



# COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

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*ABOVE, MEMBERS OF THE BANK STREET... Players, a Decatur theater group, act out a pawn shop break-in before being "caught," below. At right, below, the "juveniles" begin the justice process by meeting with Probation Officer Charles Porter. The enactment is for a slide presentation on the state's juvenile courts..*

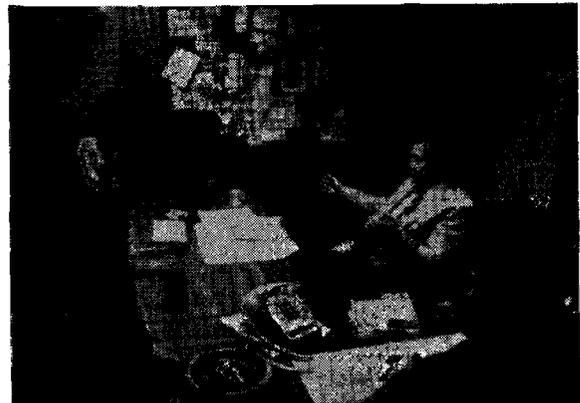
## JUVENILE COURTS

### AUDIO/VISUAL PRESENTATION OFFERS REALISTIC PORTRAYAL

Decatur citizens may be wondering what is happening to their city. The north Alabama town has been the site of a number of recent criminal escapades ranging from back alley pawn shop burglaries, shoplifting incidents, child abuse and truancy cases. And rumor has it that the local law enforcement agencies and even the officers of the juvenile court are involved.

The truth is, they are involved. Morgan County and Decatur city law enforcement and juvenile court officials are participating in the nighttime charades being staged during the development of a slide presentation--"The Alabama Juvenile Courts." The Administrative Office of Courts, in cooperation with local authorities, is developing the slide presentation as an informational and educational tool to better inform citizens, both young and adult, about juvenile justice

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## JUVENILE COURTS

### AUDIO/VISUAL PRESENTATION OFFERS REALISTIC PORTRAYAL

*(Continued From Page 1)*

processes.

Through the enactment of several juvenile crimes, staged by a local theater group, the Bank Street Players, and close tracking of the legal processes which follow a juvenile arrest, the slide presentation discusses the police department, sheriff's department, probation office, juvenile court, Pensions and Securities, Department of Youth Services and the process of transferring a juvenile to the adult court.

"Much conflicting information and varying views have been presented concerning juvenile justice," said Chief Justice C.C. Torbert Jr. "This slide presentation attempts to address many of the concerns about juveniles and juvenile justice. Through its entertaining approach, it provides a realistic and close-up portrayal of the events of the juvenile court case and will hopefully impress on its audiences the serious concern about the state's juveniles."

The offenses depicted in the slide presentation are a pawn shop burglary, a shoplifting case, a truancy case and a child abuse case. The outcome of each case gives an insight to the many various departments and agencies involved in the juvenile justice system.

The slide presentation should be available to all juvenile judges in the state by early summer and will also be available to student and adult groups through the local juvenile court.

Decatur was chosen as the site for the enactment because of its intermediate size and because of the interest in the project expressed by District Judges Bennett McRae, who handles juvenile court, and William Bibb. The production is being coordinated with the assistance of Stephanie Waller of the Morgan County Department of Pensions and Securities.

The audio/visual presentation will run approximately 22 minutes in length. A brochure on the juvenile courts to accompany the presentation is also being developed.

### VIDEOTAPE PROGRAM EXPLAINS SMALL CLAIMS COURT PROCESS TO PARTIES

A videotape program explaining the procedures involved in preparing and filing a small claims case has been developed by the Administrative Office of Courts.

Persons filing a claim in small claims court will simply press a start button on the audio/visual projector and a five-minute slide presentation will explain the process of filing, putting together and presenting their case before a judge. This process will give a uniform explanation to all citizens using the court, and will save time for clerks and their staff who must now explain the process individually to each complainant. The projectors will be located in or near the clerks' offices.

Five courts in the state have already begun using the audio/visual presentation--Etowah, Madison, Mobile, Montgomery and Tuscaloosa.

### SHELBY COUNTY COURT OFFICIALS LEAD DEVELOPMENT PROGRAM FOR EDUCATORS

Shelby County School System teachers and administrators attended a professional development day Friday, Feb. 19 moderated by Judge Kenneth F. Ingram, presiding circuit judge of the 18th Judicial Circuit.

Approximately 75 educators attended the three-hour in-service training program on Alabama's court system which consisted of presentations on various aspects of the state justice system given by court officials, employees and local attorneys of Shelby County. After viewing portions of "Alabama Courts Come To Order," a slide presentation which provides a general overview of the state's court system, participants heard Circuit Judge Robert R. Armstrong Jr. discuss civil procedure in circuit court. A similar presentation on criminal procedure was scheduled to be given by Circuit Judge Harold Walden, who, unfortunately, was delayed in court and unable to attend.

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## LAW AND COURT OBSERVANCE WEEK UPDATE

### STUDENT POSTER CONTEST ANNOUNCED

The Alabama Judicial System and the Alabama State Bar are sponsoring a statewide student poster contest in conjunction with Law and Court Observance Week with the theme: How Citizens Can Support the Law and Courts. Local courts and bar associations which wish to participate may sponsor a local poster contest and the first place winners in each locale may then be entered in a statewide contest.

It is recommended that the contest be divided into two categories: students in grades 7-9; and students in grades 10-12. A statewide winner will be announced for each category. These first place winners will be invited to attend the joint bench/bar luncheon in Huntsville on July 15 to receive a plaque presented by the Alabama State Bar's Law Day committee. The winning posters will be used in next year's Law and Court Observance Week program.

Information on the student poster contest and sample notices which can be completed for each jurisdiction and distributed to schools and media have been forwarded to all presiding circuit judges and Law Day chairmen.

Local courts or bar associations which wish to sponsor a student poster contest may consider offering prizes for the winner(s) to provide incentive for students to enter the contest. Certificates or plaques should be awarded to the top places in each category.

