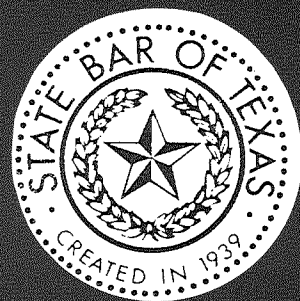




IN CHAMBERS



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

VOL. 4, NO. 4

DECEMBER, 1977

SEMINAR WILL INSTRUCT CIVIL TRIAL JUDGES IN CRIMINAL PROCEDURE

A seminar to instruct civil trial judges in criminal trial procedure will be held in Austin January 31-February 3, 1978, Judge Lewis Dickson, chairman of the Continuing Legal Education Committee, governing body of the Texas Center for the Judiciary, has announced.

A special committee composed of Chief Justice Joe R. Greenhill and Justice Charles W. Barrow of the Supreme Court; Judge Truman E. Roberts of the Court of Criminal Appeals; and Jack H. Dillard and William S. Nail of the Texas Center staff has secured the services of

Justice Quentin Keith, Beaumont Court of Civil Appeals, as director of the seminar.

Sponsored by the Texas Center, the seminar is necessitated by the passage of the Speedy Trial Act, Senate Bill 1043, by the 65th Texas Legislature, Judge Keith said. The Act, to become effective July 1, 1978, will give preference to the trial of criminal cases and provide sanctions for failure to comply.

"The seminar's purpose is to afford the district judges of Texas who seldom try criminal cases an opportunity to learn more of the basic aspects of some of the troublesome areas of criminal procedure," Judge Keith explained.

Subjects to be covered during the seminar include Arraignment and Bail, Right to Counsel, Speedy Trial and Continuances, Motions for Change of Venue, Gag Orders, Discovery, Motions to Suppress, Indictments, Guilty Pleas, Competency and Sanity, Voir Dire and Jury Selection, and Extraneous Offenses.

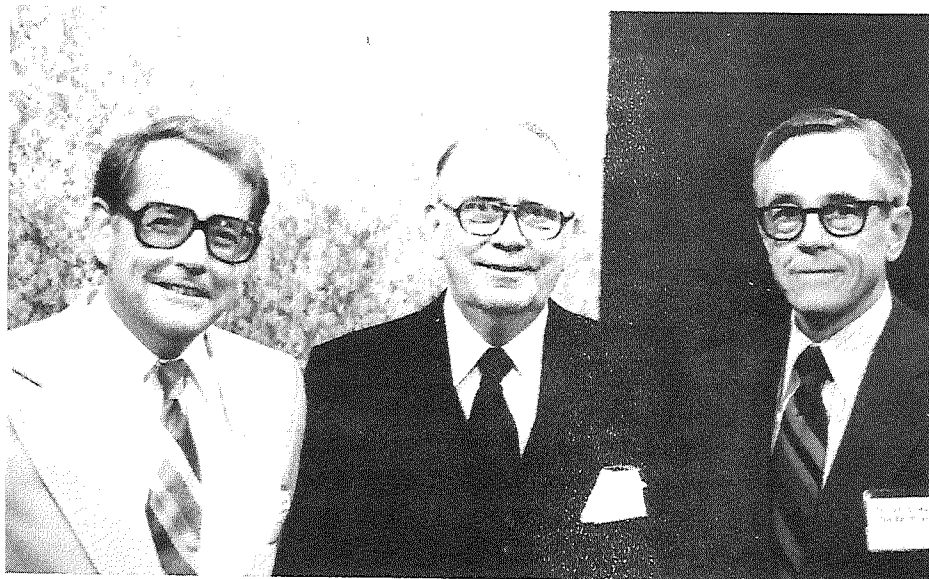
Also, The Gaskin Rule, Chain of

VOTERS ENDORSE AMENDMENTS

Texas constitutional amendments affecting the Judicial Qualifications Commission and the Court of Criminal Appeals were endorsed by voters in statewide balloting in November.

