



# COURT NEWS

Newsletter of the Alabama Judicial System

February, 1984

## Stripped-Down General Fund Budget Introduced After Wholesale Tax Measure Dies

A proposed 0.4 percent tax on wholesalers which was projected to add \$58 million to the general fund failed to gain enough support in the House February 16, 1984, and was withdrawn by its sponsor. The measure was proposed by the Governor to beef up the general fund and permit some critically needed budget increases in the general fund budget which totaled \$532.7 million.

After the defeat of the tax measure February 16, a second general fund budget was introduced which totaled \$475 million. The \$475 million budget was derived by reducing the current budgets of all general fund agencies, including the courts, by three (3) percent. The current operating budget of the trial courts is \$46.7 million. Under the new budget proposal, the trial court budget would be reduced to \$45.3 million, a \$1.4 million decrease over this year's budget and a \$2.5 million decrease from the Governor's proposed general fund budget for 1984-85.

After the action in the House, the Governor's office issued the following statement to all departments:

"At the beginning of this legislative session, Governor Wallace presented a budget that would meet the basic needs of the General Fund Agencies and provide for salary increases. He also proposed a funding measure to provide the revenue for these needs.

"Today's action in the House of Representatives clearly shows that although a majority of the legislators favor the increases in the budget, they are not willing to support the Governor's proposed funding measure to provide the money. If the legislature is unwilling to provide the funds, it will be necessary to reduce the budget

*(Continued on Page 4)*

### FY 83-84 BUDGET UPDATE

"Despite concern over next year's budget, we must continue to focus our attention on our current FY 83-84 budget problems," said Allen Tapley, Administrative Director of Courts. "During the first three months, we were able to live within our monthly budget allocations. In January, however, we overspent our monthly allocation by approximately \$55,000. If this trend continues, we could very well be \$500,000 over the amount allocated by the end of the fiscal year," cautioned Tapley.

"We should not lose sight of the fact that, with the exception of the Judicial College, our current budget is the same as our FY 1982-83 prorated budget," said Tapley. "As you are aware, last summer we began filling some of our vacant positions and granted retroactive merit pay increases to court personnel. This fiscal year, we have continued to grant merit raises as they are due. These actions have increased our expenditures over the previous year and mean that we must continue to hold the line on the purchase of forms and supplies, the repair of equipment, and expenses associated with travel, postage, telephone, and jurors. In other words, we're still not out of the woods in respect to our current prorated budget. We must still find ways to reduce our expenditures," stated Tapley.

### NEW JUDGESHIPS REQUESTED

During budget hearings before the Joint Committee of the House Ways and Means and Senate Finance and Taxation Committees on January 18, Chief Justice C. C. Torbert, Jr., also requested a total of eight new circuit judgeships for FY 1984-85. "For the first time, the state court system is making one, consolidated request for additional judgeships," said Torbert. "We have critically assessed our judicial needs systemwide, and we have prioritized those needs," Torbert told the committee. The eight additional judgeships are recommended in the following order: two civil division judges, Birmingham; one domestic relations judge, Birmingham; one civil division judge, Birmingham; one family court judge, Montgomery County; one judge, Mobile County; one judge, Lauderdale County; and one judge, Baldwin County.

The Judicial Study Commission endorsed the need for the eight judges during its annual meeting in Tuscaloosa in January.

### National Survey

#### **CITIZENS UNINFORMED ABOUT COURTS**

"The American public of 1983 is woefully uninformed about the operation of our courts and the people who preside over them. . ." This is the conclusion of a new national survey titled, "The American Public, the Media, and the Judicial System," which was commissioned by the Hearst Corporation.

The Hearst survey, which was conducted in the Summer of 1983, provides a yardstick by which to measure the amount of change which has taken place in the level of public awareness since the Yankelovitch, Skelly and White survey which was conducted for the National Center for State Courts in 1977. According to Hearst Corporation President and Chief Executive Officer Frank A. Bennack, Jr., little has changed since the 1977 report. "Americans today still have serious misunderstandings about some of our most basic legal concepts and the operations of our judicial system...things have not gotten better," said Bennack.

