



# COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

Volume 5/Number 2

February, 1981

## COURT SYSTEM, EDUCATORS DEVELOPING PLANS TO TEACH LAW, JUSTICE IN STATE SCHOOLS

*"Children are people who are going to carry on what we have started. They are going to sit where we're sitting and, when we're gone, attend to those things which we think are important. We may adopt all the policies we please, but how they will be carried out in the future depends on them. They will assume control of our churches, schools, universities and corporations. All of our books are going to be judged, praised and condemned by them. The fate of humanity is in their hands. So it may be well to pay them more attention."*

*Anonymous*

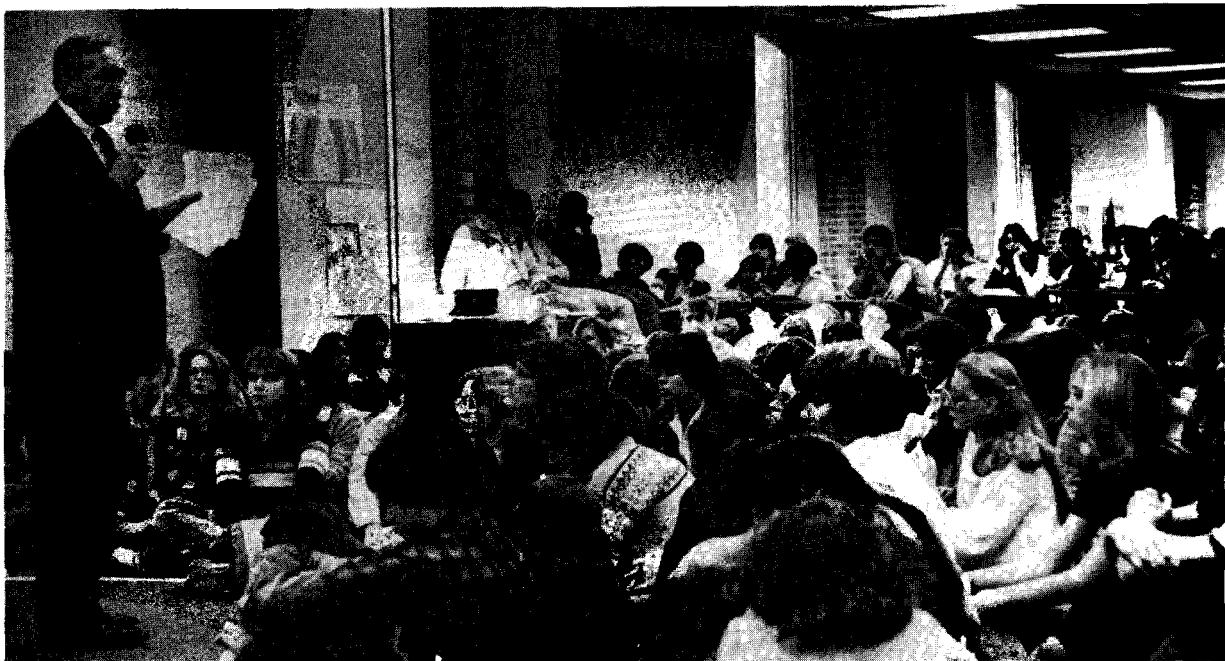
How many times have we heard re-

flected in adult conversation the complaint that the young people of today "have no respect for the law?"

Where is such disrespect bred? Is it the failure of parents in setting an example in the home? Is it the failure of our education system to provide a proper understanding in the classroom? Is it the complexity of our legal and criminal justice systems which too often creates the perception of injustice rather than justice? Or is it a problem of our entire society which, as a whole, seems to be moving in a direction that rejects many of the values of past generations?

The increase in juvenile crime both in our state and across the Nation is sounding a loud alarm and sending a clear message to all of us that something must be done to pro-

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CHIEF JUSTICE C.C. TORBERT JR. TALKS WITH PRATTVILLE HIGH SCHOOL SENIORS

**COURT SYSTEM, EDUCATORS  
DEVELOPING PLANS TO TEACH  
LAW, JUSTICE IN STATE SCHOOLS**

*(Continued From Page 1)*

vide the young citizens of our country a clearer and better understanding of the foundation upon which this Nation was established--a society based on the rule of law.

It is with these thoughts in mind that the Administrative Office of Courts has asked the State Department of Education and the Alabama Education Association to join with the State Judicial System in developing better ways to provide the young people of our state an understanding of the laws that govern us all and the system of justice which enforces and adjudicates the laws and rules of our society.

State Superintendent of Education Dr. Wayne Teague and Dr. Paul Hubbert, executive secretary of the Alabama Education Association have joined Chief Justice C.C. Torbert Jr. in supporting this effort.

Thirty social studies teachers from all levels of the state's school systems participated in a workshop Feb. 6-7 to develop materials and lesson plans to be used in teaching young people of all ages about the law and justice. A large group of social studies teachers will then review and critique the materials designed at the workshop. Once finalized, these supplemental materials will be made available to each school system in the state.

Administrative Director of Courts Allen L. Tapley; Tyna D. Davis, director of the Instruction and Professional Development Division of AEA; and Marie H. Hendrix, education specialist for social studies of the State Department of Education will coordinate this project.

Tapley said he is appreciative of the cooperation and support of the State Department of Education and AEA.

"The development of these educational tools to support our teachers will be an important link in providing the youth of our state a better understanding of our system of justice and the importance of that system to the maintenance of a democratic society," Tapley said.

"Coupled with the willingness of judges, clerks of court and other judicial officials to become involved with this effort in their local school systems, this project could have an ongoing and lasting effect to improve the public perception of the judiciary," Tapley added.

**JUDICIAL COLLEGE, U OF A SPONSOR  
TEACHER TRAINING SEMINAR**

A week-long seminar designed to better acquaint social studies teachers with the justice system in Alabama will be offered this summer by the University of Alabama's division of Continuing Education and the Alabama Judicial College.

Thirty eighth and 12th grade teachers will be offered the opportunity to attend this week-long course at the Tuscaloosa campus. Upon successful completion, they will earn three hours of graduate credit. Pending approval of the Alabama Commission on Higher Education, they could earn an additional three hours graduate credit through implementation of a teaching program on the justice system in their school.

Administrative Director of Courts Allen L. Tapley thanked Dr. Adolph Crew, chairman and professor of secondary education at the university's division on Continuing Education for their cooperative effort in establishing this program. "It is a positive step toward providing students with a better understanding of our system of justice," Tapley said.

**"SCHOOLS AND THE JUVENILE COURTS"  
IS TOPIC OF PROGRAM FOR PRINCIPALS**

Alabama judicial officials will participate in two programs on "Schools and the Juvenile Courts" in March designed especially for the state's elementary and secondary school principals.

The programs are scheduled for March 4 in Birmingham and March 5 in Montgomery.

James Street, executive director of the Alabama Council for School Administration and Supervision announced that Chief Justice C.C. Torbert Jr. will be the luncheon speaker for both sessions.