Membership on the Court of Criminal Appeals was increased from five judges to nine. Carl Dally and Tom G. Davis, presently commissioners of the court, will become judges January 1, 1978. The two remaining posts will be filled by appointment by Gov. Dolph Briscoe.

The State Judicial Qualifications



Officers of the Judicial Section for 1977-78 are Paul W. Nye, center, chairman, John T. Boyd, left, chairman-elect, and Clarence Cuittard, right, secretary-treasurer.

Custody, Evidence at Punishment Hearing, Court's Charge and Jury Arguments, Order in Court, Judgment and Sentence, Motions for New Trial, Role of the Judge in the Appellate Process, Revocation of Probation, and Post Conviction Writs of Habeas Corpus.

Texas judges with experience in criminal trial procedure will serve as instructors.

Judges eligible to attend the seminar will receive registration information from the Texas Center.

700 Attend Annual Section Conference

Some 700 persons, including 375 judges, attended the annual Judicial Section Conference of the State Bar of Texas held in El Paso in September.

Paul W. Nye, chief justice of the 13th Court of Civil Appeals in Corpus Christi, assumed the Section chairmanship at the Conference. He was 1976-77 chairman-elect and had been serving as chairman since the death of Section chairman Warren Cunningham in March, 1977.

John T. Boyd, Plainview district judge, was elected chairman-elect, and Clarence Guittard, Dallas Court of Civil Appeals chief justice, was named secretary-treasurer at the Conference.

In other action during the Conference business meeting, Articles III and IV of the Judicial Section By-Laws were amended. (See page three.)

Highlights of the Conference, in addition to outstanding speakers, were a luncheon honoring past Section chairmen and the annual banquet. Leonard Passmore, general (Continued on Page 3)

Task Force Studies Trial Bill Impact

In response to passage of the Trial Act, Governor Briscoe established a Speedy Trial Task Force headed by Robert Flowers, executive director of the Criminal Justice Division of the Governor's office.

The first meeting of the Task Force was convened in Austin in September with representatives of the Supreme Court, Court of Criminal Appeals, Courts of Civil Appeals, Texas District and County Attorneys Association, Texas Criminal Defense Lawyers Association, the Criminal Law and Judicial Sections of the State Bar, the Office of Court Administration, and the Texas Center for the Judiciary attending as members.

The Task Force is charged with reviewing the current capabilities of the prosecutor offices and courts throughout the State and the impact the speedy trial bill will have on their future capabilities to meet the requirements of the bill.

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Ethics Opinions

TEXAS CENTER FOR THE JUDICIARY
State Bar of Texas
P.O. Box 12487, Capitol Station
Austin, Texas 78711

NON PROFIT ORGANIZATION

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AUSTIN, TEXAS

Hoey Chosen Chairman Of Probation Commission; Stiles Named Director

Fred Hoey, Houston district judge, was chosen chairman of the nine-member Texas Adult Probation Commission at its organizational meeting in September in Austin.

Created by the 65th Texas Legislature, the Commission is charged with promulgating rules establishing minimum standards for the operation of adult probation offices throughout Texas, writing a code of ethics for probation officers, and disbursing funds.

After interviewing numerous applicants, the Commission named Don Stiles, a parole commissioner with the Texas Board of Pardons and Paroles for two years, as executive director of the Commission. Chairman Hoey announced the appointment in October.

Stiles, 40, was a member of the Grapevine, Texas Planning and Zoning Commission and a supervisor in the Dallas County Adult Probation Department before becoming a parole commissioner.

In addition to Judge Hoey, the Commission is composed of the following judicial members: District Judges Byron McClellan, Gatesville, Terry L. Jacks, San Marcos, J. Neil Daniel, Abilene, Jose R.

Alamia, Edinburg, and John C. Vance, Dallas. Other members include Abner McCall, Waco, Baylor University president; Diana Clark, Dallas, director of the League of Women Voters of Texas; and Father Dermot N. Brosnan, San Antonio, founder and director of the Patrician Movement, a non-profit corporation furnishing drug abuse services.

Commission members were appointed by Supreme Court Chief Justice Joe R. Greenhill and Court of Criminal Appeals Presiding Judge John F. Onion.