Among the findings of the survey are the following:

- 50 percent of the American public do not understand or appreciate the legal concept of innocent until proven guilty.
- 49.9 percent of the respondents who claimed to have served on juries said that it was up to the person accused of a crime to prove his innocence.
- Of the three branches of government, the respondents felt least informed about the courts.
- 55 percent incorrectly believe that if someone is found innocent of a crime, the state can appeal the case.
- 77 percent incorrectly believe that every decision made by a state court can be reviewed and reversed by the U.S. Supreme Court.
- 45 percent believe that a district attorney's job is to defend an accused criminal who cannot afford a lawyer.
- Only 35 percent believe that a person accused of a crime should be able, with the consent of the prosecutor, to plead guilty to a lesser charge, ensuring that he will receive some level of punishment. *(Continued on Page 6)*

## Judicial Study Commission Meets In Tuscaloosa

On January 12-13, 1984, the Alabama Judicial Study Commission, chaired by Chief Justice C. C. Torbert, Jr., held its annual meeting at the Law Center on the University of Alabama campus.

Created in 1971 by the Alabama Legislature, the Judicial Study Commission is a 32-member body with members from each of the three branches of government. Its mandate is to "continuously study the judicial system of the state...and all matters relating directly or indirectly to the administration of justice in Alabama and make recommendations thereto."

Following a welcome by Dean Charles W. Gamble, Dean of the University of Alabama Law School, Chief Justice Torbert officially convened the Study Commission. Highlights of the Commission meeting are as follows:

1. The Commission approved Chief Justice Torbert's recommendation for eight new circuit judgeships. (See **New Judgeships Requested.**) The Commission also approved the recommendation of Senator Hank Sanders of Selma that, following the filling of the "critically needed" judgeships, other "needed" judgeships, such as in the 4th Judicial Circuit, be considered.

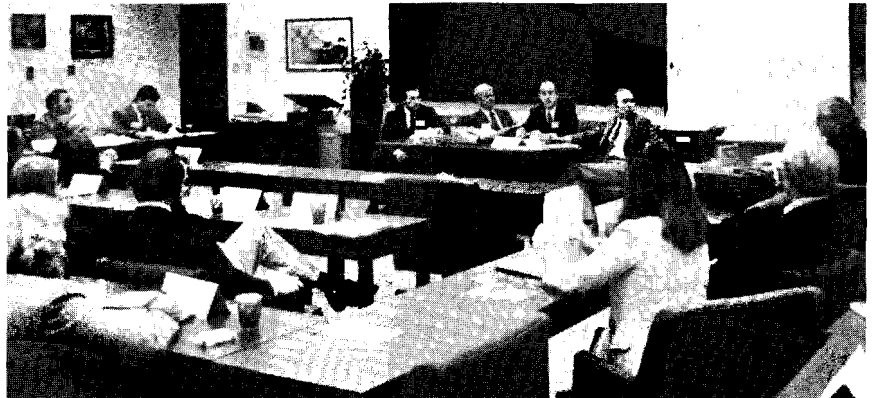
2. As a result of the pressing caseload at the Supreme Court and the Courts of Criminal and Civil Appeals, the Commission recommended the appointment of a Task Force which would make recommendations regarding the reorganization of the state appellate court system. It is the consensus of the Commission that an appropriate short-range solution to the serious caseload problem might be adding appellate judges.

3. The Commission passed a resolution regarding the critical need for a new judicial building for presentation to the Legislature in order that an in-depth study might be accomplished within the next year.

4. Proposed legislation which would allow sheriffs the option of using first class mail for service of all witness subpoenas in lieu of personal delivery, unless the subpoena is issued during a trial, or unless the requesting party expressly requests personal delivery in writing, was approved by the Commission.

5. By acclamation, the Commission endorsed its support of the proposed Alabama Uniform Parentage Act at the request of District Judge John P. Oliver, Tallapoosa County, President of the Juvenile Judges Association.

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### PRESIDING JUDGES MEET

Chief Justice C. C. Torbert, Jr., and Allen L. Tapley, Administrative Director of Courts, met with the presiding circuit judges on January 18 to discuss administrative aspects of the unified judicial system. Among the topics reviewed were the proposed budget for FY 1984-85, the need for additional judgeships, a study of weighted caseloads, administration of indigent defense, and restitution. The presiding judges represent each of the 39 judicial circuits.

