DOCUMENTS AND MINUTES OF THE GENERAL FACULTY

REPORT OF THE MEMORIAL RESOLUTION COMMITTEE FOR

JERRE STOCKTON WILLIAMS

The special committee of the General Faculty to prepare a Memorial Resolution for Jerre S. Williams, Professor Emeritus, School of Law, has filed with the Secretary of the General Faculty the following report.

H. Paul Kelley, Secretary
The General Faculty

IN MEMORIAM

JERRE STOCKTON WILLIAMS

Jerre Stockton Williams, a member of the faculty of the University of Texas School of Law for thirty-four years and a Fifth Circuit Court of Appeals judge, died on August 29, 1993, in Austin, Texas.

Williams was born August 21, 1916, in Denver, Colorado. He graduated from the University of Denver in 1938, winning a scholarship to Columbia Law School. At Columbia, he was a Kent Scholar and an editor of the Columbia Law Review, receiving his J.D. degree in 1941. In the same year, he began his academic career at the University of Iowa, but it was interrupted by World War II. During the war, he served in the U.S. Air Force as a Captain and a Trial Judge Advocate. When he left the service, he taught briefly at the University of Denver Law School. He was then recruited to the University of Texas in the Fall of 1946 by Law School Dean Charles T. McCormick. In 1949, he met Mary Pearl Hall, a student in the law school, and they were married in 1950.

At the University of Texas School of Law, Williams taught Constitutional Law, Administrative Law, Legal Profession, and Labor Law. He was honored with the Law School Teaching Excellence Award in 1958 and 1964, and in 1962, the Peregrinus was dedicated in his honor. He held the Rex G. Baker and Edna Heflin Baker Professorship in Constitutional Law from 1964-1967 and was the first appointee of the John B. Connally Chair in Civil Jurisprudence, which he held from 1970 to 1980. During his teaching career, he also taught at Oxford, San Diego University, Merton College, and Magdalen College. He was always proud of the fact that his wife and three children (son, The Rev. J. Stockton Williams ’76 and daughters, Shelley W. Austin ’79 and Stephanie Kethley Williams ’80) were graduates of the University of Texas School of Law.

Jerre Williams' academic career was many-sided. He was a scholar and teacher, a practitioner and legal advisor, and a policy-maker and administrator. He was at home with crafting a law review article, doing research for a legal treatise, arbitrating a labor dispute, lecturing to lawyers or arbitrators, advising government officials on legal problems, or testifying before legislative committees on national policy. Three professional roles he performed during his academic career particularly stand out—labor arbitrator, administrative law expert, and leader in legal education. These experiences provided excellent grounding for his last successful career as a federal appellate judge.
Labor Arbitrator

Jerre Williams served as arbitrator in hundreds of labor law cases between 1950 and 1980. This was a fascinating period for labor arbitration, when the legal standards for labor-management relations based on collective bargaining and arbitration of grievances were being fleshed out and consolidated. Much in demand as an arbitrator for the American Arbitration Association and the Federal Mediation and Conciliation Service, he arbitrated a wide range of labor disputes. An examination of his papers at the University of Texas Law Library reveals his participation in arbitrations involving employees from such diverse enterprises as airlines, aircraft manufacturing, telephone companies, steel mills, railroads, hotels and motels, oil and gas production, food processing, and military bases.

Jerre Williams' arbitration opinions are models of clarity and reflect the peculiar jurisprudence of labor arbitration. The labor arbitrator's role is a unique one, guided by the terms of the collective bargaining contract, but also by pragmatic considerations as to what would foster industrial harmony and peace. "The labor arbitrator's source of law," wrote the Supreme Court in *United Steelworkers of America v. Warrior & Gulf Navigation Co.*, "is not confined to the express provisions of the contract, as the industrial common law—the practices of the industry and the shop—is equally a part of the collective bargaining agreement although not expressed in it. The labor arbitrator is usually chosen because of the parties' confidence in his knowledge of the common law of the shop and their trust in his personal judgment to bring to bear considerations which are not expressed in the contract as criteria for judgment. The parties expect that his judgment of a particular grievance will reflect not only what the contract says but, insofar as the collective bargaining agreement permits, such factors as the effect upon productivity of a particular result, its consequence to the morale of the shop, his judgment whether tensions will be heightened or diminished."