Others who will participate in the program are: District Judge Bennett McRae of

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# HENRY, THE MOTHER COUNTY

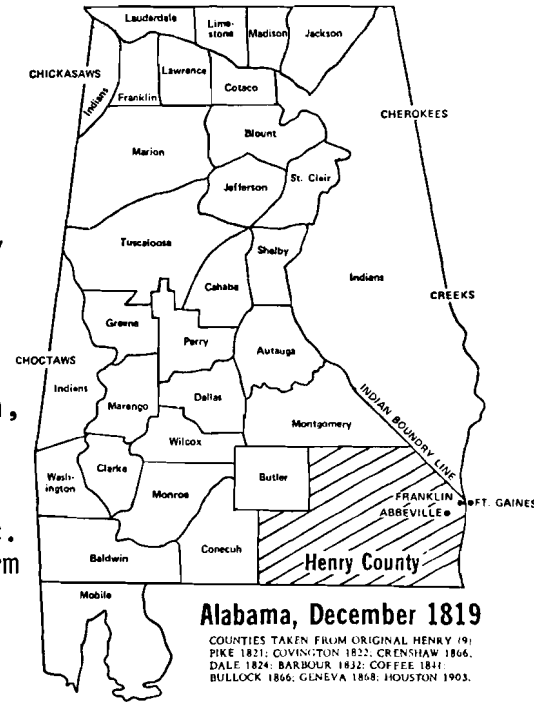
## LARGEST COUNTY IN THE STATE UPON STATEHOOD

Henry, The Mother County, aptly named since it birthed all or portions of nine other counties in the state, was created on Dec. 13, 1819, just one day before Alabama was admitted to the Union. Named for Patrick Henry, the county that originally encompassed all of what is today known as the Wiregrass was carved from portions of Washington, Conecuh and Monroe Counties and was the largest county in Alabama upon statehood.

Composing approximately 1/10 of the state upon formation, Henry County now encompasses a 560 square-mile area. The process of reducing Henry County to its present size took 82 years and took place in the following manner:

--Covington and Pike Counties were carved from Henry Dec. 7, 1821. This took great land areas which later helped form other counties.

--Pike contained much land that went to Barbour when it was formed Dec. 18, 1832.



and part of Geneva on Feb. 9, 1903.

The first county seat of Henry was located at Richmond, near Wiggins Church and Napier Field, serving from 1819-1824. Court was first held at the home of Sheriff John G. Morgan with Reuben Saffold serving as the first circuit judge. The first courthouse was a log cabin located at Richmond and the county's first money repository was a large sugar bowl placed in a hollowed out space at the base of a large walnut tree near the courthouse.

The county seat was officially moved from Richmond when Dale County was formed and relocated at Columbia where it remained until it was moved again by popular vote to Abbeville in 1833. Court in Columbia was also held in a log house.

Abbeville remains the county seat of Henry today.

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HENRY COUNTY COURTHOUSE AS IT STANDS TODAY

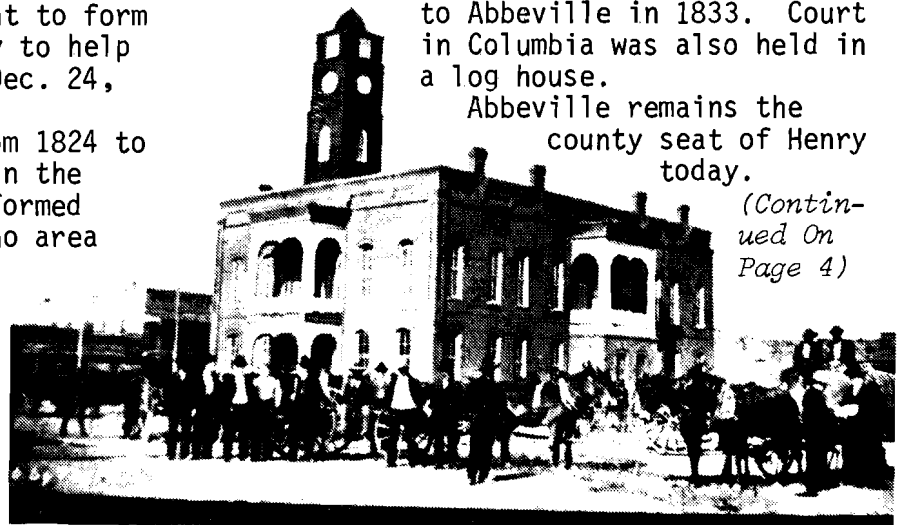
--Dale County was formed entirely from Henry on Dec. 29, 1824. It included all of the lands later used to form Coffee on Dec. 29, 1841.

--Henry County lands which went to form Pike and Covington later gave way to help form the new county of Crenshaw Dec. 24, 1866.

--Henry remained unchanged from 1824 to 1832. It then gained territory in the northeast corner as Barbour was formed from Pike Dec. 18, 1832. The Otho area came to Henry.

--Henry again remained unchanged for 36 years, but Dec. 28, 1868 brought the creation of Geneva from lower Henry, Dale and Coffee Counties.

--The last change came 35 years later when Houston was created from southern Henry



THIRD OF FOUR COURTHOUSES TO STAND ON ABBEVILLE SQUARE

## HENRY, THE MOTHER COUNTY

### LARGEST COUNTY IN THE STATE UPON STATEHOOD

*(Continued From Page 3)*

The Henry County area was originally inhabited by Creek and Seminole Indians and was ceded to the United States by the Creeks after the Battle of Horseshoe Bend. Abbeville takes its name from the Abbie Creek which flows through the center of the county. The Indian name for the creek was Yatta abba which means "a grove of dogwood trees." Even today, when the dogwoods are blooming in the early spring, Abbeville bears the Indian description well.

The square in Abbeville has seen four courthouses constructed. The first courthouse was a log cabin built in 1833. A plank courthouse was built in 1849 and served until 1889 when a structure was built using the 1849 foundation and brick produced in Abbeville. This structure was demolished in 1964 to make way for the modern structure which still houses the county judiciary and government offices.

### "SCHOOLS AND THE JUVENILE COURTS" IS TOPIC OF PROGRAM FOR PRINCIPALS

*(Continued From Page 2)*

Morgan County; Circuit Judge John W. Davis, III of the 15th Judicial Circuit; Barbara Montoya, chief juvenile probation officer, Montgomery; Annette Dodd, professor, Cumberland School of Law, Samford University; Thomas Edwards, M.D., pediatrics, Birmingham; Mary Carswell, supervisor, Division of Protective Services to Children, Department of Pensions and Security, Montgomery; Barbara Galloway, Protective Services supervisor, Jefferson County Department of Pensions and Security; Shirley Shaw, supervisor of Crisis Unit, Montgomery County Department of Pensions and Security; and District Judge Patricia M. Smith, Shelby County.

Superintendent of Education Dr. Wayne Teague has endorsed this program for high school principals and has encouraged their attendance.

The present two-story structure is classic in shape and feeling. It embodies some modern materials and methods combined with timeless materials of wood, moulded brick, limestone trim and natural flagstone flooring of the colonnade. The colonnade of 48 flared columns surrounds the courthouse on four sides. Plans for the new courthouse began in 1965, construction began in 1966 and the completion date was April 26, 1967.