Suggestions or inquiries regarding this statewide student poster contest should be addressed to Peg Walker at the Administrative Office of Courts.

### GOVERNOR TO PROCLAIM LAW DAY AND LAW AND COURT OBSERVANCE WEEK

In April, Gov. Fob James will proclaim Law Day and Law and Court Observance Week, May 1 and April 25-May 1. The issuance of the proclamation by the Governor's Office will further the recognition of Law and Court Observance Week as a statewide program. Judges, court officials and Law Day chairmen may wish to contact their mayors and county commission chairmen to have local proclamations passed declaring

April 25-May 1 "Law and Court Observance Week" in their communities.

Sample proclamations will be mailed soon to Law and Court Observance Week officials.

### LAW AND COURT OBSERVANCE WEEK

#### PROGRAM GUIDES HAVE BEEN MAILED

The Program Guide for Law and Court Observance Week, which incorporates the recommendations adopted by the steering committee, has been distributed to judges, court officials and Law Day chairmen.

Mailed in February, this Guide includes an overview of the Law and Court Observance Week program, suggestions for organizing local projects, a list of activities which may be undertaken and a list of resources available from the state and local courts, other agencies and organizations and the American Bar Association. Copies of this Guide have also been forwarded to the American Bar Association and chief justices and state court administrators throughout the Nation.

Any official who has not received a copy of the Guide (with yellow cover) should contact Peg Walker, program director, at the Administrative Office of Courts.

#### NEWS RELEASE SENT TO STATE MEDIA

A news release announcing Law and Court Observance Week has been mailed to state media outlets accompanied by an editor's note asking that local officials be contacted concerning local observance plans.

#### CRIME PREVENTION COLORING BOOK

#### AVAILABLE THROUGH OJARS AGENCY

Copies of a 16-page coloring book for pre- and school-age children entitled "Play It Safe" are available in 25-book quantities from the Office of Justice Assistance, Research and Statistics Public Information Office, 633 Indiana Ave., N.W. Washington, D.C. 20531.

The crime prevention booklet contains individual coloring panels depicting good safety rules. The booklet was announced in the "Justice Assistance News."

## **SHELBY COUNTY COURT OFFICIALS LEAD DEVELOPMENT PROGRAM FOR EDUCATORS**

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Other presentations included types of cases heard in district court by Shelby County District Judge Patti Smith; the role of the prosecuting attorney by District Attorney William R. Hill Jr.; the role of the defense attorney by Attorney Oliver Head; the function of the circuit clerk's office by Evelyn Lowe, deputy clerk in the circuit clerk's office; and a discussion of the jury process in Alabama and materials on the court system available to educators by Janie Alexander and Julie Young of the Administrative Office of Courts.

Judge Smith concluded the program with a discussion on juvenile procedure in Shelby County. Explaining the problems which confront the court in coping with over-crowded juvenile facilities and rising juvenile caseloads, she encouraged educators to work closely with the court. Judge Smith emphasized that juvenile problems can be dealt with more effectively when all phases of the community -- the families, the schools, and the court-- work together.

## **COLBERT, HOUSTON COUNTIES TESTING ONE-STEP JUROR SUMMONS PROCEDURE**

Computerized production of the one-step juror summons form is underway at Administrative Office of Courts. During the month of February, requests for automated summoning were received and processed from Colbert and Houston Counties, two of the counties participating in the system test.

In accordance with Section 12-16-146, Code of Alabama (1981 Cum. Sup.), Alabama counties may now elect to both qualify and summon jurors simultaneously. Prior to the enabling legislation, counties were first required to qualify prospective jurors and then at a later date to summon them for jury duty. With direct summoning, the cost of juror selection is significantly reduced. The new system reduces paperwork, personnel costs, and

postage expense and eliminates duplication of effort.

"The combined juror selection and summoning procedure is an important step toward reducing administrative costs," said Chief Justice C. C. Torbert Jr.

"One of my goals has been to develop new jury management procedures that are both effective and efficient. The one-step procedure ties in closely with work which has been done during the past two years toward decreasing costs and improving efficiency in the state's jury system."

When the initial request for the computerized one-step summoning is received at the Administrative Office, the drivers license file for that county is researched by computer. Individuals under 19 years of age are excluded from the list and the remaining names constitute the eligible group from which prospective jurors are randomly selected by the computer. A prospective juror receiving a summons will find enclosed the necessary information regarding juror qualifications, excusals and reporting place and time. The number of jurors selected for summoning is determined by the requesting county and can vary for each term of court. To process and mail the summons within the 20-day time frame established by law, all requests must be received by the Administrative Office 30 days in advance of the term.

In addition to the automated summons forms, the court is provided a printed venire. Computerized mailing labels are used to mail the Alabama Juror's Handbook containing a local information letter.

Following testing in Colbert, Houston, Madison and Russell Counties, the new procedure will be expanded to additional counties. Any counties interested in utilizing the automated one-step summoning process should contact Mike Carroll or Janie Alexander at the Administrative Office.

## **COURT MANAGEMENT JOURNAL AVAILABLE**

The 1982 "Court Management Journal," containing a comprehensive look at the first major national symposium of court clerks and administrators held in 1981, is available from the Publications Coordinator, National Center for State Courts, 300 Newport Avenue, Williamsburg, VA 23185. The cost is \$5 plus \$1.50 postage.

### CLERKS, REGISTERS HOLD ANNUAL MID-WINTER CONFERENCE IN B'HAM

Alabama court clerks and registers held their annual mid-winter conference in Birmingham Feb. 4 and 5.

Chief Justice C.C. Torbert Jr. made the opening address for the conference before attendees held "Puff and Pout" group discussions of concerns and problems. Jefferson County Circuit Clerk Polly Conradi led the group discussion for large counties; Jimmy Lindsey of DeKalb County led discussion for medium-sized counties; Ron Harwell of Sumter County led discussion for small counties; Register Joe Ingram of Talladega County led discussion for registers; and Morgan County District Clerk Melba Dutton led the discussion for district clerks.

