

KEY ERAS IN THE HISTORY OF THE TEXAS SUPREME COURT

RICHARD R. ORSINGER, *San Antonio*
Orsinger Nelson Downing & Anderson

State Bar of Texas
**TEXAS SUPREME COURT:
HISTORY & CURRENT PRACTICE**
April 14, 2021

CHAPTER 1.3

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Key Eras In the History of the Texas Supreme Court

RICHARD R. ORSINGER
Tower Life Building, 26th Floor
San Antonio, Texas 78205

5950 Sherry Lane, Suite 800
Dallas, Texas 75225

2600 Network Blvd. #200
Frisco, Texas 75034

Texas Supreme Court: History & Current Practice
April 14, 2021
Webcast

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richard@ondafamilylaw.com

THE TEXAS SUPREME COURT DURING REBELLION, RECONSTRUCTION & RESTORATION: 1861-1874

Supreme Court Under Constitutions

- 1836--Chief Justice w. 3 to 8 district judges as Associate Justices, elected by both houses of Congress to 4-year terms
- 1845--3 Justices appointed by the Governor to 6-year terms
- 1861--3 Justices appointed to 6-year terms
- 1866--5 Justices elected to 10-year terms; select their own CJ
- 1867--5 Justices appointed by military commander
- 1869--3 Justices appointed to 9-year terms
- 1876—3 Justices elected to 6-year terms

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Supreme Court Under Constitutions

- 1891--Created a 3-judge Court of Criminal Appeals, elected to 6-year terms
- 1945--Amendment increased Sup. Ct. from 3 to 9 Justices, elected to 6-year terms
- 1974--Amendment to Tex. Const. failed. Would have merged Tex. Crim. App. into Tex. Sup. Ct. with 15 Justices

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1861-1876 Courts


- 1861-1865 Civil War Court
- 1866-1867 Presidential Reconstruction Court
- 1867-1870 Military Court
- 1870-1873 Semicolon Court
- 1874-1876 Restoration Court

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1861–1865 Civil War Court

*Oran M. Roberts**George Fleming Moore**James Hall Bell**Royall T. Wheeler**Reuben A. Reeves*

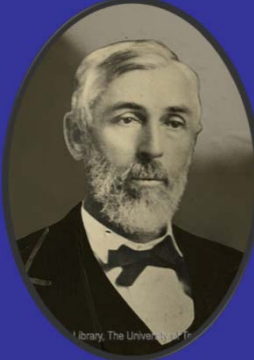
1866–1867 Presidential Reconstruction Court



