

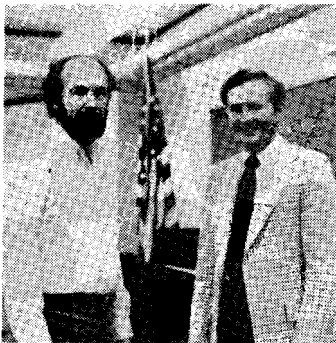


CONDUCTING SESSIONS AT TEACHER WORKSHOP ON ALABAMA COURTS--Some of the state's judges who conducted sessions during the Teacher Workshop on Alabama Courts in late July are (from left above) Circuit Judge Leslie Johnson, 11th Judicial Circuit; Court of Criminal Appeals Judge William Bowen; Circuit Judge Henry Blizzard, 39th Judicial Circuit; Circuit Judge Inge Johnson, 31st Judicial Circuit; District Judge George Carpenter, Colbert County; and Circuit Judge Ben McLaughlin, 33rd Judicial Circuit.

TEACHER WORKSHOP ON ALABAMA COURTS

(Continued From Page 1)

Some of the topics presented to the educators included: Kinds of Law; Civil and Criminal Cases; The District Court; Law Enforcement; Duties of Court Officers; Jury--Its Role in the Justice System; Role of the Attorney; The Juvenile Court; Appellate Courts; Corrections; Civil Proceedings; Preliminary Aspects of Criminal Cases; and sessions dealing with the educational aspects of the workshop's goal.



TEACHERS RECEIVE COMPLETION CERTIFICATES... Circuit Judge Robert E.L. Key (above) of the 35th Judicial Circuit awards completion certificates to teachers at Teacher Workshop on Alabama Courts after giving the keynote address at a luncheon for attendees. At far left, Circuit Judge Randall Cole (right), 9th Judicial Circuit, is shown with teacher Douglas Ford and at immediate left is Circuit Judge Joe Colquitt (center) with Tuscaloosa city teachers.



TEACHERS LISTEN...at left above during Teacher Workshop on Alabama Courts while presentations are made by (from left) Maj. Harold Hammond, Department of Public Safety; Wayne Williams, Northport municipal judge and former Tuscaloosa district attorney; Circuit Clerk Billy Harbin, Madison County; and District Judge Dwight Hixon, Bullock County.



NEWS FROM THE JUDICIAL COLLEGE

CLERKS, REGISTERS COMPLETE SERIES OF MANAGEMENT TRAINING SEMINARS

All four sessions of the Management Training Seminar series for state court clerks and registers have been concluded with 72 of the judicial officials attending at least one session and 42 completing all four sessions.

Each of the seminars was held in both Birmingham and Montgomery, one each in October and December of 1980, and March and August of 1981. Sponsored by the Alabama Judicial College, the seminars included 60 hours of rigorous training designed to improve management skills.

Chief Justice C.C. Torbert Jr. and Administrative Director of Courts Allen L. Tapley commended those clerks successfully completing all sessions. They were: R.L. Foster, Bibb County; Bobby T. Branum, Butler County; Barbara Pippin, Calhoun County; Stella Pierce, Chambers County; Pete Trammell, Cherokee County; Morris Moatts, Chilton County; Don Gibson, Choctaw County; Robert Giddens, Clay County; Sara Blackwell, Colbert County; Gerald Parker, Coosa County; Bill Kynard, Dallas County; B.J. Moody, Elmore County; Joe Newton, Franklin County; Earl Ward, Geneva County; Mary Etta Snoddy, Greene County; Julia Trant and Elizabeth Cummings, Houston County; Polly Conradi and J.B. Vines, Jefferson County; and Carl Woods, Lamar County.

Others completing the sessions include: Glenn Murphy, Lauderdale County; Larry Smith, Lawrence County; Annette Hardy, Lee County; Eddie Dean Mallard, Macon County; Billy Harbin, Madison County; De-waine Sealy, Marengo County; Maurice Castle, Elsworth Haughton and George Edgar, Mobile County; Polly Eubanks, Montgomery County; Cleo Teague and Gaynell Hall, Morgan County; James Floyd, Pickens County; Ron Harwell, Sumter County; Sam Grice and Joe Ingram, Talladega County; Ruth Johnson, Tallapoosa County; Sylvester Anton, Walker County; Erskine Kennedy, Wilcox County; Joyce Martin, Winston County; and Elizabeth Hamner, Tuscaloosa County.

Courses involving many aspects of managing skills with applications for the

court clerk were taught by management specialists from the University of Alabama's School of Commerce and Business. Dr. James F. Cashman, assistant professor of Marketing and Management, University of Alabama, worked with Judicial College Director Thelma Braswell in planning and arranging the entire series.

Those completing all sessions were awarded certificates.

CLERKS AND REGISTERS NEW EMPLOYEES ORIENTATION HELD IN TUSCALOOSA

For the third year the Alabama Judicial College sponsored an Orientation for New Employees in Clerks and Registers Offices. This program is part of the overall college plan to include all officials and employees in the educational process.