Branch courthouses for Henry County were placed at Headland, Columbia (1885) and Dothan (1894) to assist those in the southern-most part of the county before Houston County was formed. Dothan then became the county seat of Houston.

Circuit judges for the 20th Judicial Circuit (Houston and Henry Counties) are Jerry M. White, presiding circuit judge, Don P. Bennett and J. Ronald Storey. District Judge Jerry Masters and Circuit Clerk and Register Marvin D. Murphy serve Henry County and keep offices at the courthouse.

*Some of the information used in this article was supplied by William W. Nordan, president and founder of the Henry County Historical Society.*

### SCHOOL SUPERINTENDENTS

#### HEAR TORBERT, TAPLEY

Chief Justice C.C. Torbert Jr. and Administrative Director of Courts Allen L. Tapley spoke to a meeting of school superintendents in Birmingham Jan. 27. They discussed with the school officials the importance of providing school students with more instruction on law and the judicial process.

### EDUCATIONAL FORUMS SCHEDULED

Chief Justice C.C. Torbert Jr. and Administrative Director of Courts Allen L. Tapley have finalized plans for educational forums in February.

Tapley will talk with high school students in the 31st Judicial Circuit at the invitation of Presiding Circuit Judge Inge Johnson Feb. 11-12. Presiding Circuit Judge Newton B. Powell of the 8th Circuit has asked Tapley to address students in

*(Continued On Page 6)*

## PROFILE

### Judge William M. Bowen Jr.

"I feel like the fairy tale where the frog becomes king," Court of Criminal Appeals Judge William M. Bowen Jr. said of his election to the appellate court at age 28 making him at the time the youngest appellate judge in the United States.

"I guess every lawyer wants to be a judge, but I thought I would have to wait until I was older. It was just a matter of being in the right place at the right time. There was some criticism and animosity toward my youth initially, but I think people are beginning to realize that there are conscientious young people willing to put in the time and effort.

"And I love this job. I'm totally mesmerized by the judicial process and I'm proud and feel privileged to be a member of the best judicial system in the whole United States. Being on this court is a humbling experience--you are always coming into contact with people who are smarter than you and who challenge you with questions and problems you have to solve. People tend to associate appellate judges with the ivory tower image. To some extent it's true, but the job brings new challenges every day."

A native of Birmingham, he is the son of William M. Bowen and Rita Loraine Bowen. After graduating from John Carroll High School in 1965, Judge Bowen attended St. Bernard College in Cullman and received his B.A. from Samford University in 1969, graduating with honors. He was graduated from Cumberland School of Law in August of 1972 and was admitted to the Alabama State Bar in May of 1973. He has attended the New York University School of Law Seminar for Appellate Judges.

Prior to his election to the Court of Criminal Appeals in November of 1976, he served as an assistant attorney general under Bill Baxley from 1973 to 1976. He started in the appellate division of the attorney general's office and then worked with a division which investigated corruption in public offices.

"I enjoy discovering things that are hidden away. That's what I like about my job now. When a question arises, I know



*JUDGE WILLIAM M. BOWEN JR.*

that somewhere in the law books lies the answer and I'm challenged with the task of finding it."

Judge Bowen said that he had always been interested in criminal law and decided on the field of law because he liked the fact that lawyers always seem to be in command of things. "They know how to make things happen. They're in command of life."

His military service was completed with the Alabama National Guard in May of 1975. He is a member of the Montgomery, Alabama and American Bar Associations and belongs to St. Bede's Catholic Church of Montgomery. He is married to Joan Trader of Birmingham and they have two children.

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## PROFILE: JUDGE WILLIAM M. BOWEN JR.

*(Continued From Page 5)*

Judge Bowen says he is not a "joiner" and finds that being a conscientious judge and a conscientious father consumes all his time. "And my job satisfies all my interests. I keep finding out every day just exactly what being a judge means. I feel like I've found my niche in life. I like everything a judge has to do."

Outside his work, he does enjoy listening to jazz and classical music and considers his two children a "hobby" since they consume most of his non-working time.

## SMALL CLAIMS COURT GETS LISTING

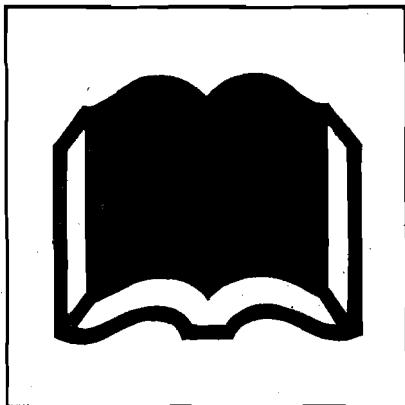
Madison County's Small Claims Court now has a separate, alphabetical listing with South Central Bell's directory assistance. This separate listing will also appear in the next edition of the local telephone directory.

Many laypersons interested in contacting Small Claims Court do not know to look under "District Court" in the phone book.

Madison County District Judges Hartwell Lutz and Dan McCoy, and the Madison County Small Claims Court Advisory Committee, chaired by Mr. Charles Spradling, decided to alleviate this problem by requesting the telephone company to place "Small Claims Court" in the county government listings.

If any district court is interested in establishing a similar listing in their local telephone directory, the presiding judge or other authorized court official should contact the chairman of the county commission who is usually responsible for providing county government listings to the telephone company.

The commission can request that "Small Claims Court" be immediately added to directory assistance and that it also be added to the alphabetical listings under county government at the next printing of the local telephone directory.



## EDUCATIONAL FORUMS SCHEDULED

*(Continued From Page 4)*

Morgan County Feb. 18.

Lee County District Judge Noel Baker will join Tapley in leading a forum for junior high school students at Opelika Junior High School. Arranged by Principal William A. Parker and Mike Spain, chairman of the social studies department, this forum is the first in the series to be directed toward junior high students. Tapley's daughter, LeAnne, attends the Opelika Junior High School.

On Feb. 20, Chief Justice Torbert will travel to Marshall County where he will lead an educational forum arranged by Presiding Judge Clark Johnson.

Similar educational forums have been tentatively planned in March and April for Tuscaloosa County, Cherokee County and Limestone County. Plans for these forums are being finalized by Presiding Judges Claude Harris Jr. (Tuscaloosa), Randall Cole (Cherokee) and Henry Blizzard (Limestone).

## DEATH PENALTY ACT CONSTITUTIONAL

In the recent opinion in In the Matter of Gilbert Franklin Beck v. State of Alabama, no. 77-530, the Alabama Supreme Court ruled that the Alabama death penalty act is not unconstitutional as a whole and that defendant Beck may be retried for the capital crime. The opinion followed a reversal of Beck's conviction by the United States Supreme Court, which held that Beck's conviction and sentence of death under the act were unconstitutional since the act prohibited the jury from considering evidence of lesser included offenses.

The Alabama Supreme Court, on remand, held that the "preclusion clause" (the prohibition against lesser included offenses) could be severed from the act and that the act, as severed, is constitutional. The court, in the opinion, also adopted certain procedural requirements pursuant to its rule making authority to insure that cases under the act are tried consistently with the pronouncements of the United States Supreme Court.