That philosophy is well exemplified by Judge Williams' arbitration opinions. He carefully read and applied the terms of the contract and relevant regulations, using standard rules of construction and legal analysis. He was also sensitive to the context in which they operated, both in their interplay with other contract provisions and in the larger context of fairness and efficiency in labor-management relations. His opinions sometimes contained admonitory passages, counseling or encouraging management or labor towards practices that would foster better relations. In his hearing examiner's report to the Panama Canal Company in 1975, he noted that the grievant claimed a fellow employee whom he wanted to call as a witness had been discouraged by the company from appearing "on the ground that his appearance might injure the company." Although he found this had not been established by evidence, he urged that the company establish procedures for assuring personnel that there would be "no disadvantage or reprisal of any kind" against employees who appear as witnesses in disciplinary proceedings.

Jerre Williams' arbitration opinions contain a good dosage of common sense that would also be characteristic of his later judicial opinions. Many labor cases require the examination of how particular practices, policies, or conduct actually affect the rights and obligations of the parties. With a gentle prodding, Judge Williams would point out the discrepancies in employee rationalizations of wrong-doing or company justifications for policies that just didn't wash. In a case involving management's use of part-time operators with a separate seniority list, for example, he carefully worked through the motivations behind and the effect of the policy and found that it clearly violated the seniority principle contained in the collective bargaining agreement.

Jerre Williams' prominence in labor law arbitration led to his appointment to dispute resolution panels in a number of important national and international labor disputes. In 1966, he was appointed by President Johnson to serve on a three-member emergency board to recommend settlement of a Pan American Airways strike that seriously threatened interstate transportation. In 1975 and 1977, he served as an arbitrator in the Panama Canal Zone in grievance disputes that took on heightened significance with the growing international crisis over the future of the Zone. In 1978, he was appointed by President Carter to a three-member emergency board which settled a developing nationwide railroad strike. His prior
experiences in the trenches with collective bargaining/grievance arbitration served him well in these matters of high-level public policy.

**Administrative Law Expert**

It was perhaps not surprising that Jerre Williams' labor law interests should flower into expertise in administrative law. Unlike the earlier generation of administrative law scholars who cut their teeth on the new administrative agencies in Washington during the New Deal and World War II, he entered the field at a later period characterized by consolidation, rather than experimentation. He taught administrative law and worked through some of its complexities in his writings. But he was especially a doer in the field, someone who knew administrative agencies through observation and practice, and who could extrapolate from those experiences when called upon to be an advisor and finally an administrator.

In 1967, Judge Williams was appointed by President Johnson as the first Chairman of a new federal agency, the Administrative Conference of the United States. The function of the Conference was to study and recommend action for streamlining the administrative procedures of federal agencies. He organized the Conference and served as its chair until 1970, building the foundation for an agency which still serves an important role in the conduct of administrative law.

Judge Williams was often tapped for leadership roles in federal administrative law. From 1971 to 1977, he was a member of the American Bar Association's Section of Administrative Law, serving as its chair in 1975-1976, the first law school professor to hold that office. From 1972 to 1978, he was a public member of the Administrative Conference of the United States.

In his leadership capacity in these administrative law activities, Judge Williams played a prominent role in encouraging the course of public policy. He gave many speeches and lectures and was no stranger to legislative hearings. In 1971, for example, he testified on proposals to deal with emergency strikes in transportation, and in 1975 he testified on the "Government in the Sunshine Act." His presentation in support of the Sunshine Act was representative of positions he took throughout his career in sympathy with free speech rights and citizen participation in government. Those values would find expression in his 1984 dissent from a Fifth Circuit decision denying city officials permissive intervention in a suit involving energy costs to a public utility. "We cannot close our eyes to the realities of the 'pass-through,'" he wrote, by which this suit would affect the rates consumers paid. He concluded that consumers, through their elected officials, should be allowed to intervene, as otherwise, we return "to the days before our recognition that the consumers, those who pay, must be allowed to participate in legal and administrative proceedings which have a potent impact upon them."

**A Leader in Legal Education**

Jerre Williams' thirty-four years on the faculty of the University of Texas School of Law spanned some of its most difficult trials in emerging from segregation and dealing with attacks on academic freedom. He was an advocate of decency, fairness, and non-discrimination, and of robust rights of free expression within the academy.

