared on the 17 most notable cases. The subcommittee to publish a written history has located an author, Dr. Burton Boxerman, who has already been issued a check for expenses. The architecture subcommittee has collected photos of courthouses. Judge Webber noted that the oral history of Judge William Hungate was completed a few months before Judge Hungate's death. He also reported that Judges Nangle and Filippine would be interviewed next, with interviews of the remaining senior district judges to be scheduled. These oral histories will be made available in the Judicial Learning Center in St. Louis' Eagleton Courthouse.

Judge Kopf then inquired as to the relationship between the Eastern District of Missouri and the Learning Center. Judge Webber replied that the Learning Center is an 8th Circuit project but that the Eastern District of Missouri, by virtue of its location, is active in the development of its content. He further conveyed that each district has the opportunity to present and display materials in the Learning Center, which eventually will have interactive devices.

Nebraska

Judge Kopf reported that the Branch had engaged an historian from the University of Nebraska-Lincoln with a Ph.D in history as well as a law degree to write a history of the District, but progress has been delayed. It is unknown at this time when a manuscript will be completed. Judge Kopf said he will take part in a panel discussion at the Nebraska Bar meeting on the trial of Standing Bear in which Judge Dundy ruled that Native Americans were persons under the habeas corpus statute. He also shared that Mary J. Hewitt's father, an historian, had written a history of the Nebraska Supreme Court.

North Dakota

Judge Klein said that the Branch was gathering artifacts from the late Judge Davies and planned to have a visiting judges chambers in Judge Davies' name with his desk and some artifacts. It will be located in Judge Rodney Webb's chambers.

South Dakota

Judge Schreier reported that the Branch has completed oral histories of Judges Richard Battey and John B. Jones. Six to eight of their former law clerks posed the questions for the interviews. With Judge Andrew Bogue's oral history having been done in 2006, the Branch has now completed its project to interview its three senior district judges. The Branch next plans to interview Court of Appeals Judge Wollman. The Branch held a brown bag luncheon to show Judge Jones' oral history, and Judge Jones was present to follow up on the information in the interview. This was such a success that the Branch plans to hold future brown bag luncheons in which Judges Battey and Bogue's interviews will be featured.

It was determined that the next meeting of the Board of Directors will be held at the 2008 8th Circuit Judicial Conference meeting in Chicago.

It was then moved, seconded and approved that the meeting be adjourned. The meeting adjourned at approximately 1:00 p.m.



Ann T. Fessenden,
Secretary

Approved:

Hon. Richard G. Kopf,
Chairman of the Board

Frances Ross,
President

Attachment: Amended and Restated Nebraska Branch Regulations (proposal)