### ALCOHOL LEVEL II DUI PROGRAMS PLANNED

The United States Congress in guidelines for states for drunk driver programs has required each state to publish minimum standards for rehabilitation and treatment for people convicted of DUI. The Alabama Administrative Office of Courts (AOC) has circulated a draft of such standards to DUI Court Referral Program agencies for comment prior to February 15, 1984. Soon after that date, another chapter will be added to the DUI Program Procedure Manual outlining these minimum standards. The eventual outcome of these activities will be to provide district and municipal courts with a statewide network of organizations providing long-range alcohol rehab and treatment for each individual convicted of DUI who indicates a problem with alcohol. This will include first offenders so designated through clinical evaluation and all multiple offenders. Programs will be self-supporting. Copies of the new chapter to the manual will be provided to each court in the state as soon as printed.

### Stripped-Down General Fund Budget Introduced (Continued from Page 1)

to available revenues. Such a budget was introduced today in the House.

"Attached, you will find a comparison of how your department will be affected under the new proposed budget which will be necessary, unless the legislature changes its posture and approves either the Governor's revenue proposal, or an alternative one."

### STATE GENERAL FUND BUDGET SUMMARY

<u>Agency</u>	<u>FY 1983-84 General Fund Appropriations</u>	<u>FY 1984-85 General Fund Governor's Rec.</u>	<u>FY 1984-85 General Fund Substitute</u>
<b>Judicial</b>			
Court of Civil Appeals	\$ 791,160	\$ 890,000	\$ 767,426
Court of Criminal Appeals	1,243,209	1,270,000	1,205,913
Judicial Inquiry Commission	73,511	75,000	71,306
Supreme Court	3,047,524	3,300,000	2,956,098
Unified Judicial System	<u>46,703,220</u>	<u>47,800,000</u>	<u>45,302,123</u>
<b>Total Judicial</b>	<b>\$ 51,858,624</b>	<b>\$53,335,000</b>	<b>\$50,302,866</b>

Chief Justice Torbert joined the Governor's concern over funding of state agencies and departments. "We simply cannot provide normal or even adequate court services next year if our budgets are reduced to the amounts in the new proposed general fund budget," Torbert said.

The new budget does not provide funds for any type of cost-of-living raise for state employees. The lack of growth projected in general fund revenues has put a ceiling on the total budget at around \$475 million unless new sources of revenue are enacted by the legislature.

## Trial Judges Gather in Montgomery for Mid-Winter Meeting

Alabama's Circuit and District Judges met January 19-20 in Montgomery for their Mid-Winter Conference--the first conference since the Legislature appropriated funds for judicial education after a year of only stop-gap meetings on critical topics. Chief Justice C. C. Torbert opened the conference with a State of the Judiciary address. He commended the judges on the fine job they were doing in handling cases in a timely manner and in being very cost-conscious when appropriated funds were reduced. He noted that while the number of jury trials had increased significantly in 1982-83, juror costs were down approximately \$40,000.

The educational seminars offered at the conference provided the judges a wide range of topics and faculty. Judge Dominick Matranga of Mobile discussed factors to consider in setting the amount of bail, forfeitures, and sureties. The Administrative Procedures Act was presented by Montgomery attorney Alvin T. Prestwood and John Wilkerson, Clerk of the Court of Civil Appeals. George Earl Smith, Reporter of Decisions for the Supreme Court, discussed Judgment Drafting where questions arise in the Appellate Courts as to finality, intent to adjudicate, and matters adjudicated. Judge John Karrh of Tuscaloosa discussed Judicial Immunity and Liability, particularly the recent cases arising in these areas.

Since the new DUI laws took effect last summer, judges were anxious to know how they were being administered and adjudicated. This session was presented by Montgomery attorney Tommy Kirk and Montgomery Municipal Judge Curtis Springer. A regular feature of the Mid-Winter Conference is an update on civil law and procedures. Recent Developments in Civil Procedures was presented by Retired Circuit Judge James Haley. Cumberland Law Professor Sara Dominick Clark presented Recent Alabama Real Estate Decisions, and Other Impact Decisions was presented by Judge Richard L. Holmes of the Court of Civil Appeals. Judge Randall Thomas of Montgomery discussed how to use pretrial conferences in criminal cases. The discussion and questions were very informative.