The purpose of the program is to give new employees an appreciation of the importance of their jobs in making the Judicial System efficient and effective. Experienced clerks participated as faculty and discussion leaders. Sam Grice of Talladega County, as president of the Association of Clerks and Registers, welcomed the group and gave an overview of clerk's and register's offices. Julia Trant of Houston County explained procedures for a criminal case and Stella Pierce of Chambers County talked about case procedure for a civil case. Morris Moatts of Chilton County explained basic financial procedures. Jane Smith, an employee of the Madison County Clerk's Office, explained the Judicial System filing system, service of process, appeals and purchasing procedures.

Dealing with the public in the office was discussed by Billy Harbin of Madison County and dealing with the public by telephone was presented by South Central Bell representative Venette Hooks. An overview of the court system and the Administrative Office of Courts was presented by Judicial College Director Thelma Braswell through the use of slide shows. Barbara Erickson and Ginny Anderson of the Administrative Office discussed personnel policies.



HOLLYWOOD VISITOR SPENDS TIME WITH BOZEMANS--Actress Karen Black (center) spent five days at the home of Covington County Circuit Clerk Ray Bozeman and his wife, Grace (pictured above with Ms. Black). Her visit to the South was prompted by her work on an upcoming movie set in the rural South.

ACTRESS SPENDS TIME WITH BOZEMANS WHILE TOURING COVINGTON COUNTY

Being circuit clerk and in charge of all county court records can be a tedious, thankless task at times.

But for Covington County Circuit Clerk Ray Bozeman, that position put him in line for a mysterious phone call in late July from a Hollywood actress wanting to know more about Andalusia, Covington and the rural South.

Bozeman's reaction to the first phone call from actress Karen Black was to hang up. In persistence, she phoned again, this time convincing him she was indeed THE Karen Black he had most likely seen numerous times on television and in motion pictures.

"She told me she was thinking about doing a movie centered in the deep South in the depression era of the 1930s," Bozeman said. "She said she had heard I knew a lot about this area and that I had kept real good records about things around here," he said.

He and his wife, Grace, who works in

the Covington County clerk's office, invited Ms. Black to come to the county and see things for herself. That she did, spending the better part of five days at the Bozeman's home and touring the county.

On the tour, they visited Opp, Red Level, Dozier, Floral and Rose Hill gathering ideas for her screenplay. They looked at old cotton and saw mills, also to gather ideas for the filming.

"I found Andalusia through my mother who has written about the South," Ms. Black said during a press conference on her final day in the state. "As I was writing some scenes for the script, it occurred to me that I didn't know what the people in the script should be saying to each other or what they should be doing.

"I have found Andalusia to be very exciting. It is a very warm and friendly community," she said, adding that she had certainly eaten a lot of good food during her visit.

Ms. Black has starred in such films as Airport '77; Five Easy Pieces; Burnt Offerings; Nashville; The Great Gatsby; and Easy Rider.

1981

ALABAMA JUDICIAL COLLEGE
CONTINUING EDUCATION PROGRAMS

1982

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
1981 OCTOBER					ACCOUNTING PROCEDURES I OCT 14-16 MONTGOMERY				
NOVEMBER									JUDICIAL STUDY COM NOV 20 TUSCALOOSA
DECEMBER									
1982 JANUARY	MID-WINTER CONFERENCE JAN 21-22 BIRMINGHAM								
FEBRUARY	NEW JUDGES ORIENTATION FEB 16-19 TUSCALOOSA			EDUCATION CONF FEB 20 TUSCALOOSA	MID-WINTER CONF FEB 4-5 HUNTSVILLE				
MARCH					ACCOUNTING PROCEDURES II MAR 24-26 BIRMINGHAM				
APRIL	SPRING JUDICIAL SEMINARS APR 27-29 TUSCALOOSA			LEAGUE CONF APR 24 MOBILE					
MAY									MUNI COURT CLERKS & MAGISTRATES SEM MAY 5-6, H'VILLE MAY 12-13, MOBILE MAY 19-20, MTGRY MAY 26-27, B' HAM
JUNE			ANNUAL CONFERENCE JUN 3-4 BIRMINGHAM		ANNUAL CONFERENCE JUN 10-12 GULF SHORES				DUI CERTIFICATION JUN 25-27 CRAIG-SELMA
JULY	* ANNUAL CONFERENCE JUL 14-15 HUNTSVILLE						ANNUAL CONF JUL 15-16 BIRMINGHAM	ANNUAL CONF JUL 8-9 TUSCALOOSA	
AUGUST						NEW EMPLOYEE ORI AUG 5-6 TUSCALOOSA			DUI INSTR CERT AUG 12-13 CRAIG-SELMA
SEPTEMBER									

CHANGES: Clerks & Registers - Bookkeeping I & II are changed to Accounting Procedures I & II.
Other Groups - Permanent Study Commission is changed to Judicial Study Commission.

ADDITIONS: Judicial Secretaries - Annual Conference will be conducted in Tuscaloosa.
Other Groups - Four regional seminars will be conducted for Municipal Court Clerks and Magistrates during May, 1982.