A panel discussion addressed Accounting Problems From the Clerk's and Register's Perspective. Members of the dis-

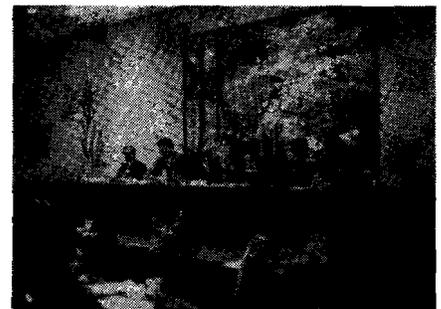
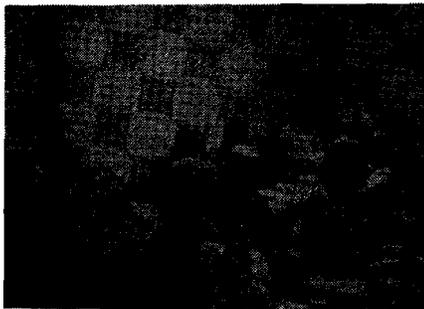
ussion panel included Mary Auburtin, moderator, clerk and register of Perry County; R.L. Foster, clerk and register of Bibb County; Elizabeth Hamner, district clerk of Tuscaloosa County; Devon Kiker, clerk of Russell County; and Robert H. Tillman, director of the Operations Division of the Administrative Office of Courts.

Presiding Circuit Judge Claud D. Neilson of the 17th Judicial Circuit discussed Duties of the Presiding Judge and the Clerk, and Morris Moatts, clerk and register of Chilton County, discussed Duties of a Magistrate Relating to Warrants.

### ACCOUNTING PROCEDURES SESSION SET

The second session of Accounting Procedures for Clerks and Registers will be held March 25-26 at the Quality Inn in Birmingham. Session II deals with such subjects as Fiduciary Funds and Trust Accounts.

*CLERKS AND REGISTERS DURING.. mid-winter conference. Pictured below are scenes from the Feb. 4-5 Birmingham meet.*



## PERSONNEL TRAINED IN USAGE

### PHASE ONE OF COMPUTERIZATION OF MADISON COURTS COMPLETED

Phase one of the computerization of the Madison County Circuit Court has been completed. Court personnel were trained in January concerning use and maintenance of the IBM Series/1 computer which was installed in late December, 1981. During this on-site training, staff from the Administrative Office of Courts Information Systems Division discussed the computer system's two main functions--indexing and criminal case tracking.

The indexing function of the Series/1 instantly associates names with their related case numbers for the various divisions of the court. An added feature of the index is the capability of researching a name using only a partial spelling--a function especially useful in researching unusual names. To date, indexes for the circuit, criminal, and circuit civil divisions have been established for all cases filed since January, 1977. Juvenile, district criminal, district civil and small claims divisions have begun building indexes for cases filed as of Jan. 1, 1982.

The Criminal Case Tracking (CCT) System portion of the Series/1 contains a computerized case record for each pending circuit criminal case. At present, the CCT system provides automated Case Action Summaries for those cases filed in the court. Within the next few weeks, a report of all pending cases will be available by judge.

Phase two of the computerization is slated for completion this summer. Products available through the CCT system in phase two will include arraignment dockets, jury and non-jury trial dockets and a judicial activity report. Five remote terminals located throughout Madison County Courthouse are linked to a central storage unit in the circuit clerk's office. In this way, the circuit court, the district court and the court administrator share a single source of information.

Computerization in the trial court environment has been guided by the State Judicial Information System Advisory Committee chaired by Madison County Circuit

Clerk Billy Harbin. Composed of judges, clerks and court administrators from throughout the state, the committee determines areas in which automation would be advantageous to the various offices they represent. Together with the Administrative Office staff from the State Court Operations and Information Systems Divisions, these areas are defined and translated into working computer systems for the IBM Series/1.



### STATE AUDITORS TO EXAMINE COURT PROPERTY DURING UPCOMING MONTHS

Examiners from the State Auditor's Office will be conducting annual audits of Judicial System property during the next several months. Court officials are reminded that they are responsible for the property assigned to them and should know its whereabouts. If items are taken home or used in transit within a circuit, an affidavit should be completed and kept on hand in the courthouse where the property is assigned or with the local property manager. Affidavits should be updated every six months.

Upon completion of an audit, the auditors will submit a written report to the Administrative Office of Courts listing all inventory items which were unaccounted for by inspection or affidavit. The Administrative Office of Courts property manager must then submit a complete explanation for the absence of any property to the property inventory control division in the office of the state auditor. Court officials may help expedite the auditing procedure by making sure all items are accounted for. Questions or requests for assistance regarding the upcoming audits should be directed to Margaret Norris, property manager, at the Administrative Office.

# NEWS FROM THE JUDICIAL COLLEGE



## SPRING JUDICIAL SEMINARS SET

IN APRIL AT U OF A IN TUSCALOOSA

The Alabama Judicial College continues to implement the long range curriculum developed by committees of circuit and district judges. The Spring Courses are scheduled for April 27-29, 1982, at Farrah Hall in Tuscaloosa. The College will take this opportunity to highlight judicial education during Law and Court Observance Week.

Four sessions will be conducted concurrently allowing each judge a wide choice of options including civil, criminal, juvenile and other areas. A discussion of Tort and Personal Injury will be presented from the plaintiff's side by Francis Hare Jr. of Birmingham and from the defense side by Jack Livingston of Scottsboro. The discussion will be moderated by Allen E. Smith, dean of the University of Alabama School of Law. A simulation of a fact situation demonstrating the Procedure and Process of Multiple Plaintiffs and Defendants will be moderated by Francis McGovern, associate dean of the Cumberland School of Law with Circuit Judge Josh Mullins of Birmingham and Attorneys Alex W. Newton and John H. Morrow both of Birmingham. The Latest Developments under the Uniform Commercial Code will be presented by Nat Hansford, professor of law at the University of Alabama. Financial Aspects of Divorce Cases will be presented by Harold Apolinsky of Birmingham.