On the final day, the sessions included Sales for Division, presented by Jesse M. Williams, Montgomery attorney; a discussion of the two proposed Criminal Rules which become effective in March, conducted by Judge James Garrett of Birmingham; and a session on laws relating to animals and conservation laws. These sessions were conducted by Judge Larry

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**National Survey****CITIZENS UNINFORMED ABOUT COURTS**

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"In light of these findings, it is to our credit that we in the Alabama Judiciary have long been involved in educating and informing the public about our court system," said Allen Tapley, Administrative Director of Courts. "We must, however, continue to increase our efforts in this vital area," stated Tapley.

If you would like a copy of the report as it appears in the Fall 1983 State Court Journal, please contact Bill Campbell at the Administrative Office of Courts.

**Judicial Study Commission Meets in Tuscaloosa**

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6. At the request of Senator Earl F. Hilliard of Birmingham, the Commission supported adoption of a resolution which recognized the disparity in the number of black judges in the state's trial and appellate courts. The Honorable Polly Conradi, circuit clerk, Jefferson County, suggested that the resolution should also reflect that support for more women judges be included. The resolution is to be drafted and approved by the Commission for eventual presentation to the Governor, Lt. Governor, Chief Justice, Speaker of the House, and other bodies involved in the judicial appointment process.

At the conclusion of the meeting, John S. Casey, Esquire, of Heflin, was elected vice chairman, and Jack C. Dixon was elected to serve as the Commission's secretary. An executive committee for the Judicial Study Commission was selected and included the following: Senator Ryan deGraffenried, Jr., Tuscaloosa; Representative Michael Onderdonk, Chatom; Judge Richard Holmes, Jr., Court of Civil Appeals; and Judge Robert E. L. Key, Presiding Judge, 35th Judicial Circuit, Evergreen.

**Trial Judges Gather in Montgomery for Mid-Winter Meeting**

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Lapkovitch of Walker County and Judge George Carpenter of Colbert County with the following Conservation Department officials serving as panel members: Commissioner John W. Hodnette; Charles Kelley, Director of the Fish and Game Division; Legal Counsel Jim Goodwyn; and Dalton Halbrook, Chief Enforcement Officer of the Game and Fish Division. Judge Joe Barnard of Birmingham conducted the final session on Contempt, discussing the aspects of both civil and criminal contempt and the latest

Alabama cases dealing with the subject.

The judges had an opportunity to tour prison facilities on Wednesday afternoon before the conference convened on Thursday. Commissioner Fred Smith arranged for the judges to see the induction center, Staton, and the Frank Lee Youth Center.

The next conference for trial judges is the Spring Judicial Courses on April 24-26 in Tuscaloosa.

**Your contributions to Court News are welcome.** If you have an amusing anecdote, human interest story, or technical material you wish to share with others within the court system, please contact Bill Campbell.

## Clerks and Registers Mid-Winter Conference Held

The clerks and registers held their Mid-Winter Conference on February 2-3, 1984, in Dothan, Alabama. G. Ronald Harwell, Circuit Clerk of Sumter County and President of the Clerks and Registers Association, convened the conference which was followed by sessions on jury management, internal financial control, post-conviction actions and prisoner mail, and appellate procedures.

The clerks and registers had their juror IQ tested during the juror management session led by Frank Gregory, Director of the State Trial Court Operations Division of the AOC. The session covered topics such as source lists, juror qualification and summoning, orientation, utilization, voir dire, paying, exit questionnaires, and juror statistics. At the conclusion, Julia Trant, Circuit Clerk of Houston County; R. L. Foster, Circuit Clerk of Bibb County; and Sam Grice, Circuit Clerk of Talladega County, discussed the jury management programs in their counties.

Oliver Gilmore, Assistant Director of AOC Operations, discussed internal controls

and distributed a new **Clerks and Registers Internal Control Guide**. The new publication provides an in-depth discussion of the concepts and principles of internal control as well as specific information regarding internal control in the clerks' offices. It also contains a step-by-step model transaction flow and a check list by which clerks can determine if there is an adequate level of internal control in their offices. Any court official or employee who would like a copy of the new guide should contact Oliver Gilmore.

