

COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

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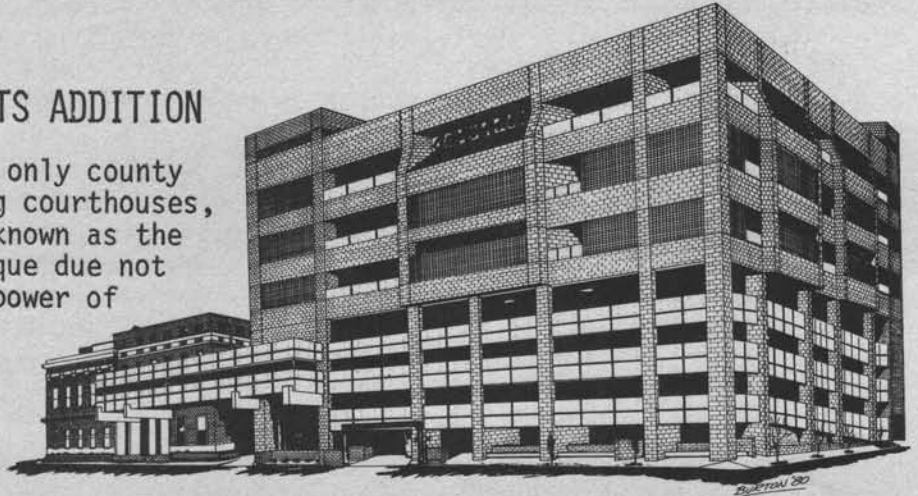
DEDICATION CEREMONY HELD

BESSEMER COURTHOUSE GETS ADDITION

Jefferson County is not the only county in the state with two operating courthouses, but the courthouse in what is known as the Bessemer Cut-Off is deemed unique due not only to the presence, but the power of the branch courthouse located there. It is the only dual courthouse with any real semi-political autonomy.

This past month, dedication ceremonies were held for a seven-story addition to the courthouse in Bessemer, making it the tallest building in that Jefferson County city.

The second addition to the 1920 Bessemer Courthouse, completed this year,



ARTIST SKETCH OF NEW COURTHOUSE

includes four floors of parking, dis-
(Continued On Page 2)



CHIEF JUSTICE C. C. TORBERT JR. AND RENEAU P. ALMON, ASSOCIATE JUSTICE, hold a press conference in Mobile while the Supreme Court held court there Oct. 31. As part of an effort to allow citizens across the state to hear the Supreme Court as it argues cases, the court also held session at Cumberland School of Law in Birmingham Nov. 7.

BESSEMER COURTHOUSE GETS ADDITION

(Continued From Page 1)

tract and circuit courtrooms and offices, sheriff's department, treasurer's office and jury assembly rooms. It is connected to the original structure by a covered sidewalk.

The old section will be used for probate, tax assessor and collector, family court, district attorney, law library and other county offices.

The new annex, financed through a revenue sharing plan, was constructed by the Robins Corporation and was designed by Buddy Golson of Blondheim, Williams & Golson, Inc. at an estimated cost of \$6.5 million.

The first circuit court in Bessemer was authorized in 1893 with a circuit judge from Birmingham presiding. Prior to this time, Justice of the Peace Court had been held almost since the inception of the city of Bessemer. Court was then held in Rebie Hall on the site of what is now the Realty Building.

Rebie Hall burned in 1914 and the following year, Bessemer's state representative, W. S. Welch, succeeded in getting legislation passed creating a new branch of the 10th Judicial Circuit. The new division would have its own judge "in residence." Court was held at city hall while a new building was being erected on the site of old Rebie Hall.

It was felt by the citizens, however, that to ensure keeping the newly created court and to best serve the needs of the people of the Cut-Off, it was most important to have an actual courthouse located in Bessemer. Again in 1915, Welch succeeded in obtaining authorization for a courthouse and jail and in 1919, after much delay due primarily to World War I, the structure was completed at a cost of approximately \$175,000.

The Bessemer branch of court grew and in 1938, talk began of a courthouse expansion led by Judge Gardner Goodwin, Sr. Goodwin proposed to the county commission that an addition be built under the Works

Progress Administration. The WPA ended, however, and talk of the expansion died until 1941 when members of the Bessemer Bar Association and concerned citizens again presented an expansion proposal to the county commission. Again, delays primarily due this time to World War II, caused bids not to be let until 1948. The three-story addition, though, was completed in 1949. A 1955 facelift and a quarter-million renovation between 1966 and 1970 kept slight pace with the growing needs of the flourishing Bessemer until 1980, when the seven-story addition was completed to serve the present and future needs of the citizens of the Bessemer Cut-Off.

The Bessemer Division of the 10th Judicial Circuit now has its own circuit clerk, J. B. Vines; three circuit judges, Gardner F. Goodwin, Jr., Walter G. Bridges and Dan Reynolds; and three district judges, Bill Patton, Rogert Halcomb and Ralph D. Cook.

ATTENTION: JURY COMMISSIONS

Re: Elimination of Question #16.

During the October term the members of the Supreme Court of Alabama ruled that question number 16 be deleted from the juror qualification questionnaire. Question 16 reads: "Do you desire to be excused from jury duty for any reason? If yes, explain below the grounds for your excuse."

