



# IN CHAMBERS



Official Publication of The Texas Center for the Judiciary, P.O. Box 12487, Capitol Station Austin, Texas 78711

VOL. 3, NO. 3

AUGUST, 1975

## ANNUAL SECTION CONFERENCE IN WACO SEPTEMBER 24-26

The annual Judicial Section Conference, State Bar of Texas, will be held September 24-26 in Waco with an attendance of over 600 persons expected.

Registration will be handled by the Texas Center for the Judiciary. Forms will be mailed in August to members of the Section.

Hotel accommodations will be provided by the Waco Plaza, Matador Motor Inn, Holiday Inn I-35, Old Main and La Quinta Motor Hotel. Site of conference meetings is the Waco Convention Center.

### Officers

Presiding at the conference will be Victoria District Judge Joe Kelly, chairman of the Judicial Section. Program chairman and Section vice chairman is Wendell Odom, Court of Criminal Appeals judge. Paul W. Nye, chief justice of the Corpus Christi Court of Civil Appeals, is secretary-treasurer.

### Program

The three-day program gets underway Wednesday, September 24, with registration all day. A golf tournament for conferees will be held Wednesday afternoon with a green fee of \$10 per person. Carts are available for a \$4 rental fee. A barbecue, with music provided by a country-western band, will be held Wednesday night at Ft. Fisher Park.

Opening session of the conference is Thursday morning with various speakers and panel discussions scheduled throughout the day. A social hour and banquet will be held Thursday night. Banquet speaker is Thomas F. Lambert Jr., editor-in-chief of the Law Journal of the American Trial Lawyers Association, Cambridge, Mass.

### PROGRAM

#### Wednesday, September 24

9 a.m.-6 p.m. —Registration, Waco Convention Center  
2-6 p.m. —Golf, Ridgewood Country Club  
6 p.m. —Barbecue, Ft. Fisher Park

#### Thursday, September 25

9-9:50 a.m. —Opening Session, Convention Center  
9:50 a.m. —Speaker: Hon. Donald R. Fretz, Judge, Superior Court, Faculty Member, National College of the State Judiciary Merced, California  
10:45 a.m. —Coffee Break  
11 a.m. —“Nuts and Bolts” by Jack Pope, Justice, Supreme Court, and Archie Brown, Commissioner, Court of Criminal Appeals  
Noon —Luncheon  
Speaker: Hon. Abner V. McCall, President, Baylor University  
2 p.m. —Trial Judges and Appellate Judges break into separate groups  
2 p.m. —Trial Judges  
“The Family Code” by Loy M. Simpkins, Professor, Baylor University School of Law  
“The Constitution” by David M. Guinn, Professor, Baylor University School of Law  
2:45 p.m. —“Judicial Ethics” by Warren P. Cunningham Jr., Houston District Judge  
3:30 p.m. —Appellate Judges  
Presiding: James A. Ellis, Chief Justice, Amarillo Court of Civil Appeals  
Speaker: Robert Braucher, Associate Justice, Supreme Judicial Court of Massachusetts, Boston  
7 p.m. —Social Hour, Convention Center Plaza  
8 p.m. —Banquet, Convention Center  
Speaker: Hon. Thomas F. Lambert, Jr., Editor-in-Chief, Law Journal for the American Trial Lawyers Association, Cambridge, Mass.

#### Friday, September 26

9 a.m. —Speaker: Price Daniel Jr., former Texas Speaker of the House. Robert W. Calvert, retired Chief Justice of the Texas Supreme Court, panel moderator  
10:30 a.m. —Coffee Break  
11 a.m. —Business Meeting  
Noon —Luncheon  
Speaker: Robert F. Boden, Dean, Marquette University School of Law, Milwaukee, Wisconsin  
1:30 p.m. —“Looking at the Judge from Counsel Table” by Robert O. Smith, District Attorney, Travis County, and Richard “Racehorse” Haynes, Houston  
3 p.m. —Memorial Services  
Conducted by Bill Cornelius, Justice, Texarkana Court of Civil Appeals  
3:30 p.m. —Adjourn

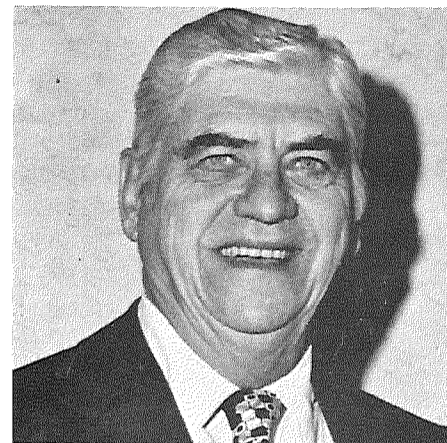
Friday's highlights include selection of the 1976 conference site, election of officers and the secretary-treasurer's report. Also, former Texas House Speaker Price Daniel Jr. and former Chief Justice Robert W. Calvert will speak Friday morning.

