

COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

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FROM LEAA

ALABAMA TO APPLY FOR COURT DELAY REDUCTION PROGRAM GRANT

On Feb. 12, Chief Justice C.C. Torbert Jr., Administrative Director of Courts Allen L. Tapley and other Administrative Office of Courts staff met with Nicholas L. Demos of the Law Enforcement Assistance Administration to discuss the possibility of Alabama applying for a grant under the "Court Delay Reduction Program." This program provides discretionary grant awards to assist state court systems in resolving problems of case backlog

and delay in circuit criminal and civil jurisdictions.

Chief Justice Torbert said that as a result of the hard work of judges, clerks and registers throughout the state, the pending caseload had been significantly reduced during the past year. However, he commented that with increased filings and increased complexity of the litigation in our courts, it will become necessary that we develop and

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CLERKS, REGISTERS HOLD

MID-WINTER CONFERENCE

Alabama clerks and registers met in Birmingham early in February for their mid-winter conference sponsored by the Alabama Judicial College.

Gil Skinner, director of criminal justice continuing education at Michigan State University, headed two motivational management sessions during which discussions were held on ways managers can motivate employees toward higher productivity.

The Clerks and Registers Association held a lengthy business meeting during which proposed legislation concerning the group was discussed for possible presentation during the ongoing legislative session.



CLERKS AND REGISTERS MEET IN BIRMINGHAM...for mid-winter session .

LEAA CASE MANAGEMENT GRANT

(Continued From Page 1)

implement even more sophisticated case management techniques and procedures in the district and circuit courts. As a result of these discussions, Chief Justice Torbert gave his approval for AOC to draft a concept paper outlining the courts' desire to apply for a grant and the method by which the monies would be utilized.

It is anticipated that if a grant is awarded under this program, the concept of the grant would be the same as that of the jury management grant which is currently under way. Basically, the grant would cover an 18 month period and involve planning, analysis and implementation phases. Court site selection would involve a sampling of large, intermediate and small courts which would be representative of the state as a whole.

Most importantly, the grant would involve a study to determine standards for the processing of civil and criminal cases. This study would establish standards applicable on a statewide as well as local basis. At present, the case currency and throughput goals established by Chief Justice Torbert apply equally to all jurisdictions. While such goals provide broad standards, it is incorrect to assume that domestic relations, civil and criminal cases can be disposed of within the same time period. Therefore, a major objective of the grant is to establish accurate standards for the various jurisdictions which would ensure a balance between administrative efficiency and judicial fairness.

APRIL ENROLLMENT SET FOR BLUE CROSS

The next open enrollment period for the state Blue Cross plan is in April. Those planning to add family coverage must submit a new enrollment card to the Personnel Division at the Administrative Office of Courts no later than March 7. The first deduction of \$51.77 will be made from the second warrant in March as prepayment for the month of April. Coverage will then be effective April 1 with no waiting period.

FICA SICK PAY EXCLUSION INCLUDED IN NEW FEBRUARY PERSONNEL PROCEDURE

The Unified Judicial System, along with all other state departments, began implementation of the FICA I Sick Pay Exclusion program effective with the Feb. 6-19 pay period. This program, authorized by federal law, excludes wages earned while on personal sick leave from Social Security taxes.

According to the state director of finance and a consultant group from Management Improvement Corporation of America, this program can result in a savings to the state of over \$1.7 million annually, with a like saving going to state employees. This represents a real benefit to the employees since they will not pay the FICA tax of 6.13 percent on wages earned while on personal sick leave.

This procedure will not change the amount of employees' bi-weekly warrants. However, the overpayment of FICA will be reflected as an overpayment of federal withholding at the end of the year and will be refunded to each employee when they file their annual tax returns.

Only those employees who are now covered by a recognized leave accounting system are eligible for this program. This excludes elected and appointed officials.

The Personnel Division has changed two procedures involving leave accounting in order to comply with this program. First, since all sick leave authorized by state rules is not "personal," administrators must begin immediately to differentiate between "personal" sick leave (for personal illness or injury) and "other" sick leave (when the illness of immediate family members is involved) on leave request forms and leave accounting cards.

Second, in order to make a bi-weekly report to the state comptroller, all leave request forms are to be forwarded to the Personnel Division at the Administrative Office of Courts at the end of each pay period.

These procedural changes are covered in a memo from Allen L. Tapley, administrative director of courts, dated Feb. 12.

Within the next few weeks, the Personnel Procedures Manual will be revised to reflect these changes. Any questions regarding this matter may be addressed to the Personnel Division at AOC.

PROFILE

Judge Clifford K. Delony

By ROBERT MARTIN

Director of Administrative Services

As a young newspaper reporter in the Muscle Shoals area back in the early and mid-1960s, one of my first "beats" was the Colbert County Courthouse where Clifford K. Delony sat as one of the two circuit judges in the 31st Judicial Circuit.

Now the politics surrounding county government in Colbert County, not unlike many other counties in the state, could be extremely volatile at times. Conflicts would frequently arise between courthouse officials and sometimes the judges would become involved.

In those days, the circuit judges and other court officials were dependent on county government for practically everything except the portion of their salaries paid by the state.

The offices of the circuit judges, located on the second floor of the courthouse in Tuscumbia were anything but lavish. Judge Delony's office was furnished with a metal desk, a table, bookcases and a short-backed wooden swivel chair which occasionally would separate from its base.

I quickly learned that Clifford Delony was not one to mince words or fail to express what was on his mind. One day, as I walked into Clifford's office, he met me at the door waving a piece of paper in my face. "Do you know what this is?" he asked, and without giving me time to guess, went on: "The damned county commission has refused to pay for fixing my chair."

Throughout the years I was associated with Clifford in a judge-reporter relationship, there were other battles. He once sued the chairman of the county commission, and won, over a refusal to pay his county salary supplement. Over the same issue, he held the same chairman in contempt of court.

During his 24 years as a circuit judge, Clifford Delony has been a fighter for a



JUDGE CLIFFORD DELONY chats with his long-time friend Judge Robert E.L. Key of Evergreen.

type of judicial independence that would free judges to make decisions based on the law without fear of retribution.

During the years I have known him--and that has been since 1963--Judge Delony came to be one of the most respected and knowledgeable judges on the circuit bench in Alabama. His penchant for fairness and judicial decisions based on the law earned him the respect of colleagues, the lawyers who practiced in his court and the public.

In addition to the prominence he gained as a sitting judge, Delony has been active in statewide judicial affairs. He was an active supporter of the modernization and improvement of the state's court system during the decade of the 70s.

Shortly after the creation of a judicial disciplinary and removal process in 1972, Delony was appointed as one of the seven members of the Judicial Inquiry Commission, the body charged with investigating charges and complaints against state judges. He has served with distinction on that commission.

A little-known fact demonstrating Cliff Delony's dedication to the judiciary of this state occurred several years back when
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ETHICS REPORT MUST BE FILED BY MANY COURT SYSTEM EMPLOYEES

Many court officials and employees of the Unified Judicial System are required to file a yearly ethics commission report. If either of the following two conditions apply, a report for the calendar year in which the condition first occurred must be filed: Your annual salary is \$15,000 or greater; You reach a biweekly gross salary of at least \$577.