This question has been deleted as a result of the many comments made by jury commissioners throughout the state who feel that the question of excusal from service should not be included in the qualifying phase of the juror selection process. For future use, Jury commissions will have to utilize new qualification questionnaires which do not contain question number 16. The AOC will revise the qualification questionnaires for future use. Commissions presently reviewing questionnaires should disregard responses to this question. If there are any questions regarding this change, contact Chris Williams (1-800-392-8077) of the Jury Management Staff of AOC.

JACKSON COUNTY COURTHOUSE

PRESENT STRUCTURE IS THIRD IN COUNTY

Scottsboro, the county seat of Jackson County, is best known throughout the state for its bustling trade day, First Monday which is held, as its name indicates, on the first Monday of each month. Traders from near and far gather around the courthouse square in the heart of Scottsboro to trade and sell their wares.

In 1977, an urban renewal federal grant was issued to revamp downtown Scottsboro and re-route traffic to avoid the inevitable tie-ups that occurred due to the crowd that flooded the city on First Monday.

The old timers who spent their days at the square, whittling and chewing the fat, may have been somewhat dismayed when the comfortable wooden benches were replaced with modern stone ones, but the traders who had been participating in First Monday for many years must have been impressed with the "new look" and the accommodating structure of the renovation.

The Jackson County Courthouse stands central to the thriving city. Surrounded by trees, it is here that the 38th Judicial Circuit is housed along with other county offices. Built in 1912, the present structure is the third courthouse for the county and has had two additions--one in 1954 and the other in 1968.

The first court in Jackson County was held at Sauta in Salt Petre Cave. In 1821, the county seat was moved to Bellefonte and the first courthouse was constructed there in 1828. In 1863, this courthouse burned, presumably at the hand of Yankee Colonel Kryzhanowski.

The second courthouse was completed in 1870 in Scottsboro since the county seat had been moved there. Scottsboro was or-



COURTHOUSE CLOCK TOWER

iginally named Scottsville, but when it was discovered that Alabama already had a town by that name, Scottsville was changed to Scotts Mill. In 1868, it was given the name it now bears. The town was named for an innkeeper who resided in Bellefonte but who owned the land upon which Scottsboro was founded, Robert Thomas Scott. Scott was a native of North Carolina, moving to Alabama in 1817. He would eventually set aside, in his will, three acres for a courthouse square, a school and other public buildings.

Handmade bricks from the courthouse in Bellefonte were used in the construction of the second courthouse and would be used again in 1912 to build the third and present courthouse after the second, like the first, burned down.

Jackson County was created in 1819 and named in honor of General Andrew Jackson. The lands used in formation of the county were largely made up of a Cherokee land cession. Scottsboro is the largest town in Jackson County. Other towns are Bridgeport, Stevenson, Paint Rock, Woodville and Hollywood, formerly Bellefonte. The Tennessee Valley Authority is presently constructing a nuclear plant at Hollywood named after the old Bellefonte.

Circuit judges for the circuit are John B. Tally and W. Loy Campbell; district judge is John L. Haislip and circuit clerk is Charles W. Wann.



JACKSON COUNTY COURTHOUSE

54 JUDICIAL POSTS FILLED IN NOV. 4 GENERAL ELECTION

Supreme Court Justice Reneau P. Almon, the only appellate court judge with opposition in the Nov. 4 general election, easily won re-election. Almon, a Democrat, defeated Republican Fred Blanton by a vote of 661,771 to 384,466.

Other appellate judges, running unopposed, who were re-elected to six-year terms were: Supreme Court Justices Janie Shores and Eric Embry and L. Charles Wright, presiding judge of the Court of Civil Appeals.

The only contested trial court judgeships in the Nov. 4 election occurred in Cullman, Jefferson, Sumter and Tuscaloosa Counties.

In Jefferson County, Circuit Judge Wade C. Zanaty Jr., the incumbent Democrat, easily defeated Barbara Norris Scott, running on the Republican ticket.

In Cullman County, Democrat J. Wilfred Tucker defeated Republican Roy W. Williams for a district judge position.

In Sumter County, Eddie Hardaway Jr., running as an Independent, defeated incumbent Democrat Thomas F. Seale for a district judgeship.

In Tuscaloosa County, Democrat Gay M. Lake Jr. defeated Republican George B. Gordon for a newly-created district judgeship.

In addition to Tucker, Hardaway and Lake, other newly-elected district judges were: Ernest R. White, Escambia County; George E. Carpenter, Colbert County; Deborah B. Paseur, Lauderdale County; Howard D. Burns, Limestone County; Marise Mims, Chilton County; Val L. McGee, Dale County; and James D. Sullivan, Mobile County.

Incumbent district judges who were unopposed in the general election were: James E. Loftis, Autauga County; Bill Robertson, Barbour County; Dwight Hixon, Bullock County; Nathaniel Owens, Calhoun/Cleburne Counties; William H. Lumpkin, Cherokee County; John Christopher, Choctaw County; Harold Crow, Clarke County; Charles T. Morris, Covington County; B.M. Miller Childers, Dallas County; Richard Hunt, DeKalb County; Edwin Sanford, Elmore County; John L. Haislip, Jackson County; Arnold Drennen, Robert

W. Gwin and Roger Halcomb, Jefferson County; Bill Winston, Lamar County; James N. Baker, Lee County; Edward P. Fowler, Marion County; Melvin E. Grass, Marshall County; Tom Sweeney, Mobile County; Mark Kennedy, Montgomery County; Bennett McRae, Morgan County; B.G. Robison Jr., Pickens County; Patti M. Smith, Shelby County; Jerry L. Fielding, Talladega County; John Karrh, Tuscaloosa County; John L. Madison Jr., Walker County; Anne Farrell McKelvey, Wilcox County; Elwood Rutledge, Winston County.