When Jerre Williams joined the Texas faculty in 1946, the school was segregated but was shortly to be caught up in a legal crisis challenging that status. On February 26, 1946, Heman M. Sweatt, an African-American graduate of Wiley College who was working as a postman, applied for admission to the University of Texas School of Law. He was denied admission on the ground that Texas law forbade attendance of whites and African-Americans in the same school (while still failing to provide a separate law school for African-Americans). Mr. Sweatt, with the support of the National Association for the Advancement of Colored People, sued to gain admission to the law school. The Texas legislature hastily established a separate law school for African-Americans in a residence a few blocks from the University of Texas campus, in a futile attempt to satisfy the United States Supreme Court's "separate but equal"
Two African-Americans were admitted to that school as first-year students. Teachers of first-year courses at the University of Texas Law School were requested to teach an additional section of their courses at the newly established school during the 1947-1948 academic year. Jerre Williams was among those who agreed to do so. Although opposed to racial segregation, he was unwilling to turn his back on those seeking legal education at the new school. The separate law school for African-Americans was moved from Austin at the end of the first year, when it ceased to be affiliated with the University of Texas School of Law.

In spring of 1950, the Supreme Court declared in Sweatt v. Painter that, because of the reputation and status of the Texas law school, African-Americans could not obtain an equal education in the law in a segregated facility.

Heman Sweatt entered the University of Texas School of Law as the first of many courageous blacks who would follow him in integrating previously all-white schools in the south. He was treated with indifference by many, with rancor by some, and with friendship by others, including Professor Jerre Williams. Williams and a number of other faculty made clear their feelings that the law school should get on with the task of integrating and should accept blacks on an equal basis. When Mr. Sweatt returned to the law school in 1980 on a visit sponsored by the Thurgood Marshall Legal Society, he commented that Professor Williams had gone out of his way, day after day, not only to speak to him, but to offer him words of encouragement.

It would still be a considerable period of time, however, before the University of Texas would even come close to that ideal. As late as 1961, race-based regulations kept blacks and whites segregated in dormitories, drama productions, and sports at the university. Jerre Williams was among the law school professors who gave support and encouragement to a movement that publicized the conditions and eventually led to changes.

The 1950's and 1960's witnessed various attacks on academic freedom in the University and the law school. Jerre Williams recounted the "continuing struggle to preserve intellectual and academic freedom" in a 1968 article in The Texas Law Forum. "Typically [challenges] take the form of outcry from public officials, newspapers, the legislature, or people generally against the law school or members of its faculty for points of view which have been publicly expressed by faculty members or a law school publication." There was the perennial claim, he noted, that "young 'radicals' have been hired as members of the law faculty." He argued, together with a number of his colleagues, that a strong law school with a national reputation had to preserve freedom of inquiry and speech. Dean Page Keeton steered the law school through these difficult periods, unwavering in his support for academic freedom and wise and politically adroit in his responses to these challenges. Professor Williams' experiences with attacks on academic freedom in the University undoubtedly influenced his positions as a defender of first amendment rights while a judge.

As a professor, Jerre Williams played an active role in the emergence of the University of Texas School of Law as a prestigious national law school. He held all the important faculty committee assignments and reached out beyond the law school to become a leader in legal education at large. He was on the Executive Committee of the American Association of Law Schools from 1972 to 1974, and in 1980, he assumed the Presidency of the Association. He resigned when his judicial appointment was confirmed by the Senate, but his programs were in place for his term of office. In his inaugural address, Professor Williams urged that law schools develop "outreach programs" to educate the courts, attorneys, and the public "about the whats and why of legal education." "Law schools are not trade schools," he argued. "We are teaching a mental process, the starting point for the quality product of the professional." Nonetheless, he pressed for expanded legal clerkships and quality clinical programs for students. Finally, in a particularly prescient passage in view of the subsequent growth of alternative dispute resolution, he called for "affirmative devices developed for settling disputes outside of court—devices such as informal neighborhood tribunals, arbitration, or financial punishment for the bringing of frivolous suits."
Professor Williams' vision of law school education mirrored many of his own values for society at large. He believed in a professional institution that respected individuals, that was dedicated to learning but with a practical and pragmatic cast, that upheld the highest traditions of free and open inquiry, and that was efficient in its expenditure of the taxpayers' money.

Jerre Williams was a warm, caring person with a sense of humor and compassion. As a teacher, scholar, arbitrator, administrative law expert, and federal judge, he left his mark. The legacy of his academic career lies in the admiration that former students still have for him, the respect of former colleagues, and the knowledge that the things he did were of lasting value in our society.

This Memorial Resolution was prepared by a special committee consisting of Professors Edward F. Sherman (Chair), Corwin W. Johnson, Millard H. Ruud, and Charles Alan Wright.
Distributed to Voting and Emeritus Members of the faculty of the School of Law, the Dean of the School of Law, the Executive Vice President and Provost, and the President on August 31, 1995.