Other program activities include an introduction of new judges by Judge John Boyd of Plainview, and memorial services for deceased judges to be conducted by Bill

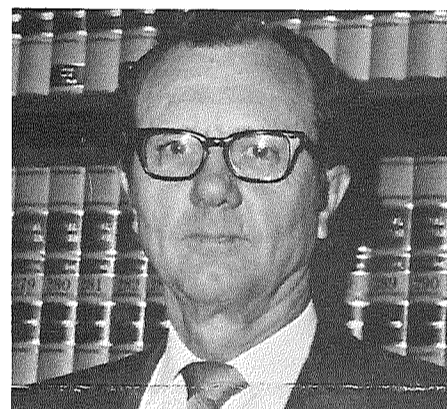
Cornelius, justice of the Sixth Court of Civil Appeals in Texarkana.

### Luncheon Speakers

Noon luncheons will be held Thursday and Friday. Baylor University President Abner McCall will speak at the Thursday luncheon while Robert F. Boden, dean of the Marquette University School of Law, will speak Friday.



Joe Kelly



Wendell Odom



Paul W. Nye

Ladies' activities currently are being planned.

Also scheduled in conjunction with the conference are several Section committee meetings including the CLE Committee, Executive Committee, Committee on Judicial Ethics and several administrative districts' committees.

The conference will adjourn Friday afternoon.

### INSIDE . . .

Committee on Judicial Ethics  
Delivers Opinions  
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FOR THE JUDICIARY  
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P.O. Box 12487, Capitol Station  
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# 50 BRIEFING ATTORNEYS EXPECTED AT AUSTIN INSTITUTE SEPTEMBER 7-8

Some 50 Texas briefing attorneys will meet September 7-8 in Austin for the first Briefing Attorneys' Institute.

Sponsored by the Texas Center for the Judiciary, the conference will be held at the Ramada Inn, with briefing attorneys of the Texas Court of Criminal Appeals, Texas Supreme Court and the 14 Courts of Civil Appeals eligible to attend.

A planning committee composed of Supreme Court Justice James G. Denton, Executive Administrator Alfred Walker, Court of Criminal Appeals, Court of Criminal Appeals Judge Truman Roberts and Chief Justice Charles W. Barrow, 4th Court of Civil Appeals in San Antonio, has completed the program.

## Schedule

After registration Sunday, September 7, the Monday morning session schedule includes:

- "An Overview of Jurisdiction of All Courts, with Emphasis on Appellate Procedure" by Judge Tom G. Davis, Court of Criminal Appeals commissioner;
- "Procedure Followed in Equalizing Dockets of Courts of Civil Appeals" by Justice Denton;
- "Ethics of the Briefing Attorney and His/Her Relationship with the Court and the Judge" by Justice Sam D. Johnson, Supreme Court of Texas; and,
- "Opinion Writing—Specifically the Briefing Attorney's Contribution to an Opinion" by Judge Charles L. Reynolds, Amarillo Court of Civil Appeals.

Chief Justice Joe Greenhill of the Texas Supreme Court and Presiding Judge John F. Onion Jr. of the

Court of Criminal Appeals will speak at a noon luncheon.

In the afternoon session, the briefing attorneys for each type of court will meet in separate groups to hear discussions centering on topics pertinent to their respective courts.

Former briefing attorneys and court administrators will speak to the following groups:

- Court of Civil Appeals briefing attorneys—chaired by Chief Justice Charles W. Barrow;
- Court of Criminal Appeals briefing attorneys—chaired by Judge Truman Roberts and Executive Administrator Alfred Walker; and,
- Supreme Court briefing attorneys—chaired by Justice Denton.