This report for the calendar year 1979 is due in the Ethics Commission office no later than April 30.

The Ethics Commission is currently mailing blank reports to officials and employees who, according to their records, are required to file the report. They have indicated that the blank reports should be received by officials and employees no later than the middle of March. It is the employees' responsibility to see that the correct and completed report is filed by April 30. It is also the employees' responsibility to ensure that a blank report is received. Blank reports may be obtained by contacting the Administrative Office of Courts Finance Division.

PROFILE: JUDGE CLIFFORD DELONY

(Continued From Page 3)

he was scheduled to become president of the State Association of Circuit Judges. Realizing that his back-home duties on the bench would permit him to either be honored by his colleagues as their president or continue serving on the Inquiry Commission--but not both--he turned down the presidency to continue the difficult task of serving on the commission.

Cliff Delony cared about his profession; he cared and agonized over the decisions he had to make which affected the life, liberty and property of those who came before his court; and he used his talents to perform a tough and demanding job for the citizens of his county and his state.

Judge Delony retires from the Unified Judicial System March 1 after serving 24 years as circuit judge.

Robert Martin was a reporter, columnist, managing editor and editor of the Florence Times-Tri-Cities Daily from 1963-1972.

STUDY COMMISSION HOLDS FEBRUARY MEET TO DISCUSS PROPOSED LEGISLATION

The Permanent Study Commission of the Alabama Judicial System met at the Capitol on Feb. 7 to discuss proposed legislation that may be presented during the ongoing state legislative session. Chief Justice C.C. Torbert Jr. chaired the two-and-one-half hour meeting which was attended by 27 PSC and advisory section members, as well as Administrative Office of Courts staff and advisors. Among those present were the governor's legal advisor, the lieutenant governor's representative, the attorney general's representative, seven legislators and eight justices or judges.

Fifteen pieces of legislation, some of which were prepared by the PSC and AOC staff, and others which were drafted elsewhere but which involved the state judicial system were discussed.

These bills included such matters as: additions to the PSC, traffic offense docket fees and juvenile court costs, penalties for driving while intoxicated, service of juror summons and witness subpoenas by first class mail, indigent defense, additional defendant service fees, fee to be collected from the proceeds of all judicial sales, taxing as costs the expenses involved in returning a defendant to Alabama, circuit judges supplements phase-out, certification of compensation by chairman of jury commission, collection of support payments in aid to dependent children cases, abolition of the challenge for a juror being over 65 years of age, records retention schedule, further definition of the jurisdictional amounts of the district courts and clerks and registers supernumerary fund.

In addition to individual discussion of each proposed bill, there were short subcommittee reports given by Assistant Attorney General William Stephens, chairman of the PSC's subcommittee on juvenile justice, and Tom Barber, AOC staff, on indigent defense matters.

THROUGH JUSTICE SYSTEM IMPROVEMENT ACT

PLANNING COMMITTEE BECOMES COORDINATING COMMITTEE; NEW MEMBERS NAMED

In December 1979, Congress passed the Justice System Improvement Act which re-authorizes the Law Enforcement Assistance Administration and restructures the procedures for providing federal assistance to state and local criminal justice organizations including the courts. In recent years, the Alabama court system has received over \$500,000 annually through LEAA for the funding of projects crucial to the operation of the court system. Priorities for this funding were established by the Judicial Planning Committee. The Justice System Improvement Act of 1979 expands the concept of the Judicial Planning Committee and redefines this board as a Judicial Coordinating Committee.

In compliance with this federal act, on Feb. 5, the Supreme Court of Alabama abolished the Judicial Planning Committee and in lieu thereof established a Judicial Coordinating Committee for Alabama. This order further expands the membership of the former, providing representation and provides a term of appointment for a period of one year.

The specific functions assigned the JCC under the Justice System Improvement Act of 1979 include: (1) The establishment of priorities for the improvement of the various courts of the state; (2) The definition, development and coordination of projects and programs for the improvement of the courts and the state; and (3) The development of three-year applications for funding of programs and projects designated and designed to improve the functioning of the courts and judicial agencies in the state. In executing these functions, the JCC is charged with the responsibility for

reviewing any application submitted for LEAA funding which would improve court operations. All such applications are to be reviewed to determine whether or not they comply with the statewide priorities for courts established by the JCC.

In addition to its duties in administering and coordinating LEAA court programs in Alabama, the JCC will continue the work begun by the JPC in developing a new long-range plan for the Alabama court system.

Members of the JCC appointed for the term Feb. 1, 1980 through Feb. 1, 1981 include: Chief Justice C.C. Torbert Jr., chairman; Allen L. Tapley, administrative director of courts; Justice Hugh Maddox, Alabama Supreme Court; Judge John G. Bookout, Court of Criminal Appeals; Judge Richard L. Holmes, Court of Civil Appeals; Presiding Circuit Judges Kenneth F. Ingram of the 18th Circuit, John D. Snodgrass of the 23rd Circuit, J. Edward Tease of the 11th Circuit and George H. Wright Jr. of the 37th Circuit; Circuit Judges Braxton Kittrell of the 13th Circuit and Joseph D. Phelps of the 15th Circuit; District Judges John M. Karrh of Tuscaloosa County, William H. Lumpkin of Cherokee County and Joseph N. Poole of Butler County; Circuit Clerk Billy D. Harbin of Madison County and Clerk and Register Stella Pierce of Chambers County; Municipal Judge Charles Price of Montgomery; Court Administrator W. Robert Merrill of the 15th Circuit; District Attorney Lavern Tate of the 11th Circuit; and Public Defender Ralph Burroughs of Tuscaloosa County.

JUDICIAL RETIREMENT PLAN BOOKLET

AVAILABLE IN SUMMARY FROM AJS

The American Judicature Society has prepared a booklet on judicial retirement plans in the 50 states, the District of Columbia, Puerto Rico and the federal system and is now making this publication available to members of the judiciary.

Copies are available for \$2.25 from the American Judicature Society, 200 West Monroe Street, Suite 1606, Chicago, Ill. 60606, (312) 558-6900, order number 291.

EEO POLICY, PRACTICES

ESTABLISHED FOR SYSTEM

The policy and practices of the Unified Judicial System relating Equal Employment Opportunities have been incorporated into Chapter XVI of the UJS Personnel Procedures Manual and mailed to all administrators.

NEWS FROM THE JUDICIAL COLLEGE

**COMMITTEE DEVELOPS COURT REPORTER'S MANUAL**

...From left: Court Reporters Alice Sweeney of Huntsville and Ann McKinney of Talladega; Doris Mauldin of Florida who led the sessions; Bob Miller (standing), director of court reporter training at Gadsden State Junior College; and Paul Smith, president of the Alabama Court Reporters Association of Tuscaloosa.

COURT REPORTERS MEET TO DISCUSS NEW MANUAL

The long-awaited Court Reporter's Manual served as the discussion guide for the court reporter's educational conference in Montgomery Jan. 18-19 sponsored by the Alabama Judicial College. The Administrative Office of Courts worked with a committee of Alabama official court reporters and other advisors to produce the extensive manual of recommended procedures and formats.