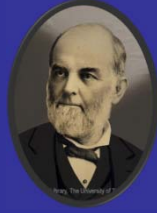
Richard Coke




George W. Smith



George F. Moore



Asa H. Willie



Stockton P. Donley

1867–1869 Military Court



Andrew Jackson Hamilton



Livingston Lindsay



Amos Morrill



Albert Hamilton Latimer



Colbert Coldwell

1870–1873 Semicolon Court



Moses B. Walker



Wesley Ogden

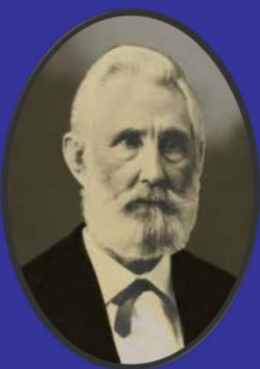


J.D. McAdoo

1874 Restoration Court



George Fleming Moore



Oran M. Roberts



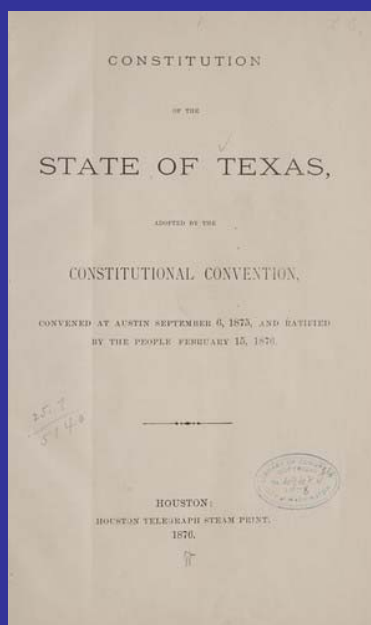
Robert Simonton Gould

Oran M. Roberts

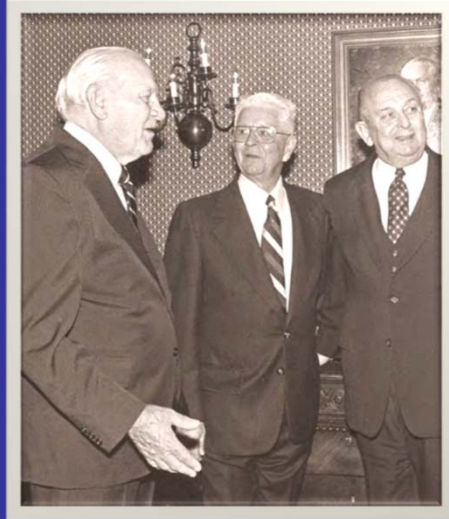


1857- 1862 Associate Justice
1861 President, Secession Conv.
1862 Col. Confederate Army
1864-65 Chief Justice
1866 U.S. Senate (not seated)
1874-78 Chief Justice
1879-83 Governor
1884-94 Professor of Law at UT

1876 Constitution



Chief Justices Calvert, Greenhill & Pope



Calvert

Pope

Greenhill

**ROBERT WILBURN CALVERT
(1905-1994)**

Calvert – Home of Maternal Grandparents



Home of Maternal Grandparents; Behind the Fence, 1. to 4.: Robert McGaley Richardson, grandfather; Orabell Richardson, aunt; Russell Morris, first cousin; Elizabeth M. Richardson, grandmother. In Front of Fence: Robert Calvert, Grady Calvert. Yokley, Tenn., 1913.



14 year old Robert Calvert and his trumpet (1919)

Calvert: Personal Timeline

- 1905 -- born in Tennessee
- 1912 -- father died; lived with paternal grandparents
- 1913 -- mother took kids to Texas; Corsicana Orphans' Home
- 1918 -- sister died in influenza epidemic
- 1921 -- lobbied Legislature for Orphan's Home; \$100,000 grant
- 1923 -- graduated high school; Univ. of Texas pre-law; job operating elevator in Capitol
- 1924 -- dropped out of school
- 1925 -- full-time job at Industrial Accident Board
- 1926 -- entered law school
- 1927 -- half-time job as mail clerk in State Fire Insurance Dept.
- 1928 -- quit school; full time job night watchman at Land Office Building
- 1929 -- re-entered law school; full time job as night watchman
- 1931 -- graduated law school; moved to Hillsboro; free office; earned \$7.50 1st month
- 1933 -- elected House of Representatives from Hill & Navarro Counties
- 1934 -- 2nd term in the House; ran for Speaker, lost to Coke Stevenson
- 1936 -- 3rd term in House; unopposed for Speaker; practiced law
- 1943 -- elected Navarro County criminal district attorney; Hillsboro School Board
- 1946 -- selected Chair of State Democratic Executive Committee
- 1948 -- canvassed votes in LBJ's stolen primary election vs. Coke Stevenson
- 1994 -- died; buried in State Cemetery, Austin

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Calvert: Political & Professional Timeline

- 1933-1937 Member Texas House of Representatives
- 1937 Speaker Texas House of Representatives
- 1950-1961 Associate Justice Texas Supreme Court
- 1961-1972 Chief Justice Texas Supreme Court
- 1970-1971 Chair National Conference Chief Justices
- 1974-Chair of Texas Constitutional Revision Committee
- 1984-1985 Member Texas Ethics Advisory Commission

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1961 Calvert Court



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1961 Calvert Court



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1968 Calvert Court



The Texas Supreme Court in 1968. Standing, left to right: Justices Robert W. Hamilton, Zollie Steakley, Jack Pope, and Thomas M. Reavley. Seated, left to right: Justices Ruel C. Walker, Meade F. Griffin, Chief Justice Robert W. Calvert, Justices Clyde E. Smith and Joe R. Greenhill. Photo courtesy of the Supreme Court of Texas Archives.