In the area of criminal cases, Jack Lufkin, associate member of the Alabama Board of Pardons and Paroles, will explain the Board's policies and procedures. He will be followed by Joe S. Hopper, commissioner of the Board of Corrections, explaining its policies and procedures. All day April 28 will be devoted to a panel of circuit judges discussing the Sentencing Process. Serving on the panel will be Charles Crowder of Birmingham, Randall Thomas of Montgomery, Richard Hundley of Decatur, and Carlton Mayhall of Hamilton. Professor Charles Gamble of the Cumberland School of Law will continue his series of lectures on Evidence.

Another option provided this April will be a session on Judicial Decision Making with Peter Keene of the Massachusetts Institute of Technology. By popular demand, the Irving Younger Video Tapes on Evidence will again be available for viewing.

Two sessions will be conducted on juvenile law. One is in the area of dependency and the other is in the area of mental competency.

On April 28, the entire day will be devoted to all aspects of Small Claims Court. District Judge Hartwell Lutz of Madison County will coordinate the session and the special consultant will be Judge Emanuel Rissman, circuit judge in Cook County, Illinois.

Post-judgment Remedies will be presented by Robert B. Rubin of Birmingham.

## MUNICIPAL JUDGES ATTEND CONFERENCE



*MUNICIPAL JUDGES ATTENDED A ONE-DAY... educational conference in Tuscaloosa on Feb. 20. In top photo, a Presentation of Practical Situations includes Richard Cater, Anniston, and Phillip H. Smith, Talladega, on Money; Jerry Batts, Athens, presiding; Eugenia Loggins, Opp, on Incarceration; Eason Mitchell, Calera, on Miscellaneous items; and George Elbrecht, Monroeville, Probation, Suspended Sentences.*

# PEOPLE \* PEOPLE

**B**ishop Barron, a state senator from Montgomery and a former city municipal judge, has assumed duties on the Court of Criminal Appeals, replacing Judge John Bookout who retired from that court in early February.

Gov. Fob James appointed Barron to the judgeship Feb. 19, after first having appointed his legal advisor, Jimmy Samford, to the post in late January then withdrawing that appointment, saying he needed Samford to help in several state matters before the U.S. Justice Department.

Barron is an attorney and a certified public accountant, and says, concerning his appointment to the appellate court, he has always wanted to be a judge. He served as Montgomery municipal judge for seven years and ran, unsuccessfully, in 1960 for a circuit judgeship. He was elected to the state Senate in November, 1978, and served five years in the House of Representatives.

Bookout resigned from the court in early February to take a position with Woodmen of the World Life Insurance Society in Omaha, Neb.

**F**ormer Pike County Commissioner S.A. Graham was appointed by Gov. Fob James to replace retired Pike County Probate Judge Ben Reeves. Reeves retired in January after 44 years in elected office including four terms as Pike County sheriff, one term in the state Senate and five terms as probate judge. He began his career in public service in 1931 as a deputy sheriff and became chief deputy in 1934 when his brother, Burr, was sheriff. He succeeded his brother in 1938, and at age 24, was the youngest sheriff in the country at the time.

Graham took office in mid-February as probate judge and chairman of the Pike County Commission. He served on that Commission for 12 years beginning in 1969. He is a native of Brundidge.

**A**thens Attorney Jimmy Fry was appointed in January to serve as district attorney for the 39th Judicial Circuit. He

replaces John Plunk who resigned after serving in the position only two months. The circuit's first district attorney, Marc Sandlin, resigned the position in November, 1981.

**B**en F. Welborn, a former referee with the Mobile courts, died Feb. 7. He had worked with the Mobile courts from April 1954 to November 30, 1979.

**T**alladega County Circuit Clerk Sam Grice was elected to the board of directors of the National Association for Court Administration at the mid-year board meeting in Williamsburg, Va., Feb. 20.

**D**istrict Judge Jack Montgomery of Jefferson County has expanded his appearances on "The Morning Show" to once every other week. "The Morning Show," hosted by Tom York and aired on WBRC-TV (Channel 6) is a morning news and talk show originated in Birmingham. As part of his regular appearances during which he discusses various aspects of the courts and legal processes, Montgomery now takes questions from viewers via a phone line.

**G**inny Anderson, of the Administrative Office of Courts' Personnel Division has been named an "Outstanding Young Woman of America." Ms. Anderson is in charge of recruitment and certification for the Alabama Judicial System.

**A**licia Taylor of the Administrative Office of Courts Purchasing Division was married to John Holt Feb. 14.

**K**athy Winchester and her husband A.C. Winchester are the proud parents of a baby girl, Kristin Lane, born Feb. 1. She is a clerk in the office of Colbert County Circuit Clerk Sara Blackwell.

**C**ircuit Judge James T. Strickland, juvenile court judge of Mobile, has announced that he will not seek re-election in 1982 and will retire from the bench, after 17 years, this summer.

## IN 16TH CIRCUIT

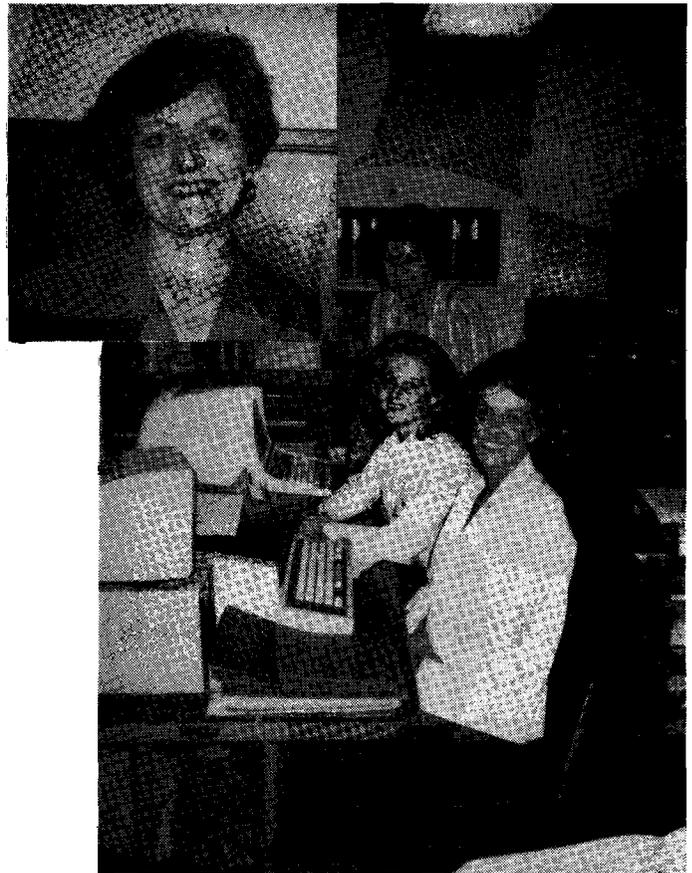
### CASEFLOW, JURY MANAGEMENT REVAMP EFFECTS PENDING CASE REDUCTION