The discussion leader for the conference was Doris Mauldin, immediate past-president of the National Shorthand Reporters Association. Ms. Mauldin had served on the committee to prepare the manual, so she was thoroughly familiar with the material and Alabama methods.

During the two-day workshop, an in-depth study was made by the conference participants of all aspects of court reporting. Questions posed to small groups permitted each participant an opportunity to peruse the new manual.



CHIEF JUSTICE C.C. TORBERT JR....Addresses court reporters in Montgomery.

MORE NEWS FROM THE JUDICIAL COLLEGE

CIRCUIT AND DISTRICT JUDGES HOLD
MONTGOMERY MID-WINTER CONFERENCE

A broad range of topics including a panel discussion on conservation cases were offered to Alabama circuit and district judges at their mid-winter conference Jan. 17-18 in Montgomery sponsored by the Alabama Judicial College.

Panel participants for the conservation discussion included Conservation Commissioner Richard Forester and two of his staff members, Judge Ron Duska and Judge Thomas Seale. Attorney Bobby Black discussed the rule against joint tort feorsors contained in the Alabama Rules of Civil Procedures while Attorney John Cappell brought the judges up-to-date on recent domestic relations cases.

A broad program on alcohol-related cases included a presentation by Vann Pruitt on the physical and psychological effects of alcohol, a demonstration of the photoelectric intoximeter machine by State Trooper Sgt. R.C. Massey and a panel discussion moderated by Angelo Trimble serving along with Judge D.L. Rosenau, Judge Robert Sapp, Judge Joe Barnard, Curtis Milligan and Dr. Jesse Fortenberry.

Senator Michael Figures made a presentation on the new legislation he sponsored on sale for division. Montgomery Paramedic Lt. James E. Ray gave a demonstration of first aid for the courtroom. Dr. Shephard Odom made an outstanding presentation on stress and how it affects an individual.

Chief Justice C.C. Torbert Jr. opened the meeting by delivering a "State of the Judiciary" message to the judges and brought them up-to-date on many aspects. The chief justice and Administrative Director of Courts Allen L. Tapley presented Judge Joseph Phelps with a plaque honoring him for his leadership in the first 18 months of operation of the Alabama Judicial College.

The new Criminal Code which took effect Jan. 1 was one of the topics of greatest interest. Charles Trost of the University Law School presented circuit judges with the new criminal jury charges which had been developed under the direction of continuing legal education and a committee of circuit judges assisted by the AOC. Justice Hugh Maddox discussed pre-sentence reports and sentence hearings. Lewey Stephens acquainted the judges with the form indictments under the new Code.



NEW JUDGES ATTEND ORIENTATION SESSION... during mid-winter meeting.

MORE NEWS FROM THE JUDICIAL COLLEGE

MUNICIPAL JUDGES ANNUAL CONFERENCE

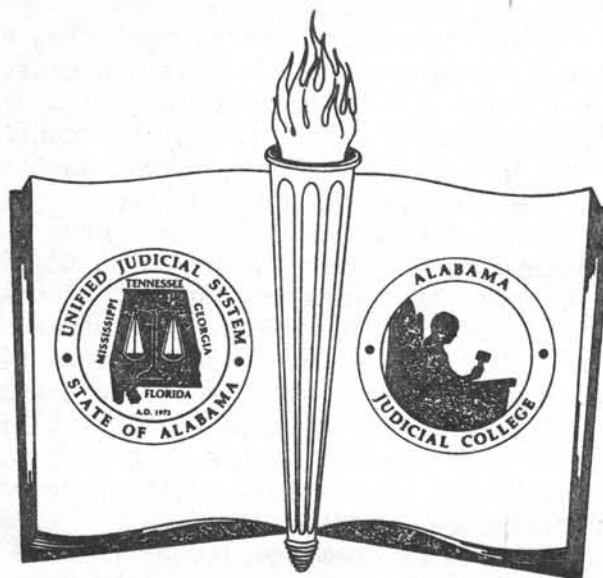
PLANNED FOR MAY 10-11 IN BIRMINGHAM

The annual conference of the Alabama Municipal Judges Association is scheduled for Saturday and Sunday, May 10-11, at the Hyatt House in Birmingham. The two-day conference will provide an in-depth study of two areas which are of greatest concern to the municipal judges of Alabama: the Alabama Criminal Code and its impact on municipal courts and the problem of the alcohol offender. Highly competent speakers have been scheduled in both areas.

The Criminal Code is the first comprehensive revision of Alabama's criminal law in the history of the state. It represents over a decade of work with sustained interest and dedication by people of all facets of the criminal justice community. Both of the Saturday sessions will concentrate on the Criminal Code with Robert L. McCurley, director of the Alabama Law Institute and Lee Hale, deputy attorney general, serving as instructors.

On Sunday, three different aspects of the problem of the alcohol offender will be discussed: the physical and psychological aspects of DWI, a demonstration of the photoelectric intoximeter machine and sanctions available to a judge in a DWI case (or there's more to a DWI case than a blood alcohol count). Instructors for the Sunday session include Vann Pruitt, assistant director, Alabama Department of Forensic Sciences, Auburn; Sgt. Lars Wilkinstadt, Implied Consent Unit, Department of Public Safety; and Nathan Kirsh, retired municipal judge, Hackensack, New Jersey and instructor at the American Academy of Judicial Education.