TEXAS LAW REVIEW

VOL. 38 APRIL 1969 No. 4

"No Evidence" and "Insufficient Evidence" Points of Error

ROBERT W. CALVERT*

It was thought that the per curiam opinion of the Supreme Court in *In re King's Estate*¹ and the publication of former Associate Justice Garwood's excellent article, *The Question of Insufficient Evidence on Appeal*,² would resolve, both for lawyers and judges of Courts of Civil Appeals, most of the problems growing out of points of error challenging a verdict or judgment because of a lack of evidence or lack of sufficient evidence to support it, or because it is contrary to the great weight and preponderance of the evidence, but a growing number of recent decisions indicate a continuing misunderstanding in some quarters of the nature and office of points of error of that type, justifying, it seems to the writer, a somewhat more analytical discussion of the subject. The analysis will be made without extensive comment and with a minimal number of citations. No good purpose would be served by citing the decisions which have prompted this effort.

Under the injunction of Rule 1 that the Rules of Civil Procedure be given a liberal interpretation "to obtain a just, fair, equitable and impartial adjudication of the rights of litigants," magic in words in points of error should be as extinct as the dodo bird. In his article Justice Garwood referred to two types of points, i.e., "no evidence" points and "insufficient evidence" points. Expressions in points of error such as "no evidence," "insufficient evidence," "no sufficient evidence," "no legally sufficient evidence," "against the great weight of the evidence," "contrary to the preponderance of the evidence," ad infinitum, have definite connotations in the mind of an appellate judge, but, except in a very limited way, they are not, or at least should not be, controlling. The controlling consideration with an appellate court in passing on a point of error directed at the state of the evidence is not whether the point uses the preferable, or even the proper, terminology, but is whether the point is

* Associate Justice, The Supreme Court of Texas.

¹ 150 Tex. 601, 504 S.W.2d 699 (1967).

² 30 Texas L. Rev. 803.

Cited in 1,227 cases; 135 articles and books

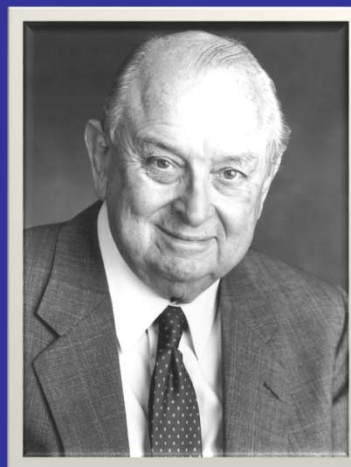
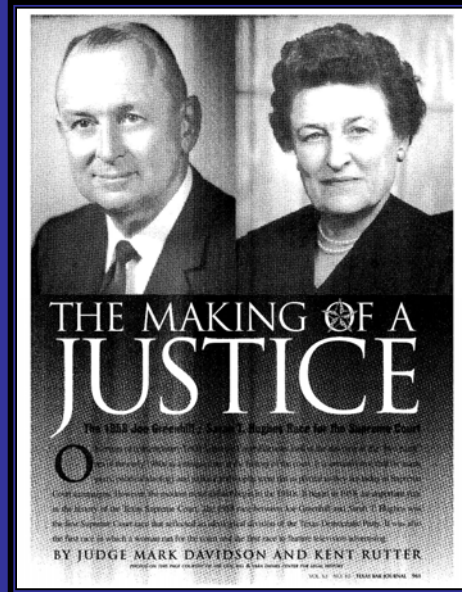
JOE ROBERT GREENHILL (1914-2011)