Supreme Court Chief Justice Joe R. Greenhill, standing, addresses the first meeting of the Texas Adult Probation Commission in the Supreme Court chambers.

COORDINATORS, JUVENILE JUDGES HOLD MEETINGS

Two seminars, the annual Juvenile Court Judges Seminar and an advanced court administration seminar dealing with court procedures and environment, were held in Austin in November under the sponsorship of the Texas Center for the Judiciary.

Over 50 judges attended the juvenile seminar November 2-4.

Officials of the Texas Department of Mental Health/Mental Retardation, Texas Youth Council, Office of the Governor, Texas Department of Community Affairs, Texas Rehabilitation Commission, and Texas Department of Human Resources spoke to the conference participants.

The judges also toured the Austin State School, heard from two Houston clinical psychologists concerning violence in juvenile offenders, and heard a review of recent decisions and legislative changes affecting the Texas Family Code conducted by University of Texas law professor Robert O. Dawson and University of Houston law professor Eugene L. Smith.

The court administration seminar, directed by James C. Dunlap of Austin, was held November 13-16. Some 70 Texas court administrators and coordinators attended this fourth and final seminar in a series of court administration seminars held in 1977, bringing the

total attendance during the series to over 200 persons.

During the November seminar, court coordinators heard discussion on "Texas Civil Procedure," "Texas Family Code," "Witness Coordination," "Competency Procedures," "Proceedings Involving Federal Prisoners," and "Criminal Procedure."

At the conclusion of the seminar the first meeting of the Texas Association of Court Administrators was held. Jack H. Dillard, executive director of the Texas Center for the Judiciary, received a plaque at the meeting in recognition and appreciation of the Center's work in sponsoring the seminars.

ETHICS OPINIONS

The Committee on Judicial Ethics, chaired by Judge Quentin Keith of Beaumont, has delivered the following opinions.

OPINION

QUESTION: Should a judge recuse or disqualify himself in a case involving Southwestern Bell Telephone Company when he owns shares of stock in American Telephone & Telegraph Company?

ASSUMED FACTS: In preparing our answer we have assumed that AT&T has more than six hundred million shares of stock outstanding in the hands of nearly three million stockholders; that the judge owned less than ten shares having a gross market value of approximately \$500 and an annual dividend payment of less than \$35. We have further assumed that AT&T owns all or substantially all of the capital stock of Southwestern Bell.

ANSWER: Your Committee does not have authority to pass upon the question of whether or not the judge is disqualified. The Constitution (Art. 5, Sec. 11) and the statute (Art. 15, V.A.C.S.) speak to the disqualification of a judge. The determina-

tion of disqualification is a judicial function. See authorities collated in the concurring opinion in *City of Pasadena v. State*, 428 S.W. 2d 388, 400 (Tex. Civ. App.—Houston [1st Dist.] 1967), reversed on other grounds, 332 S.W. 2d 325 (Tex. 1969). See also, 25 A.L.R. 3d 1331, 1339. We decline to pass upon whether a judge, under these enactments, must note his disqualification to participate in the case.

On the other hand, whether or not a judge should recuse himself from pending litigation presents a question within the authority of this Committee since it is germane to *Canon 3 C (1) (c)* and *3 C (3) (b)*. The Committee is of the opinion that neither of the cited sections of *Canon 3 C* requires the judge to recuse himself from participation in a case involving Southwestern Bell Telephone Company. His financial interest, as defined in *Canon 3 C (3) (b)*, could not be substantially affected by the outcome of the proceedings, as provided in *Canon 3 C (1) (c)*.

OPINION

QUESTION: May a judge serve

upon the Board of Directors of Advocacy, Inc.? **Background Information.** The Committee considered the following facts which were furnished in connection with this inquiry: The Congress adopted "Developmental Disabilities Bill of Rights and Assistance Act" (P.L. 94-103), some of the pertinent provisions of which now appear in 42 U.S.C.A. subsec. 6012. The Governor designated the State Bar of Texas to act as the planning agent. The State Bar ordered the creation of Advocacy, Inc., as the vehicle whereby its delegated duties would be accomplished. It reserved the right to appoint six of an eleven-member board of directors of the corporation. The Board will set broad policies only and will have no operating functions.