SEPARATE MUNICIPAL COURTS DIVISION CREATED; ANGELO TRIMBLE NAMED TO DIRECTORSHIP

Angelo Trimble has been named director of the Municipal Courts Division of the Administrative Office of Courts.

The Municipal Courts Division will now become a separate division within the Administrative Office under the direction of Trimble.

In making the announcement, Administrative Director of Courts Allen L. Tapley said that during the past three years, "Angelo has performed the duties and fulfilled the responsibilities of his position in a highly professional manner and has demonstrated the qualities of leadership which merit such a promotion. The comments I have received from municipal judges attest to this.

"The importance of municipal courts to the administration of justice and the increased support now being provided to municipal judges dictates that we should have a separate and complete division devoted to these duties," Tapley added.

Trimble joined the Administrative Office in 1978 and has served as assistant director of the Division of Planning, Research and Municipal Courts.



ANGELO TRIMBLE

CHIEF JUSTICE TORBERT SUMMONED FOR LEE COUNTY JURY SERVICE

Since the state legislature removed all exemptions from jury service in 1978, several of the state's judges have been summoned to serve. On August 24, Lee County citizen and state Chief Justice C.C. "Bo" Torbert Jr. reported for jury service along with 73 other county citizens.

The chief justice was struck from all juries chosen for the week of civil proceedings and was not drawn in a grand jury selection which came from the venire.

The 1978 legislative action changed laws which once exempted judges, attorneys, doctors and many other groups from being summoned.

"It is important, I believe, that members of the judiciary be subject to the same call as everyone else in carrying out the processes of our system of justice," Torbert said. "It is my opinion that jury service, which involves over 100,000 Alabama citizens each year in the workings of our system of government, is vitally important to the maintenance of our freedom and democracy.

"We have made great strides in our state during the past four years to ensure that all people, whatever their professions, are given the opportunity to serve as citizen jurors," the chief justice continued. "If we are to maintain our jury system as an institution which affords persons to be judged by their peers, it is important that all of us be willing to devote a portion of our time in this regard."



CHIEF JUSTICE REPORTS FOR JURY DUTY... Alabama Chief Justice C.C. "Bo" Torbert was among 73 Lee County citizens summoned for jury service August 24. He was not chosen as a juror, however.

ALABAMA PRESENTS PROGRAM TO STATE CHIEF JUSTICES/COURT ADMINISTRATORS

Alabama Chief Justice C.C. Torbert Jr., Administrative Director of Courts Allen L. Tapley and Robert Martin, director of the Administrative Services Division of the Administrative Office of Courts presented a two-hour program to a joint session of the National Conference of Chief Justices and the Conference of State Court Administrators in early August.

The program, "Public Communication--The Role of the Courts," was presented at the annual meeting of the two conferences held at Boca Raton, Fla. Aug. 2-5.

The program focused on methods the judiciary can use to carry out effective internal and external communications.

Approximately 125 state chief justices, state court administrators, the top staff of the National Center for State Courts and other national judicial leaders attended the presentation which used written, oral and audio visual methods to explain Alabama's approach to public communication.

The program has generated requests for additional information from many states including New York, New Jersey, Colorado, Iowa, Texas and Illinois.

Commenting on the program, Carl Bianchi, administrative director of Iowa courts wrote: "I don't know of a single program which we have had in the last several years which has done more to demonstrate graphically the effectiveness of a state court administrative office than the Alabama program."

JUDICIAL STUDY COMMISSION PLANS ANNUAL MEETING IN MID-NOVEMBER

Members of the Judicial Study Commission, including advisory section members, will gather in Tuscaloosa Friday, Nov. 20 for the annual winter meeting of the commission.

Chief Justice C.C. Torbert Jr., chairman, and state Rep. Rick Manley of Demopolis, vice chairman, have set the November meeting to be held at the new Law Center on the University of Alabama campus in Tuscaloosa.

The Judicial Study Commission studies

and makes recommendations on any and all aspects of the judicial system of the state and the administration of justice, including criminal punishment and rehabilitation.

In addition to the chief justice, the commission is composed of six members of the House of Representatives, six members of the Senate, the speaker of the House, the lieutenant governor, the legal advisor to the governor, a member of the attorney general's staff and members of the Judicial Conference. The advisory section includes three court clerks, three representatives of law enforcement agencies and three district attorneys.

LEGISLATURE RETURNS ON SEPT. 29 FOR SECOND SPECIAL-CALLED SESSION

The Alabama Legislature returns to Montgomery for its second special session on Sept. 29.

This special session has been called for the purpose of legislative reapportionment. It is anticipated that a third special session will follow in either late October or November.

The first special session was completed in August following passage of the education budget. No legislation of impact to the Judicial System or its personnel was enacted during the session.

STATE TRAFFIC FATALITIES DECREASE IN FIRST SIX MONTHS OF THIS YEAR

Alabama experienced an overall decrease of 34 traffic fatalities during the first six months of 1981 as compared with the same period in 1980, according to the National Highway and Traffic Safety Administration.