Joe R. Greenhill Timeline

- 1914 Born in Houston, Texas
- 1936 University of Texas B.A. & B.B.A. degree (both w. highest honors)
Texas Cowboys, ΦBK
- 1939 U.T Law School LL.B. degree (highest honors; 1st in class)
- Briefing attorney Texas Supreme Court
- 1940 Married Martha Shuford of Tyler
- 1942 Active duty Naval Intelligence, Executive Officer on Minesweeper
- 1948 First Assistant A.G. (Sweatt v. Painter)
- 1950 Co-founded Graves, Dougherty & Greenhill
- 1958 Fended off Sarah T. Hughes' effort to unseat him from the Court
- 1972 Appointed/elected Chief Justice Texas Supreme Court
- 1974 Distinguished Alumnus University of Texas at Austin
- 1974 Distinguished Alumnus University of Texas College of Business
Administration
- 1977 Distinguished Alumnus University of Texas School of Law
Honorary Doctor of Law Degree SMU School of Law
- 1982 Retired; became Of Counsel to Baker & Botts
- 2011 Joe R. Greenhill died and was buried at the Texas State Cemetery

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Joe Greenhill's Supreme Court Race Against Sarah T. Hughes - 1958



1972 Greenhill Court

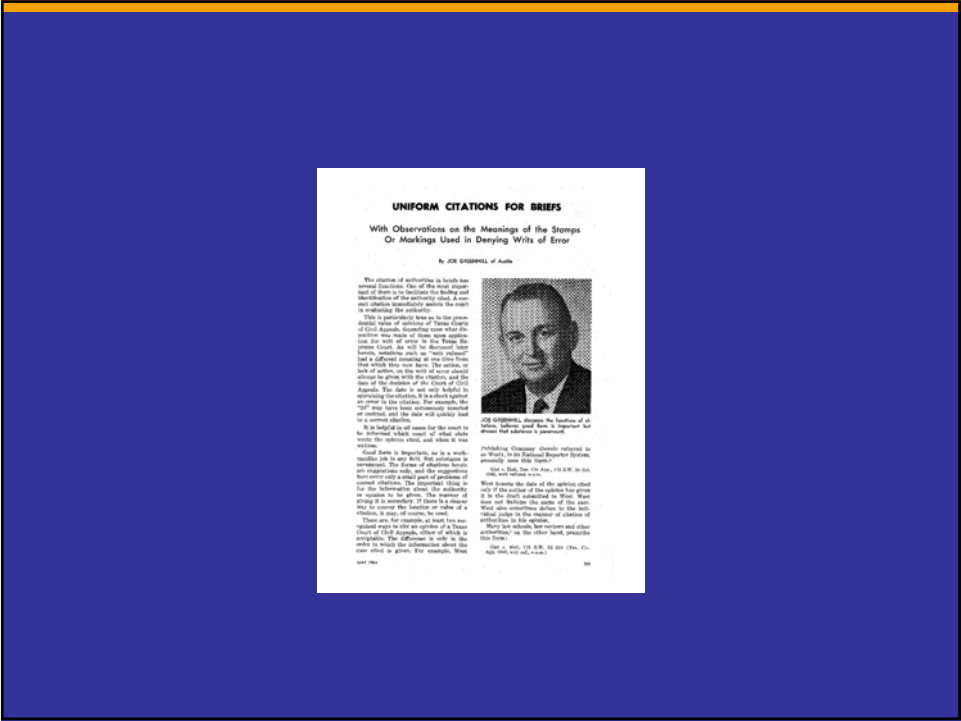


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1972 Greenhill Court



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**ANDREW JACKSON “JACK” POPE
(1913 – 2017)**

Chief Justice Jack Pope

- Born 1913, in Abilene
- 1934 B.A. Degree Abilene Christian College (served as Student's Ass'n President)
- 1937 L.L.B. Univ. of Texas School of Law; licensed as attorney; went to work for uncle in Corpus Christi
- 1938 married Allene Nichols
- 1944 Joined Navel Reserve
- 1946 Appointed to 94th District Court (unexpired term)
- 1947 Reappointed to 94th District Court (4-yr term)
- 1950 Appointed to Fourth Court of Appeals in San Antonio
- 1961 Opinion in *State v. Valmont Plantations*
- 1963 Elected Associate Justice of Texas Supreme Court
- 1982 Appointed Chief Justice, Texas Supreme Court



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Chief Justice Jack Pope (cont.)