Incumbent circuit judges who were unopposed in the general election were: Dan Reynolds, 10th Circuit; Bill Gordon, 15th Circuit; Ron Storey, 20th Circuit; William H. Baldwin, 22nd Circuit; Daniel B. Banks, 23rd Circuit; Wayne T. Johnson, 26th Circuit; William D. Jetton, 27th Circuit; H. Edwin Holloday, 30th Circuit; G.H. Wright, 37th Circuit; and Henry Blizzard, 39th Circuit.





JACKSON COUNTY...

It's really the most beautiful part of the state of Alabama. I can say that without further qualification because I'm the writer and most importantly, because I grew up there. Returning to Jackson County this past month with Administrative Director of Courts Allen L. Tapley to talk with student and civic groups about the state's court system brought on a surge of nostalgia. As we traveled across Sand Mountain with Presiding Circuit Judge John B. Tally, I thought of the many times I had traveled across that mountain as a teenager.

Nestled in a valley near the tip of the Appalachian Mountain range, Jackson County comes to life this time of year as football fills the air and the mountains glow with the beauty of changing hardwoods transforming summer into fall.



TAPLEY (left) and Judge Tally (right) talk with Pisgah High School government teacher Elizabeth Cooley and Principal Jerry Jefrey after presentation to seniors there.



ABOVE, TAPLEY TALKS WITH COURT EMPLOYEES; AT LEFT, TAPLEY TALKS WITH BAR PRESIDENT JOHN PROCTOR; BELOW LEFT, CIRCUIT CLERK CHARLES WANN (right), JUDGE TALLY; BELOW, PAT KIRKLAND, SECRETARY TO JUDGE TALLY.



Tapley began the day, Oct. 29, by holding an informal meeting with local courthouse employees before addressing an assembly of Scottsboro High School students. He addressed a noon meeting of the Scottsboro Rotary Club and talked with Pisgah High School seniors before meeting with members of the Jackson County Bar Association in the late afternoon.

Tapley shared news from the state's capital with the people of Jackson County, and they shared with him their warmth and hospitality. A good, full and rich day in Jackson County. KSS

IN NATIONAL COMPETITION

UJS RECORDS MANAGEMENT PROGRAM RECEIVES HONORABLE MENTION

Alabama's Unified Judicial System records management program recently received an honorable mention in the 4th Annual William Olsten Award for Excellence in Records Management Programs competition. The purpose of the competition is to raise the level of awareness to the value and contributions made by records management professionals.

This is a nationwide competition in which records management programs from small businesses to international corporations are rated on criteria set forth by the Olsten Corporation. Programs are ranked for creativity, innovative qualities, planning, staff training, cost effectiveness, utilizing varied technologies and management recognition.

The records management staff submitted the application including examples of standardized court forms, procedural manuals, copies of computer print-outs of records inventory worksheets and other records management projects of the Administrative Office of Courts.

Boise Cascade Corporation, an integrated forest products company, received this year's top award. Previous winners were Detroit Edison in 1979, Citicorp in 1978 and Mountain Bell of Denver in 1977.

PROCEDURE SET FOR RETAINING HEALTH INSURANCE FOR RETIREES

The procedure for members of the Employees Retirement System of Alabama who wish to remain with the state health plan is as follows:

In order to avoid a lapse in coverage, a retiring employee must make a direct payment to the Insurance Board for the month in which retirement is effective. For example, an employee retiring Dec. 1, 1980, will not be eligible to have his premium for December coverage paid by his employer since he will not be employed in December. The first premium deduction made from the retirement check will be taken from the December check for January coverage. Therefore, the retiring em-

ployee must make a direct payment for December coverage.

Any questions regarding this new procedure should be addressed to the Personnel Division of the Administrative Office of Courts.

PROCEDURES FOR AUDITING LEAVE

ACCOUNTING CARDS ANNOUNCED

The following procedures are to be followed in auditing the 1980 leave accounting cards and transferring balances to the 1981 cards. As soon as possible after Dec. 23, 1980, all Unified Judicial System offices will perform an audit of the 1980 leave accounting cards of their assigned personnel. Each employee and the appropriate administrator will certify as to the accuracy of the information thereon by signing the card.

The employee information, as well as the annual, sick and compensatory (if any) leave balances should be transferred to the 1981 leave accounting cards. Each office will then mail the 1980 leave accounting cards and the leave request and approval forms used during 1980 to the Administrative Office of Courts no later than Jan. 15, 1981. The Personnel Division will audit the leave cards against the leave request forms and contact the administrator if errors are found. Because of the relatively high number of errors discovered in the leave accounts during the audit last year, administrators and employees are requested to place special emphasis on the accuracy of these leave accounting cards before certifying and forwarding them to AOC.

Leave accounting procedures are covered in Chapter V of the Personnel Procedures Manual.

COURT CALENDARS FOR 1981 REQUESTED FROM CIRCUIT AND DISTRICT COURTS

Clerks and/or judicial secretaries are requested to send 1981 court calendars as they are set for circuit and district courts to Nancy Morochnick at the Administrative Office of Courts.

