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1-1-1995

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### Recommended Citation

Thomas M. Reavley, *Chief Justice Calvert: Man of Imperturable Integrity In Memoriam.*, 26 ST. MARY'S L.J. (1995).

Available at: <https://commons.stmarytx.edu/thestmaryslawjournal/vol26/iss4/2>

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## **CHIEF JUSTICE CALVERT: MAN OF IMPERTURBABLE INTEGRITY**

**THOMAS M. REAVLEY\***

Robert W. Calvert attributed the success of his 1950 campaign for the Texas Supreme Court to the widely known name of the state comptroller, Robert S. Calvert, and a timely advertising campaign of Calvert Whiskey. He was an early convert to the superiority of merit selection, rather than election by uninformed voters, as the method of judicial selection. His preference strengthened over the years as he observed judicial elections. We might speculate about Calvert's chances of being elected to the court today. My opinion is that neither section of the bar would support him, inadequate money would be contributed, and his chances would be poor. He was much too independent. That says a lot about current practice and affairs.

It has been said that the court led by Chief Justice Calvert was committed to ancient rules of law favorable to wealthy defendants and was opposed to change. That judgment comes from persons who are either misinformed or who confuse the judicial and legislative functions. Calvert believed that lawyers, judges, and citizens should be able to rely on the law as declared by the courts—at least until their representatives change the law through the legislative process. When people who depend upon the law were prepared for change, he could support court improvement of court-made rules.

Chief Justice Calvert was open-minded to changes in procedural rules. The rule change to allow the ten-to-two jury verdict in civil cases provides one such example. I advocated abandonment of the requirement of twelve-juror unanimity, but my proposal met with

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broad opposition, especially from defense lawyers. The court's advisory committee voted against this change. During several meetings of the court the summer we considered proposed rule changes, my arguments seemed futile. However, on one July afternoon, as we were finishing our work, Chief Justice Calvert said that he had decided we should try the ten-to-two verdict. The other judges slowly, one or two grudgingly, followed after. I was almost breathless, but knew very well that Calvert had turned the tide. Incidentally, the first ten-juror verdicts after the rule change favored the defendants. No further opposition to the new rule was heard.

In 1971, Chief Justice Calvert organized the Calvert Task Force, which included thirteen judges and lawyers most knowledgeable about Texas courts. The Task Force undertook to rewrite the Judicial Article of the Texas Constitution, and despite its diverse membership, it accomplished the mission of substantial change. Calvert then led some of us to travel the state to explain and advocate the proposed reforms. I wrote about this project in *Court Improvement: The Texas Scene*, which appeared in the *Texas Tech Law Review*.<sup>1</sup> In 1973, the Texas Constitutional Revision Commission overtook the effort for court reform. Calvert, having left the supreme court, chaired the Commission. The thirty-seven Texas leaders on the Commission then involved almost 3,000 persons in a statewide effort to hear and discuss constitutional revision. They presented a complete rewrite of the Texas Constitution to the legislature, which sat as a convention. The convention failed to reach accord, but the legislature submitted a constitutional proposal to the voters during its regular session in 1975. Unfortunately, too few Texas officials shared Calvert's willingness to work for the improvement of Texas government, and all of the proposed amendments failed. Calvert was deeply disappointed, especially by the failure of the rewritten Judicial Article.

For years after he left the court, Calvert carefully read its opinions and wrote many letters to the justices to point out their errors. For example, he fervently opposed the use of incorrect terms in the appellate court judgment. Calvert often reminded us that an appellate judgment acts upon the lower court's final judgment. In an appellate opinion, the writer may approve or reject the statements

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1. Thomas M. Reavley, *Court Improvement: The Texas Scene*, 4 TEX. TECH. L. REV. 269 (1973).

or rulings of the trial judge. However, the judgment, and that only, affirms, reverses, vacates, or modifies the final judgment below. Calvert wanted us to get it right, and he never stopped teaching.

Calvert was a model chief justice and a delightful colleague. His work was excellent. He was decisive and left no doubt where he stood, yet he was attentive and respectful of the opinions of others. When he thought a judge was delinquent in performance, he made his opinion known without any personal abuse. The man could say more in the way he cleared his throat than others can convey by look or sound.

My years at the court's conference table under Chief Justice Calvert's leadership were the most enjoyable time of my judicial experience. Everyone took the work seriously. It called for your best effort. Rarely did signs of personal animosity materialize, and the few that did passed quickly. Good humor was appreciated. We were comfortable with each other.

Bob Calvert was a man of fierce integrity. No one ever questioned that. He decided the merits of each case without the slightest attention to the identity of the parties or the lawyers. The blindfold never slipped. In all of his years of public service, he was absolutely impervious to favoritism or improper influence.

In 1974, at a dinner in his honor, I presented a plaque and said to him:

We like you, Judge. You get pretty testy in an argument, but anybody who could make a living in Hillsboro during the Depression had to be. And you accept adverse decisions as gracefully as you pronounce your own victorious views. You do not bear grudges. You wear well. You take great care and pride in your personal and professional honor. And yet, you have never been too full of self.

You are as approachable—as easy to talk to—as you were when you were the student operator of the capitol elevator or when you waited at the bottom of the stairs to your office, hoping to catch a client in Hillsboro.

Calvert liked that description. The following week I received a handwritten note from him. He wrote:

There is a file in my office labeled "Vanity." Into it I dump all the little nuggets of praise I come by, even those of an overkill variety.

I must ask that your presentation remarks of last Friday be put in writing so that they can be put in "Vanity" and thereby be preserved for the grandchildren.

He left instructions for his memorial service “in the event one should be conducted.” He explained that he “came into this world without pomp or ceremony and preferred to depart in the same manner.” At the gathering, he directed, an opportunity should be offered “to anyone present to make a brief statement of either praise or criticism.”

At the service held for him in Austin on October 9, 1994, we tried to follow his wishes—consistent, however, with our deep affection and enormous respect for him.