- 1985 Retired
- 1989 Along with Chief Justices Calvert & Greenhill, founded Texas Center for Legal Ethics
- 2009 Received 1st Chief Justice Jack Pope Professional Award from Texas Center for Legal Ethics
- 2013 Died at age 103

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State v. Valmont Plantations

STATE v. VALMONT PLANTATIONS Tex. 853
Cite as 344 S.W.2d 853

**STATE of Texas et al., Appellants,
v.
VALMONT PLANTATIONS et al., Appellees.**
No. 13583.
Court of Civil Appeals of Texas.
San Antonio.
March 29, 1961.

Class action presenting question of whether in absence of specific grants of irrigation waters, Spanish and Mexican land grants along lower Rio Grande had appurtenant riparian irrigation rights. From a judgment of the 93rd District Court, Hidalgo County, W. R. Blalock, J., both the plaintiffs and defendants appealed. The Court of Civil Appeals held that lands riparian to the lower Rio Grande did not have an appurtenant right to irrigate with river waters.

Judgment reversed and rendered.
Murray, C. J., dissented.

1. Waters and Water Courses ¶44
Spanish and Mexican grants of land riparian to lower Rio Grande did not carry with them appurtenant irrigation rights.

2. Public Lands ¶284
Land grants along north bank of Rio Grande from Spain, Mexico and Mexican state of Tamaulipas were governed by law of sovereigns when grants were made. Vernon's Ann.St.Const.1845, Const.1876; Treaty of Guadalupe Hidalgo, 9 Stat. 922.

3. Waters and Water Courses ¶44
River grants made by Mexican state of Tamaulipas are controlled by laws of Mexico and Tamaulipas as they then existed.

4. Evidence ¶517
Opinions of experts on Mexican law is an accepted form of proving Spanish and Mexican law.

5. Evidence ¶530
Courts may presume that officers of a former government complied with and did not violate their authority.

6. Waters and Water Courses ¶44
A specific Spanish or Mexican grant of Rio Grande waters was necessary for irrigation waters, and lands with ready access to waters did not carry with them an implied grant of riparian waters for irrigation.

7. Courts ¶89
"Stare decisis" is a deliberate or solemn decision of court or judge made after argument on a question of law, fairly arising in a case, and necessary to its determination.
See publication Words and Phrases, for other judicial constructions and definitions of "Stare Decisis".

8. Courts ¶92
"Stare decisis" does not arise when there is an opinion expressed by a judge on a point not necessarily arising in a case.

9. Courts ¶92
Decisions are to be considered in light of facts on which they are based and courts are not bound by dicta, commentary, or advisory remarks.

10. Courts ¶92
Courts are not bound by obiter dictum in passing on a question presented to them for decision for the first time.

11. Waters and Water Courses ¶44
Question of whether Spanish and Mexican land grants on Rio Grande River have appurtenant irrigation rights similar to common-law riparian rights was not settled by stare decisis in Texas.


12. Judges ¶42
Judge, who owned undivided interest in land covered by Mexican and Spanish land grants but who, prior to action involving question of whether lands riparian to Rio Grande River had an appurtenant

"The judgment of the Court of Civil Appeals is affirmed and the opinion of that court is adopted as the opinion of the Supreme Court."

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Presenting and Excluding Evidence


By the Honorable Justice of the Peace



THE COURT: The first witness is the State's witness, the Honorable Justice of the Peace. He will testify to the facts of the case as they appear in the evidence.


Public Impressions Of The COURTROOM SCENE

By the Honorable Justice of the Peace



THE COURT: The second witness is the Honorable Justice of the Peace. He will testify to the facts of the case as they appear in the evidence.

A New Start on the Special Verdict



THE COURT: The third witness is the Honorable Justice of the Peace. He will testify to the facts of the case as they appear in the evidence.

BAYLOR LAW REVIEW

Volume 10, Number 1, Spring 1961

TEXAS CIVIL PROCEDURE REFORMS

Just How Safe Is Your Investment?