Copies of the decision have been circulated by the Administrative Office of Courts to all circuit judges. Anyone else desiring a copy may obtain one by contacting the Supreme Court Clerk's office.

## KEEPING TRACK OF JURORS SIMPLIFIED THROUGH INDEX REFERENCE SYSTEM

With as many as 100 or more jurors reporting for jury service during a term of circuit court, many clerks experience difficulty keeping track of them--who is serving on a jury, who has been struck and who has been excused.

Adopting a system used by many hospitals to keep patients and their records together, the Administrative Office of Courts' Jury Management Staff now has available a system for maintaining venire and jury strike lists to interested court clerks.

The new system, referred to as the Index Reference System requires that only one list be typed of the entire venire. Name, address and occupation are typed on index strips and are slipped into a metal index holder.

When a person is excused from jury duty, his or her name is simply pulled from the index holder and the remaining names are moved up. After all excusals and/or postponements, the remaining names constitute the venire.

During voir dire, names of struck jurors are again pulled from the index holder and placed at the bottom of the list. The remaining top 12 names would be the jurors for that particular trial.

This process is repeated for every trial.

## JUSTICE BEATTY, JUDGE COLQUITT TO ATTEND ABA CONFERENCE ON JUDICIAL ED STANDARDS

Supreme Court Justice Samuel A. Beatty and Circuit Judge Joseph A. Colquitt of Tuscaloosa represented Alabama at a conference sponsored by the American Bar Association.

The national conference, designed to set up standards for the education of state trial judges, was held Friday through Sunday, Jan. 23 through 25, in Columbus, Ohio. Two representatives each from 11 states were asked to participate in the conference.

In addition to Alabama, Arizona, Florida, Michigan, Minnesota, New Hampshire, New Jersey, New York, Rhode Island, Texas and Washington were represented.

According to Donald R. Fretz, chairman of the National Conference of State Trial Judges, a divi-



*EXAMINING NEW INDEX REFERENCE SYSTEM... Bibb County Circuit Clerk and Register R.L. Foster and Gloria Foster prepare jury strike list.*

The greatest advantage of using the index system is that it allows the judge, the clerk and the attorneys to have a clean, current list at every jury strike.

Ten counties are presently using this indexing system. They are Bibb, Hale, Perry, Dallas and Wilcox, 4th Circuit; Madison, 23rd Circuit; Houston, 20th Circuit; Lauderdale, 11th Circuit; Barbour, 3rd Circuit; and Etowah, 16th Circuit.

Clerks interested in utilizing this new system should contact Chris Williams at the Administrative Office of Courts.



*COLQUITT*



*BEATTY*

sion of the ABA, the conference participants were to propose standards concerning all aspects of national and state judicial education including topics such as money, time and faculty.

Fretz said he is hopeful the approved draft coming from the conference will be presented to the Judicial Administration Division of the ABA at its February meeting.

## CHIEF JUSTICE TORBERT ADDRESSES LEGISLATIVE BUDGET COMMITTEE

*The following remarks were made Jan. 6, 1981 by Chief Justice C.C. Torbert Jr. as he presented the appellate and trial court 1981-82 budget requests to the Joint Legislative Budget Committee.*

"Last year as I stood before this committee, I was able to present to you a budget which essentially reflected level funding for the Judicial Department of our state government.

"I told you, however, during that budget presentation, that although we were making no request for an increase in appropriations over the 1977-78 fiscal year, that the staggering inflationary spiral and the rapid rise of case filings in the courts of our state would not allow us to provide state court services for three years in a row without a budgetary increase.

"Our budget request to you this year contains what I believe to be a very modest increase. Overall for both the appellate and trial courts it amounts to 5.9 percent. The request for the trial courts and the Administrative Office of Courts contains a 5.84 percent increase over our budget for the current fiscal year. This increase is needed because of several factors--inflation, projected clerical positions which will be needed in the various trial courts and clerk's offices, merit raises for personnel, the increased costs for utilities and communications, increased cost of rental equipment and assumption of some costs which had been funded under federal programs.

"This increase of 5.84 percent does not include the cost of fringe benefits which must, beginning this year, be carried within the budgets of each department rather than being paid in lump sum out of the general fund for all departments of government.

"The budget for the State Supreme Court, excluding the fringe benefit factor, requests an increase of 9.04 percent over the current funding level. The Court of Criminal Appeals, excluding the fringe benefit costs, is asking for only a 1.68 percent increase. The Court of Civil Appeals' request, again excluding

the new fringe benefit inclusion, is for a 5.46 percent increase.

"I would like to take a few minutes of your time this afternoon to give you a brief report on our judicial system and also share with you some concerns I have on my mind.

"The judges, clerks of court, district attorneys and other judicial officials of our state have done a remarkable job of delivering effective court services during the past four years in spite of the skyrocketing number of cases which are being filed and tried in the courtrooms of our state.

"In 1977, the year I assumed office, a total of 485,903 cases were filed in our circuit and district courts. During 1980, the year just ended, that number had increased by 177,917 to a total number of 663,820--a 37 percent increase. If this trend continues, and I have no reason to believe it will not continue, our projections show that we can expect an increase of another 140,000 cases by the end of 1982.

"I have said to you in the past that in relation to the total number of cases and the total number of judges, we have had sufficient judge power to handle these caseloads. I can still make that statement, but today I must make it with this caveat: While we do utilize retired judges and we do assign judges from jurisdictions with lesser caseloads to jurisdictions with heavy amounts of litigation to the extent possible, I must point out to you that there are some jurisdictions where additional judgeships may be needed. As those of you in the legislature evaluate these local situations and introduce legislation creating new judgeships, we will be available and at your disposal to assist you in determining those needs with an accurate statistical analysis and projected caseload trends for your circuits and districts. My pledge to you is that we will call it like we see it so that the legislature may make wise and prudent decisions in these matters.

"In 1977, there were 109 circuit judges. Today there are 113. There were 89 district judges in 1977. The number of district judge positions remains the same today, however only 88 are filled. There

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## CHIEF JUSTICE TORBERT ADDRESSES LEGISLATIVE BUDGET COMMITTEE

*(Continued From Page 8)*

have been no appellate judgeships created since 1969. I cite this to you merely to demonstrate that, at least during the past four or five years, the number of judges in our state has remained fairly constant in spite of the tremendous increase in cases filed.

"The rise in case filings does not just affect the judges alone. Within the immediate court family, it affects the workload in every clerk's office across the state because someone must tend to the administrative chores and handle every piece of litigation that is filed. We continually evaluate the workload in the clerks' offices and make very careful consideration before adding additional personnel. But the simple truth is that some of these offices remain understaffed in light of the increased number of case filings. These increases also affect the workload of other offices--district attorneys, probation and parole, youth services and others.

"Increased litigation in the trial courts also has a direct impact on appeals filed in the Court of Civil Appeals, the Court of Criminal Appeals and the Supreme Court. The workload of these three courts has risen in a corresponding fashion to the trial courts, and while I believe the Supreme Court today has a sufficient number of judgeships, I cannot make the same statement with regard to our other two appellate courts. I might suggest that it may be time for the legislature to seriously evaluate the workload and number of judges of those two courts or perhaps the entire appellate system in regard to jurisdiction and number of judges needed on each court.