The following statistics reflect the increases (+) and decreases (-) in traffic fatalities for the southeastern states:

Alabama (-34); Florida (+190); Georgia (-11); Kentucky (+25); Mississippi (+25); North Carolina (-29); South Carolina (+23); and Tennessee (-33).

"We are proud of this reduction in Alabama and will continue working with the Office of Traffic Safety and law enforcement agencies to continue this trend," said Director of Municipal Courts Angelo Trimble.

PEOPLE * PEOPLE

Lynwood Smith, who was just appointed to a vacant Madison County district judgeship in April, has now been appointed to fill a vacant circuit judgeship in the 23rd Judicial Circuit.

Smith, a former Huntsville attorney, was appointed to the circuit bench in August by Gov. Fob James to fill the remainder of the term of retiring Circuit Judge John W. Green Jr. which expires in 1982.

The Madison County Judicial Nominating Committee, which makes recommendations to the governor to fill vacant judicial posts in the county and 23rd Circuit, has yet to do so for the district judgeship left vacant by Smith's new appointment.

Mrs. Mary E. Carter, non-support officer for the Montgomery County Family Court, will officially retire Sept. 29 after 19 years service with the court.

Mrs. Carter has seen support payments grow from \$35,497 in October of 1964 to an average of \$316,000 per month and has been actively involved with all phases of child support.

Mrs. Carter plans to enjoy her retirement with her husband, John, and expects to do a lot of fishing, gardening, cooking and visiting with her grandchildren.

Supreme Court Justice Janie Shores addressed the 1981 summer graduates of Livingston University Aug. 8.

Chief Justice C.C. "Bo" Torbert Jr. addressed the incoming freshman class of Cumberland Law School Aug. 24. He also made a talk to the Capitol Rotary Club on Sept. 3 in Montgomery.

Alabama's U.S. Senator and former state Chief Justice Howell Heflin has received the 1981 Justice Award, given by the American Judicature Society. The award came to Heflin for his work during the early 1970s in revamping the Alabama Judicial System and was awarded Aug. 7. In presenting the award, Society President Robert MacCrate said Heflin "combined urbane political astuteness, country-style

common sense and leatherneck toughness to restructure a state court system." Heflin's efforts, along with the continuing efforts of his successor, Chief Justice C.C. Torbert Jr. who implemented many of the changes, have led Alabama to a place of national prominence in court reform.

Vermont Chief Justice Albert W. Barney became chairman of the Conference of Chief Justices at the organization's 33rd annual meeting held Aug. 2-5 in Boca Raton, Fla. He succeeds Robert J. Sheran, chief justice of the Minnesota Supreme Court.

Lawrence H. Cooke, chief judge of the New York Court of Appeals, was elected first vice chairman; Joe R. Greenhill, chief justice of the Texas Supreme Court, second vice chairman; and Mary S. Coleman, chief justice of the Michigan Supreme Court, deputy chairman.

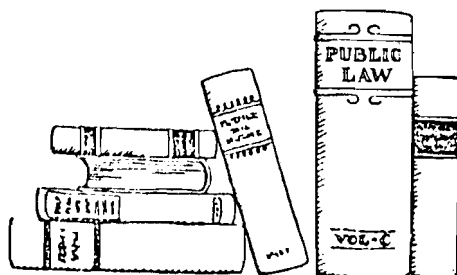
Three new members were elected to the CCJ's executive council: Theodore R. Newman Jr., chief judge of the District of Columbia Court of Appeals; John S. Palmore, chief justice of the Kentucky Supreme Court; and Roger L. Wollman, chief justice of the South Dakota Supreme Court. Robert F. Utter, a justice on the Washington Supreme Court, was appointed to the council.

Louisiana Judicial Administrator Eugene J. Murrel became chairman of the Conference of State Court Administrators at the organization's 27th annual meeting Aug. 2-5 in Boca Raton, Fla. He succeeds William H. Adkins II, state court administrator of Maryland.

Carl F. Bianchi, administrative director of Idaho courts, was elected chairman-elect. Two new members were elected to COSCA's executive committee: Mark G. Geddes, state court administrator of South Dakota, and Larry P. Polanski, executive officer of the District of Columbia courts.

Administrative Director of Alabama Courts Allen L. Tapley has been appointed to serve on the nominating committee for COSCA for 1982. The committee will meet during the organization's winter meeting to select nominees for the following year.

LEGAL NOTES



ATTORNEY GENERAL OPINIONS

Town Councilman May Not Perform DutiesOf Auxiliary Policeman--Even Without Pay

In an opinion dated July 13, 1981, the attorney general stated that there would be a conflict of interest if a member of the town council of Mt. Vernon performed duties of an auxiliary policeman at no pay. Section 11-43-12, Code of Alabama provides:

"No alderman or officer or employee of the municipality shall be directly or indirectly interested in any work, business, or contract, the expense, price or consideration of which is paid from the treasury, nor shall any member of the council, or officer of the municipality be surety for any person having a contract, work, or business with such municipality, for the performance of which a surety man be required."