The purpose of this article is to present a brief survey of the current state of the law in Texas regarding the rights of a creditor to enforce a judgment against a debtor's property. The article will discuss the various methods of enforcement available to a creditor and the limitations on these methods. It will also discuss the various defenses available to a debtor and the limitations on these defenses. The article will conclude with a discussion of the various reforms that have been proposed and the limitations on these reforms.

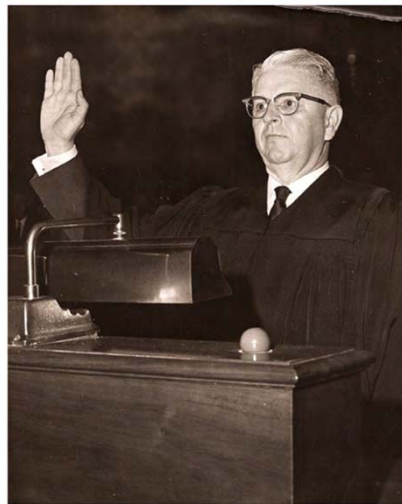
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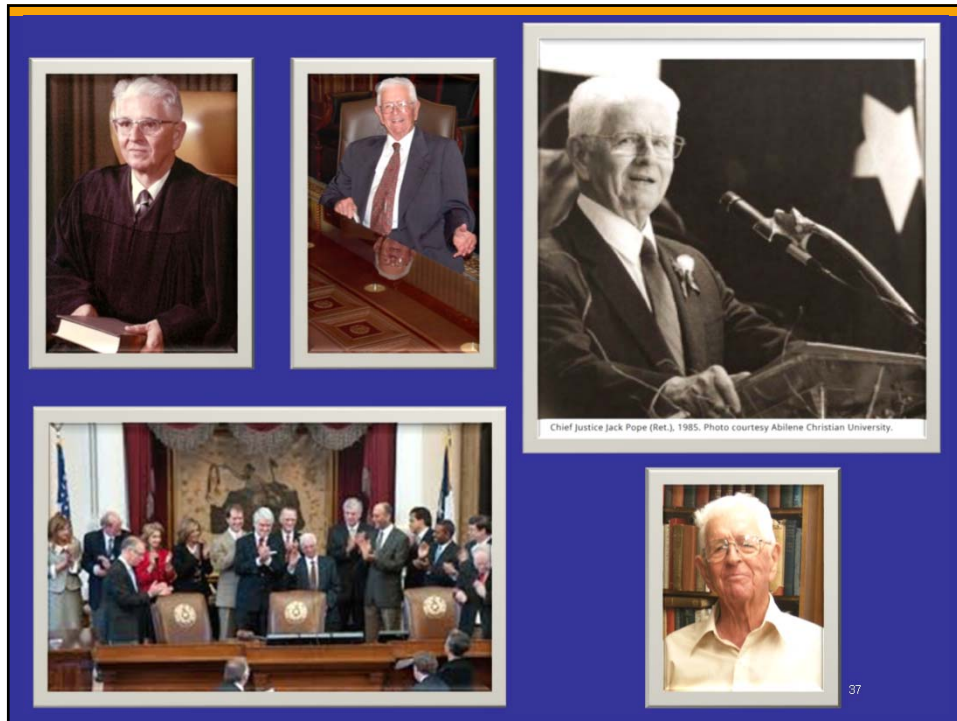


Justice Pope takes the oath of office for the Supreme Court of Texas, January 1965.

1982 Pope Court



Soon after Justice Pope was appointed Chief Justice in late November 1982, he posed with fellow members of the Supreme Court. Standing, left to right: Justices Ruby Kless Sondock (in the last month of her six-month appointment), Cread L. Ray, Jr., Robert M. Campbell, Franklin S. Spears, James P. Wallace, and Ted Z. Robinson (appointed to replace Pope as Justice). Seated, left to right: Justice Sears McGee, Chief Justice Jack Pope, and Justice Charles W. Barrow. Photo courtesy of the Supreme Court of Texas Archives.



<https://www.oilandgaslawyerblog.com/jack-pope-former-chief-justice-texas-supreme-court-dies-age-103/>



The End

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