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## THE HOBBS OPINION

There is a formula to writing legal opinions, and a truly gifted legal writer like Justice Hobbs can take the formula and make it his own. That was the final panel's theme at the 2015 University of Denver Water Law Review Symposium honoring Justice Gregory J. Hobbs, Jr. of the Colorado Supreme Court ("Court"). The panel comprised several of Justice Hobbs's former colleagues: retired Chief Justice Michael Bender, retired Justice Jean Dubofsky, and retired Justice Alex Martinez.

The panel moderator was retired Justice Dubofsky, who was appointed to the Court in 1979. Justice Dubofsky provided symposium attendees with a history of the judicial opinion and how it has evolved in Colorado over the decades. At the time she was appointed, justices were expected to write on the issues and areas in which they specialized. Former Justice Jim Groves, for example, was the water expert on the Court at the time, and anytime the Court decided a water issue he would write the opinion. Justice Dubofsky had a passion for constitutional cases and would write those opinions.

Justice Dubofsky shared that, at that time, each justice on the Court was expected to write at least one hundred opinions per year. Currently, the justices write an average of thirty two opinions per year. Because the justices wrote so prolifically at the beginning of former Justice Dubofsky's tenure, the opinions were often short and simple. As the number of appellate divisions and avenues for direct review grew, the Court was required to take fewer cases on certiorari, meaning the method of opinion writing changed. The justices were able to spend more time writing their own opinions and editing the work of their colleagues, and the Court moved away from justices specializing in particular topics. Over time, the process and formula of opinion writing evolved into its present state—focused both on substance and creativity. Justice Dubofsky closed out her portion of the panel by stating: "If you like solving problems, it is one of the worlds most rewarding jobs. Greg Hobbs has done it very well."

Retired Chief Justice Michael Bender was the next speaker; he and Justice Hobbs sat on the bench together for seventeen years. He began by remarking that Justice Hobbs's enormous energy, love for people and history, and desire to be a spiritual leader for the law helped him shape Colorado water law and the foundational principles of a variety of other legal fields.

In one of Chief Justice Bender's favorite cases, Justice Hobbs authored an opinion about whether a tent should be considered "habitation" for purposes of the Fourth Amendment. In *People v. Schaler*, Justice Hobbs's knack for history is apparent and applied in an eloquent version of the legal writing formula. Justice Hobbs cited, among other historical sources, the expeditions of Lewis and Clark to build his argument that a tent is in fact a constitutionally protected form of habitation. Chief Justice Bender next spoke about a case where the Court decided whether a bible constituted an improper outside influence during jury deliberations. Justice Bender remarked that the writing in this opinion is so clear, and the reasoning so convincing, that the opinion has been cited in other jurisdictions to overturn death sentences where the jury improperly consulted the bible during jury deliberations.

Chief Justice Bender ended his portion of the panel by explaining that he chose to talk about these cases because they highlighted notable times where Justice Hobbs's writing has been influential outside of water law. While water law is incredibly lucky to have him, Justice Hobbs is an advocate for all in the state of Colorado, and he has had an influential career in many areas of the law.

From the basic premise of a person grounded in morality, you see this great man with concerns for history and humanity, a man with enthusiasm that uses innovative thinking to solve problems, a man that shows respect for all those he meets. Those were the opening remarks from Justice Martinez, the final panel speaker. He commented on Justice Hobbs's vast knowledge and extensive experiences, his hard work, his enthusiasm for people, and his approachableness. Justice Martinez stated that because of all of these attributes, Justice Hobbs has been a role model for many, and these attributes shine through in the opinions he has authored.

Justice Martinez thinks that, while opinions do need to follow a certain formula, strictly following that formula can be dull. Justice Hobbs's love of history and the state of Colorado is apparent in his writing and makes his opinions in every area of law interesting to read. Justice Martinez said that if he was ever assigned an opinion on a topic he was not very familiar with, he would read a few of Justice Hobbs's opinions in order to educate himself on the issue. Justice Martinez remarked that one of Justice Hobbs's great gifts is that he not only knows the law, but he communicates it in a way that makes it easy for people to understand and learn from.

Justice Martinez spoke about a unique case the Court decided, *Archuleta v. Gomez*, which dealt with the adverse possession of water rights. In the opinion, Justice Hobbs was careful to communicate that adverse possession has a limited role in water law, and that you cannot adversely possess water in the stream; it only applies to water that has passed the headgate and has been diverted from the stream. More importantly though, Justice Martinez wanted to focus on the poetic nature of a line in the opinion: "The Colorado doctrine of water use is propelled by need and bounded by scarcity." Justice Martinez remarked that this one sentence poetically embodied so much of Colorado, and Justice Hobbs fit it artistically into the formula.

Gregory J. Hobbs, Jr. gave the final remarks and began by taking a moment to acknowledge his law clerks and interns over the years. In his opinion, the more minds that are wrestling with the written product, the better the result. He concluded by expressing gratitude for a career that has been filled with scholarship, and that was shaped by negotiation and different ideas.

*Lauren Collins*