"The Alabama Correctional Incentive TimeAct" Does Not Apply ToMunicipal Ordinance Violators

The attorney general opined on July 30, 1981, that Sections 14-9-40 through 14-9-44 (1980 Cum Supp.), the "Alabama Correctional Incentive Time Act" does not apply to municipal ordinances because the first sentence of 14-9-41 provides the act applies to prisoners convicted of offenses against the laws of "the state of Alabama..." Cited was the case, City of

Mobile v. McCown, 226 Ala. 588, 692, 148 So. 402 (1933) where the Supreme Court of Alabama held:

"The violation of a municipal ordinance or regulation is not a crime or criminal offense against the state, but only against the municipal corporation enacting the ordinance or regulation."

Constable Serving In Law EnforcementPosition Must Comply With "PeaceOfficers Standards and Training Act"

In an opinion dated July 30, 1981, the attorney general held that, "a constable cannot serve in a law enforcement position which comes under the Standards and Training Act without complying with the requirements of the Act."

Corporations--Campaign Contributions

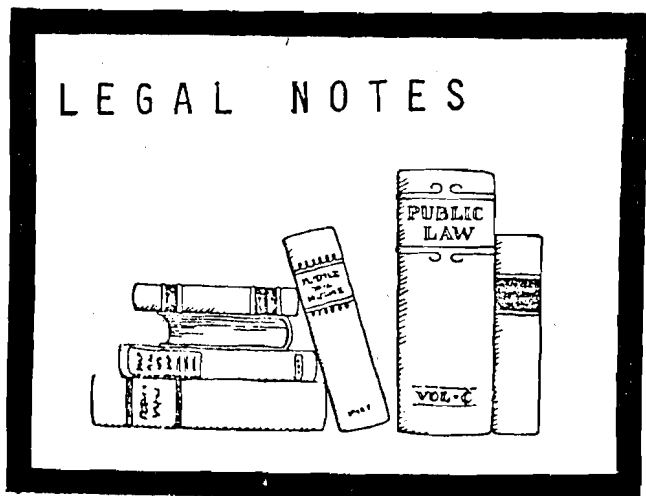
The attorney general was recently asked to interpret Act No. 81-543, passed during the 1981 Regular Session, allowing a corporation to contribute up to \$500 to a candidate or political party in "any one election." Specifically, clarification was sought on the meaning of the phrase "any one election." On July 22, 1981, the attorney general determined that said language means that \$500 can be contributed in each separate election, i.e., the first primary election, the primary run-off election, and the general election. "It... does not mean that you are limited to one election, but means that you may contribute to any or all of the separate elections that occur."

Attorney Fees For Indigents In Some CasesShall Be Calculated At Old And New Rates

In an opinion dated Aug. 18, 1981, the attorney general opined that an attorney who has been appointed to represent an indigent criminal defendant and has done

work both before and after the effective date of Act No. 81-717, Regular Session, may bill all of his work done subsequent to the Act's effective date at the higher rate, but must bill work prior thereto at

(Continued On Page 11)



ATTORNEY GENERAL OPINIONS

(Continued From Page 10)

the old rate. The total allowable for such a case will be governed by the new Act.

District Courts--Traffic Offenses--Rules

In an opinion of Aug. 18, 1981, the attorney general declared that rules regarding acceptance of fines and guilty pleas are established by the Alabama Supreme Court in Rules of Judicial Administration and that district courts have no authority to establish additional rules relating thereto. Also, jailers and deputies may not accept guilty pleas or collect fines from defendants in traffic cases. The text of the opinion is reprinted below.

"You have requested an opinion from this office regarding the acceptance of traffic fines by jailers and deputies in which you ask the following questions:

"(1) May a district court judge establish rules pursuant to Section 12-12-55, Code of Alabama, 1975, providing for the acceptance of fines in traffic cases by a jailer or other deputy?

"(2) Are rules providing for the acceptance of fines in traffic cases by a jailer or other deputy in conflict with Section 12-12-56, Code of Alabama 1975?

"(3) May a jailer or other deputy accept a guilty plea from a defendant in traffic cases and thereafter impose and collect a fine?

"(4) Are the procedures set forth in

the attached Ex. 1 relating to the acceptance of fines in traffic cases by jailers and other deputies legal and acceptable?"

"In response to your first question, Section 12-12-55, Code of Alabama 1975, provides that:

"The manner in which fines and costs shall be paid to and accounted for by personnel assigned to accept payment shall be provided for by administrative rule."

"The Constitution of Alabama, Amend. 328, Section 6.11, provides that:

"The supreme court shall make and promulgate rules governing the administration of all courts and rules governing practice and procedure in all courts..."

"The Alabama Supreme Court has established the administrative procedure for the acceptance of fines in traffic cases in rules 18 and 19 of the Rules of Judicial Administration. It is my opinion that these rules of judicial administration are preemptive and that a district court judge may not establish additional rules for the acceptance of fines. Therefore, the rules of procedure set forth in Exhibit 1 attached to your request are not authorized by Section 12-12-55.