Individual dockets for a term are not needed. Please send only court calendars which cover more than one-half year.

PROFILE

Judge John G. Bookout

Judge John G. Bookout was appointed to the Alabama Court of Criminal Appeals in 1975, replacing Judge R. P. Almon who had been elected to the State Supreme Court.

At the time of his appointment, he was serving in Gov. George C. Wallace's cabinet as insurance commissioner. "As insurance commissioner, I was constantly in the public eye. Here, we rarely see the public in the course of our work. I wouldn't want to go back to the executive branch of government. I was constantly being harassed, receiving phone calls 24 hours a day. The pay at that time wasn't up to par with the responsibility. Now, I do a lot of research, reading and writing. I'm responsible for my own work. I don't have to manage a department, also."

Judge Bookout says he enjoys his work and although it isn't so exciting, it is interesting. The court is just now beginning to get appeals under the state's new criminal code and while this is not expected to increase the quantity of appeals, Judge Bookout does expect it to increase the amount of time each judge must expend on each case.

"We can't use precedent in these cases, obviously because they're dealing with new laws. We will be researching cases brought before courts in other states where the laws are similar to our new criminal code.

"I don't expect to have any more appeals--with legal fees paid by the state for many defendants, I would think that everybody is appealing every case now--but the work involved on these cases will be much more tedious. We expect, by next year, to be inundated by appeals under the new criminal code."

Statistics published several years ago by the National Center for State Courts showed that the Alabama Court of Criminal Appeals had the fifth heaviest caseload per judge in the United States. With the increased workload brought about by the new code, Bookout says that the court will have to have more judges or fall behind in its case currency.

Prior to his term as insurance commissioner, Bookout served as assistant at-



JUDGE JOHN G. BOOKOUT

torney general, chief assistant and deputy attorney general under Attorney General MacDonald Gallion.

A native of Birmingham, Bookout attended Woodlawn High School and earned the B.S.L. and LL.B. degrees from the University of Alabama. He is the son of John S. and Mae Thompson Bookout and is married to the former Martha Hallman of Ashland. He and his wife have three daughters, including twins.

"When you have a job with so much solitude, it is important to become involved in outside activities. I spend a great deal of time working with the Boy Scout Council, the National Guard and playing tennis."

Bookout is vice president of the area 4
(Continued On Page 8)

PROFILE: JUDGE JOHN G. BOOKOUT

(Continued From Page 7)

Boy Scout Council which includes Alabama and Mississippi. He serves on the executive board for the Southeast region and is a past president of the Boy Scout Council. He was the 1977 recipient of the Silver Beaver Award for volunteer service.

He is a colonel in the Army National Guard and has received the Alabama Commendation Medal. He received the Montgomery Jaycee's Distinguished Service Award in 1969; was named to Outstanding Young Men of America in 1970; served as state chairman of the Leukemia Society of America 1974-75; is a member and past president of the South Montgomery Kiwanis Club; is a member of Woodmen of the World and served that organization as state president from 1977 to 1979; and is a member of Elks. Bookout is a co-founder and board member of the Lurleen Wallace Cancer Hospital of Birmingham.

A member of the First Baptist Church, Bookout is a 32 degree Mason and is a past master of the Masonic Lodge. He is a Shriner and a member and past patron of the Eastern Star.

In addition to his outside activities, Bookout belongs to numerous professional organizations including the Alabama and American Bar Associations; the United States Supreme Court Bar; Alabama Law Institute Council; and the Judicial Coordinating Committee of Alabama.

He has attended courses of the National College of the State Judiciary, University of Nevada; the American Academy of Judicial Education, Arizona State University; and American Bar Association, Appellate Judges' Seminars. While at the University of Alabama, Bookout served as Case Note editor for the Alabama Law Review.

"One of the joys of working on this court is getting to know and work with the law clerks. They're young--but they're young professionals and they're bright. They have a lot of good ideas and it's a pleasure discussing the law with them," Bookout said.

Judge Bookout also likes to brag on his secretary, Margie Friday, saying he's the only judge on the court "with a real girl Friday."

BLUE CROSS ENROLLMENT CHANGES

ESTABLISHED FOR NEW EMPLOYEES

Effective Dec. 1, 1980, all new Unified Judicial System employees will be enrolled in the State Employees Health Insurance Plan beginning with the date of their employment. There will no longer be a two-month waiting period formerly required of new employees.

For those with individual coverage, the initial month's prorated premium will be paid by the state automatically; for those electing family coverage, it will be necessary to pay the State Insurance Board directly, by personal check or money order forwarded to the Personnel Division of the Administrative Office of Courts, for the balance of days in the month of initial employment. In addition, if an employee begins work too late in the month for a payroll deduction to be made (pre-payment for the following month's coverage), it will be necessary for him to pay for the next month's coverage (\$51.77) along with the prorated share.

Any UJS employee hired prior to Dec. 1, 1980, who is currently serving a waiting period will be covered by the state health policy effective Dec. 1, 1980. If dependent coverage was specified on the enrollment form, the premium of \$51.77 for December was deducted from the warrant which will be received on Nov. 28. If family coverage was not elected at this time, the next open enrollment period for dependents will be in October of 1981.