The program concluded on Friday with a session led by Linda C. Breland, Assistant Attorney General, and John L. Lazenby, Circuit Clerk of Elmore County, on post-conviction actions and prisoner mail.

The appellate procedures session featured Dorothy F. Norwood, Deputy Clerk of the Supreme Court; Molly S. Jordon, Clerk, Court of Criminal Appeals; and John H. Wilkerson, Clerk, Court of Civil Appeals. Julia L. Trant moderated the session.

### JUDICIARY CERTIFICATE PROGRAM INAUGURATED BY THE ALABAMA JUDICIAL COLLEGE

At the Judges Mid-Winter Conference, Chief Justice C. C. Torbert, Jr., announced the initiation of a Judiciary Certificate Program to recognize judges who participate in and serve as faculty for judicial education meetings. The Certificate Program has been under study by committees of judges for several years. These committees determined that 1984 was the year for the Judicial College to launch the project.

The Judicial College will award a certificate to a judge who completes a minimum of 100 hours of instruction offered by the College at conferences and courses within four years of enrollment. The Judges' Education Committees, responsible for planning these meetings, will designate the courses which meet their criteria in order for them to count toward certifi-

cate requirements. Any judge who serves as a faculty member and prepares a hand-out for the course will earn double the hours credit awarded to the participant.

Participation in the certificate Program is strictly voluntary. A judge who chooses to participate will indicate his intention by completing an enrollment form and filing it with the Judicial College. The College will maintain all of the records for the program.

Interest in the Judiciary Certificate Program is very high, based on the initial number of judges who have filed enrollment forms. At press time, 119 judges have enrolled. Since there is no deadline for enrollment, this number is expected to increase with each meeting of the judges.

## MUNICIPAL JUDGES ATTEND EDUCATION CONFERENCE IN TUSCALOOSA

The Alabama Judicial College sponsored an Education Conference for Municipal Judges on February 11-12 at Farrah Hall on the University of Alabama campus in Tuscaloosa. The conference was designed to offer continuing judicial education on timely topics for all Municipal Judges. Since the Judicial College is an agency approved by the State Bar Association for offering continuing education, CLE credit was earned by participation in the conference.

The planning committee elected to deal with the practical aspects of operating a municipal court when they selected the topics for this conference. These included a session on proper courtroom decorum that has been developed by Judge Eason Mitchell of Montevallo. Court observers presented a summary of their observations and perceptions of courts in operation. Judge Kenneth Ingram, Chairman of the Judicial Inquiry Commission, gave a report from that commission.

Various aspects of municipal court operations were discussed, including: Necessity of a Prosecutor, Judge Rick Johanson, Leeds; Failure to Pay Fines and Court Costs, Judge Roy Hasseltine, Rogersville; Forfeitures, Judge Miles Huffstutler, Homewood; Municipal Court Forms, Angelo Trimble, the Administrative Office of Courts; and Sentencing, Judge Alexander Smith, Oneonta. A general discussion of municipal court problems was moderated by Judge Jack Lowther of Vestavia Hills. Arthur Parker, of the firm Parker and Dawson, discussed Search Warrants.

Since traffic cases comprise a large part of the docket in municipal courts, Major Harold Hammond, Chief of the Driver License Division of the Department of Public Safety, made a presentation on the rules and regulations governing his department. Municipal judges also had an opportunity to provide information and opinions to the Governor's Task Force on Drunk Driving.

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### NOTICES...NOTICES...NOTICES...

**Court Calendars—Mail to Administrative Office.** The Administrative Office requests that court officials forward a copy of both circuit and district court calendars for 1984 terms of court to Nancy L. Morochnick.

**Semi-Annual Report on Cases due under Canons of Judicial Ethics.** Forms for the semi-annual report on cases or matters under submission or advisement for six months or longer have been mailed by the Administrative Office to all circuit, district, and active retired judges. The current reporting period covers 7/1/83 through 12/31/83. The Administrative Office requests that all trial judges return their reports to Nancy L. Morochnick.

