

The Storied Third Branch

A Rich Tradition of Honorable Service Seen Through the Eyes of Judges

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Supreme Court of Texas Chief Justice Andrew Jackson “Jack” Pope, Jr. “Always His Own Man”

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“I’m going to retire, I want you to take my seat, and the Governor agrees,” Texas district judge Allen Wood told the 33-year-old Corpus Christi lawyer. Jack Pope could hardly believe his ears, and his wife, Allene, was even more incredulous. Jack had been born and raised in Abilene, and after graduating Abilene Christian College and the University of Texas Law School, had moved to Corpus Christi to practice law with his uncle. When news broke that he was being considered for the bench, opposition quickly arose: he was too young, lacking in judicial temperament, and could not be trusted to be impartial. But in young Jack’s mind, all the criticism boiled down to one thing: “They can’t control Pope.” The Governor was unmoved, and weeks later, on December 16, 1946, Jack Pope was sworn in as the youngest district judge in Texas.

Though he knew he would be periodically summoned to account to the electorate in a State that has always, insistently, elected its judges, Judge Pope resolved to be a firm but fair judge, popular or not. He would let lawyers try their cases without judicial interference but would set reasonable time limits. He would end the usual practice of speaking objections before the jury but hear the lawyers out at the bench. He would strengthen himself against the weakness to act non-judiciously by putting a sign on the bench that only he could see, but he could not miss,

bearing one word: “Patience.” And he would strive for a reputation of unimpeachable integrity.

After four years on the trial bench, Judge Pope decided to run for election to the intermediate appellate court. LBJ’s 87-vote victory over Governor Coke Stevenson in the 1948 U.S. Senate Democratic primary had left the Party bitterly divided, and Judge Pope hoped for support from both factions. Rather than try to finagle it, Judge Pope called on the former Governor and on George Parr, the leader of the LBJ camp, laid everything on the table with both, and came away with commitments from both sides because he had been straightforward and — what surprised the two political titans — very judicial.

By 1964, when Justice Pope ran for election to the Supreme Court, he was well on his way to earning the reputation he had sought, and he won his first statewide election handily. During three six-year terms on the Court, he wrote more than 700 opinion and worked to modernize procedural rules. Short of stature, Justice Pope was a giant in the Texas judiciary. When I was appointed to the district court in 1981, a year younger than he had been when first appointed, Justice Pope was one of my heroes. His plainspoken manner, with wisdom and wit, made him an iconic figure. I remember telling him once, as a young judge, how important I thought it was for judges to work hard. “But remember,” he said, “there’s nothing worse than a bad judge who works hard.” The twinkle in his eye reassured me that the comment had not been directed my way.

In 1982, Justice Pope, the longest-serving judge in Texas at the time, announced he would not run for re-election. But as it turned out, his service to that point had only been preparation for two challenges that lay ahead.

Months before Justice Pope’s term ended, the Chief Justice retired. For Governor Clements at that time, the State’s first Republican Governor since Reconstruction, who had appointed many judges already, this was his chance to make the most influential appointment of his administration. But when Governor White, a Democrat, was elected in November, Democratic senators, more than enough to block confirmation of appointees, publicly pledged to vote against confirmation of

all lame-duck appointments, whoever they might be. In a stunning move, Governor Clements appointed Justice Pope, a lifelong Democrat, Chief Justice. So universally venerated was Justice Pope, he would not fall victim to partisan politics.

Caught between their pledge and their admiration for Justice Pope, the senators looked for a way to save face. Would Chief Justice Pope agree not to run for election at the end of his term, they asked. In fact, Justice Pope, at 69, had been ready to retire. But no, he said. No deals. “The citizens of Texas do not want their Chief Justice, or any other judge, to make a deal to get a job,” Chief Justice Pope told them. “If he’ll make a deal to get a job, he may keep on making deals to keep that job.” Replied the senators: we don’t want to bust you, but we must have some assurance that a Clements appointee will be interim only. No, said the Chief. No deals. Jack Pope had not changed his attitude in thirty-six years, and he refused to budge. He could not, he said, forsake principle in front of the State’s 2,700 judges, all of whom were watching to see what their leader would do. Jack Pope stood his ground. And he was confirmed.

With all this drama playing out in public, the new Chief Justice’s inspiration to the judicial rank and file was palpable, not to mention his effect on the public. So when, just two years later, the Court’s integrity was challenged nationally on *Sixty Minutes*, Chief Justice Pope, who had just stepped down, spoke frankly with Mike Wallace. Even as the Chief conceded on national television that problems existed, hardly a viewer could doubt the Chief’s character and determination to see the problems resolved. The integrity a young Jack Pope had hoped to achieve among the several dozen lawyers of the Corpus Christi bar had been established, through a lifetime of service, in Texas and the nation.

Chief Justice Pope’s example to many young judges, me included, was inspirational. So in 1988, when I decided to run for election to the Supreme Court, Chief Justice Pope, then retired, was one of the first people I called on. Without his encouragement, I doubt I would have made the race.

Lacking the Executive's enforcement power and the Legislature's power of appropriation, the Judiciary's power lies in its character, its commitment to reasoned justice and adherence to law, and its integrity. In retirement, Chief Justice Pope has continued to serve as an inspiration to the Texas judiciary and a public witness to its integrity. There is much wrong with electing judges. Much. But what good there is in it is exemplified in Jack Pope, who resolved as a young judge that while he would account to voters for his stewardship of judicial authority, he would not kowtow to them, to lawyers, to politicians, to lawmakers, or to anyone. In recognition of his service to the Third Branch, the Legislature last session resolved to extend him "profound appreciation for his exemplary public service."

Jack Pope served the people of Texas thirty-eight years as a judge, longer than anyone else in Texas history. Next year, on April 18, he will celebrate his 100th birthday.