ANSWER: Based upon the limited information available, the Committee is of the opinion that membership upon the Board of Directors of Advocacy, Inc., would not be in contravention of any of the Canons of Judicial Conduct, provided such membership poses no conflict with judicial duties and responsibilities.

Logue Receives First Betts Award

Bill Logue, judge of the 19th District Court in Waco, has received the first annual Chas. O. Betts Award from the Texas Institute of Children and Youth.

The award will be given annually to the outstanding juvenile judge in Texas in honor of Chas. O. Betts, retired juvenile judge of Travis County who was considered the dean of Texas juvenile judges.

Judge Logue has served as judge of the Waco juvenile court for sixteen years, and was instrumental in the planning and completion of the McLennan County Juvenile Center which houses the professional staff and detention quarters of troubled youth. He also served as chairman of the Juvenile Court Judges Committee, Judicial Section, State Bar of Texas, and presently is a member of that committee.



BILL LOGUE

Section Conference

(Continued from Page 1)

counsel and secretary of the Texas Bankers Association, Austin, was banquet speaker. Also, the contributions of Warren Cunningham to the judiciary of Texas were noted during a presentation made to Mrs. Cunningham.

The 1978 Conference will be held in Arlington.

Officers & Committees

Officers of the Judicial Section and members of the Executive Committee for 1977-78 were elected during the Section Conference. They include:

Judicial Section Officers

Paul W. Nye, *Chairman*
Chief Justice
13th Court of Civil Appeals
10th Floor, County Courthouse
Corpus Christi 78401

John T. Boyd, *Chairman-Elect*
64th District Court
County Courthouse
Plainview 79072

Clarence A. Guittard, *Secretary-Treasurer*
Chief Justice
5th Court of Civil Appeals
County Government Center
Dallas 75202

Executive Committee

James F. Clawson, Jr.
169th District Court
P. O. Box 747
Belton 76513

Ross Doughty
Presiding Judge
Sixth Administrative Judicial
District
P.O. Box 161
Uvalde 78801

Sam D. Johnson
Associate Justice
Supreme Court of Texas
P.O. Box 12248
Austin 78711

James H. Moore
Associate Justice
12th Court of Civil Appeals
County Courthouse
Tyler 75701

Max N. Osborn
Associate Justice
8th Court of Civil Appeals
City-County Building
El Paso 79901

Charles Reynolds
Associate Justice
7th Court of Civil Appeals
P.O. Box 71
Amarillo 79101

Henry J. Strauss
326th District Court
County Courthouse
Abilene 79602

George Thurmond
63rd District Court
P.O. Box 1195
Del Rio 78840

Mary Pearl Williams
County Court at Law #2
P.O. Box 1748
Austin 78767

Wendell A. Odom
Immediate Past Chairman
Court of Criminal Appeals
P.O. Box 12308
Austin 78711