The closing session also will include panel discussions.

## JUDICIAL CALENDAR

September 7-8  
Briefing Attorneys' Institute  
Austin  
September 24-26  
Annual Judicial Section  
Conference, Waco  
October 22-24  
Tentative  
Juvenile Court Judges  
Seminar, Austin

## Willis Named Director of Judicial Processes; Whatley General Counsel

Bill Willis has been named director of Judicial Processes and Law Reform, Criminal Justice Division (CJD), Office of the Governor.

Robert C. Flowers, CJD executive director, made the announcement at the May meeting of the Judicial Section's CLE Committee in Huntsville.

Willis, formerly assistant director, replaces Willis Whatley, who was named CJD general counsel.

Judge Charles W. Barrow of San Antonio, chairman of the CLE Committee, expressed the committee's appreciation for "the support, counsel and guidance" provided to the committee by Whatley.

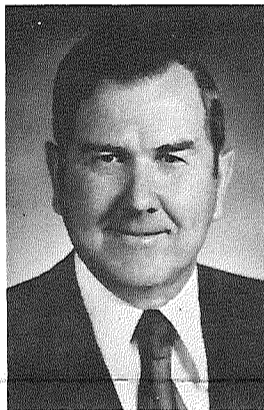
The committee welcomes the opportunity to work with Willis, Chairman Barrow said.



Walker



Denton



Barrow



Roberts

## CLE COMMITTEE MEETS IN DALLAS

The Judicial Section's CLE Committee met during the annual State Bar Convention in Dallas, July 1-3.

Highlights of committee action include:

- scheduling of a Juvenile Court Judges' Seminar in Austin in the fall;
- a decision not to hold a Texas College of the Judiciary in 1975 due to the relatively few judges who have assumed office since December 1974, date of the first college;
- scheduling of a Briefing Attorneys' Institute September 7-8 in Austin;
- discussion concerning a school for county judges currently being studied by a CLE sub-committee and tentatively scheduled for December;
- discussion concerning a school for court coordinators currently in the planning stage;
- discussion concerning publication of a handbook for municipal judges; and,
- a report from Judge Joe Kelly, Section chairman, that the program for the annual Section conference has been completed by Section Vice Chairman Wendell Odom.

Chairman of the CLE Committee is Chief Justice Charles W. Barrow of San Antonio and vice chairman is Judge Noah O. Kennedy Jr. of Corpus Christi.

Other members are appellate judges James G. Denton and Truman Roberts, both of Austin, and the following district judges: Lewis Dickson, Houston; Joe E. Kelly, Victoria; James F. McCarthy, Dal-

las; Perry D. Pickett, Midland; Charles E. Sherrill Jr., Fort Stockton; and Thomas J. Stovall Jr., Houston. Willis Whatley, CJD general counsel of Austin, and Bill Willis, director of the CJD Judicial Processes and Law Reform of Austin, are ex officio members.

