Mattox: Legal attack of examiner's decisions OK

Associated Press

AUSTIN — Decisions made by a man who continued to serve on Texas State Board of Dental Expenses, apparently not knowing at her appointment had been rected by the Senate, are subject to all attack, the state attorney genalsaid Monday.

Geraldine Tucker, of Austin, also not entitled to \$11,735 in state are reimbursement, Mattox held alegal opinion.

According to Mattox, board exective director William Nail told him at Tucker was appointed March 5, 982, by Gov. Bill Clements while Legislature was out of session. The Legislative convened in January 983, and on May 26 the Senate reused to confirm Tucker's appoint-

Nail said neither Tucker nor the gency were aware of the Senate action, and she continued to serve on the 12-member board until Dec. 4, when a routine audit of the

"What she told me was that no one had notified her."

— William Nail, Texas State Board of Dental Examiners.

board revealed that Tucker had not been confirmed by the Senate.

"What she told me was that no one had notified her, and no one notified me," Nail said. "I really don't know whose responsibility it is, but I'll make my own inquiries from now

Nail asked Mattox if disciplinary cases Tucker voted on could be affected and if she was liable for the \$11,735 which she received in the form of travel reimbursement and

2-member board until Dec. 4, Mattox said prior attorneys gen-, when a routine audit of the eral opinions agree that the Texas they were invalid."

Constitution "provides that 'If (a recess appointee is) rejected (by the Senate), said office shall immediately become vacant . . . " and "a recess appointee has no right to hold over" under the constitution "after the Senate refuses to confirm him."

"To treat Tucker as a de facto officer between May 26, 1983, and Dec. 4, 1984, would sanction, if not actually encourage, oversights of this nature," Mattox said. "This is not sound public policy."

Mattox said what effect Tucker's service has on disciplinary cases must be determined on a case-bycase basis

The attorney general also concluded that Tucker was not entitled to travel reimbursement and per diem after May 26, 1983.

Asked if the agency would seek repayment, Nail said the matter would be referred to Mattox's office.

"I'm sure he will look at the merits, what's equitable," he said. "She had legitimate expenses. It's not like

78 records show Clements eceived out-of-state funds

Associated Press

DALLAS — Former Texas Gov. Clements has received hundreds out-of-state contributions, including more than \$25,000 from a New ork City luncheon hosted by forer Secretary of State Henry Kissing, according to state campaign re-

Records show Clements, a Dallas ll executive, received almost 120,000 from more than 250 purces beyond Texas' borders in his purcessful 1978 race for governor, le Dallas Times Herald reported landay.

onday. Clements criticized Gov. Mark hite earlier this month for acceptgout-of-state contributions.

The out-of-state donations indled after Clements' first year office. But the Times Herald said continued to receive support on outside the state in his two subjuent bids for the governor's of-

Clements campaign spokesman the former governor intended to criticize White for actively ting outside money. Spokesman continue to accept unsolicited contributions from non-Texas supporters.

Clements, in a news conference earlier this month, said he considered it "a bad mistake" for White to accept out-of-state contributions. Clements said that he had "never" taken contributions from outside Texas and that he would not raise money outside Texas in his current campaign to unseat White.

Total contributions reported by Clements at the end of 1985 were \$390,000, including \$6,000 from out-of-state donors. White reported \$3.9 million in contributions, including \$204,000 from out-of-state supporters.

Clements, at a breakfast session with the Capitol press corps Jan. 7 in Austin, said the incumbent Democratic governor "is making a bad mistake..."

White's activity indicates he is more concerned with positioning himself for a possible national campaign in 1988 than with governing Texas Clements said

The Times Herald said Clements, asked at the breakfast whether he would accept out-of-state contributions, replied, "I never have."

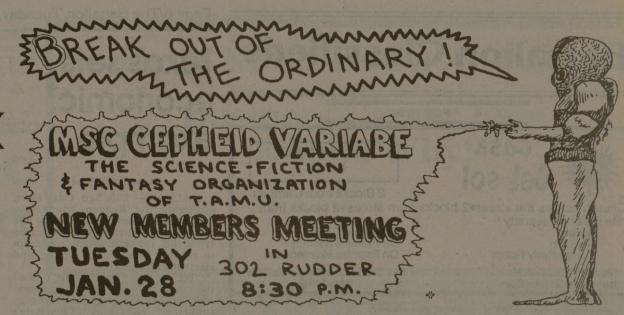
Clements, asked whether he would take non-Texan donations during this year's race, said, "I don't plan to, no."

Bashur said Clements benefited from several fund-raising events outside Texas during the 1978 campaign but now considers them to have been a mistake.

"He thinks that those (events) in '78 were a bad thing, and he learns from past mistakes," Bashur said.

Representatives of White's campaign said Clements hurt his credibility by saying he had never taken out-of-state money.

White's campaign treasurer, Austin lawyer Shannon Ratliff, said, "I think it's interesting because the keystone of (Clements') campaign thus far has been (White's) credibility, and it seems to me his own campaign reports have undermined his."



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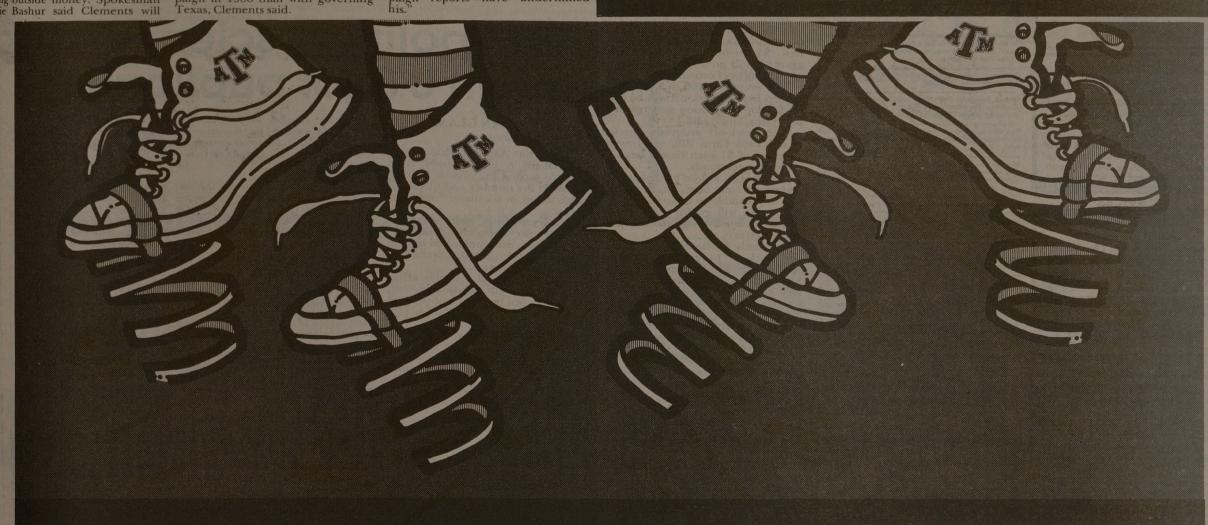
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