1977 Section Conference

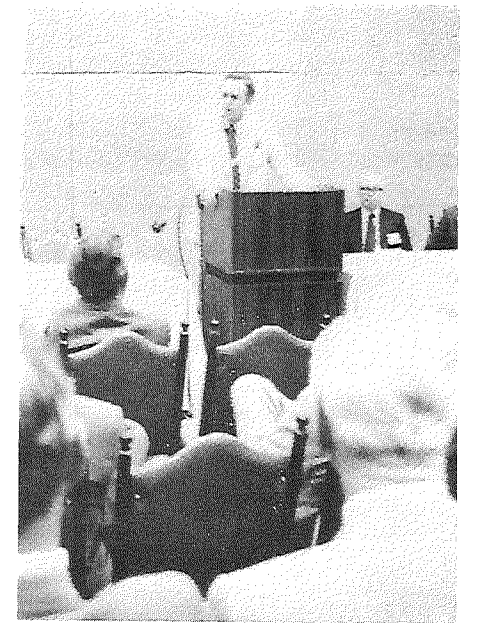
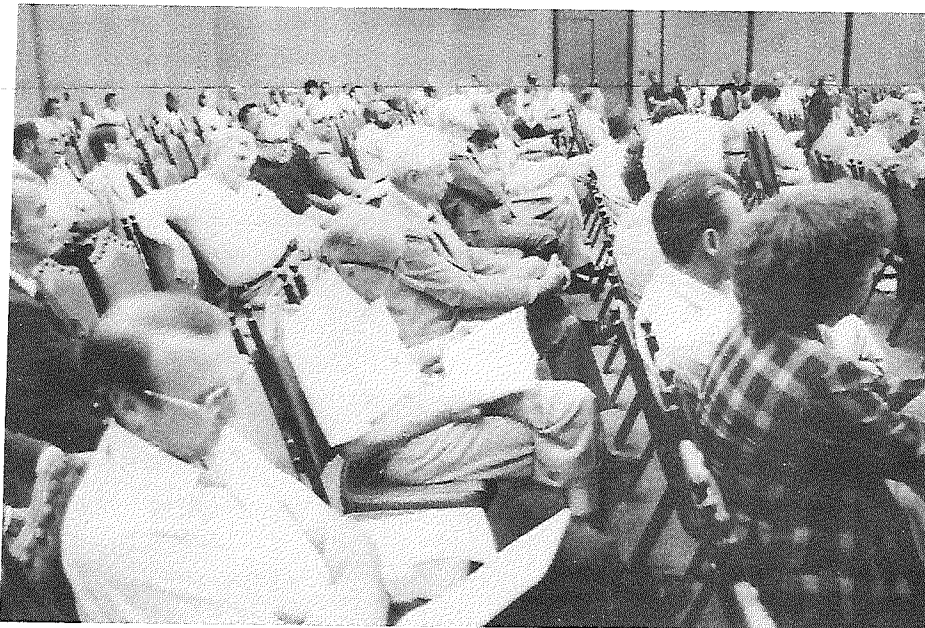
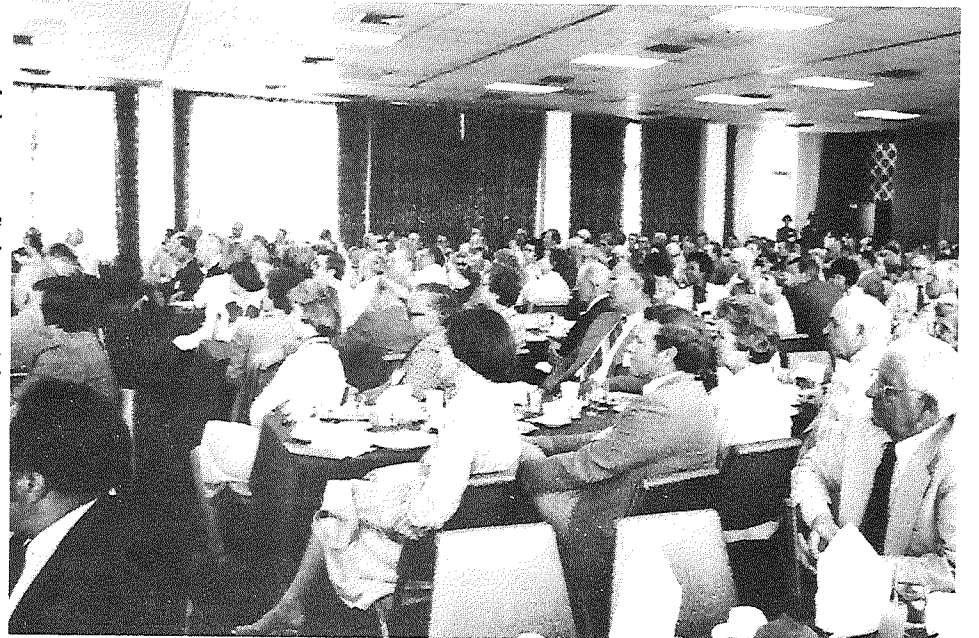
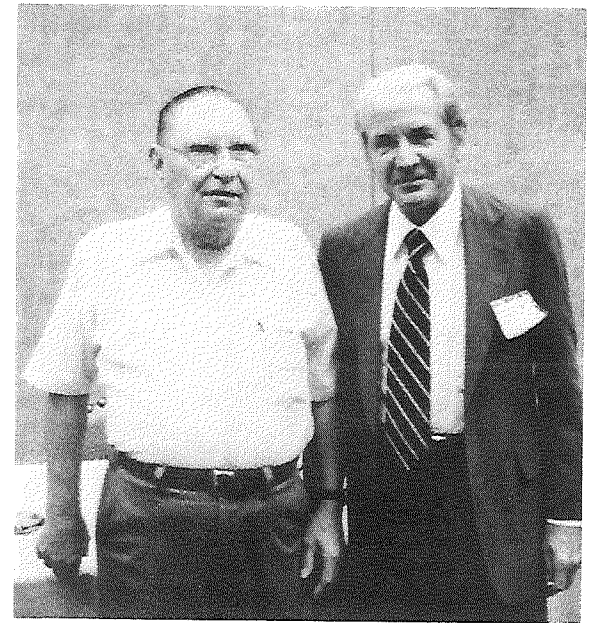
ABOVE LEFT: Robert Flowers, Willis Whatley, and John Onion, l-r, find time for conversation during the annual conference.

