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## Survey of Cases Decided by the Fifth Circuit Court of Appeals: Introduction

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# INTRODUCTION

*Frank W. Elliott\**

Three years ago in this space Judge Brown stated that he was "honored to be able to introduce the first—and perhaps the last—Fifth Circuit Review by this law journal."<sup>1</sup> Two years ago Judge Goldberg noted the warning of the year before, but stated that "one would be bold indeed to predict when and if such a split will come."<sup>2</sup> The controversy over whether the Fifth Circuit should be split is still not settled—indeed it appears to be more intense, and it is the subject of the lead article of this issue.

This controversy points out one of the reasons for the existence of law reviews and law schools. The basic purpose of a good law school, particularly a state-supported law school, is to educate its students so that they may function as lawyers. Likewise, the basic purpose of a good law review, particularly one at a state-supported law school, is to educate students and lawyers so that they may *better* function as lawyers.

There is room in the curriculum of a good law school and in the pages of a good review for discussions of esoteric subjects, but the subject need not be esoteric for the discussion to be scholarly. The presentation of live, practical, everyday problems may contribute to important improvements in the law.<sup>3</sup>

This symposium includes scholarly analyses of fresh, important cases decided by the Fifth Circuit during the past year. It also includes a scholarly analysis of problems and possible solutions for the Circuit's overcrowded conditons. We can only hope that it will not only contribute to the better functioning of its readers as lawyers, but also to a better solution of the problems of judicial administration within the Circuit.

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\* Dean, Texas Tech University School of Law.

1. Brown, *Revision by Division?*, 1975 *Fifth Circuit Symposium*, 6 *TEX. TECH. L. REV.* 319 (1975).

2. Goldberg, *Introduction*, 1976 *Fifth Circuit Symposium*, 7 *TEX. TECH L. REV.* 243 (1976).

3. See, e.g., Sampson, *Distant Forum Abuse in Consumer Transactions: A Proposed Solution*, 51 *TEXAS L. REV.* 269 (1973). This proposed solution was later codified in *TEX. REV. CIV. STAT. ANN.* art. 1995, §5(b) (Supp. 1978), which was added in 1973. This statute was later construed in *Amaya v. Texas Sec. Corp.*, 527 S.W.2d 218 (Tex. Civ. App.—San Antonio 1975, writ ref'd n.r.e.).