"I am concerned about another matter which is not necessarily a problem for courts, but perhaps one that we as an entire society must address. This concern deals with the staggering rise in juvenile crime in our state. The number of juvenile cases in our trial courts has risen by over 80 percent since 1977. You as legislators and our society as a whole must look upon this matter and its solu-

tion as a top priority. I do not have any pat answers for you today but we must begin to think about some solutions in a very serious vein.

"During the past four years, the Administrative Office of Courts has been working with court officials in a very concentrated manner to make our court system more accountable and efficient. Much of this work entails planning for the future and the additional increases in litigation which will surely be upon us. The only way by which we can minimize the need for additional judgeships and employees is to assist judges and clerks of court to become better managers of judicial case-loads.

"For several years, and I might add, with a pretty good degree of success, we have worked toward improved case and jury management. This has resulted in a considerable savings to the general fund through more efficiency and a reduced cost in the area of juror usage. The Supreme Court has recently adopted a schedule for the retention and destruction of court records and the Administrative Office of Courts has begun a records microfilming project which will eventually free up two-thirds of the courthouse space now used to house court paper. In conjunction with the University of Alabama, we have improved our in-state judicial training and educational program to the point that it is now one of the best in the Nation. Not only is a continuing educational program for judges important in regard to the quality of justice rendered; it is inherently cost effective because it helps minimize judicial error--a factor which can cause costly retrial of cases.

"I make these statements to you because I feel it is important for you to know that we are constantly trying to improve our justice system in this state and yet operate within the budget constraints which you in the legislature must face each year."

The 1981 regular session of the Alabama Legislature convenes Feb. 3.



## NEWS FROM THE JUDICIAL COLLEGE

### JUDICIAL COLLEGE TO SPONSOR FIRST ORIENTATION FOR NEW TRIAL JUDGES

A year-long project to design an Orientation Program for new trial court judges will culminate when the Judicial College offers its first week-long orientation Feb. 23-27 at Farrah Hall in Tuscaloosa. In March of 1980, Chief Justice C.C. Torbert Jr. appointed committees of circuit judges and district judges to work with the Judicial College staff to propose the program outline and recommend faculty.

The Circuit Judges Committee was chaired by Judge S.A. Watson of Huntsville and Judge Phyllis Nesbit of Bay Minette chaired the committee for district judges. Circuit judges serving on the Circuit Judges Committee were Arthur E. Gamble Jr. of the 2nd Judicial Circuit, Claud D. Neilson of the 17th Judicial Circuit, Inge P. Johnson of the 31st Judicial Circuit, Charles R. Crowder of the 10th Judicial Circuit, William D. Page of the 23rd Judicial Circuit and Wayne Johnson of the 26th Judicial Circuit. District judges serving on the District Judges Committee were Dwight Hixon of Bullock County, Nathaniel D. Owens of Calhoun and Cleburne Counties, Jerry L. Fielding of Talladega County and Robert W. Gwin of Jefferson County.

Both committees determined the program should be practical presentations and discussions of procedures the judges will use on a daily basis. The first day will be devoted to a joint session for both circuit and district judges dealing with Judicial Ethics, Transition to the Bench and the Administrative Office of Courts.

During the remainder of the week, judges will participate in their respective groups with experienced judges to discuss the various areas of responsibility. The new circuit judges will work on all aspects of criminal cases from the warrant through the grand jury, arraignment, trial, sentencing and post-trial actions. Civil cases are next on the agenda. Because juries are so important, a session will consist of a panel of experienced judges sharing things of which new judges should be careful.

The district judges will work on the categories of criminal cases in their jur-

isdiction--traffic, misdemeanors and conservation and their responsibilities in felonies. Civil cases with special emphasis on small claims will be taken up on the second day. Since most district judges have juvenile jurisdiction, these kinds of cases will receive attention on Thursday. Office management will be discussed on the final day.

The program will be evaluated by those participating as "students" and faculty. The committees will review this information and make recommendations for future orientation sessions.

### NEW MUNICIPAL JUDGES ORIENTATION PROGRAM TO BE HELD IN TUSCALOOSA

The Alabama Judicial College is sponsoring an orientation program for new municipal judges at Farrah Hall in Tuscaloosa on Saturday, Feb. 21 and Sunday, Feb. 22. The curriculum was designed by a committee of experienced judges headed by Municipal Judge Association President Jerry Batts of Athens.

A mock trial will be used to present the most salient points of cases heard by municipal judges. Judge Tennant Smallwood of Birmingham and Judge Norman Winston of Gardendale are writing the scenarios for presentation. Repeats will be made by agencies with whom municipal judges deal. These include the Administrative Office of Courts and the Department of Public Safety.

A presentation on the Rules of the Road Act will highlight the provision of this new law. A panel of municipal judges will discuss the various cases most commonly heard in Municipal Court--DUI, Traffic, Assault and Domestic, Theft and Worthless Checks.

The objective of the orientation is to provide practical advice and workable procedures for the new judges.

### THE NATIONAL JUDICIAL COLLEGE

#### SELECTS NEW ASSOCIATE DEAN

The National Judicial College of Reno, Nev. has chosen Chief Judge Edward D. Cowart of Miami to replace retiring Associate Dean James E. Johnson.

1981

ALABAMA JUDICIAL COLLEGE  
CONTINUING EDUCATION PROGRAMS

1981

GROUP MONTH	CIRCUIT COURT JUDGES	DISTRICT COURT JUDGES	JUVENILE COURT JUDGES	MUNICIPAL COURT JUDGES	CLERKS AND REGISTERS	CLERK/REGISTER EMPLOYEES	COURT REPORTERS	JUDICIAL SECRETARIES	OTHER GROUPS
1981 JANUARY	MID-WINTER CONFERENCE BIRMINGHAM Jan 22-23						ANNUAL CONFERENCE MOBILE Jan 22-23		DUI INSTR CSE REVIEW CRAIG-SELMA Jan 18-21
FEBRUARY	NEW JUDGES ORIENTATION TUSCALOOSA Feb 23-27			ORIENTATION TUSCALOOSA Feb 21-22	MID-WINTER CONFERENCE TUSCALOOSA Feb 5-6				
MARCH					MANAGEMENT SEMINAR III Mar 18-20, Bham Mar 25-27, Mtgy.				
APRIL	SPRING JUDICIAL SEMINARS TUSCALOOSA Apr 14-17								
MAY				ANNUAL CONFERENCE MONTGOMERY May 16-17					
JUNE			ANNUAL CONFERENCE BIRMINGHAM Jun 4-5		ANNUAL CONFERENCE EUFALA Jun 11-13				DUI INSTR CERTIFI CRAIG-SELMA Jun 21-26
JULY	SUMMER CONFERENCE MOBILE Jul 22-23							ANNUAL CONFERENCE GUNTERSVILLE Jul 16-17	
AUGUST					MANAGEMENT SEMINAR IV Aug 5-7, Bham Aug 12-14, Mtgy.				DUI INSTR TRAINING TUSCALOOSA Aug 13-14
SEPTEMBER	FALL JUDICIAL SEMINARS TUSCALOOSA Sep 8-11								APPELLATE JUDGES GULF SHORES Sep 17-18

NOTE: Addition of orientation sessions for new circuit and district judges Feb. 23-27;  
and orientation sessions for new municipal judges Feb. 21-22.