ABOVE RIGHT: Officers of the Appellate Judges Section are Sam Johnson, chairman, right, and Quentin Keith, vice chairman.

RIGHT: The first Prayer Breakfast held at a Section Conference drew an attentive audience.

BELOW LEFT: Large crowds attended conference sessions.

BELOW RIGHT: Paul Carrington, University of Michigan law professor, speaks to Appellate Session.



By-Laws Amended at Section Conference

Articles III and IV of the Judicial Section By-Laws, State Bar of Texas, were amended by vote of the judges attending the annual Section Conference in El Paso.

The amendments were recommended by the Section's By-Laws Committee, chaired by Charles L. Reynolds, associate justice of the Amarillo Court of Civil Appeals.

The following are the revised Articles. The wording added by amendment is italicized.

Article III

Section 4. There shall be an Executive Committee charged with managing the affairs of the section. This Committee shall consist of the Chairman, the Chairman-Elect, the Secretary-Treasurer and the Immediate Past Chairman as ex-officio members, and nine other

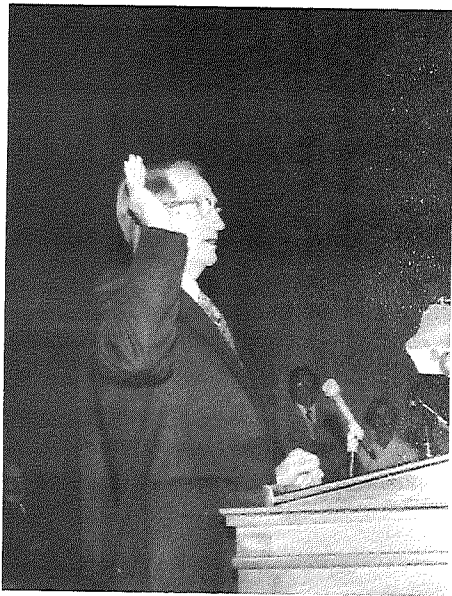
regular members, each of whom shall be elected as provided in Article V for a term of three years. Of the nine elected members, one shall be either a justice of the Supreme Court or a judge of the Court of Criminal Appeals or a Commissioner thereof, one shall be a justice of a Court of Civil Appeals, *four* shall be district judges, one shall be a judge of a County Court or a County Court at Law or a County Criminal Court, and two shall be at large; and, insofar as practicable, each geographical area of the State shall be represented by at least one member of the Executive Committee.