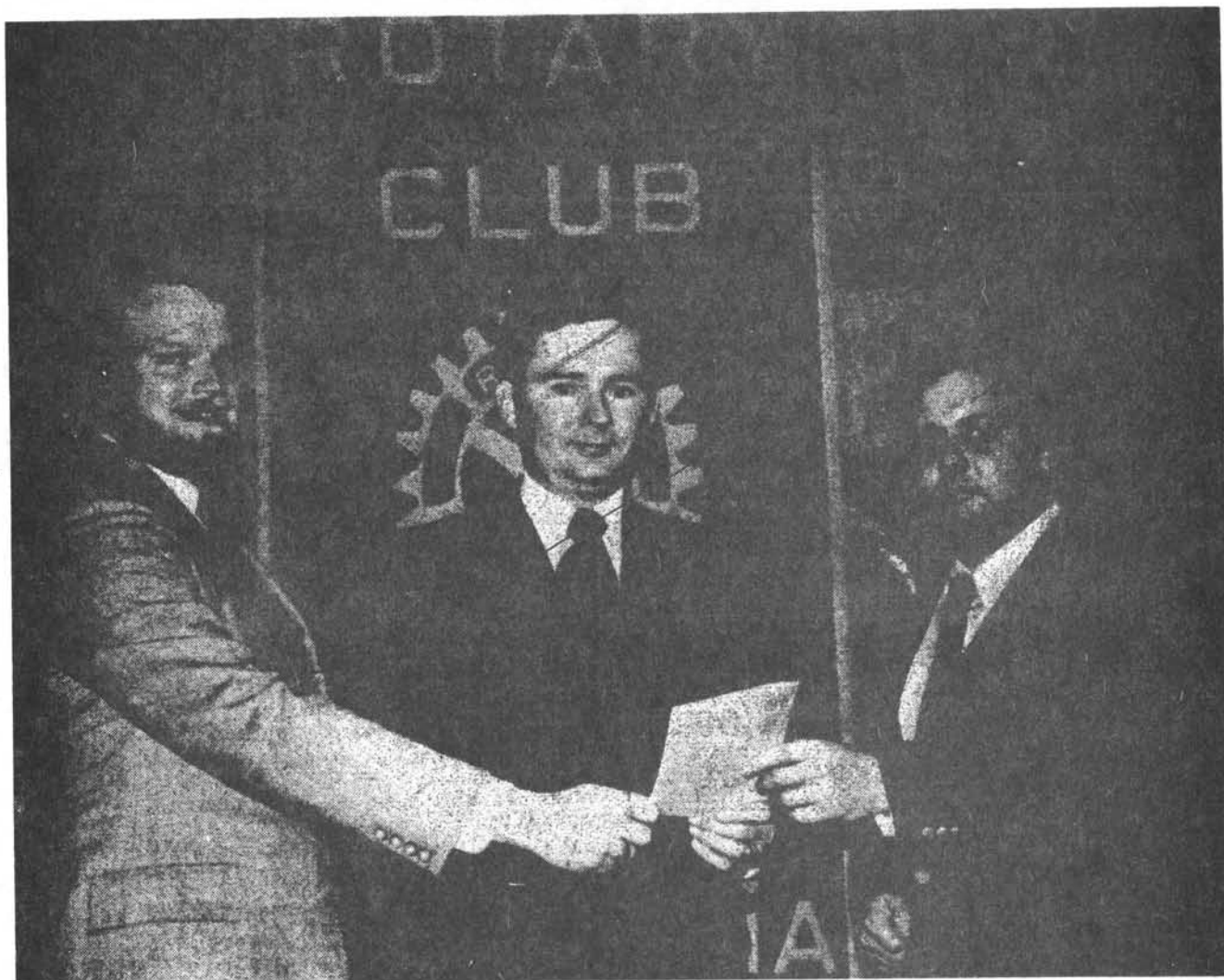
All municipal judges are urged to attend the 1980 conference. Registration fee for the conference is \$55 and is reimbursable by the Alabama Judicial College. Further information concerning the conference will be forwarded to judges in the near future. Inquiries should be directed to Angelo Trimble, coordinator, Municipal Courts Division of the Administrative Office of Courts or Perry C. Roquemore Jr., staff attorney, Alabama League of Municipalities.

CLERK TECHNICAL ASSISTANCE PROGRAM
PROVES BENEFICIAL AFTER FIRST TEST

Frances Bondurant, employed in the Houston County clerk's office, became the first person to provide technical assistance in another clerk's office recently when she traveled to Butler to assist Choctaw County Clerk Don Gibson and his staff in learning the technical aspects of filing appeals. This program for Shared Staffing for Technical Assistance was initiated last fall by the Alabama Judicial College. Its purpose is to take advantage of the vast knowledge and experience available throughout the state in teaching and assisting in other offices upon their request.

According to Judicial College Director Thelma Braswell, reports filed by both Gibson and Mrs. Bondurant concluded that this initial visitation was beneficial and worthwhile.

Any clerk or register desiring technical assistance with any phase of their responsibilities should contact Ms. Braswell at the Judicial College in Tuscaloosa.



ADMINISTRATIVE DIRECTOR OF COURTS ALLEN L. TAPLEY VISITS 9TH JUDICIAL CIRCUIT... The photograph above was published in the Fort Payne Times-Journal after Tapley visited the 9th Judicial Circuit in late January. From left: Administrative Assistant to the Chief Justice Pat Harris, 9th Judicial Circuit Judge Randall Cole and Tapley.

TAPLEY'S VISITS TO 8TH, 9TH CIRCUITS SUCCESSFUL; UPCOMING TRIPS PLANNED

In terms of improving the understanding and image of the Alabama Court System and making contact with local court system employees, Administrative Director of Courts Allen L. Tapley feels that his visits to the 8th and 9th Judicial Circuits were successful and he says he is looking forward to other such visits scheduled.

He has scheduled visits to Anniston and Dothan in March, and to Florence in April that will give him the opportunity to talk with local high schools, civic organizations and court system employees in those areas of the state.

Tapley is enthusiastic about the visits because the talks to high schools and civic organizations give him a good opportunity to acquaint young people and civic leaders with Alabama's Judicial System. He also feels the meetings with court employees give him the opportunity to receive feedback from the local level as well as familiarizing himself with the individual employees and providing them with information about the Administrative Office.

In addition to these visits, Tapley traveled to Mobile to address the Lions Club and to Greenville to talk to the Rotary Club in early February.

THROUGH CENTRALIZED SYSTEM

ACCOUNTABILITY NOW PERFECTED IN JUROR, WITNESS PAYMENTS THROUGHOUT STATE

A large segment of Alabama's population is affected by being called to serve as jurors and witnesses. Approximately 55,000 citizens are called to serve as jurors each year. Additionally, some 35,000 citizens are called to serve as witnesses before grand juries and in criminal cases. The state has the responsibility of paying these jurors and witnesses for their time and travel and the additional responsibility of properly accounting for these funds.

On Jan. 16, 1977, a juror and witness payment plan was established and each county was given a sum of money to operate its own bank account for the purpose of paying jurors and witnesses. The clerks of each county would request additional funds on an "as needed" basis.

This system required the clerks to balance an additional bank account each month. By virtue of the fact that many witness checks were written for such small amounts, the number of outstanding checks was generally very high. Therefore, the balancing process was extremely time-consuming and sometimes difficult. Additionally, this system did not allow sufficient information to be obtained concerning statewide totals on the number of juror and witness certificates written or the total cost involved.

On Oct. 1, 1977, the Administrative Office of Courts adopted a centralized payment system. The purpose of the centralized system was twofold. First, it would relieve the clerks of the burdensome task of reconciling the bank accounts established under the old system. Secondly, it would provide for the accumulation of data on the number of certificates written and the amount of money expended for payment of jurors and witnesses.

The centralized system consisted of opening three bank accounts--the juror account, the state criminal witness account and the grand jury witness account. Each clerk was given a book of certificates for each account. The clerks would write the certificates which were drawn on the accounts set up in a bank in Montgomery. At the end of each month, the clerks would prepare a juror and witness expense

report and submit that report to AOC. The Field Operations Division of AOC would then reconcile the bank accounts monthly.

The reconciliation process consisted of obtaining a computer printout from the bank. This printout listed all the checks that had cleared the bank for each court. The field operations account clerk would compare this listing with the report received from the clerk. A listing was made of all checks that were still outstanding at the end of the month. After the accounts had been reconciled, warrants were requested from the comptroller to reimburse the accounts for the amount that had been expended in the prior month. When vouchers were prepared requesting the warrants, that total cost was entered into the expense accounting system on a county by county allocation. The accumulation of this cost data now enables the budget officer to more accurately budget for the expense of jurors and witnesses, which may vary substantially from year to year.