Circuit judges, court officials and employees of the 16th Judicial Circuit (Etowah County) have been busy recently changing methods in their caseflow and jury management procedures. The case management changes have focused on criminal case processing and have spanned all phases of court operations from court calendar planning to case scheduling. The effects thus far have reduced the pending criminal caseload by 33 percent. Court officials have carefully phased in the new system over the past four months with the most recent innovation being the installation of a mini-computer for case monitoring and reporting.

Presiding Circuit Judge Julius Swann and Circuit Judges Cyril Smith, Hobdy Rains and Bill Cardwell report that court employees, lawyers and jurors have been pleased with the new system. Juror exit questionnaires indicate that jurors are pleased with the telephone call-in system which has better utilized the time they spend in court. An orientation slide show, developed by the Administrative Office of Courts, will be an added feature for jurors in the near future.

During the change process, three court employees have taken on new responsibilities. Margie Wetzel, who has been appointed docket coordinator for the criminal caseflow management, began her new duties Jan. 4. She will be coordinating information on the status of pending criminal cases utilizing the computer for reporting and monitoring. Cassandra Phillips is assisting Circuit Clerk Delores Parsons in managing the Circuit Criminal Division. Additionally, Mrs. Phillips will be responsible for the entry and updating of case information on the computer. Judy Pitts is now assisting the circuit clerk in all jury management related duties and will perform a range of tasks required prior to and during the trial terms.

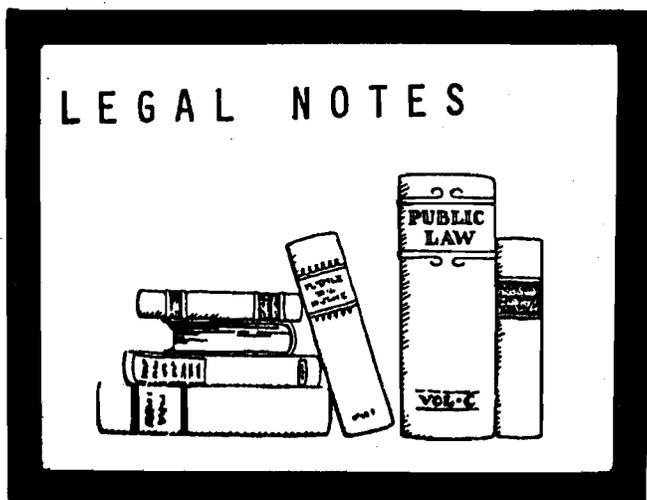
"These accomplishments are the end result of a lot of hard work on the part of all the court officials and employees," said Allen Tapley, administrative director of courts.



*CASE AND JURY MANAGEMENT CHANGES... in the 16th Judicial Circuit have created new assignments for three clerks in the office of Circuit Clerk Delores Parsons (top). Employees with new assignments relating to the changes are Judy Pitts, inset, jury coordinator; Cassandra Phillips, criminal division clerk, center, main photo; and Margie Wetzel, docket coordinator, forefront.*



*16TH JUDICIAL CIRCUIT JUDGES (FROM LEFT)... are Cyril L. Smith, Hobdy G. Rains, Julius S. Swann Jr., presiding circuit judge, and William W. Cardwell Jr.*



## ATTORNEY GENERAL OPINIONS

### State Prisoner Status

The attorney general rendered an opinion on Feb. 8, 1982, stating that a convicted felon is not considered a state prisoner until after sentencing. Responding to the specific question posed, the attorney general held that it is improper to consider a prisoner a state prisoner on the day he pleads guilty or on the day a guilty verdict is returned, since his status as a prisoner cannot be determined until the terms of his sentence are known.

### Probate Judge--Offices And Officers

In response to an inquiry submitted by a recently appointed probate judge, the attorney general issued an opinion dated Jan. 29, 1982, stating that there was no express provision in the general laws of this state which would prohibit a probate judge from continuing with his accounting and tax business on a part time basis. The attorney general qualified this opinion by stating that such action may, nevertheless, be prohibited by the state ethics law and canons of judicial ethics and advised the judge to make further inquiry on this matter to the State Ethics Commission and Judicial Inquiry Commission.

### Remarriage After Divorce--Restrictions

In an opinion dated Jan. 19, 1982, the attorney general interpreted Section 30-2-10 of the Code, providing a 60-day restriction on remarriage after divorce,

as not applying to persons obtaining a divorce in another state and seeking an Alabama marriage license. The attorney general based his opinion on the following rationale: "It is well settled in this state that the validity of a marriage is determined by the law of the place where the marriage is contracted...Therefore, any restrictions upon remarriage subsequent to a divorce obtained in another state must derive from the laws of the state where the divorce is obtained."

### Voting Machines--Responsibilities

#### Of Probate Judge And Sheriff

The attorney general was recently asked to respond to several questions regarding the preparation, delivery and safekeeping of voting machines used for elections. In an opinion dated Jan. 26, 1982, the attorney general held:

1. Pursuant to Section 17-9-17, Code of Alabama 1975, the probate judge is primarily responsible for the preparation of voting machines prior to their use in county elections.