Article IV

Section 3. a. There shall be a Continuing Legal Education Committee composed of *eleven* mem-

bers. *Each* Chairman of the section shall appoint three members to serve for a term of three years. The Chairman and Chairman-Elect of the section shall serve as the tenth and eleventh members of the Committee. The Committee shall select its Chairman for a term of one year. *The immediate past chairman of the Continuing Legal Education Committee shall, if his term as a committee member expires at the end of his chairmanship, serve as an ex-officio member of the Committee during the following year.*

b. The Continuing Legal Education Committee shall be responsible for formulating and executing judicial educational programs. The annual budget and programs of the Committee shall be subject to the approval of the Executive Committee.



T. C. CHADICK

Chadick New Justice

T. C. Chadick was appointed an associate justice of the Supreme Court of Texas in September by Governor Briscoe. He replaces Tom Reavley, who resigned after almost nine years on the high court to enter private law practice.

Chadick was chief justice of the 6th Court of Civil Appeals in Tyler at the time of his appointment. He began his career in public life in 1934 when he became Winnsboro city attorney. He also served as county attorney of Wood County, state senator, and 115th District Court judge before assuming the appellate court post in 1957.



Supreme Court Justice Jack Pope, left, received an award from the Texas Shorthand Reporters Association for "unselfish contribution to the betterment of the court reporting profession for the year 1977." 1976-77 TSRA President Tommy Mullins of Houston makes the presentation.

ENTZ, WRIGHT, KENNEDY NAMED CLE MEMBERS

Robert C. Wright and Harold Entz have been appointed to the Section's CLE Committee, and Noah Kennedy has been reappointed, Section Chairman Paul W. Nye announced.

Wright has served as judge of the 137th District Court in Lubbock for almost seven years, and has been active in State Bar activities, including service as chairman of the Committee on Admissions and the 19th District Grievance Committee.

Entz is County Criminal Court No. 4 judge in Dallas, having taken office in June, 1973. He served on the Executive Committee of the Judicial Section the past three years.

Judge of the 148th District

Court in Corpus Christi since 1969, Kennedy is completing a three-year term as a member of the CLE Committee. He was chairman in 1976.

In addition to Wright, Entz and Kennedy, CLE Committee members are: Lewis Dickson, Houston, chairman, David Walker, Lufkin, vice chairman, Charles W. Barrow, Austin, John Boyd, Plainview, James G. Denton, Austin, Fred Hooley, Houston, Paul W. Nye, Corpus Christi, Truman E. Roberts, Austin, Max M. Rogers, Huntsville, and Thomas J. Stovall Jr., Houston. Ex officio members are Tom G. Davis, Austin, Willis J. Whatley, Austin, and William L. Willis, Austin.



HAROLD ENTZ



ROBERT C. WRIGHT



NOAH KENNEDY

WORKSHOP FOR CLERKS OF COURTS OF CIVIL APPEALS

A workshop for clerks of the Courts of Civil Appeals was held in Austin in late August. The clerks attended discussion sessions and visited the Board of Control, Comptroller's Office and the Supreme Court. Attending were:

RIGHT (L-R): Barbara Holman, Tyler; Jeanette Johnson, Dallas; Yvonne Palmer, Fort Worth; Anne Ray, El Paso; Oleta Moseley, Eastland; Louise Waldrop Lohse, Texarkana; Margaret Reaves, San Antonio.



LEFT (L-R): Maribelle Reich, Houston; Joe A. Hulgan, Beaumont; Shirley Selz, Corpus Christi; Robert Watts, Waco; Thelma Mueller, Houston.

H. P. GREEN DIES

Judge Howard P. Green, a Commissioner of the Texas Court of Criminal Appeals since February 1, 1973, died November 20 in Austin of a heart attack. He was 76.

Prior to his service with the Court of Criminal Appeals, Judge Green was a district attorney, district judge, and chief justice of the 13th Court of Civil Appeals in Corpus Christi.

Judge Green is survived by his wife, Marie, and four children.

JUDICIAL CALENDAR

January 31-February 3
Seminar for Civil Judges
on Criminal Procedure
Ramada Inn
Austin

February 23-25
Second Administrative
District Conference
Criminal Justice Center
Huntsville

March 28-31
Texas College of the Judiciary
Site Undetermined