"In response to your third question, a jailer or other deputy may not accept a guilty plea and thereafter impose and collect a fine from a defendant in a traffic case. Pursuant to rule 19 of the Rules of Judicial Administration, a defendant may only plead guilty and pay fines as established in subsection (c) of the rule. This subsection provides he may either (1) appear before the magistrate and sign a guilty plea and pay the fine and costs, or (2) sign the guilty plea on the ticket and mail the ticket and amount of costs to the clerk of the court."

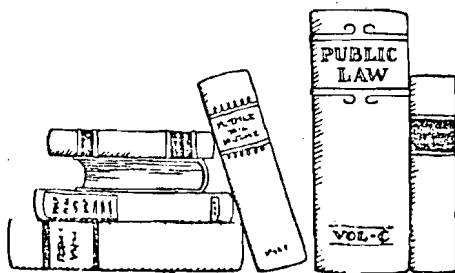
County Required To Pay Salary Of

Deputy DA As Provided By Local Statute

In an opinion dated Aug. 18, 1981, the attorney general opined that Geneva County was required by local legislation which was enacted prior to implementation of the new Judicial Article, (Act No. 794, Acts of Alabama, Reg. Sess. 1973) to pay the salary of the deputy district attorney. The opinion was based on Section 12-17-198(b) Code of Alabama 1975, to wit:

(Continued On Page 12)

LEGAL NOTES



ATTORNEY GENERAL OPINIONS

(Continued From Page 11)

"All general laws applicable within certain judicial circuits, general laws of local application and local laws providing for deputy or assistant district attorneys or circuit solicitors and the manner of election or appointment, compensation, duties, etc., or such officers, which said laws were in effect on the effective date of this Code, shall continue in effect until amended or repealed by statute; provided, that all such officers shall be known as 'assistant district attorneys.'"

SUPREME COURT CLERK OPINIONS

Prefiling Fees

In Opinion No. 37 dated Aug. 21, 1981, the clerk of the Supreme Court issued the following opinion wherein he determined that (1) An additional filing fee is required when a defendant files a petition to modify along with his answer to a citation for contempt; (2) When the court treats proceedings for contempt and modification of the final decree as one case, only one docket fee should be charged; and (3) When a judge renders a new decree after the parties have submitted an agreement for modification of a final decree, a filing fee should be paid on the filing of the agreement. The opinion reads as follows:

"Mrs. Katie H. Phillips, deputy register of the Family Court, of Montgomery

County, has submitted to me, as clerk of the Supreme Court, pursuant to Section 12-2-19(d), Code 1975, the following questions:

"1. When a lady files a citation for contempt (to be heard on our non-support docket), and thereafter the former husband files an answer to citation and petition to modify requesting that the court either decrease or terminate his payments, should not the husband be required to pay a docket fee? When a situation such as this occurs the citation for contempt must be delayed for hearing, or transferred to the Domestic Relations Docket for disposition at the time that the husband's modification is heard. The non-support judge does not normally entertain petitions for modification.

"2. Is it necessary to require a double docket fee when a party files a citation for contempt and petition to modify in one pleading requiring only one hearing and actually one filing and process, when the subject matter is related such as contempt regarding visitation and modification of custody and visitation or contempt regarding failure to support and modification of amount or method of payments?

"3. When parties submit an agreement for modification of final decree, when no petition is filed, and the judge ratifies, approves and incorporates the agreement into a modified decree, does this not require a filing fee?"

"The first and third questions are answered in the affirmative. The second question is answered in the negative.

"I. Clarification of Clerk's Opinion No. 25, March 12, 1980, Ala., 381 So. 2d 58, was requested in the instances stated in the first and second questions.

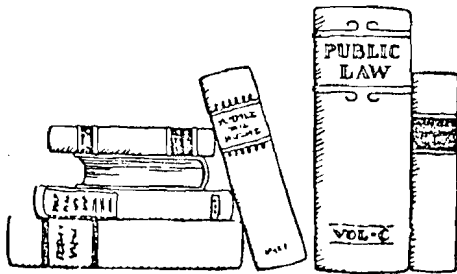
"Opinion No. 25 stated that a petition for rule nisi and a petition to modify could not be included in the same pleading under one prefiling fee and that there should be separate petitions filed and two prefiling fees charged.

"Rule 7, Alabama Rules of Judicial Administration, is as follows:

"Fees for Miscellaneous Filings--Any filing for which there is no express cost under the consolidated fee structure shall be treated as an original filing for cost

(Continued On Page 13)

LEGAL NOTES



SUPREME COURT CLERK OPINIONS

(Continued From Page 12)

purposes.'

"The 'filing,' the collection of which is authorized by Rule 7, is the filing of a case. Opinion of Clerk, No. 1, April 26, 1977, Ala., 345 So. 2d 1329; No. 3, May 4, 1977, Ala., 345 So. 2d 1338.

"It appears from the statement of facts submitted with the first question that the citation for contempt and the petition to modify are entered upon different dockets, are normally heard by different judges and are treated by the court as separate cases.

"The basic differences between contempt proceedings and proceedings to modify a final decree were stated in Opinion of Clerk, No. 25, March 12, 1980, Ala., 358 So. 2d 58.

