

# Sub-Committees Study Rules

Sub-committees headed by Marion N. Chrestman, Judge Robert W. Stayton, and Judge Ben H. Powell of the Supreme Court's advisory committee on rule-making power apportioned work among their members at their March meetings, and made some recommendations for changes in the rules of civil procedure. The five sub-committees appointed by Chairman Angus G. Wynne of Longview at the general meeting in February were requested to examine all of the statutes coming within their assignments and report back to the advisory committee March 30 so that their suggestions might be studied before the next meeting in Austin April 5.

Judge F. A. Williams of Galveston resigned as chairman of the fourth sub-committee because of illness, and was succeeded by Roy W. McDonald of Dallas. Although members were unable to meet in March, it was the opinion of Judge R. B. Levy and Mr. McDonald that few recommendations would be made. The fifth, of which Winbourn Pearce of Temple is chairman, met in Austin March 9 and decided that it would be unwise at this time to make any changes in special procedure. Members, besides Mr. Pearce, are Judge James P. Alexander of Waco and Will Orgain of Beaumont.

## *Simplifying Pleadings*

Mr. Chrestman's committee on trial practice and procedure up to the actual trial of the case devoted most of its work at the March 9-10 meeting in Mineral Wells to simplifying pleading and eliminating technicalities. It voted to recommend elimination of the requirement that facts stating a cause of action be pled, and to suggest instead that the plaintiff's petition consist of a statement of his claim, which should be sufficiently full to give the opponent fair notice of his contentions. If that rule is adopted, the fact that a particular allegation may be a conclusion of law or an evidentiary allegation instead of a technically correct fact allegation will no longer be important. The test will be whether the opponent, from the allegations as a whole, is given a fair

notice of the contention of the party.

It was the belief of the sub-committee that the federal rule on that question was too fragmentary, and that the recommendation decided upon would result in a procedure intermediate between the present Texas rule and the new federal rule. The principal change to be recommended in the defendant's answer is the elimination of the general demurrer and the requirement that any insufficiency in the plaintiff's pleading be specifically set forth with the reasons for the insufficiency.

## *Responsibilities for Study*

Responsibilities for study before the March 24 meeting were assumed as follows: Mr. Chrestman of Dallas, citation procedure; Robert W. Calvert of Hillsboro, with the assistance of Carlton Winn of Dallas, chairman of the Texas Bar Association committee, pre-trial procedure.

The second committee on trial practice and procedure, headed by Judge Stayton of Austin and appointed to consider the steps in the trial of a case, held three meetings in March, receiving reports from the various members on assignments made to them February 16. It was the duty of each member also to be responsible upon the whole field covered by the sub-committee. Approved, with minor corrections, at the March 2-3 meeting in Waco were reports of Judge Alexander on justice courts and certiorari; Senator Olan Van Zandt of Tioga on practice of district and county courts, trial, and findings by the Court; J. B. Dooley of Amarillo on case to jury, verdict, and judgments; and Randolph L. Carter of San Antonio on remittitur and correction of judgment, and new trial and arrest of judgment.

## *Suggestions by Non-Members*

The meeting in Fort Worth March 17 was spent in consideration of the report of Judge W. R. Chapman of Abilene on the charge, and of suggestions by non-member lawyers and judges and local associations. A two-day session March 22 and 23 was held to complete action on Judge Chapman's recommendations, subjects re-referred by other members, and

the report of Judge Stayton on execution, fees of office, default judgments, and all other articles within the field of the sub-committee not already covered.

Work on Judge Powell's sub-committee on appellate practice and procedure was apportioned among the five members March 19. To Allen Clark of Greenville went the task of considering all proceedings from notice of appeal to filing the record in the Court of Civil Appeals, and Judge Levy of Longview will work on proceedings in the Court of Civil Appeals

from filing of the record to application for writ of error and issuance of mandate. Judge James W. McClendon of Austin will take proceedings in the Supreme Court from filing application for writ of error, or certified questions from the Court of Civil Appeals, to issuance of mandate. W. A. Vinson of Houston was assigned the work covering appeals from interlocutory orders, including all proceedings therein; and Judge Powell of Austin will consider original proceedings in the Supreme Court and Court of Civil Appeals.