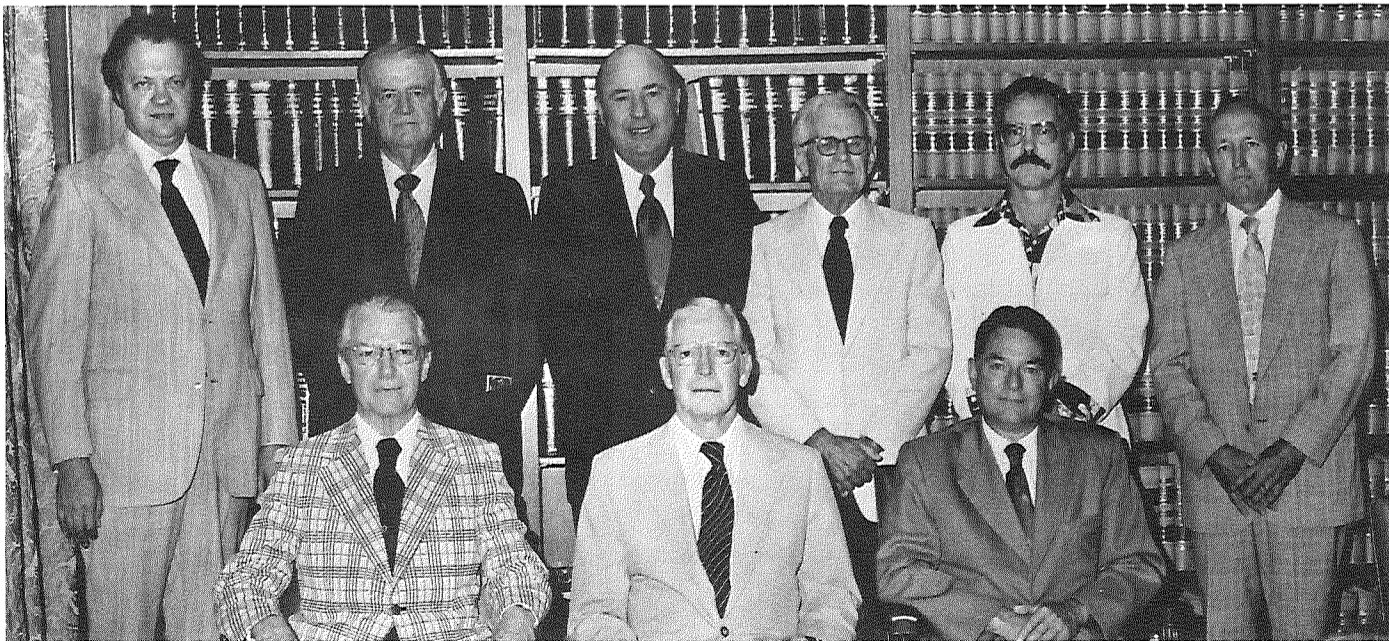
The committee will meet at the Section conference in Waco.

## IN MEMORIAM

**Evans.** John F. Evans Jr., former district judge, died March 19 in Breckenridge. He was 81.

**McDonald.** Archie McDonald, 69th District Court judge in Dumas since 1967, died March 22. He was 61.

**Russell.** Lewis F. Russell, Dallas Juvenile Court judge since 1959, died May 6 in Dallas. He was 60.



At a May meeting of the Judicial Qualifications Commission, Phil Peden (seated, center), Court of Civil Appeals justice of Houston, was elected chairman. Lubbock District Judge R. C. Vaughan (seated, left) is the new vice chairman and Robert C. McGinnis (seated, right), an Austin attorney, is the new secretary. Other commission members are: standing, left to right, Donald Eastland, Hillsboro attorney; Howard C. Davison, Lubbock district judge; Vernon Butler, Carthage; Homer Stephenson, Beaumont Court of Civil Appeals justice; F. Ray McCormick, El Paso; and E. Carl Dillard, Pearsall.

# ETHICS COMMITTEE DELIVERS OPINIONS

Eight opinions interpreting applicability of the code of Judicial Conduct in specific cases were delivered by the Committee on Judicial Ethics at May and July meetings.

At the meetings, the following questions by Texas judges were considered and interpretations made by the Committee:

## Nepotism

**QUESTION:** *Would the appointment to represent indigent defendants by a district judge of his grandnephew, related to the judge in the fourth degree of consanguinity, constitute nepotism in violation of Canon 3, Section B. (4) of the Code of Judicial Conduct?*

**OPINION:** It is the opinion of the Committee that the appointment of a grandnephew, related to the district judge in the fourth degree of consanguinity, would not be nepotism in violation of Canon 3, Section B. (4) of the Code of Judicial Conduct.

[NOTE: Texas Atty. Gen. John Hill has ruled that "a district judge may not appoint his grandnephew to represent an indigent defendant if the appointed counsel is to be compensated in any manner from public funds." In the opinion (LA No. 111), Atty. Gen. Hill determined that the grandnephew was related in the third degree of consanguinity and thus the appointment is proscribed by the terms of Article 599a, V.T.C.S. The ethics committee opinion was delivered in the May meeting. The committee, in its July meeting, voted not to reconsider its opinion.]

## Introducing Candidates

**QUESTION:** *May a Texas judge privately introduce candidates for judicial office to his friends and recommend that such friends vote for such candidates?*

**OPINION:** It is the opinion of the Committee on Judicial Ethics that a Texas judge would not violate the Code of Judicial Conduct by privately introducing candidates for judicial office to his friends and recommending that such friends vote for such candidates.