"A proceeding in contempt is sui generis. State ex rel. Payne v. Empire Life Ins. Co., Ex parte Shearn Moody, Ala., 351 So. 2d 538 (1977). It is neither a 'civil action' nor a 'criminal prosecution' within the ordinary meaning of those terms. International Brotherhood of Electrical Workers v. Davis Constructors and Engineers, Inc., Ala., 334 So. 2d 892 (1976).

"It is my opinion that, under the facts stated in connection with the first question, a docket fee should be charged on the filing of the petition to modify.

"II. It appears from the second question that the court treats proceedings for contempt and modification of the final decree as one case. In this event, only one docket fee should be charged.

"III. Clarification of Opinion No. 30, October 20, 1980, Ala. 389 So. 2d 1154, was requested in connection with the third question.

"Opinion No. 30 stated that there is no authority to collect a docketing fee on modification of a final decree, which contains only an agreement for modification, ratified by the judge, but without any petition being filed.

"In opinion No. 30, it did not appear from the question that the agreement of the parties invoked the jurisdiction of the court to enter a new decree. The judge merely approved the agreement but did not render a decree on the basis of the agreement.

"It is my opinion that when an agreement between parties invokes, as a substitute for a petition, the jurisdiction of the court to modify a final decree by the rendition of a new decree, a filing fee should be paid on the filing of the agreement."

ATTORNEY GENERAL OPINIONS

Magistrates--Peace Proceedings

In an opinion dated Aug. 14, 1981, the attorney general determined that magistrates do not have authority to issue an arrest warrant in a peace proceeding. The opinion provides as follows:

"After a thorough and diligent research of the laws and cases pertaining to peace proceedings in Alabama, it is the opinion of this office that a magistrate does not have the authority to issue an arrest warrant in a peace proceeding because Section 15-6-21, Code of Alabama 1975, specifically states that: 'If on examination by the circuit, district or municipal court judge, it appears that there is reason to fear the commission of any offense by the person complained of, such judge must issue a warrant directed to any lawful officer of the state, containing, the substance of the complaint and commanding such officer forthwith to arrest the person complained of and bring him before him or some other judge having jurisdiction of the matter.' (Emphasis added)

"The appellate Courts of the State of Alabama have seriously questioned the constitutionality of peace proceedings, therefore, I feel that the statutes governing peace proceedings should be strictly adhered to as they are written. Ex Parte James 303 So. 2d 133, 145."

NEWS CLIPS FROM THE STATE PRESS

Selma jurors go to school first

By Boone Aiken
News staff writer

SELMA — Now that practically all exemptions for jury duty have been abolished (even judges and attorneys are subject to call) officials are seeing many new faces in the jury box.

Many of these are obviously uneasy about being called for jury duty and for some it is their first visit to a courtroom.

Dallas County jurors are being introduced to a new orientation slide show depicting what to expect during their courtroom stay.

For some 20 minutes jurors watch a 35mm colored slide presentation which is accompanied by a tape recording of court proceedings. Featured are local and circuit court officials.

The show opens with the jury oath: "You do solemnly swear that you will well and truly try all issues which may be submitted to you during the present session and truly verdicts render according to the evidence, so help you God."

This is followed by a picture of Chief Justice C.C. Torbert Jr. who tells the jurors: "The service you render as jurors is one of the most important functions that you, as a citizen, can perform."

HE REMINDS them that the privilege of being tried before a jury of one's peers is a hallowed one and that "the right to a trial by jury is one of the most important rights Americans enjoy and the duty of each citizen to serve as a juror should not be taken lightly."

The chief justice points out that one of his goals has been to improve the efficiency of the jury system and "one of the excellent examples of improvement in this area is the 4th

Judicial Circuit"

In his conclusion Torbert tells the jurors, "Your service here upholds one of the greatest strengths of our country — its system of justice . . . you are providing a great service to our state and nation, one that cannot be praised highly enough."

A narrator explains that the circuit judges of the 4th Judicial Circuit — Bibb, Dallas, Hale, Perry and Wilcox counties — try felonies, civil actions exceeding \$5,000, domestic relations cases, and district and municipal court appeals.

CIRCUIT JUDGES are then introduced. They are presiding Judge Edgar P. Russell Jr. and Judge J.C. Norton.

Introduced are the circuit court clerks of the five counties: R.L. Foster of Bibb; William A. Kynard of Dallas; Mary B. Shipley of Hale; Mary G. Auburtin of Perry and Erskine Kennedy of Wilcox.

Also shown and their duties explained are the district attorney, court reporter and the bailiff who "maintains order in the court and will assist you in any personal matters."

An explanation is made of how jurors are chosen and then the scene switches to what happens as a trial gets underway.

"As the trial begins," says the narrator, "the prosecutor or the lawyer for the plaintiff makes an opening statement, explaining what he expects the evidence to prove. The opening statement of the defendant's lawyer presents the other side of the case."

"An important thing to remember is that opening statements are not evidence but are each attorney's summary of what he expects to prove."

Jurors are urged to pay close attention to each witness's testimony, not only to hear what is said "but to observe manner and expression."

"You are the sole judge of the credibility or believability of the witness."