Because of the requirement to separate fiscal year expenditures, it was necessary on Oct. 1, 1978 to set up a second series of accounts. Three additional bank accounts, commonly known as "series B," were established for fiscal year 1978/1979. The original accounts are now referred to as "series A." These two series will continue to be used alternately--that is, FY1977/1978-series A, FY1978/1979-series B, FY1979/1980-series A, FY1980/1981-series B, etc.

In September of 1979, the Unified Judicial System was awarded a federal grant to undertake the jury management project. In order to provide valid cost data to the

Jury Management Division, the juror account was split into two accounts. Previously, the juror account was used to pay petit



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ACCOUNTABILITY NOW PERFECTED IN JUROR AND WITNESS PAYMENTS THROUGHOUT STATE

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jurors and grand jurors. It is now possible to accumulate cost data on petit jurors.

Approximately 7,500 certificates are written monthly on the active accounts. The process of balancing the dormant accounts occupied about 48 percent of the account clerk's time. Because of the enormous and redundant nature of this task, a small error factor had to be accepted in the listing of outstanding checks. In order to eliminate this error factor and to make the process more efficient, an automated bank reconciliation program was established. The Witness/Juror Certificate/Check Reconciliation Program was established through the cooperation of First Alabama Bank of Montgomery, Information Systems Division of AOC and Field Operations Division of AOC.

At the beginning of each month, the bank furnishes a computer tape of all activity in the accounts for the prior month. This tape is loaded into the computer by ISD. Meanwhile, the account clerk enters data information from the juror and witness expense reports received from the clerks. These two files are then matched to obtain a listing of unmatched items and unreconcilable items. The items that are unreconcilable are researched to determine the reason for the rejection. These errors are then corrected. After all errors have been corrected, a final match is made.

From this process, four reports are generated. An unreconcilable record report lists any record that could not be matched to a certificate. This report would normally have no entries. A matched certificate listing shows all checks that cleared the bank for each court and each account. An unmatched certificate listing shows all certificates that are outstanding at the end of each month. This listing is also broken down as to each court and each account. The fourth report is the Monthly Witness/Juror Summary Report. This report is most valuable in that it



*FINANCE STAFF RECONCILES ACCOUNTS...
From left: AOC Director of Operations Bob Tillman, Mike Brown and Cheryle Thomas.*

shows the total amount of certificates that were issued and the total amount that cleared the bank for each court and each account. Totals are given for current month operations and for year-to-date operations. This report also provides statewide totals for each account. These totals are then balanced with the bank statement to ensure that all issued certificates have been accounted for. Copies of this report are given to expense accounting and to Jury Management Division of AOC.

At the close of each fiscal year, the Department of Examiners of Public Accounts requires that the balance of the juror and witness accounts be reduced to the amount of outstanding certificates. This requirement can easily be met since the inception of the computerized system. By eliminating the error factor mentioned earlier, AOC can accurately determine the amount of outstanding certificates and revert the excess funds to the general fund. At the close of fiscal year 1978/1979, \$227,000 was reverted to the general fund for other use.

The efficient operation of the juror and witness payment system is dependent upon several groups--clerks of court, the bank, AOC information systems and field operations staff. Each of these groups is fundamental to the overall operation of the system. However, with this cooperation, the system is working and is providing a very high degree of accountability in the expenditure of these funds and up-to-date records are easily maintained.

POSEY ADDRESSES AUTAUGA GRAND JURY ON STATE OF JUDICIARY IN COUNTY

Since many agencies have historically addressed grand juries in an effort to bring local citizens up-to-date on their activities, Autauga County Clerk and Register Fred Posey decided in January that it was time that the grand jury heard an update on the state of the judiciary in that county.

Armed with caseload statistics and revenue figures, Posey went before the Autauga County grand jury and told them of the work going on in the circuit and district court.

"I told them what we're doing in the courts of the county. I gave them a list of cases filed, disposed and pending in the circuit court, district court and small claims court. I handed out brochures on the Alabama court system.

"Further, after talking with Presiding Judge Joe Macon, Circuit Judge Walter Hayden Jr. and District Judge James Loftis, we have adopted a plan to go before each grand jury and deliver a state of the judiciary message.

"It's the only voice we have locally to tell the people what's going on in the courts of the county. And the more they know, the more they can appreciate the work we're doing," Posey said.

In particular, Posey presented information about the amount of money being paid to the Department of Pensions and Securities on behalf of dependant children through the efforts of the district court.

"These are the cases in which mothers of the children are drawing welfare checks and in essence, the tax-payers are supporting the children. The fathers are arrested for non-support and prosecuted and are required to pay child support in a sufficient amount that the mothers are taken off welfare," Posey said.

He said that Autauga County is rated among the highest in the state, according to population, in the amount of child support paid into DPS and to the individual mothers.

Administrative Director of Courts Allen L. Tapley concurs that this method is a tremendous way to get information out to

the public and says that the Administrative Office of Courts will assist clerks wishing to use this method from both a financial and statistical standpoint.

TRAFFIC TICKETS HAVE BEEN SHIPPED TO LOCAL LAW ENFORCEMENT AGENCIES

Traffic tickets for 1980 have been shipped by the vendor to local law enforcement agencies. As soon as each agency receives its supply of tickets, the shipment should be checked for damages and to ensure that the entire shipment has been received. After checking the shipment, the UTC Invoice and Receipt (UTC-2) should be completed and the white copy forwarded to the UTC Control, as well as manufacturer's notice of missing tickets.

All tickets currently on hand should be used prior to beginning use of the new tickets. For instance, all C series tickets should be used before issuing series D tickets.

All questions related to the ticket shipments should be referred to Mrs. Jean Holcomb at UTC Control, Administrative Office of Courts.

PROBLEM DRINKERS DEFINED BY NHTSA

The National Highway Traffic Safety Administration considers that DWI defendants with at least two of the following should be classified as problem drinkers: A blood alcohol count 0.15 percent or more at the time of arrest; a record of one or more prior alcohol-related arrests; a record of previous alcohol-related contacts with medical, social or community agencies; reports of marital, employment or social problems related to alcohol; diagnosis of problem drinker on the basis of approved structured written diagnostic interview instruments such as the Mortimer-Filkens, N.C.A. and John Hopkins.

NHTSA believes that courts should consider placing problem drinkers into long-range therapeutic programs such as Alcoholics Anonymous or alcohol programs in mental health centers as sanctions.

FROM DAPHNE TO BAY MINETTE

REMOVAL OF BALDWIN COUNTY SEAT IN 1901 PRODUCED BITTER BATTLE

The saga of the removal of the Baldwin County seat from Daphne to Bay Minette has been handed down through the generations as possibly one of the bitterest battles that county has ever seen.

As the story goes, an act of the legislature in 1901 formally moved the county seat from Daphne to Bay Minette since it was felt at that time that with the construction of the new railroad through Bay Minette, it would be a more accessible county seat.

According to an account of the removal written by Doris Rich and published in the *Foley Onlooker*, J.C. Hand, a lumberman from Jemison, raised \$35,000 and built the courthouse and jail at Bay Minette, but the county records remained tightly locked in the Daphne Courthouse; the citizens determined not to give them up.

The citizens of Bay Minette, determined to have the county seat located in their town, decided that a devious plan to obtain the records was the only way they might be secured. So with a wagon train of eight wagons with specially-built bottoms, the entourage headed toward Daphne.