## Trustee of a Charitable Trust

**QUESTION:** *Does a district judge violate the Code of Judicial Conduct if he serves as trustee, without pay, of a charitable trust or foundation which qualifies as a charitable trust or foundation under the U.S. Internal Revenue Code?*

**OPINION:** It is the opinion of the Committee that a Texas district judge may serve as a trustee, without pay, of a charitable trust or charitable foundation under the provisions of Canon 5, Section B. of the Code of Judicial Conduct and would not violate any other provisions of the Code by such service so long as such service does not detract from the dignity of his office or interfere with the performance of his judicial duties.

## Political Contributions

**QUESTION:** *Would a Texas judge violate the Code of Judicial Conduct by making a contribution to the Democratic party?*

**OPINION:** It is the opinion of the Committee on Judicial Ethics that Canon 7, A. (2) permits a Texas judge to make a contribution to the Democratic party.

## Wife as Beneficiary of Trust

**QUESTION:** *If a judge's wife is a beneficiary of a trust, managed by others, containing a portfolio of various stocks, real estate interests and other assets, should the judge report the names of the corporations, businesses, or other financial undertakings, the stocks or interests in which constitute part of the assets of the trust, as corporations, businesses or other financial undertakings in which he has an interest in order to comply with Canon 6 C(c) of the Code of Judicial Conduct?*

**OPINION:** The committee is of the opinion that the judge

should determine all of the assets of the trust and list them in compliance with Canon 6 C(c) of the Code of Judicial Conduct.

## Attorney As Trustee

**QUESTION:** *Should a judge recuse in a case in which one of the attorneys is presently serving as trustee, with discretionary powers, of a trust in which the judge's wife is a beneficiary?*

**OPINION:** It is the opinion of the committee that the judge should recuse because "his impartiality might reasonably be questioned" in compliance with Canon 3 C(1) of the Code of Judicial Conduct.

## Attorney As Trustee

**QUESTION:** *Should a judge recuse in a case in which one of the lawyers is a member of the same firm as a lawyer who is a trustee, with discretionary powers, of a trust in which the judge's wife is a beneficiary?*

**OPINION:** It is the opinion of the committee that the judge is not required to recuse unless he knows that his impartiality is likely to be questioned.

## Owning Rent House

**QUESTION:** *Is a rent house owned by a judge and his wife a "financial undertaking" within the meaning of Canon 6 C(c) of the Code of Judicial Conduct?*

**OPINION:** It is the opinion of the committee that a rent house owned by a judge and his wife is a "financial undertaking" within the meaning of Canon 6 C(c) of the Code of Judicial Conduct.

In further deliberations, the committee was asked whether membership in a United Service Automobile Association, a mutual insurance company, constitutes a "financial interest" and whether membership in credit unions and federal mutual savings and loan associations constitute "financial interests."

The committee ruled they were not, except where "the outcome of a particular proceeding could substantially affect the value of the interest."

In response to an inquiry concerning the authority of the Supreme Court of Texas to require a judge to file a copy of his income tax return under seal with the Judicial Qualifications Commission as required by Canon C(a), the committee concluded it had no authority to pass upon the jurisdiction of the Supreme Court to promulgate the Code.

Finally, the committee said retired and County Court-at-Law judges are exempt from certain provisions of the Code as "expressly provided in the section of the Code entitled, Compliance with the Code of Judicial Conduct . . ."

The seven-member committee, an advisory body appointed by the Executive Committee of the State Bar's Judicial Section, was established "to interpret the Canons of Ethics contained in the Code of Judicial Conduct," Chairman Warren P. Cunningham, Jr., Houston district judge, said.

Interpretation of the Code will be made "only at the written request of a member in good standing of the Judicial Section of the State Bar of Texas," he explained.

Committee opinions will be provided to Maurice Pipkin, executive director of the Judicial Qualifications Commission of Texas, and will be published in *In Chambers*. Also, once a year the opinions will be published as a supplement to the Benchbook for Texas Trial Judges.

Members of the Committee on Judicial Ethics include: Warren P. Cunningham, Jr., Houston district judge, chairman; Jerome Chamberlain, Dallas criminal district judge; Darrell Hester, Brownsville district judge; Quentin Keith, Beaumont Court of Civil Appeals justice; Austin McCloud, Eastland Court of Civil Appeals chief justice; Donald Carroll, Tyler district judge; and William Shaver, Lubbock district judge.