2. It is the responsibility of the sheriff to see that the voting machines are delivered to the polling places and returned to the warehouse after the election. Section 17-9-36.

3. According to Section 17-9-7(a) of the Code, the expenses incurred in the operation and transportation of voting machines must be paid by the county.

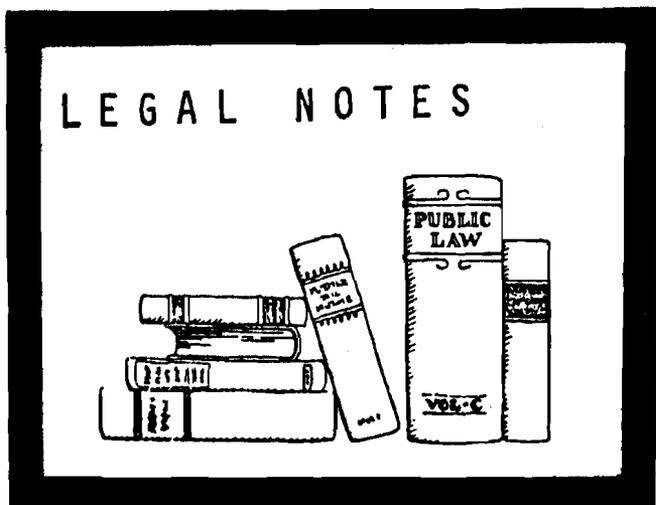
4. Under a literal reading of Section 17-9-36, the custodian is not responsible for the voting machines while they are in use during elections.

### Judges--Term Of Office

In an opinion dated Jan. 26, 1982, the attorney general, citing Hooper v. Siegelman, 386 So. 2d 207 (Ala. 1980), determined that no appointee to a judgeship can serve beyond the term of his predecessor. This opinion reads as follows:

"You have asked the opinion of this office regarding whether you, who were appointed to fill the unexpired term of a district judge, must seek election in November of this year. Your predecessor's term would have expired in January, 1983,

*(Continued On Page 11)*



## ATTORNEY GENERAL OPINIONS

*(Continued From Page 10)*

which means he would have to have sought reelection in this year's general election. You point out that you will have served less than one year at the time of this year's general election.

"The answer to this question, as you point out, turns on an interpretation of Alabama Constitutional Amendment 328, Section 6.14, which reads in pertinent part:

"A judge...appointed to fill a vacancy, shall serve an initial term lasting until the first Monday after the second Tuesday in January following the next general election held after he has completed one year in office. At such election such judicial office shall be filled for a full term of office beginning at the end of the appointed term."

"Although this section permits as a general rule a judicial appointee to serve one full year before he is required to run for election, the courts of this state have fashioned an exception to that rule. That is, an appointee to a judgeship cannot serve beyond the term of his predecessor in office. Hooper v. Siegelman, 386 So. 2d 207 (Ala. 1980).

"Thus, it is the opinion of this office that because your predecessor's term ends in January, 1983, you must run for office in this year's general election. This is true despite the fact that you will have served in your appointed position for less than a year at the time of the next general election."

## Campaign Contributions

In an opinion dated Jan. 19, 1982, the attorney general determined that corporations may contribute to individuals seeking public office even though they have not formally qualified nor made public announcements of their candidacies. This opinion reads as follows:

"You have asked the opinion of this office regarding the following matter:

"Question: Do the provisions of the Alabama Code Section 10-2A-70.1 (1975) allow a corporation to contribute to someone who is seeking a particular public office even though he has not formally qualified nor has he made a public announcement of his candidacy?"

"This question may be answered affirmatively. Contributions by corporations are regulated under Section 10-2A-70.1(a) if they are made to 'promote or prevent the nomination or election of any person.' Despite the fact that an individual has not declared his candidacy publicly, the solicitation of funds for an upcoming race would certainly bring this statute into play.

"Additionally, a would-be candidate, and individuals acting with him or in his behalf would meet the definition of a 'political committee' set out in Section 17-22-1, Code of Alabama 1975, which provides in applicable part:

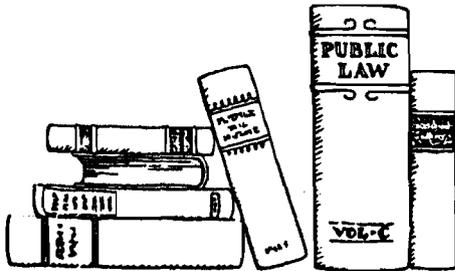
"(3) Political Committee. Any one or more persons who shall be elected, appointed, chosen or associated for the purpose wholly or in part of directing the raising, collecting, or disbursement...of money used to further or defeat the nomination or election of any person..."

"Thus, corporate contributions made to this person would also be covered under the terms of Section 10-2A-70.2 which regulates contributions made to political committees.

"In conclusion, corporations may contribute to individuals seeking public office even though they have not formally qualified nor made public announcement of their candidacies. One caveat need be entered here. Despite the early nature of the contribution, it would still be subject to the disclosure requirement of the Corrupt Practices Act."

*(Continued On Page 12)*

## LEGAL NOTES



### ATTORNEY GENERAL OPINIONS

*(Continued From Page 11)*

#### Power To Parole Municipal Prisoners

In an opinion issued to a municipal court judge on Jan. 26, 1982, the attorney general stated that a member of a city council, acting in his capacity as president pro tempore of the city council, may not parole a municipal prisoner. Citing Sections 15-22-70 through 15-22-77, the opinion states that the power to parole municipal prisoners is vested in the municipal parole board and is not within the authority of a member of a city council.

#### Sheriffs And Issuance Of

#### Licenses And Permits For Firearms

In an opinion dated Jan. 19, 1982, and issued to Melvin Bailey, sheriff of Jefferson County, the attorney general rendered his opinion regarding the effects of a conviction of a defendant for the offense of theft of property and the statutory prohibition against ownership of a pistol by any person who has been convicted of a "crime of violence." Additionally, this opinion addresses the issues of whether a defendant convicted of embezzlement or false pretenses under the old criminal code is prohibited from owning a pistol under the provisions of Section 13A-11-72, Code of Alabama 1975. The text of this opinion is reprinted in full below:

"1. Is a conviction of theft of property a conviction of a crime of violence

as defined in Section 13A-11-70, Code?