"Sheriff George Bryant, who was a staunch supporter of Daphne's claim to the county seat, was tricked into opening the doors of the jail to admit a 'prisoner,' thus allowing Hand's men into the courthouse," the *Onlooker* account says.

Steel workers, who were especially secured for the occasion, began working to remove the jailhouse doors and placing them on one of the wagons in the courthouse yard.

Another group was busy loading everything that moved from the circuit court, including the judge's desk, chair and spittoons.

In the meantime, Sheriff Bryant had gone by steamboat to Mobile to try to win an injunction to halt the removal and arrived back in Daphne just in time to see the last wagon "with Judge Hall carrying the great seal of the county" passing over the hill on the way to a new home.

The case was carried to the Alabama Supreme Court and Daphne won the first

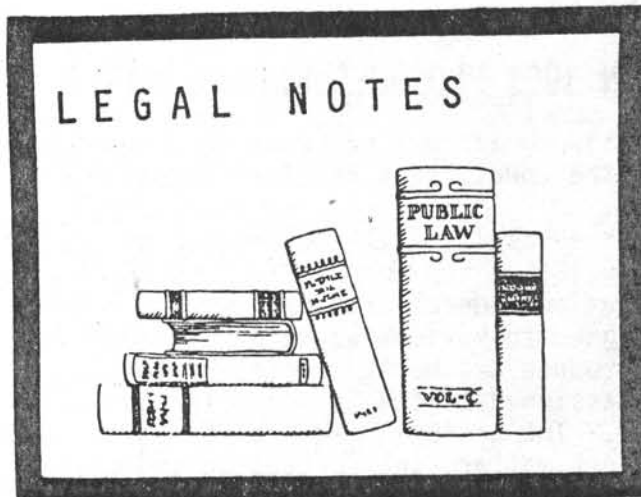
decision which was reversed at a rehearing and the county seat remained at Bay Minette.

As a result of the Depression of the early 1930s, the Work's Progress Administration Federal Arts Project saw artists assigned to various areas of the country to produce art work. Artist Hilton Leach was assigned to the Bay Minette Post Office. The artists were free to choose the subject matter, interpretation and style. He was commissioned to do a mural on canvas for \$660. Leach submitted three subjects and designs and the removal of the county seat was chosen as the most appropriate.

The painting features men loading a wagon with government documents, a lantern held high to provide light. That mural still hangs in the Bay Minette Post Office as a reminder of that town's heritage and the battle of securing it as the county seat.



BALDWIN COURTHOUSE BEFORE REMODELING... The County Courthouse was remodeled into a modern architectural structure in the mid-1950s. The original structure shown here was built in 1901.



ATTORNEY GENERAL OPINIONS

Attorney General Opinion Expands

Government Employees' Rights

To Participate In Political Activities

The attorney general issued the following opinion dated Jan. 23, to members of the State Ethics Commission, wherein Section 36-26-38, Code of Alabama 1975, the provision of law prohibiting political activities by state employees, is discussed. This opinion expands the right of governmental employees in Alabama to participate in national political activities under Section 17-1-7, Code of Alabama 1975.

"This section (Section 36-26-38) of our law is very similar to the Federal Hatch Act and to similar provisions in many other states. The constitutionality of the Federal Hatch Act was upheld in United States Civil Service Commission v. National Association of Letter Carriers, 413 U.S. 548, 37 L. Ed. 2d 796, 93 S. Ct. 2880 (1973) and the constitutionality of the Oklahoma statute, the statute almost word for word the same as our statute, was upheld in Broadrick v. Oklahoma, 413 U.S. 601, 37 L. Ed. 2d 830, 93 S. Ct. 2908 (1973). In upholding the constitutionality of these statutes, however, the United States Supreme Court did suggest that public employees had some undefined freedom of speech right which could not be abridged by such laws. For example, the Supreme Court said that such laws should not be read so strictly as to prohibit a public employee from expressing a political pre-

ference to friends and associates in everyday conversations and discussions. The Court left open the question of whether such laws could prohibit public employees from wearing buttons and placing bumper stickers on their cars although the Court's opinion would suggest that public employees could do these things and could not constitutionally be prohibited from so doing.

"Our law does clearly prohibit a state employee from making financial contributions to political candidates or political parties and from being a member of a political party committee or officer of a partisan political club. Until recently amended, our law also clearly prohibited state employees from holding any elective office and from participating in any political campaign.

"However, following the trend established by the federal government in liberalizing its personnel law to more fully recognize public employees' civil rights, the Alabama Legislature has modified our law by the enactment of Act No. 819 of the 1978 Regular Session, now codified as Section 17-1-7, Code of Alabama 1975. That section provides as follows:

"Section 17-1-7. Right of city, county and state employees to participate in political activities; improper use of position to influence vote or political action.

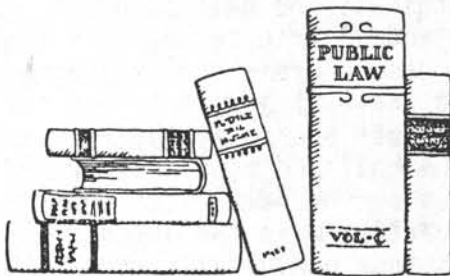
(a) (1) No person in the employment of any city, whether classified or unclassified, shall be denied the right to participate in county and state political activities to the same extent as any other citizen of the state of Alabama, including endorsing candidates and contributing to campaigns of his choosing.

"(2) No person in the employment of any county, whether classified or unclassified, shall be denied the right to participate in city and state political activities to the same extent as any other citizen of the state of Alabama, including endorsing candidates and contributing to campaigns of his choosing.

"(3) No person in the employment of the state of Alabama, whether classified or unclassified, shall be denied the right to participate in city or county political activities to the same extent as any other citizen of the state of Alabama, including endorsing candidates and contributing to campaigns of his choosing.

(Continued On Page 15)

LEGAL NOTES



ATTORNEY GENERAL OPINIONS

(Continued From Page 14)

"(4) All persons in the employment of any city or county shall have the right to join local political clubs and organizations, and state or national political parties.

"(5) All persons in the employment of any city or county shall have the right to publicly support issues of public welfare, circulate petitions calling for or in support of referendums, and contribute freely to those of his choosing.

"(6) No person shall attempt to use his official authority or position for the purpose of influencing the vote or political action of any person. Any person who violates this subsection (b) shall be guilty of a felony and punishable by a fine not to exceed \$10,000 or imprisonment in the state penitentiary for a period not to exceed two years, or both."