**ONE-STEP SUMMONING PROVISION PART  
OF PROPOSED JURY MANAGEMENT BILL**

If the proposed jury management bill is approved during the next session of the Legislature, circuit courts will have the option of combining the juror qualification and summoning process into a one-step procedure.

Alabama law presently requires all state courts to use a two-step qualification/summoning procedure. Under the existing two-step procedure, prospective jurors must be qualified prior to their names being placed in the trial court jury box.

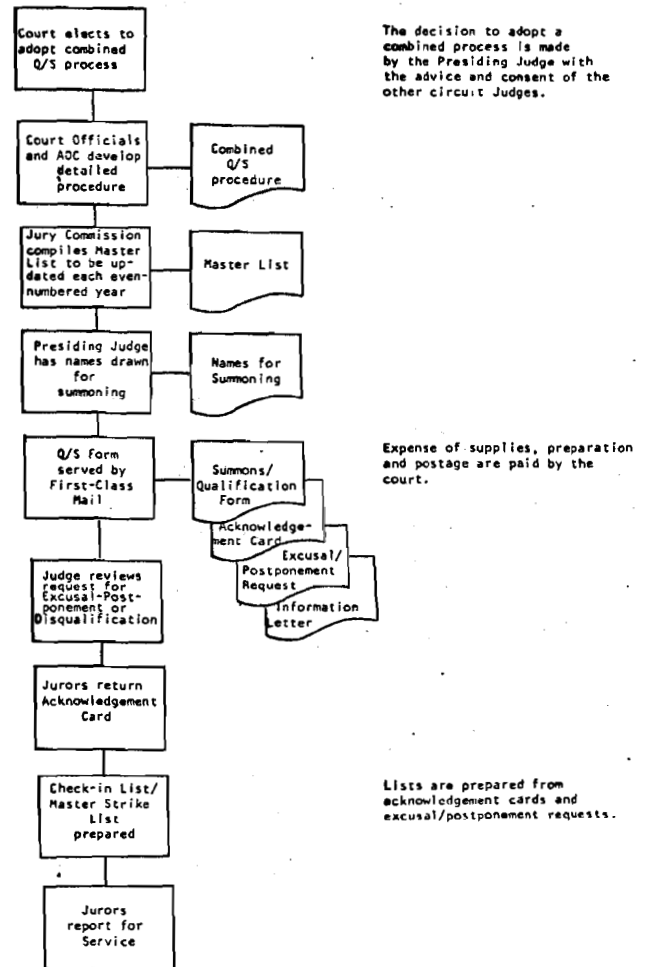
In the proposed one-step procedure, the juror summons, qualification questionnaire and other juror information is included in a single mailing. This simplified process eliminates the intermediate step of pre-qualifying persons prior to summoning.

Combined qualification and summoning has proven to be more efficient than the traditional two-step process.

Other states that have been using the one-step procedure for some time report a higher overall yield of jurors, substantial savings in postage and administrative labor and more efficient and consistent control over the entire jury qualification process.

See diagram at right.

**PROPOSED ONE-STEP QUALIFICATION/SUMMONING (Q/S) PROCESS**



**INSTRUCTIONS TO  
GARNISHEE FORMS**

According to the Wage and Hour Division of the U.S. Department of Labor, the federal minimum wage increased on January 1, 1981, to \$3.35 per hour. Due to the change in the minimum wage, the Administrative Office of Courts is in the process of revising Form C-24A - Garnishment Provisions of The Alabama Consumer Credit Act (Section 5-59-5, Code of Alabama 1975) and Form C-24C - Garnishment Provisions of the Federal Consumer Credit Act (Title 15 U.S.C.A. Section 1673).

These forms should be revised and be available for purchase soon. In the meantime, court officials should be aware of this change in garnishment proceeding.

**CIRCUIT CLERKS RECEIVE REPORT**

In order to update the end of the year Criminal Case History files, the Administrative Office of Courts mailed Felony Case Aging Reports to all circuit clerks on the first of December.

The Felony Case Aging Report lists for each circuit court all felony cases which have been filed and not disposed of for over 180 days.

The response from the circuit clerks has been quite good. Those who have not yet responded, please review the report carefully to determine if case filings have been submitted without the corresponding disposition. If cases included have been disposed, the dispositions should be submitted through regular reporting procedures.

If questions arise or assistance is required in reviewing the Felony Case Aging Report, contact Shirley Pritchett at the AOC.

# PEOPLE \* PEOPLE



BLAYLOCK

**R**uffin W. Blaylock, director of the Alabama Criminal Justice Information Center, has been appointed to the new advisory board of the Bureau of Justice Statistics.

The new Bureau will receive coordination and staff support from the Office of Justice Assistance, Research and Statistics which was established under the general authority and policy control of the U.S. attorney general by the Justice System Improvement Act of 1979.

Blaylock was one of 21 persons appointed to the advisory board by Attorney General Benjamin R. Civiletti.

"This distinguished panel of criminal justice practitioners and scholars will help to ensure that the Bureau of Justice Statistics meets the needs of the public and of the criminal justice community," Civiletti said. "It will play a major role in developing high professional standards for the organization."

The board will provide guidance to the bureau and recommend policies and priorities for bureau activity. The bureau is established with the mission to ensure that statistical efforts at federal, state and local levels produce reliable, comparable and timely crime and justice system data and that these data are collected, analyzed and disseminated in readily useable forms.

**V**irginia Stallworth Sharbutt, wife of retired Circuit Judge James H. Sharbutt of Shelby County, died Jan. 5 at a Birmingham hospital following a lengthy illness. She was 65. Mrs. Sharbutt was a home economics teacher at Vincent High School for 20 years. Her interment was at Vincent Cemetery.

**J**udge William C. Sullivan, 29th Judicial Circuit, is recuperating nicely following what appeared to be a heart at-

tack. Judge Sullivan spent eight days in the hospital.

**T**he Alabama Criminal Justice Information Center, in its January regular meeting, elected *Leo Bailey*, chief of police for

Florence, as its commission chairman for 1981. Chief Bailey became a member of the commission in November, 1980, when he was elected president of the Alabama Association of Chiefs of Police.

Bailey succeeds Chief Justice C.C. Torbert Jr. as chairman.

Houston County District Attorney *Tom Sorrell* was elected vice chairman.

The commission oversees the Alabama Criminal Justice Information Center which operates a statewide network of computers and terminals in 143 law enforcement agencies.

"This commission serves a vital and important role in the criminal justice community in Alabama and I am pleased to pass the chairmanship to the capable leadership that Chief Bailey will provide," Torbert said.

**G**ov. Fob James has appointed a Birmingham attorney to fill a vacant circuit judgeship in Jefferson County.

*Jack D. Carl* was appointed to fill the unexpired term of retiring Circuit Judge William C. Barber. Carl will work in the equity division of the 10th Judicial Circuit.

A graduate of Vanderbilt University undergraduate and law school, Carl was employed for 12 years in the legal department of Vulcan Materials Co. His appointment was effective Jan. 1.