Questions should be submitted to:

Texas Center for the Judiciary  
P.O. Box 12487, Capitol Station  
Austin, Texas 78711  
Attn: Committee on Judicial Ethics

## ROSS DOUGHTY APPOINTED TO SUCCEED RUEL WALKER

District Judge Ross E. Doughty Jr. of Uvalde has been appointed an associate justice of the Texas Supreme Court by Gov. Dolph Briscoe. He succeeds Ruel Walker, who will retire September 30.

Judge Doughty has served as 38th District Court judge in Uvalde since 1950. Previously, he was county and district attorney in Uvalde.

A navy veteran, he attended Texas A&M University and the University of Texas.

He and his wife, Mary, have one daughter, Frances.

Justice Walker, appointed to the Supreme Court by Governor Shivers in 1954, is one of four men in this century with service of 20 years or more on the high court. Others in that select group are Robert W. Calvert, 1950-72, Clyde E. Smith, 1950-70, and Calvin Maples Cureton, 1920-40.



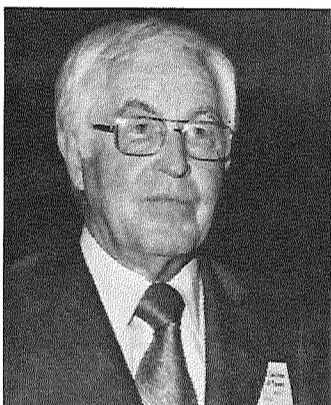
Ross Doughty

After attending Austin College two years, Justice Walker received academic and law degrees with highest honors from the University of Texas.

He is a former member and president of the Board of School Trustees in Cleburne and was chairman of the Texas Commission on Higher Education.

His professional career includes service in the Attorney General's Department under James V. Allred in the early 1930's, 18 years in general civil law practice in Cleburne, and 21 years as a Texas Supreme Court associate justice.

After retirement, Justice Walker and his wife, Virginia, will continue living in Austin where, he said, he hopes to try cases from time to time as a retired judge, do a reasonable amount of yard work, and travel.



Ruel Walker

## New Judges Assume Bench

Judges who have assumed the bench recently (with the judges they replaced in italics) include:

### District Court

Michael P. Metcalf, 69th, Dumas (*Archie McDonald*)  
Jack Woodley, 38th, Sabinal (*Ross Doughty*)—effective October 1

### Juvenile Court

Theo Leuders Bedard, #1, Dallas (*Lewis Russell*)

### County Court-at-Law

Bill Bachus, #2, Belton (*New Court*)

Thomas L. Clinton, #2, Lubbock (*Denzil Bevers*)

John Hill, Fort Worth (*Drew Clifton*)

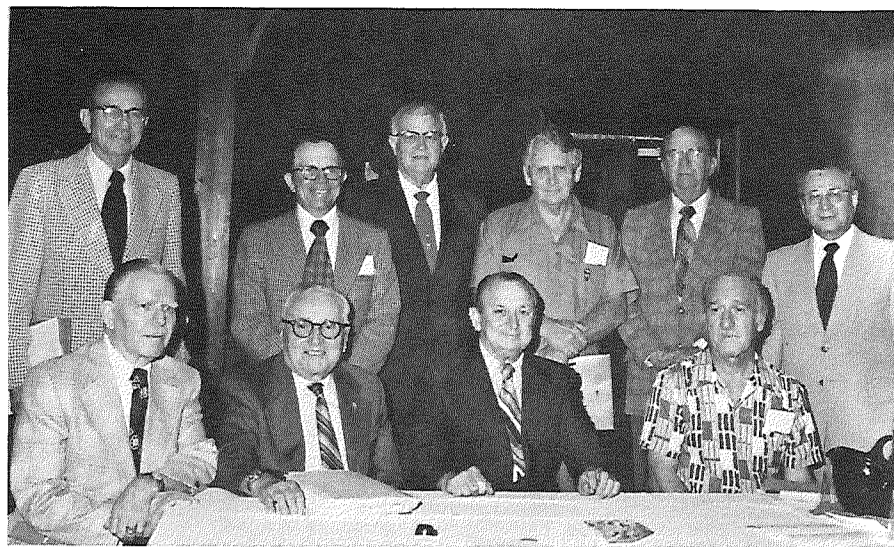
Joan Winn, #2, Dallas (*Tom King*)