These changes are a real benefit for new employees, and administrators are urged to make prospective applicants aware of this policy change. It is especially important for those who will desire family coverage, since they must forward payment at the time of employment.

The Personnel Division will be forwarding a memorandum to each administrator with a prorata schedule of payments due from new employees who desire family coverage. This schedule should be retained for reference at the time an applicant is placed on the payroll. (As stated above, if a new employee desires individual coverage only, no payment will be due, since the state will continue to pay the full share of health insurance for individuals.)

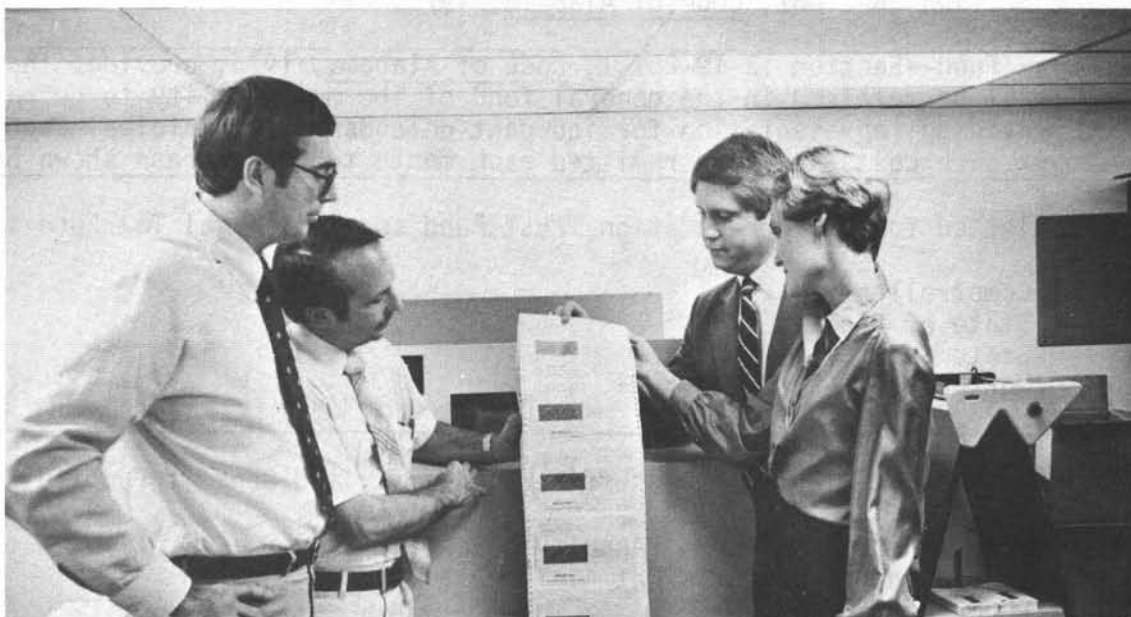


—AP wirephoto

When it rains, it leaks

Baldwin County Circuit Court clerk Eunice Blackmon hangs court records up to dry in the Bay Minette courthouse. She said the courthouse roof has leaked for

years, thus making the drying procedures necessary. She said records have to be dried, retyped and reclassified.



FROM LEFT... Mike Carroll, Hunter Slaton, Chris Williams and Camille Ashley of the Administrative Office of Courts Case Management staff watch as computer prints juror qualification questionnaires. Approximately 97,000 of the questionnaires were mailed out this month to state citizens.

SCHEDULE OF COSTS FOR MUNICIPAL COURTS SLATED

The Administrative Office of Courts continues to receive inquiries concerning municipal court costs. Listed below is a schedule of costs for municipal courts and the addresses to which the funds collected should be mailed. Questions concerning municipal court costs may be directed to the Municipal Courts Division at the AOC.

TRAFFIC VIOLATIONS FOR MUNICIPAL COURTS:

- \$10.00 - Maximum Cost Set by Governing Body by Ordinance. Section 12-14-14, Code of Alabama, 1975.
- \$ 2.00 - Fair Trial Tax Fund* Special Costs, Sections 12-19-250 and 12-19-251.1, Code of Alabama, 1975.
- \$ 1.00 - Alabama Peace Officers' Annuity and Benefit Fund. Special Costs, Section 36-21-67, Code of Alabama, 1975.
- \$ 1.00 - Driver Education Trust Fund. Special Costs, Section 32-5-313, Code of Alabama, 1975.

NON-TRAFFIC VIOLATIONS FOR MUNICIPAL COURTS:

- \$10.00 - Maximum Cost Set by Governing Body by Ordinance. Section 12-14-14, Code of Alabama, 1975.
- \$ 2.00 - Fair Trial Tax Fund* Special Costs, Sections 12-19-250 and 12-19-251.1, Code of Alabama, 1975.
- \$ 5.00 - Alabama Peace Officers' Annuity and Benefit Fund. Special Costs, Section 36-21-67, Code of Alabama, 1975.

*Fair Trial Tax Fund--Section 12-19-251.1, Code of Alabama, 1975, provides that these funds shall be retained in the general fund of the municipality to defray the cost of providing representation for indigent defendants in municipal court. Any excess over such costs shall be remitted each month to the address shown below.