"As suggested above, the enactment of such legislation requires a balancing of the public employees' personal rights to freedom of speech, freedom of association and, more specifically, to participate in the political process, against the need to protect those same employees from political pressure and to prevent political considerations from affecting and disrupting the daily operations of government services. In balancing these considerations, the Legislature apparently concluded that the greatest danger of political disruption existed when public employees sought to participate in the political process at

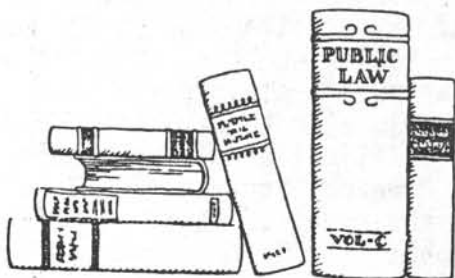
the same level of government at which they were employed. With respect to other levels of government, the Legislature apparently concluded that the individual's personal rights were greater than the danger involved in permitting political participation. Following this logic, it would seem that public employees at the state level should also be permitted to participate in political affairs on the national level. However, Section 17-1-7 only addresses the right of state employees to participate in city or county political activities and does not mention national political activities. Similarly, Section 17-1-7 provides for city and county employee participation in political activities at the city, county and state levels of government but does not address such participation in national political activities.

"There seems to be no logical reason for permitting city employees to participate in political activities at the county and state level but not at the national level. There seems to be no logical reason for permitting county employees to participate in political activities at the city and state level but not at the national level. Similarly, there seems to be no logical reason for permitting state employees to participate in political activities at the city and county level but not at the national level. Consequently, it is my opinion that the intent and the effect of Section 17-1-7 is to limit the proscription against participation in political activities by public employees to activities relating to the same level of government at which the employee is employed and to permit public employees the same political rights that other citizens have with respect to other levels of government. Thus, state employees may participate in political affairs at the national level, provided, of course, that such participation does not occur during the employee's work hours or otherwise disrupt or interfere with the performance of his public duties and that public equipment or materials are not used.

"Public employees are still protected from any political pressure which might be exerted on them by their superiors by the remaining provisions of Section 36-26-38 and by the provisions of Section 17-1-7

(Continued On Page 16)

LEGAL NOTES



ATTORNEY GENERAL OPINIONS

(Continued From Page 15)

and by Sections 17-23-3, 17-23-10 and 17-23-11, all of which prohibit persons from coercing, intimidating or threatening employees for the purpose of influencing their political action. This newly permitted public employee political activity casts renewed importance and emphasis upon these prohibitions."

Partial Or Installment Payments

The attorney general issued an opinion dated Jan. 23, regarding partial payments of fines and court costs in criminal and civil actions.

In the above opinion, the attorney general determined that courts may order and accept partial or installment payments of court costs and fines where the defendant is indigent and unable to pay the total amount of the cost and fine at one time.

The attorney general also determined that where a defendant is granted probation and one condition therein is an authorization of deferred partial payments and probationer pays several payments and absconds, or fails, or is unable to pay the balance due, that the clerk should first obtain an order of record from the court to prorate and distribute the partial payments which were received.

The attorney general also determined that a clerk should not accept installment or partial payments of damages, rewards or debts in civil cases including garnishment proceedings in the absence of a court order or an agreement by the parties approv-

ed by the court authorizing such payments.

It was also the attorney general's opinion that a clerk should first obtain an order of record from the court to receipt and distribute one-half judgment and to receipt and distribute one-half costs in a civil case wherein courts judgment assessed one-half judgment and one-half costs against one party litigant and the other one-half judgment and one-half costs against a second party litigant, and one of the parties pays the assessed one-half and the other party fails to pay.

Docket Fees For Violations

The attorney general has determined that since the punishment imposed for a "violation" in the new Alabama Criminal Code is included within the maximum punishment for a misdemeanor, for which there are provisions for docket fees, the docket fees to be charged for violations should be the same as those charged for misdemeanors. Docket fees collected for violations should be distributed in the same manner as those for misdemeanors.

Mileage Allowances

The attorney general in a recent opinion interpreted Alabama Code Section 36-7-22 (1975) relating to reimbursement to state personnel traveling on official business. The attorney general ruled that Section 36-7-22 entitled a state officer or employee traveling in a private vehicle to reimbursement for the number of miles traveled from his base or permanently assigned station to his destination and back. However, if the person leaves from his home or place other than his destination; he cannot be reimbursed for a number of miles greater than the number of miles from his base to his destination and back.



Notes From The Appellate Bench

CASES ARGUED BEFORE

THE SUPREME COURT OF ALABAMA

IN FEBRUARY INCLUDED

THE FOLLOWING ISSUES:

Real Estate Contract--

Impossibility of Performance

Whether a seller's warranty in a real estate sales contract that "sewer facilities are available on the site" was a present warranty or a future warranty to apply on the last date allowed by the contract for closing. Sewer facilities were available at the time the contract was made but a moratorium by governmental authorities intervened before final date set for closing. (Universal Development Company-78-708)

Workmen's Compensation--Stepchildren

Whether stepchildren who received \$100 per month child support from their real father were "dependent" children of a deceased workman under the Workman's Compensation Act. (Pate-79-207)

ABC Board Licensee

Whether ABC Board can regulate topless dancing by a licensee and whether the board had sufficient evidence of illegal activity occurring on the premises to revoke ABC license. (Little Caesar's-78-840)

Punitive Damages

Whether \$12,500 punitive damages was excessive in the case involving claim of conversion of a lawnmower valued at \$500.

Zoning Ordinance--Helipad

Whether a person who had a federally licensed helipad located on top of his house could be enjoined from operating a nuisance; appellant argued that federal law preempted field of flight by aircraft. (Wood-78-713)

Evidence--Proof of OSHA Violation

Whether evidence that company had been penalized for OSHA violation was admissible in a civil action in which company which paid OSHA penalty was a defendant; whether a party can contract to indemnify himself against his own negligence. (Courtaulds-78-401)

Sewage Disposal--Approval of Permits

Whether Jefferson County Board of Health has final authority to grant permits for sewage disposal, or whether final authority vests in State Board of Health. (State Board of Health-78-764)

Bond For Title

Vendee under bond for title, who is in default, executes mortgage to third party, who forecloses. Vendor dies, leaving several heirs, including vendee. Case involves interests of the various parties in the land. (Gay-79-206)

Mineral Rights--Quiet Title

Whether heirs at law of stockholders of a corporation which had expired had an interest in minerals in light of a 1943 quiet title decree under Grove Act. (Williams-78-869)

Counsel Argument

Whether argument that company was small, closely held corporation was prejudicial. (Horton-78-739)

Municipalities--Negligence

Whether City had a duty, once undertaking to maintain a stop sign at an intersection, to continue to maintain the stop sign; whether \$75,000 verdict was excessive. (City of Prichard-78-420)

Evidence--Opinion

Whether lay witness could state opinion that blast by defendant coal company was more severe than that of another company mining in the vicinity. (Crawford Coal Co.-78-328)

NOTES FROM THE APPELLATE BENCH

(Continued From Page 17)

Other cases involved the following issues: sufficiency of circumstantial evidence to prove defendant committed murder (Dolvin-79-49); propriety of death sentence in a case where three persons were intentionally killed, and whether sentencing judge properly considered aggravating and mitigating circumstances (Kyzer-79-65); whether trial court properly granted summary judgment to a bonding company on a water works board project concerning the liability of the bond company to pay attorneys' fees (Bagby Elevator-79-125); whether summary judgment was properly granted; sufficiency of evidence to sustain a verdict.

