

# Convictions 'embarrass' judge

AUSTIN — A judge of the Texas Court of Criminal Appeals said in a blistering dissent today that he sometimes was embarrassed by the lengths to which his colleagues go to uphold convictions.

Judge Truman Roberts, who used to be a trial court judge in a rural Central Texas area, made his remarks in the case of Terry Lynn Coleman.

The court upheld Coleman's five-

year sentence for burglary to commit theft by a 3-2 vote.

The court majority affirmed the conviction because Coleman's brief was filed a day late. But in view of Roberts' dissent, the majority opinion by Judge Leon Douglas went into the details of the case and said it would be difficult for a jury to reach any other verdict but guilty.

"This case is affirmed because the appellant's brief was filed one day late . . . The lengths to which this court will go for the sole purpose of affirming convictions sometimes as-

tounds and embarrasses me. Resort is had to the minutest procedural technicalities. And even-handed justice under law is at best a fortuitous by-product," Roberts said.

He said the majority reached its decision "in blatant disregard of" a state law prohibiting the court from dismissing or refusing to consider an appeal because of failure to file a brief on time.

"A majority of this court, constituting itself as a three-man legislature, repeal this statute without even the courtesy of an acknowledgement.

Texas' other legislature has also provided us with the following statute: 'No affirmance or reversal of a case shall be determined on mere technicalities or on technical errors in the preparation and filing of the record on appeal,'" Roberts said.

He added that the court considers the state's briefs, even when filed late.

"Is this even-handed justice under law?" Roberts asked.

Roberts said the case should have been reversed because the judge did not instruct the jury on circumstan-

tial evidence. He said Texas was the only state that uses the "doctrine of close juxtaposition" which says that if the facts proved are in a close relationship to the main issue, then no charge on circumstantial evidence is required.

"I think the best course would be to align ourselves with the other jurisdictions which do not have the doctrine and to require strict adherence to the rule requiring the giving of a charge on circumstantial evidence," he said.



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# People moving from suburb to city

Associated Press  
MIAMI BEACH, Fla. — Housing and Urban Development Secretary Carla A. Hills told the nation's mayors yesterday that for the first time in more than a decade middle-income people are moving back to cities from suburbs.

But she said in a speech at the annual convention of the National League of Cities that urban officials could be doing more to encourage the trend.

An influx of such people will increase big city tax revenues, she added.

The migration back to cities is spurred by "the high cost and skimpy availability of fuel coupled with scarce land, stricter building codes and the sheer cost of suburban construction," Mrs. Hills said.

"For the first time in more than a decade, people of moderate means are finding more reasons for moving into the city than for moving out of it."

And these people, she said, "are already moving back."

But she said that cheaper living costs alone are not enough to attract middle- and high-income families. Cities must also concentrate their resources on enhancing the kinds of neighborhoods and services which attract single and young married people and the elderly, she said.

Such people now constitute half of the households in America, according to Mrs. Hills, and their "lifestyles are most suited to the very things our cities have to offer — smaller housing, convenience to jobs, entertainment and cultural amenities, recreational opportunities and the charm of older houses."

Mrs. Hills said they might want to

live in areas near colleges or parks, or in areas of historical or architectural interest. She added that their greatest concerns are for personal safety, ease of transportation and quality education.

Cities have already spent 60 per

cent of their general revenue-sharing funds from the federal government on these services, she said, but she urged the urban officials to work harder in Congress to assure the revenue-sharing program is extended beyond the end of 1976.

# Sports Shorts

Associated Press  
ROCHESTER, Minn. — Jack Mollenkopf, 70, former Purdue University football coach, died early today, seven weeks after he was hospitalized with cancer.

Mollenkopf retired as Purdue's coach in 1969 after 14 seasons in which his teams compiled an 84-38-9 record. The 84 victories were more than twice as many as any other Boilermaker football coach and included a 14-13 Rose Bowl triumph

over Southern California in 1967.

Associated Press  
KANSAS CITY — The Kansas City Scouts of the National Hockey League announced that Don Cairns, their No. 2 selection in the amateur draft last year, underwent knee surgery Wednesday.

The surgery was made to repair torn cartilage in the 20-year-old left-winger's left knee.

"The surgery was apparently completely successful," said Sid Abel, Scouts' general manager. "Don will be in the hospital about a week."

Cairns had been playing for the Scouts' AHL team in Springfield, Mass.

BOSTON — Boston College quarterback Mike Kruczek has been named winner of the George "Bulger" Lowe award as New England's outstanding college football player.

Kruczek, Boston College captain and a senior from Fairfax, Va., set a NCAA record for passing accuracy and was expected to be a top pick in the upcoming National Football League draft. He completed 225 of 337 passes for a 66.7 per cent mark in three varsity seasons.

The Lowe Award is given in honor of the late Exeter-Fordham-Lafayette star from Arlington, Mass., founder and first president of the Gridiron Club.

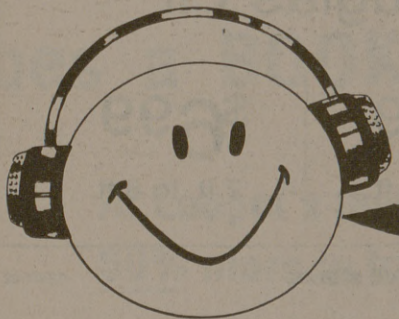
Kruczek will be honored at the annual Gridiron Club dinner Dec. 16.

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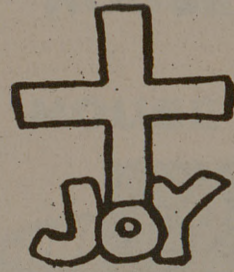
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