Mail funds collected for Driver Education Trust Fund and Fair Trial Tax Fund to:

Comptroller
State of Alabama
State Capitol
Montgomery, AL 36130

Mail Funds collected for Alabama Peace Officer's Annuity and Benefit Fund to:

Alabama Peace Officers' Annuity & Benefit Fund
514 South McDonough Street
P. O. Box 2186
Montgomery, AL 36106
(Phone: 832-5831)

PEOPLE * PEOPLE

District Judge Jerry Vanderhoef of Tuscumbia resigned his position Nov. 23 to accept appointment as an associate justice of the High Court of American Samoa.



VANDERHOEF

The American Samoa is an unincorporated trust territory of the United States. Vanderhoef was appointed to the post by Secretary of the Interior Cecil Andrus.

The High Court consists of a chief justice and two associate justices. In addition to the High Court, the islands have one district court judge and 11 land or village judges.

Vanderhoef says that his primary job will be in the area of court administration. He has served for almost 14 years as a county and district court judge in Colbert County and is a past president of the state Association of District Court Judges.

The seventh national conference for Judicial Conduct Organizations, sponsored by the American Judicature Society, was held in New Orleans on Oct. 15-19. More than 185 commission members and staff from 42 states attended the meeting. Betty S. Blow, executive secretary of the Alabama Judicial Inquiry Commission, represented Alabama's commission. The conference provided a forum for the study and discussion of the role and performance of disciplinary commissions where participants were able to exchange and evaluate alternative solutions to their common problems. Commissions are now established in 49 states and the District of Columbia.

Dorothy F. Norwood, a clerk of the Alabama Supreme Court, was elected to a two-year term as secretary-treasurer to the National Conference of Appellate Court Clerks in 1979, and reaffirmed for the second year of that term at the group's annual meeting held recently in Orlando.

Maryann Hopkins-Young, chief deputy clerk of the Arizona Supreme Court, was elected president of the conference.

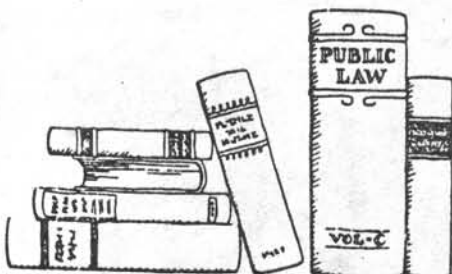


COURTHOUSE GOBLINS...Persons entering the circuit clerk's office at the Etowah County Courthouse on Halloween day were greeted by these two unfamiliar faces. Underneath the masks were two very familiar faces--Circuit Court Clerk Dolores Parsons (right) and Carolyn Cashman of the district court, having a bit of Halloween fun.

Jeannine Stringer, payroll clerk for the Administrative Office of Courts, and her husband Gerald are the proud parents of a new baby boy, Stephen Matthew, born Nov. 10.



LEGAL NOTES



MISCELLANEOUS LEGAL NOTES

On Demand, Clerk Or Register Must Pay Over
Money Received By Him On Any Judgment

Section 6-6-700(2), Code of Alabama 1975, provides as follows:

Judgment must, in like manner, be summarily entered against the clerk of the circuit court and his sureties, or either of them, and against the register in circuit court and his sureties, or either of them, on three days notice, in the following cases:

. . . (2) For failing on demand to pay over money received by him on any judgment or paid into court, on a plea of tender, or other plea or by rule of court, for the sum so received by him with five percent per month on the amount from the time of the demand; . . .

This section makes the clerk or register and his sureties or either of them summarily liable for the sum received by him or paid into court on any judgment, plus five percent per month, if they fail to pay over such sum on demand.

The intent of this section is clear. There is no apparent legal or financial reason which would prohibit the clerk or register from paying over such money at the time of demand. However, if the clerk or register receives a check in payment of

a judgment, they would of course be justified in withholding payment following a demand, until such check has cleared the bank.

Subpoena Fee in Criminal Cases Assessed
Upon Conviction

Section 12-19-171, Code of Alabama 1975, authorizes a \$2.00 fee for service and return of each witness subpoena in criminal cases. However, the subpoena fee in criminal cases, unlike the subpoena fee authorized in Section 12-19-74, Code of Alabama 1975, for civil cases, is assessed only upon conviction. Section 12-19-150(a), Code of Alabama 1975.

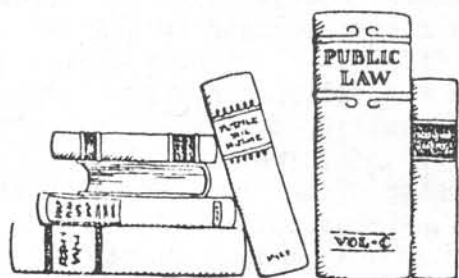
SUPREME COURT CLERK OPINIONS

In two recently released opinions, the clerk of the Supreme Court has further defined those filings which do not carry a docket fee under the provisions of Rule 7, Alabama Rules of Judicial Administration.

Clerk's Opinion No. 30, released on October 20, 1980, holds that the circuit clerks and registers are not authorized to collect a docket fee for filing a modification of a final decree which is signed by the judge, but which is not submitted on a petition. In other words, no filing fee is authorized for filing an agreement to modify a final decree which has been signed by the judge. In the same opinion Mr. Sentell has stated that such a modification signed merely by both parties does not carry a filing fee. Moreover, in the latter case, such a modification has no legal efficacy, Mullis v. Caldwell, 280 So.2d 558, 50 Ala. App. 508.