DR. UNTERWAGNER REPLIES AFTER
ATTENDING JPC MEET IN DOTHAN

When the Judicial Planning Committee met in Dothan in January, Dr. James Unterwagner of the Department of Sociology, Anthropology and Social Welfare at Slippery Rock State College was invited to attend.

Soon after returning to Slippery Rock, Dr. Unterwagner addressed the following letter to Chief Justice C.C. Torbert Jr. concerning his attendance at the meeting:

Dear Mr. Torbert ("Bo"):

My stay in Dothan, Ala. was highlighted by your kind invitation to attend your Judicial Planning Committee meetings on Jan. 9, 10 and 11. It was an opportunity for me to experience first hand some of the detailed problems encountered in making the judicial system efficient, effective and fair.

At the risk of appearing lavish in my praise, I must report that the democratic manner in which you presided over and directed the sessions helped to restore my faith in government officials. As professors, living in a sheltered environment, we are often prone to criticize and denigrate officialdom. If we were certain that all other similar meetings and workshops were guided by such fair-minded and competent leadership as you displayed, we might be less prone to criticize the Administration of Justice system.

JURY SYSTEM MORE RESPONSIVE WHEN
MANAGEMENT TECHNIQUES APPLIED

Applying modern management techniques to the system whereby jurors are selected, screened, summoned and asked to serve can make the jury system significantly more responsive to the court and the judicial system, with minimum cost and burden to the citizens and the community.

That is the conclusion reached by researchers at the National Center for State Courts, following a comprehensive evaluation of the Law Enforcement Assistance Administration's Jury Utilization and Management Demonstration Program. Under the auspices of LEAA's National Institute of Law Enforcement and Criminal Justice, this two-year demonstration program sought to demonstrate the effectiveness of modern management techniques in improving the jury system in 18 courts.

According to Ingo Keilitz, who headed the evaluation study by the National Center, the jury system "represents major constraints upon efficient judicial administration." Large numbers of citizens, he pointed out, must be identified as potential jurors, selected and screened. Those who are qualified, willing and able must then be assembled and used in a way that will make the best use of their time and the court's.

The evaluation found that courts that were able to improve their juror usage not only realized substantial cost savings but also conserved on the court's administrative and technical resources and on the burden imposed on potential jurors. By improving the proportion of jurors actually used for jury service compared with the number called, 10 courts participating in the demonstration project realized an estimated total annual dollar savings of more than \$400,000. Courts identified for comparison purposes but not a part of the LEAA improvement effort realized savings of \$100,000.

The evaluation also showed that courts that increased their source lists for potential jurors, computerized the selection process for jury pools, and improved their statutes covering jury selection and service were able to achieve a better representation of those citizens eligible for jury duty.

Talladega judiciary to see landmarks Thursday

TALLADEGA - A landmark in Talladega County Judicial circles will be reached Thursday when a six-person, all-female jury is sworn in to hear the case of Anderson vs. Buie.

When Judge William "Bill" Powers takes the bench in the case he will charge a jury of, not the usual 12, but just 6 jurors — the first such jury in Talladega. And, also a first, a jury comprised of only females.

The case, a \$3,000 lawsuit, charges the defendant, Harry James Buie of Sylacauga, caused a motor vehicle to collide with a vehicle driven by the plaintiff, Jonathan Anderson, also of Sylacauga, causing injury to the plaintiff.

Originally tried in Judge John Coleman's District Court, the verdict (in favor of the defendant) was appealed and landed in Judge Power's Circuit Court.

Powers said Wednesday the institution of a six-person jury is "a monumental step for the Alabama judicial system."

The judge explained, "The six-person jury has been used in recent years in the federal courts in an

effort to cut trial costs. But, when the current rules for state civil procedure were adopted, (1971) a section was added to allow a jury of less than 12."

Rule 48 of Alabama Rules of Civil Procedure says if both parties agree to a lesser jury, a group of less than 12 may be used.

Powers said since the application of the rule is dependant on the consent of both parties, there should be no conflict with the Alabama State Constitution.

The judge stated the gradual move to six-person juries can be regarded as a "sign of the times."

"A jury of six rather than a jury of 12 will automatically eliminate \$60 a day jury wages, plus the travel expenses they are paid. This is a big, big step in cutting inflation and government spending."

According to Powers, the six-person jury, which he advocates should be limited to select civil cases, eventually will be broadly accepted.

"This sort of thing is brand new, and although I've tried to get it started for some time, many attorneys are still a bit wary of in-

terrupting tradition."

Powers added, "I believe after the attorneys have seen the six-person jury work, and realize the benefits of cutting the number in half, they will begin consenting to the reduced jury number."

The judge said he didn't "look for the idea to be considered in criminal trials."

"I really don't believe a six-person jury has a place in criminal cases, and I don't foresee it being used in them. But, in civil cases, where it is not uncommon for trial costs to amount to more than the settlement itself, I think it will definitely benefit all parties to use the six-person jury."

In reference to this particular jury being comprised solely of women, Powers said, "It really just happened that way. The attorneys began striking the jury and when they finished, they looked up to discover they had six women."

Scheduled to begin Thursday at 9:00 a.m., the case of Anderson vs. Buie, will, according to Powers, "set a precedent for Talladega County that should influence our judicial system for years to come."

This Clip From
THE DAILY HOME
Talladega, Alabama 35160

NEWS CLIPS FROM ACROSS THE STATE

W. Wentworth ends 34-year court career

William R. Wentworth, deputy clerk of Mobile County Circuit Court, retired Thursday, ending a 34-year court career.

Wentworth, who is 62, started work during January of 1946 as a clerk in what was then called Inferior Court.

Termed by one Mobile attorney as "one of the nicest guys in the courthouse," Wentworth obtained his present position in circuit court during 1965.

When Wentworth started work in Inferior Court, "There was only one judge," he said. That court later became known as General Sessions Court and today, known as County District Court, it has four judges.

This Clip From
MOBILE REGISTER
Mobile, Alabama 36602

During his long career, said Wentworth, the number of circuit court judges has jumped from three to eight," and he said, "That really reflects the growth of the county."

Wentworth said he spent all of his career in the county courthouse except for about three months in 1952 when he worked in federal court here. "I didn't like it—it was too quiet there," he said, adding: "Of course business has picked up over there in recent years."

Wentworth, except for military service during World War II, has spent his life in Mobile and has been a member of the Camellia Club of Mobile for more than 30 years.

Wentworth and his wife Jennie live at 2316 W. Hillwood Dr. and he said they plan to travel after they finish cleaning a considerable amount of debris on their property from Hurricane Frederic.

Fortunate

Editor, the Advertiser:

Today, I had an opportunity to witness firsthand one of our circuit courts in action.

How gratifying it was to see Judge Randall Thomas deal with each individual in a very warm, compassionate manner, yet with a firm hand and good judgment trying hard to find the best way to rehabilitate the person before him.

I am sure I could speak for the parents who stood anxiously beside their young people that Judge Thomas deals with these young offenders in a most positive way, relating to them in language they can clearly understand. I believe that each one would certainly come away knowing he really cares and does all in his power to get them back on the right track.

We in Montgomery are indeed fortunate to have such a capable young man in our judicial system.

JANET K. CARNES

Montgomery

**COURT NEWS**

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

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