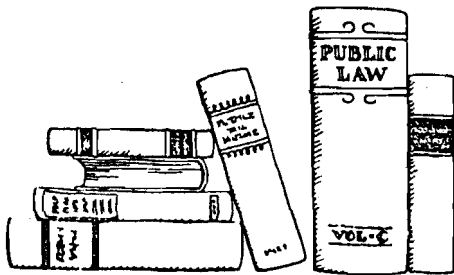
He and his wife, Winston, have an 11-year-old daughter, Sallye.

**D**oug Cockrell, Jefferson County register, is making much progress following his successful heart surgery. He had four by-passes and is recuperating at home.



BAILEY

## LEGAL NOTES



### ATTORNEY GENERAL OPINIONS

On Jan. 12, 1981, the attorney general issued the following opinion concerning suspension/revocation of drivers' licenses for driving under the influence of alcohol or controlled substances:

"Dear Colonel Shoemaker:

"Reference is made to your letter of Nov. 12, 1980 in which you request an opinion as follows:

"1) Does the five year period mentioned in Section 32-5A-191(d) serve to establish the level of punishment to be administered by the court or should it also be considered by the director of Public Safety in revoking a driver's privileges or driver license? Or, put another way-- In light of the provisions of Section 32-5A-195(j)(2), should the director of Public Safety consider whether a person had been convicted of driving under the influence in the past five years of simply review the driver's record and revoke the license and privilege if the record reveals a previous driving under the influence conviction regardless of the date?

"2) If the director may revoke only if a conviction for driving under the influence took place within the past five years, should the five year period include the time prior to Aug. 17, 1980, the effective date of Act 80-434 or is the director limited by considering only driving under influence offenses occurring after Aug. 17, 1980, in determining first offenses?

"3) Should the same license sanctions be applied to persons convicted of driving under the influence of a controlled sub-

stance or does the law require a license revocation even after a conviction of a first offense?

"4) What is the proper course of action for the Department of Public Safety if a court prohibits a person from driving for not more than six months as provided by Section 32-5A-191(c)? Should the department treat this prohibition on driving by the court as a revocation or suspension or should the enforcement on this prohibition against driving be left solely in the hands of the court?'

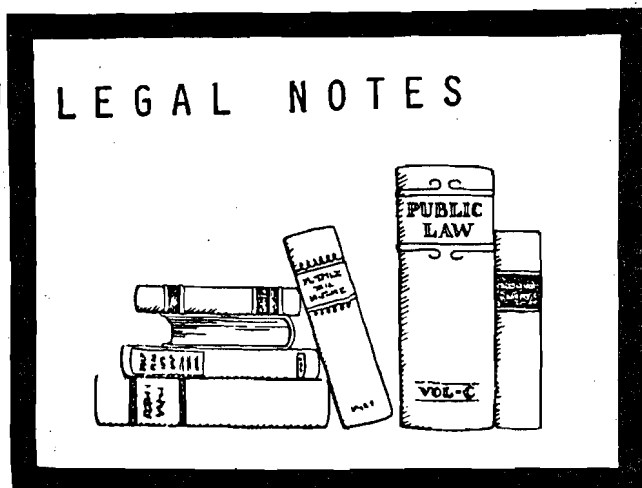
"In response to your first question, the five year period mentioned in the Code of Alabama 1975, Section 32-5A-191(d), would apply only to court action. Under the provisions of Section 32-5A-195(j) the department is required to revoke the drivers' license of any person upon a second conviction of driving under the influence of intoxicating liquor regardless of whether such second conviction occurred within a five year period.

"In answer to your second question, the provisions of Section 32-5A-195(j) merely refer to a conviction of driving under the influence of intoxicating liquor. It is immaterial whether such conviction occurred under the provisions of Section 32-5A-191 or under Section 32-5-170 which is now repealed. The department can thus consider convictions which occurred prior to Aug. 17, 1980.

"In response to your third question, Section 32-5A-195(j) requires the revocation of an individual's drivers' license upon a first conviction for violation of Section 32-5A-191(a)(3).

"In response to your final question, Section 32-5A-191 provides that upon a first conviction of driving under the influence of intoxicating liquor the court trying the case may prohibit the person so convicted from driving. This section does not give the court the authority to order the department to suspend or revoke a person's license. However, the court may under the provisions of Section 32-5A-195(h) in addition to prohibiting the person from driving recommend to the department the suspension of the drivers' license of the person convicted for a period up to six months.

"It is thus my opinion that a court has  
(Continued On Page 15)



## ATTORNEY GENERAL OPINIONS

*(Continued From Page 14)*

the authority to prohibit a person convicted of driving under the influence of intoxicating liquors from driving and to recommend to the department that the person's drivers' license be suspended. Neither Section 32-5A-191 nor Section 32-5A-195(j)(2) confers upon the court any authority to revoke an individual's drivers' license. Only the department can revoke an individual's drivers' license. See Section 32-1-1.1(53)."

### County Law Libraries Authorized To Purchase Legal Materials, Including Trial Aids

On Dec. 9, 1980, the attorney general determined that Section 11-25-8, Code of Alabama 1975, authorized county law libraries to furnish any reasonable trial aids, since this would simply be furnishing materials for legal needs. Such trial aids could include projectors, screens, anatomical charts and skeletons as they are apparatus that are often necessary to effectively try a case.

### Credit for Military Service

On Dec. 9, 1980, the attorney general issued an opinion concerning the purchase of retirement credit for prior military service. The opinion reads:

"Reference is made to your request for

an opinion from the attorney general regarding retirement benefits for military service in the Alabama State Employees' Retirement System and the Teachers' Retirement System under Act No. 80-639 of the Alabama Legislative Session.

"You specifically asked:

"It was our intent that the Teachers or Employees Retirement System be opened for the purchase of up to four years of retirement credit for certain non-member service and for all honorable military service regardless of the manner of separation from that military service. This would include persons retired from the military for length of service.

"We would greatly appreciate your response to these comments and your opinion concerning whether or not you believe Act 80-639 of the 1980 Legislature adequately provides the basis for military retirees, retired for length of service, to purchase under the funding provisions of this Act, up to four years of credit in the Employees' and Teachers' Retirement System.'

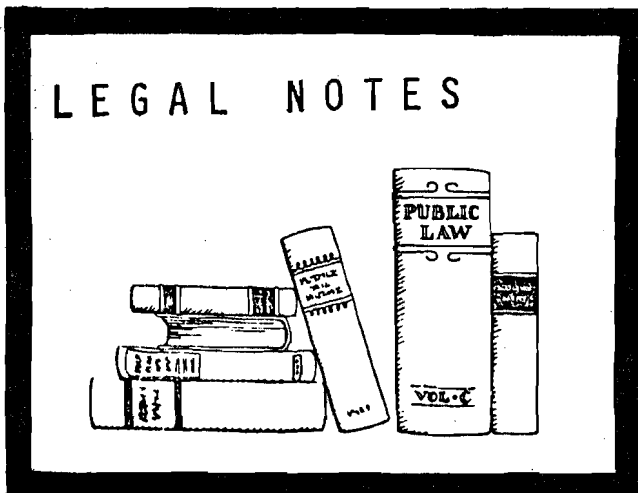
"Your question is to be answered in the affirmative.