Clerk's Opinion No. 31, released on October 21, 1980, states that no filing fee should be charged for a proceeding to take the deposition of a witness in this state for use in a civil proceeding in another state, pursuant to Rule 28(b), Alabama Rules of Civil Procedure. Such proceeding is not a "case" for which an original filing fee may be charged.

LEGAL NOTES



SUPREME COURT CLERK OPINIONS

*(Continued From Page 12)*No Filing Fee Required For PetitionsFiled Relating To Pending AdministrationOf An Estate

On Nov. 21, 1980, the clerk of the Supreme Court issued Opinion No. 32 wherein it was determined that the administration of an estate is a single and continuous proceeding. As such, a petition for relief in the course of a pending administration of an estate, is not a case, separate and apart from the administration of the estate. Because the petitions referred to do not constitute a new case, the "filing" fee required under Rule 7, Alabama Rules of Judicial Administration should not be collected.

ATTORNEY GENERAL OPINIONS

Salary Increases

On Oct. 20, 1980, the attorney general issued an opinion construing Act 80-616, providing for a 7½ percent cost-of-living salary increase for state employees. The attorney general ruled that while the 2½ percent cap on merit system step increases limits the amount of annual merit raises, it does not limit the amount of probationary raises nor extraordinary salary advancements pursuant Rule IV, Section 2(b)(4) of the Rules of the State Personnel Board. Moreover, the attorney general ruled that the 2½ percent cap is

computed on the employee's salary as of Oct. 1, 1980 rather than Sept. 30, 1980.

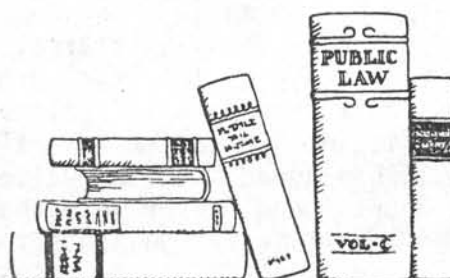
Write-In Votes

In an opinion dated Oct. 21, 1980, the attorney general discussed write-in votes. Among other things, the attorney general ruled that there are no requirements for a person to qualify as a write-in candidate other than, of course, the requirements of the office to which he is elected (the determination of his qualification is made after he is in fact elected to office).

The attorney general also stated there should be a blank column on the right of the ballot for write-in votes. The write-in vote must be cast on the line for the office to which the candidate is to be elected and must sufficiently identify the individual to be elected. The vote must be in writing; stamps or stickers are insufficient. It is unnecessary to place an (X) by the write-in candidate's name; if the voter makes an (X) under the party emblem (as if to cast a straight party ticket vote) and also writes in a candidate for a particular office, the ballot should be counted as a party ticket vote except that the write-in vote should be counted for that particular office. Finally, the voter may write-in a candidate for an office which is up for election, but for which no one has qualified.

Arrest Warrants

On Oct. 23, 1980, the attorney general construed Section 15-17-2, Code of Alabama 1975, as not requiring a sheriff or deputy to sign the complaint in a felony case. It is sufficient if the person who makes the complaint signs the instrument.



ALABAMA TRAFFIC FATALITIES COMPARED FOR 1979/1980

The following statistics, prepared by the National Highway Traffic Safety Administration, compare state traffic fatalities from 1979 and 1980 (January to September).

ALABAMA TRAFFIC FATALITIES

Jan-Sept	1979	1980
PEDESTRIANS	77	85
BICYCLISTS	6	14
MOTORCYCLISTS	47	43
MOTORISTS	601	563
TOTAL	731	705

These statistics show a decrease of 26 traffic fatalities for the first nine months of 1980 as compared to the same period of 1979.

LAWYER ADVERTISING ANALYZED IN NEW ABA PUBLICATION

Lawyer advertising is increasing consumer access to legal services and is cutting the costs of those services. It is not, as some predicted, increasing the amount of litigation in the United States.

These are among the conclusions of "Birth of a Salesman: Lawyer Advertising and Solicitation," the first comprehensive national analysis of how lawyers market their services and the impact of those efforts on consumers and the legal profession. "Birth of a Salesman," written by Lori B. Andrews, former staff director of the American Bar Association Commission on Advertising, now is being distributed by the ABA.

Andrews' book takes a critical look at self regulation by the legal profession. She notes that as many as 27 states still impose restraints on lawyer advertising that would ban an ad that the United States Supreme Court found proper more than three years ago. That fact highlights the restrictive approach that often has stunted development of effective marketing tech-

niques for legal services, says Andrews.

Andrews cites empirical studies showing a high level of what she terms "legal illiteracy" in middle-income America, with the public generally uninformed about legal rights, access to services, costs of legal assistance and methods of obtaining it. She attributes that, in part, to regulations in many states that limit the ability of lawyers to inform the public about their services. Some of the restrictions may not be constitutional, she notes.

But a combination of pressures from individual lawyers and the federal government, and a U.S. Supreme Court ruling in 1977, are forcing courts and professional organizations to relax the constraints on advertising and solicitation, says Andrews.

And already, promotion activities are "having profound effects on the nature of the legal profession," she says. Among her points are:

--Advertising is increasing access. Studies of individual lawyers who advertise show that many of their clients have never used a lawyer before.

--There has been no spur to unwarranted litigation. Rather, members of other professions complain about the impact of advertising. For example, bankers have said that lawyer ads explaining the ease of declaring bankruptcy have increased the number of defaults on loans.