Jurors are told not to get upset when the lawyers gather around the judges bench and carry on a conversation that the jurors cannot hear. This is merely to have the judge rule on technical points of the law and procedure.

They are also told:

A juror must not make any independent investigation into the case.

The lawyers' arguments are naturally conflicting.

At the conclusion of final arguments the judge will instruct you on the law that applies to the case.

After retiring to the jury room the first duty is to elect a foreman.

After a verdict is reached verdict forms, provided by the judge, are filled in but "do not tell the bailiff or anyone else the verdict until the judge requests it."

Finally the jurors are reminded that "jury duty is one of the most important duties a citizen can perform. America is one of just a handful of countries remaining in the world where citizens rather than government judge other citizens."

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—Advertiser photo by Patty Dillman

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Youth Camp

The participants in the annual Lions Club International Youth Camp spent an afternoon in court Monday to allow 60 students from 15 countries a chance to see how the criminal justice system works in Alabama and the United States. Alabama Supreme Court Justice Hugh Maddox took part in

the event, along with defense attorneys, prosecutors and Montgomery Circuit Judge Joseph Phelps. By the time the camp ends, during the first week of August, the campers will have visited Washington, D.C., Kentucky, Georgia and Florida.

Microfilming of court records begins

By TONY GNOFFO
Press Staff Reporter

The state court system may be the most prolific record-keeping branch of Alabama's government — so Monday it began transferring tons of its dusty paper records onto microfilm.

Technicians were in the Mobile County Courthouse Monday, making photographs of the records that a committee deemed noteworthy. It will be two years before the existing court records in Mobile County are all placed on microfilm, said Deborah Hay, a state archivist who is in Mobile to supervise the training of the microfilm technicians.

Even after the existing records are re-recorded, however, the two technicians responsible for microfilming the records will have fulltime jobs microfilming records that are yet to be made, Ms. Hay said.

THE PROCESS that led to the operation began about four years ago when the Administrative Office of the Courts was established to run the state's court system. Ms. Hay said the office established a records management system, charged with the task of finding a better way for the court system to keep its records.

In Mobile County alone, there are 3,000 record books and 3,000 square feet of case files belonging to the court system. Most of the old records are stored in a warehouse on Dauphin Street at a cost of \$10 per square foot, Ms. Hay said.

The cost of the microfilming program, excluding salaries for the two technicians, is just under \$30,000 for an initial investment in the microfilming equipment to be followed by \$6,000 to \$8,000 per year for upkeep and materials, Ms. Hay said.

SHE EXPLAINED that a rigorous system was devised for determining which records would be microfilmed and which would be destroyed. A committee of judges, district attorneys and others with legal and historical expertise carefully reviewed the records to determine which would be preserved on microfilm.

Ms. Hay said records such as old receipts would be destroyed, while court minutes, grand jury dockets and indictment books would be microfilmed.

An effort also will be made to preserve intact original copies of documents of historic significance. All of the originals, in fact, will be offered to state and local archives for preservation.

But according to Maurice Castle, clerk of Mobile County Circuit Court, the state archivist has told him that the archives are already filled to capacity, and it is unlikely that there will be room for any more historic documents.

CASTLE admitted that it was possible that the original copy of some historically significant document could be destroyed due to a lack of space at the state archives.

Court records fill not only a warehouse on Dauphin Street, Castle said, but areas in the basement and even the corridors of the courthouse. Ms. Hay said the microfilm will take up significantly less room and will lead to tremendous savings in the cost of running the court system.

"When an employee has to go downstairs (to the basement) or out to Dauphin Street to get records, that's valuable employee time being wasted," Ms. Hay said. She claimed the new microfilm system will free employees from such tasks.

Savings also will result from the ability to recycle folders and envelopes from paper documents that have been microfilmed, and from a lesser demand for large filing cabinets and warehouse space. Not all of the warehouse needs will be done away with, however.

Duplicate microfilmed records will be kept in a special protective vault in Mississippi so that, should anything happen to the courthouse in Mobile, most of the court documents will remain intact.

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The blueprint

Speeches by chief justices of the Alabama Supreme Court are rarely described as refreshing, but one last week by C.C. "Bo" Torbert cut through a lot of loose thought about state prisons.

It came as lawyers and politicians announced motions, counter-motions, bargains, plans and denials, press conferences and other outrages. When time ran out, we offered to send excess prisoners to Atlanta, some to an abandoned jail and place others in motion between various counties about the state like MX missiles.

We have done everything except ease the basic overcrowding which we agreed to start with had to be alleviated. The chief justice reminded us of the simple, inevitable chain of events:

"Government," he told a Montgomery civic club, "... sometimes overreacts, compounding the problems in our criminal justice system.

"We escalate mandatory, sentences; we enact habitual offender laws and repeal statutes which reduce time of incarceration for good behavior. But we were slow ... to allocate more public resources to build and staff prisons.

"The ultimate result is that federal courts mandate release of imprisoned offenders ..."

Nobody ever claimed self-government was easy, but it may not be as hard as it looks — if we ever try it.

**COURT NEWS**

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