**Error in Manual for Court Reporters.** In Chapter VII, "Appeal Transcripts and Format," pg. VII-2, dated January 1, 1980, under 2.c., general specifications for appeal transcripts, the page size for transcripts is incorrectly shown as 8-1/2 x 13 inches. Note that the correct page size for transcripts is 8-1/2 x 14 inches, as stated in Rule 40, Rules of Judicial Administration (ARJA), concerning description of and fee for transcripts. The specific wording in Rule 40, ARJA, is "...each page of the transcript of the proceeding which shall be on legal size paper containing a minimum of 30 double spaced lines with margins of no less than 3/4 inches nor more than 1 inch on each side, 1-1/2 inches at the top and no less than 1/2 inch nor more than 1 inch at the bottom." A format form is printed immediately following Rule 40 in the Rules of Judicial Administration.



**NEW DIRECTORS OF JUDICIAL COLLEGE FACULTY ASSOCIATION INSTALLED**

Four new members of the Board of Directors, Alabama Judicial College Faculty Association, were installed by Allen L. Tapley, Administrative Director of Courts, during the regular meeting of the Association, January 19, 1984, in Montgomery. The new members are: Douglas S. Webb, Presiding Judge, 21st Judicial Circuit, Brewton; Gay M. Lake, Jr., Judge, District Court of Tuscaloosa County, Tuscaloosa; Doris T. Turner, Clerk, 6th Judicial Circuit, Tuscaloosa; and Julia R. Ewing, Official Court Reporter, 15th Judicial Circuit, Montgomery. Selection of members to the board of directors is made by the presidents of their respective associations and serve for a term of one year.

Judge Gay M. Lake, Jr., was elected Chairman of the Board of Directors, and James E. Berry, Assistant Director, Alabama Judicial College, was selected as Secretary/Treasurer. Judge Lake replaces Judge A. Farrell McKelvey, District Court of Wilcox County, Camden, who served a two-year term as chairman of the board.

Three additional members serve on the board by virtue of their respective offices: C. C. Torbert, Jr., Chief Justice, Supreme Court of Alabama; Allen L. Tapley, Administrative Director of Courts, Administrative Office of Courts; and Thelma Braswell, Director, Alabama Judicial College.

**Revised Alabama Judicial College Continuing Education Program Calendar for 1984**

1984		ALABAMA JUDICIAL COLLEGE CONTINUING EDUCATION PROGRAMS								1984	
GROUP MONTH	CIRCUIT JUDGES	DISTRICT COURT JUDGES	JUVENILE COURT JUDGES	MUNICIPAL COURT JUDGES	CLERKS AND REGISTERS	CLERK/REGISTER EMPLOYEES	COURT REPORTERS	JUDICIAL SECRETARIES	OTHER GROUPS		
1984 FEBRUARY				EDUCATION MEETING FEB 11-12 TUSCALOOSA	MID-WINTER CONF FEB 2-3 DOTHAN						
MARCH					SPRING SPECIALTY CONFERENCE MAR 22-23 BIRMINGHAM						
APRIL	SPRING JUDICIAL COURSES APR 24-26 TUSCALOOSA										
MAY		NEW JUDGES ORIENT MAY 14-18 TUSCALOOSA		LEAGUE CONF MAY 5 BIRMINGHAM					MUNI COURT CLERKS & MAGISTRATES SEM MAY 9-10, MOBILE MAY 16-17, HVILLE MAY 23-24, MTGY JUN 6-7, BHAM		
JUNE			ANNUAL CONFERENCE JUN 7-8 BIRMINGHAM		ANNUAL CONFERENCE JUN 14-15 GULF SHORES				DUI INSTR CERT JUN 18-21 TUSCALOOSA		
JULY	ANNUAL CONFERENCE JUL 11-12 MOBILE						ANNUAL CONFERENCE JUL 13-14 EUFULA	ANNUAL CONFERENCE JUL 19-20 BIRMINGHAM			
AUGUST									DUI INSERVICE TRNG AUG 9-10 BIRMINGHAM		
SEPTEMBER									APPELLATE JUDGES SEP 20-21		

**CHANGES:** The dates for the New Judges Orientation Program have been changed from February 13-17 to May 14-18 and now for district judges only.  
 The dates for the Official Court Reporters Annual Conference have been changed from July 12-13 to July 13-14.  
 The dates selected for the Appellate Judges Annual Conference are September 20-21.



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