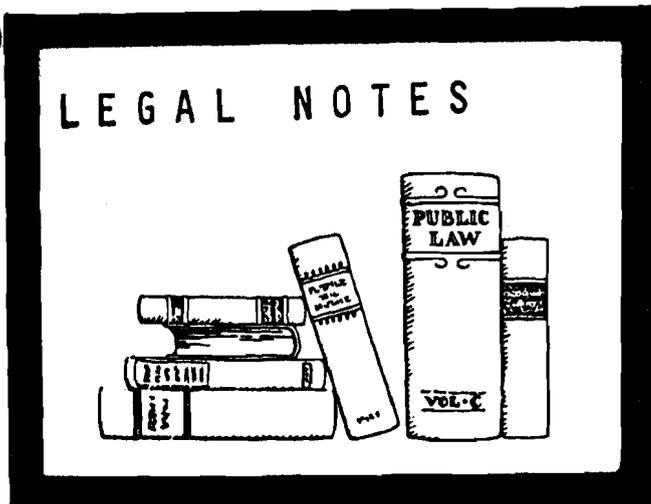
"2. If the answer to the above question is affirmative, what is the effect if any of a conviction of embezzlement or false pretense prior to the effective date of the Alabama Criminal Code insofar as the prohibitions contained in Sections 13A-11-72 and 13A-11-70, Code or (sic) concern?"

"It is the opinion of the attorney general that a conviction of theft as defined in Section 13A-8-1, et seq., is a disqualifying crime if the particular facts of the individual case are substantially identical to the elements of those crimes defined as a crime of violence. If, for example, the particular facts of a crime, which is charged under the new Criminal Code as theft of property are substantially identical to the common law elements of the crime of larceny, then upon a conviction of theft of property the person would be disqualified from possessing a pistol.

"Question number two poses the question of what effect a conviction of embezzlement or false pretenses prior to the effective date of the new criminal code would have upon the prohibitions in Sections 13A-11-72 and 13A-11-70. If a person was convicted of the crime of embezzlement or false pretenses, Sections 13-6-150 and 13-6-152 would not bar that person from obtaining a pistol permit. Section 13-6-150 carries over to the new criminal code the same definition of crime of violence. Section 13A-11-72 carries the same standard prohibiting the possession of pistols by certain persons, as does Section 13-6-152. Therefore, both the 'old' code and the 'new' code do not statutorily bar the possession of pistols by persons convicted of embezzlement or false pretenses.

"However, an important point should be made in regard to the issuance of a pistol permit. Section 13A-11-75 provides that a sheriff may issue a pistol permit upon certain conditions. An important condition is that the sheriff must determine that the person applying for the permit is a suitable person to be so licensed. In *Hess v. Butler*, 379 So. 2d 1259 (Ala. 1980) the Court held that the language in Section 13-6-155 (which is identical to Section 13A-11-75) provided the

*(Continued On Page 13)*



## ATTORNEY GENERAL OPINIONS

*(Continued From Page 12)*

sheriff with some measure of discretion in a determination as to whether or not an applicant for a pistol permit was a suitable person to be so licensed. The Court further held that in the absence of an arbitrary or capricious action on the part of the sheriff, the sheriff would not be subject to mandamus. If, for example, a sheriff refused to issue a permit simply because he did not like the person or because of race, religion or national origin, the sheriff would have acted arbitrarily and would be subject to mandamus."

### Interest On Judgments

In an opinion issued March 5, 1982, the attorney general determined that the 12 percent interest rate mandated by Act 81-1115 (Third Special Session 1981) amending Section 8-8-10, Code of Alabama 1975, applies to judgments beginning Nov. 13, 1981, even if the judgment in question was entered prior to Nov. 13, 1981. This opinion, in pertinent part, provides as follows:

"In enacting Act No. 81-1115, supra, the Alabama Legislature recognized the ruinous interest rates which are present in today's economy. Had the Legislature wished to exclude judgments which had been entered prior to Nov. 13, 1981, from the 12 percent interest rate, it would have been an easy matter for the Legislature to do so. In the absence of an ex-

press exclusion in Act No. 81-1115, supra, of judgments entered prior to the effective date of the Act it is my opinion that the 12 percent interest rate began to apply to judgments as of Nov. 13, 1981, even if the judgment in question was entered prior to Nov. 13, 1981."

## ALABAMA JUDICIAL INQUIRY COMMISSION SYNOPSIS OF ADVISORY OPINIONS

Below are synopses CXXV, CXXVI, CXXVII and CXXVIII issued by the Alabama Judicial Inquiry Commission this month:

SYNOPSIS CXXV--Is a judge disqualified from sitting in a proceeding in which the judge is related within the fourth degree by consanguinity or affinity to an employee of a law firm, a member of which represents a party to the proceeding? This would include a paralegal, who is an employee.

OPINION--It is the opinion of the Commission that disqualification of a judge may be required in a proceeding under the circumstances which you describe based upon Canon 3C(1). A judge must himself assess the facts and circumstances surrounding the proceeding, his relationship with the employee of the firm, and the employee's relationship to the proceeding to determine whether the judge should disqualify himself. However, the mere fact that the judge's relative is a paralegal working for the firm does not require the judge's disqualification.

SYNOPSIS CXXVI--May a district court judge send commendatory letters to jurors using court stationery, stamps and personnel?

OPINION--In view of Code of Alabama 1975, Section 36-12-61, and Canons 2 and 7A(1), it is the opinion of the Commission that no judge should send commendatory letters to jurors using court stationery, stamps or personnel except where such letters are either authorized by court rule or expressly permitted by the presiding circuit judge.