Jack Yarbrough, Nacogdoches (*New Court*)

Antonio A. Zardenetta, Laredo (*New Court*)—effective in September

### County Court

Leonard J. Giblin Jr., Jefferson County, Beaumont (*Chester C. Young*)



The presiding administrative judges of Texas were called into session at Huntsville, May 8 by Chief Justice Joe R. Greenhill of the Texas Supreme Court (seated third from left). Seated, left to right, are: Paul Peurifoy of Dallas, Max M. Rogers of Huntsville, Justice Greenhill and Peter Michael Curry of San Antonio. Standing, left to right, are: Herman Jones, Austin; Marvin Blackburn, Junction; Howard C. Davison, Lubbock; C. V. Milburn, Odessa; Louis Holland, Montague; and J. R. Alamia, Edinburg. The meeting was held in conjunction with the sixth annual Criminal Justice Conference.

## ATTENDANCE RECORD SET AT HUNTSVILLE CONFERENCE

The sixth annual Criminal Justice Conference in Huntsville May 7-9 drew the largest conference attendance ever as 175 judges participated in the three-day program.

Chairman of the conference was Judge Carl E. F. Dally, Court of Criminal Appeals commissioner.

### Program

The program format included a series of group seminars as well as noted speakers. Presiding Judge John Onion of the Court of Criminal Appeals and B. J. George, professor of law and director of the Center for the Administration of Justice at Wayne State University Law School, spoke to the conferees. Copies of their speeches have been provided to conference participants by the Texas Center.

### Evaluation

An eight-member evaluation committee, chaired by District Judge R. C. Vaughan of Sherman, praised the small group seminar format of the conference and suggested the following topics be con-

sidered for future seminar discussion:

- recent significant Federal decisions;
- sentencing in criminal cases;
- searches and seizures;
- local court rules of criminal procedure;
- courtroom decorum for judges, lawyers, court staff, jurors, witnesses and spectators;
- further discussion of evidence questions;
- disposition of narcotics offenders and resources for their rehabilitation;
- innovations in docket management in metropolitan area courts;
- docket management in courts outside metropolitan areas;
- problems arising at probation revocation hearings; and,
- conducting Martinez and Jackson v. Denno hearings.

Sponsors of the conference were the Texas Center for the Judiciary, Texas Court of Criminal Appeals, the Texas Department of Corrections and Sam Houston State University. Meetings were held on the Sam Houston State campus.

## JUDICIAL NOTICES

### • Bar Convention •

Judicial committee meetings and a Judicial Section luncheon were held during the recent State Bar Convention in Dallas.

The Judicial Section's Executive Committee, Committee on Judicial Ethics and CLE Committee met during the three-day conference.

Speaking at the luncheon, attended by over 200 persons, was Howell T. Heflin, Alabama Supreme Court chief justice, who discussed the "poor public image" of the court system. While acknowledging faults in the system, he suggested part of the image problem rested with an uninformed press. He recommended employing a court liaison officer familiar with court procedure to handle press relations.

### • Juvenile Seminar in Austin •

A Juvenile Court Judges' fall seminar has been scheduled for Austin.

Dates and program will be finalized at an August meeting of the Juvenile Court Judges' CLE Committee.

### • Tunks Named to Advisory Committee •

Chief Justice Bert H. Tunks, 14th Court of Civil Appeals in Houston, was appointed by the Texas Supreme Court in May to the Advisory Committee on the Rules of Civil Procedure.

The 31-member committee, composed of lawyers, judges and law professors, was created in 1940, when the Supreme Court was authorized to issue rules governing practice and procedure in civil cases.

### • Logue Elected Chairman •

Waco District Judge Bill Logue has been elected chairman of the Juvenile Court Judges' CLE Committee.

Judge Scott Moore, Tarrant County Domestic Relations Court, was appointed to the committee by Judicial Section Chairman Joe Kelly. He replaces the late Judge Lewis Russell of Dallas.

Other committee members include: Jim Farris, Beaumont County Court-at-Law judge and former chairman; William C. Martin III, Longview Domestic Relations Court judge; Jerry Garrett, Victoria County Court-at-Law judge; County Judges Barbara Culver, Midland, and Woody Pond, Canyon; and District Judges M. C. Ledbetter, Morton, and J. W. Summers, Rusk.