"The relevant portion of Act No. 80-639 reads:

"Section 2. Any active and contributing member of the Employees' Retirement System of Alabama or the Teachers' Retirement System of Alabama, who is an active member of either system, and who has rendered eligible service to any employer covered under with system, may hereby claim and purchase credit for any such prior service as an employee of any such employer. Any active and contributing member of the Employees' Retirement System of Alabama or the Teachers' Retirement System of Alabama, who is an active member of either system, may claim and purchase up to four years' credit for United States military service.'

"As you mentioned in your letter the attorney general concluded in an opinion to the Honorable Jimmy Warren of Castleberry dated July 28, 1980, that active members of Teachers' or State Employees' Retirement Systems may claim and purchase up to four years credit for United States military service. The provision does not speak to whether credit for military service may be purchased only by those who served in the military the required time or to any individual who served in the

*(Continued On Page 16)*



## ATTORNEY GENERAL OPINIONS

*(Continued From Page 15)*

military and was honorably discharged by retirement or otherwise. The Act merely states that credit is to be given for 'United States military service.' Because of this the attorney general is of the opinion that the above quoted provision of Act No. 80-639 adequately allows individuals who have retired or who were otherwise honorably discharged from military service to purchase up to four years credit in the Teachers' Retirement System or the State Employees' Retirement System."

### Docket Fees in Workmens' Compensation

The attorney general issued the following opinion on Dec. 9, 1980:

"Reference is made to your request for an opinion from the attorney general as to the following matters:

"What is the correct docket fee to collect in a workmen's compensation case?

"Where should the money be distributed after collection?"

"Your first question can be answered by referring to Opinion of the Supreme Court, No. 11, 356 So. 2d 636, a copy of which is attached herewith, wherein the clerk of the Supreme Court reasoned that the docket fee for settlement in workmen's compensation cases should be treated as an original filing, that is to say that the correct docket fee to be collected in all workmen's compensation cases should be a total of \$33. with no state or local taxes to

be imposed thereon. Code of Alabama 1975, Section 25-5-56, which states the cost of filing a settlement proceeding shall not exceed \$2, is no longer operative. The amount of docket fee in workmen's compensation cases is now governed by Code of Alabama 1975, Section 12-19-71(3), and is treated as an original filing for cost purposes.

"Your second question as to how docket fees are to be distributed in a workmen's compensation matter is governed by Code of Alabama 1975, Section 12-19-72(3), which states:

"The docket fees collected in civil cases shall be distributed as follows:

"...(3) For cases filed in the circuit court, \$2 to the fair trial tax fund, \$28 to the state general fund and \$5 to the county general fund;..."

"In view of the foregoing statutory provision and the Opinion of the Supreme Court, No. 11, supra, with which the attorney general concurs, the amount of docket fee to be paid in all workmen's compensation cases is \$33 rather than \$35 with no tax being imposed thereon; furthermore, pursuant to Section 12-19-72(3), supra, \$28 of the amount collected should be distributed to the state general fund and \$5 to the county general fund."

### Arrests

On Dec. 9, 1980, the attorney general ruled that Section 32-5-171 of the Code, which provides for warrantless arrests at the scene of an automobile accident for violations of Section 32-5-170 (which was repealed by the Rules of the Road Act and replaced by Section 32-5A-191), now refers to Section 32-5A-191 and may continue to be used by law enforcement officers to effectuate warrantless arrests.

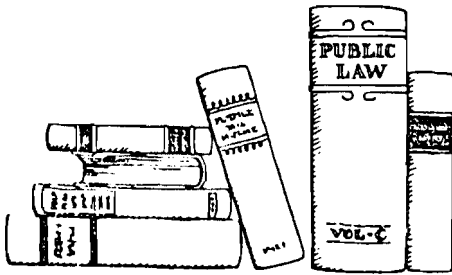
### Practice of Law by Retired Probate Judge

The attorney general issued an opinion on Nov. 26, 1980, which construed Section 12-18-89 of the Code as prohibiting a retired probate judge who receives retirement benefits from the Judicial Retirement System from practicing law. The opinion noted that there is no equivalent provision in Sections 12-18-1 through 12-18-34 governing retirement of circuit judges;

*(Continued On Page 17)*



## LEGAL NOTES



### ATTORNEY GENERAL OPINIONS

*(Continued From Page 16)*

therefore, the instant opinion does not conflict with a prior opinion dated July 28, 1980, to the effect that a retired, inactive circuit judge may practice law.

#### Salary of Probate Judge

The attorney general issued an opinion dated Nov. 26, 1980, holding that probate judges may receive the salary increase under Act 80-810 during their current terms. The opinion further held that an expense allowance may not be considered as part of the total \$22,500 compensation for probate judges required by Act 80-810.

#### Contributing to the Delinquency of Minors

On Nov. 26, 1980, the attorney general issued an opinion, based upon Section 12-15-13 of the Code, holding that a minor may be convicted of contributing to the delinquency of another minor.

### ALABAMA JUDICIAL INQUIRY COMMISSION

#### SYNOPSIS OF ADVISORY OPINIONS

Below are Synopses 80-XCI, 80-XCII and 80-XCIII received by the Administrative Office of Courts this past month from the Alabama Judicial Inquiry Commission:

SYNOPSIS 80-XCI--(1) Is a judge disqualified from hearing a case in which he or his spouse is related to the de-

fense attorney within the fourth degree?

(2) Is a judge disqualified from hearing a case in which he or his spouse is related to the prosecuting attorney within the fourth degree?

(3) Is a judge disqualified from appointing an attorney in an indigent criminal case where the attorney is related to the judge or his spouse within the fourth degree?

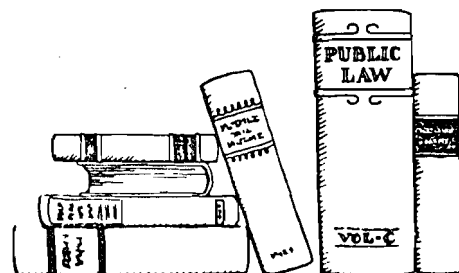
OPINION--Yes to (1), (2) and (3). A judge is disqualified from hearing any proceeding in which he or his spouse is related within the fourth degree by consanguinity or affinity to an attorney for either party, since under the Canons of Judicial Ethics, Canon 3C, the judge's impartiality might reasonably be questioned.

SYNOPSIS XCII--Is it permissible for a judge to provide the owner of a business with a photograph for public display on the business premises?

OPINION--No. Canon 2--"...(A judge) should not lend the prestige of his office to advance the private interests of others; nor should he convey the impression that they are in a special position to influence him."

SYNOPSIS XCIII--May a judge manage the investments of a professional association of medical doctors for remuneration?

OPINION--A judge may hold and manage investments for a professional association so long as he complies in all respects with all the provisions of Canon 5C, especially (1), (2) and (3). However, if a judge undertakes the operation of such a business, the Commission cannot predict whether factual circumstances might arise which would place the judge in conflict with Canon 5C.





# COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

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