SYNOPSIS CXXVII--Is it a violation of Canon 2(A) for a circuit judge to disregard  
*(Continued On Page 14)*

## ALABAMA JUDICIAL INQUIRY COMMISSION SYNOPSIS OF ADVISORY OPINIONS

*(Continued From Page 13)*

counsel that has been appointed to represent an indigent defendant on appeal for trial de novo from district court (by appointing other counsel before arraignment in circuit court without giving any reason for change), where appointment was made mandatory in district court by Rule 9, Alabama Rules of Criminal Procedure--Temporary Rules? and Is it a violation of said Canon 2(A) for a circuit judge to disregard counsel (that was appointed before indictment by a district court) by appointing other counsel before arraignment in circuit court without giving any reason for change?

OPINION--It is the opinion of the Commission that the conduct described by you is not a violation of Canon 2(A) which provides that:

"A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

SYNOPSIS CXXVIII--Would a judge be disqualified from sitting in proceedings in which his former law firm represents a party to the proceeding where the judge has entered into certain financial dealings with the firm? The financial dealings are twofold: 1) the first involves a buy-sell agreement in which the judge would receive set monthly payments over a two-year period. 2) the second is the sale to the firm or its members of the judge's interest in a tract of land owned by the judge and his former law partners. This sale would be made to the law partners by the judge under a vendor's lien deed securing a promissory note to be paid over a 10-year period.

OPINION--It is the opinion of the Commission that both financial dealings in question would require the judge to disqualify himself under Canon 3C(1) in that, due to the financial transactions by which an attorney or a firm is substantially financially indebted to the judge, the judge's impartiality might reasonably be questioned in proceedings in which mem-

bers of the firm represent a party.

### COURT CLERK TESTING DATES SET

Court clerk tests will be administered in the following Alabama towns on the dates indicated.

March 20, Dothan, Gadsden, Montgomery and Tuscaloosa; March 27, Birmingham, Huntsville and Mobile.

### NEW POLICY IMPLEMENTED FOR TESTS FOR CLERK I, CLERK II APPLICANTS

Because of the increasing number of applicants who meet the published minimum qualifications to apply for both the Court Clerk I and Court Clerk II examinations, the following policy is being implemented:

An applicant who applies for and is qualified to take both the Court Clerk I and Clerk II written tests will normally be scheduled to take the Court Clerk II written test only. Those who pass will be excused from taking the Court Clerk I test and will be placed on both registers. Those who fail the Court Clerk II test may be scheduled for the Court Clerk I test at a later date.

Should an applicant who meets the entrance qualifications for both classes specifically insist upon taking the Court Clerk I written test, he will be advised that if he fails, he will be disqualified from taking the Court Clerk II test. If he passes, however, he will still have to take the Court Clerk II written test and pass it in order to be placed on that register.

This policy is considered fair to applicants and should cut down on the number of tests. In the past, a number of such applicants have been required to take both tests.

Job announcements for both classes will be amended accordingly.

### NAWJ NAMES NAT'L CENTER SECRETARIAT

The National Association of Women Judges has chosen the National Center for State Courts as its secretariat beginning Jan. 1.

The 400-member group represents approximately half of the women judges in the U.S.

## CLIPS FROM THE STATE'S PRESS

At right, from the Birmingham News;  
below, from the Montgomery  
Advertiser.

**LIVING TODAY**

By Thomas Lane Butts

**The Court Room**

Going into a courtroom is a sobering experience for any sensitive citizen. Conflicting feelings tug from every side. A prisoner stands before the bench with a decidedly self-defeated look. Family members scattered across the courtroom struggle between embarrassment and loyalty. Lawyers shuffle papers, make notes, wave at friends, consult with associates, reassure clients and witnesses, and try to look "cool." Judges mount the bench, restrain the impulse to acknowledge friends and acquaintances and struggle to exhibit impartiality without indifference and authority without arrogance. Spectators whisper "knowing" observations about procedure to the uninitiated.

It is a drama of human trauma. It is your machine of justice. Someday you may be an active participant in that drama by some turn of events. How important it is to know that good and honorable people control the procedure by which justice at every level is dispensed. All eyes ultimately focus on the bench, where the heaviest responsibility of all rests upon the shoulders of one solitary person who is in charge of the drama. If we cannot call this person "your honor" sincerely, then we are in trouble.

**Torbert's Appraisal**

Alabama Supreme Court Chief Justice C.C. Torbert explained to an audience in Auburn some of the conditions which affect our state courts and not always for the better. The overall problem, he said, is that too many cases are being taken to court.

He cited Alexis de Tocqueville's observation in the 1800s that Americans tended to solve all major problems in the courts. Today, Torbert said, de Toqueville would probably say that America resolves *all* its problems in the courts.

The chief justice pointed out that too many trivial and frivolous cases are going to court. He cited California cases in which a student sued a professor for \$853,000 because the student was awarded a D instead of an A in a German course and one in which a 41-year-old man sued a girl for \$38 because she broke a date with him.

The chief justice does well to talk about these problems. Courts that allow cases which are not grounded on significant issues of justice to come to trial tend to trivialize the law and to degrade its intent. Of course, everyone suffers as costs to taxpayers rise and the energy that should be expended on legitimate disputes is dissipated.

Torbert pointed out that in the past eight years, the state supreme court has experienced a 122 percent increase in the number of cases. The only way to deal with such an increase, he said, is to enlarge the high court's staff which can be done only at some cost to taxpayers.

While we should never close the door on injustice, the chief justice is absolutely right in saying that laws need to be modified in such a way as to give finality to criminal cases tried in state courts. Convicted criminals should not be permitted to fire off appeal on appeal after witnesses have died and evidence has become covered by dust.

The federal courts should have greater trust and deference for state courts and should not entertain appeals unless the probability of injustice has been ascertained.

As a matter of history, it is this penchant by the federal judiciary in some parts of the country which has served to damage the image of state courts. Not only are the state courts given a second-class status, but they also get blamed for some of the ridiculous decisions handed down by the federal courts, since many citizens fail to differentiate between the two in assigning blame.

We hope Torbert and other justice system officials continue to go public in explaining the problems and abuses of our courts, as well as to point out the very essential service they provide to all.



# COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

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