--Professional advertising has in many instances reduced the total cost to the consumer of legal services for routine matters.

--Quality need not drop, and may even increase after advertising, as lawyers strive for long-term client relationships to help recoup the advertising cost.

--Clinics are prospering as they develop more expertise in advertising, but established traditional law practitioners also are promoting their availability to handle specific types of problems or making themselves known to specific types of clients.

The book is published by the ABA Division of Bar Services, under a grant from the Edna McConnel Clark Foundation of New York City. Copies are available from the Division of Bar Services, American Bar Association, 1155 E. 60th Street, Chicago, IL 60637.

Cleaning out old court records sorta like cleaning out garage

By Harold Kennedy
News staff writer

The survey team expected problems when assigned the monumental task of inventorying all courthouse records in the state. Many of the records dated back 170 years.

But bats, rats, lice, termites and . . . snow?

These, among other obstacles, indeed were encountered by the team which spent two years wading through tons of stored paper records and rubble before completing the job.

The reason behind the complicated and trying procedure was to determine which court records should be kept and which should be destroyed, said State Chief Justice C.C. "Bo" Torbert Jr.

The program is another phase in the updating of the Alabama court system, he said.

"Unless destroyed by fire or acts of nature, every paper ever filed in Alabama courts is still there," said Torbert. "This accumulation throughout the past 170 years has left courthouses with mountains of paper and increasingly less room to work."

AN ESTIMATED one-third of the paper bulk now cluttering county courthouses will be destroyed. And all records retained will be put on microfilm, he said. Savings on storage space and paper alone will run into many thousands of dollars each year, he added.

And it will make remaining records easier to find and obtain.

The destruction of useless records and microfilming the others will probably take about 10 years or less, said Deborah Hay, court operations supervisor of the Administrative Office of Courts.

Mrs. Hay headed the inventory operation and personally experienced some of the more distasteful aspects of the job.

"I remember reaching into one pile of records that probably hadn't been touched by human hand for many years and I came out with a handful of lice," she said.

In one courthouse attic, a member of the team



Chief Justice C.C. Torbert Jr.:
Taking inventory is hard task

removed some musky records to discover a bat habitat, she said. "He had to delay the work until the bats left for fear of being bitten."

Nests of rats proved to be a problem in at least three county courthouses, she added.

"One courthouse apparently had rats using the office facilities," she recalled. "A clerk left a doughnut on her desk to go out for a while and when she returned the doughnut had been partially eaten, like maybe a rat had done it."

"We saw all sizes of rats, from mice to large gophers."

Termites had destroyed many records in two counties, she added. And one wintry day workers had to put on mittens and toboggans to dig some records from beneath snow.

"The records were stored in the basement of a courthouse near an outside door," she explained. "Snow had blown in under the door and piled up on the records. It was pretty cold."

Despite the insects, rats and just plain aging, a "surprisingly" small percentage of the records had been destroyed, she said.

COURTHOUSES IN Greene, Chilton, Bibb and Jefferson counties will be first in the destruction and microfilming program, she said.

Jefferson County, said Circuit Clerk Polly Conradi, has already started the work.

"I'd say we'll save the use of a huge building in storage space," said Mrs. Conradi. "Give us another year and we'll have a good dent in our program. We had records stored all over the place — in the basement, in the library, in our offices and so forth. Rooms of it will be gone within a year."

One of the first things to be microfilmed and preserved, she added, were all county immigration and naturalization papers. "Until 1907, the circuit clerk handled all naturalization papers," she said. "We have them all, but many had become very fragile with age. They have been microfilmed and the original copies sent to the Library for the Archives."

"Persons interested in their genealogy can get copies from the library," she added.

The new system, she said, will serve the public and lawyers much better. "We will microfilm all our back cases and store the film for our backup copy," she said. "Whereas we now have only the one copy. That way we won't have to be so strict on the use of our office copy."

This Clip From
BIRMINGHAM NEWS

Crime group to monitor court rulings

A new citizens organization whose avowed purpose is to reduce crime has begun a monitoring program of "court sitting" in Mobile County Circuit Court to "make certain the guilty are adequately punished."

If the guilty are not "adequately punished," said Sam E. Steele, chairman of the organization's courtroom and judicial practices committee, "we will merely bring it to the public's attention without any comments."

Tuesday on the program's first day, however, observers found that no criminal trials were scheduled, this week being one of the few set aside for non-jury equity cases.

Steele said the observers, who will fill out reports on what they see, were not trying to usurp the roles of judge and jury. "We intend to monitor the judicial system, not to harass or intimidate but to make certain that the guilty are adequately punished," Steele said Tuesday on the first day of "court sitting."

The judge and jury decide the guilt of defendants, Steele stated. "But if they are judged guilty, we want to make sure the public's interest is adequately protected by the punishment being adequate —

in conformity with the crime," he went on.

"If we believe from our research that sentencing is inappropriate and not in the public's best interest, then we will merely bring it to the public's attention without any comments," Steele said.

The committee wants to have at least two observers in each of the six circuit courtrooms, primarily looking in on criminal cases.

Steele said the court monitoring program was a "starting point" for March Against Crime, which has an estimated membership of 1,000. The newly formed organization is not yet structured formally and is seeking a charter.

This Clip From
MOBILE REGISTER

**COURT NEWS**

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

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