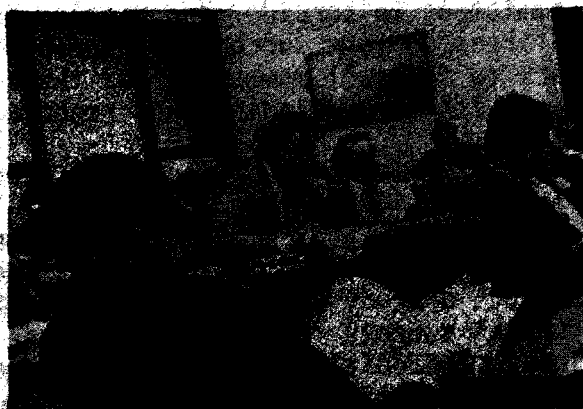


# COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

Volume 5/Number 1

January, 1981



*JUDICIAL STUDY COMMISSION MEMBERS... review proposals. From left to right, Rep. Rick Manley of Demopolis, the commission's vice chairman, Sen. Larry Keener of Gadsden, Rep. Charles Langford of Montgomery, Sen. Earl Hilliard of Birmingham, Sen. Mac Parsons of Hueytown, District Judge Bennett Morab of Decatur, Frank Gregory of the AOC staff, Rep. John Amari of Birmingham and Appeals Court Judge John Tyson, III of Montgomery.*

## AT TUSCALOOSA MEETING

### JUDICIAL STUDY COMMISSION SUPPORTS PROPOSED JURY BILL

The state's Judicial Study Commission has recommended passage of legislation to facilitate better jury management practices in Alabama and has asked the Administrative Office of Courts to research the possibility of alternate funding sources for indigent defense services.

The commission met December 4-5 at the University of Alabama Law Center in Tuscaloosa.

Chief Justice C.C. Torbert Jr., commission chairman, welcomed the members



*PROPOSED JURY LEGISLATION EXPLAINED.. From left to right, Circuit Judge Robert E.L. Key of Evergreen, Chief Justice C.C. Torbert Jr., Associate Justice Hugh Maddox, and Hunter Slaton and Janie Alexander of the AOC staff discuss the proposed jury management legislation to the membership of the state's Judicial Study Commission.*

to the meeting and gave a brief overview of the 1979-80 legislative packet. The chief justice expressed his gratitude to the many organizations which offered their support and assistance to last year's legislative program.

Commission Director Jack Dixon gave the membership a brief summary of the proposed legislative program for 1980-81 and Howard B. Eisenberg, executive director of the National Legal Aid and Defender Association based in Washington, D.C., reported the results of a study NLADA recently completed on the quality of legal services provided indigent defendants in Alabama.

The study, Eisenberg explained, was accomplished by means of two questionnaires which were sent to

*(Continued On Page 2)*

# JUDICIAL STUDY COMMISSION

## SUPPORTS PROPOSED JURY BILL

219 judges, 500 district attorneys and 4,315 other members of the bar will be

Following Eisenberg's remarks, the commission heard a panel discussion of a proposed jury bill which is to be submitted at the next session of the Legislature.

The proposed bill is the result of the work of the AOC Juror Bill Task Force and Nancy M. ... clerk ... commission ...

as follows: ... former ...

\*Elimination of the requirement that jurors be selected from the entire available venire.

\*Elimination of special venues in capital cases.

\*Provision, by local option, for a combined qualification and polling process whereby jurors are qualified and polled in one step.

\*Provision, by local option, for computerization of the juror selection process, including the random drawing of names from the State's voter lists, either in part or in whole.

... report to ... records ... trial courts. All permanent records will now be microfilmed on a county by county basis. Campbell further ...

... is expected to free approximately two-thirds of the space in county courthouses now used for storing ...

Campbell also ... of the court ... is designed to ... case backlog and ... maintaining standards ...

ness and the process ...

...

...

...

## PROFILE

### Judge Richard L. Holmes

After working in all three branches of state government--legislative, executive and judicial--Court of Civil Appeals Judge Richard L. Holmes says that he has found his home in the judicial branch.

"This branch of government has all the excitement I need," he says. "I'll just keep trying to get better at what I'm doing."

Judge Holmes worked for a while in the office of Secretary of the Senate McDowell Lee and later, in 1968, was appointed by Gov. Albert Brewer as director of the Department of Industrial Relations. In 1969, he was appointed legal advisor to the governor.

His career with the judicial branch of government started when he ran for his present position in May of 1972. He was re-elected in 1978 and is currently serving his second six-year term as judge on the Alabama Court of Civil Appeals.

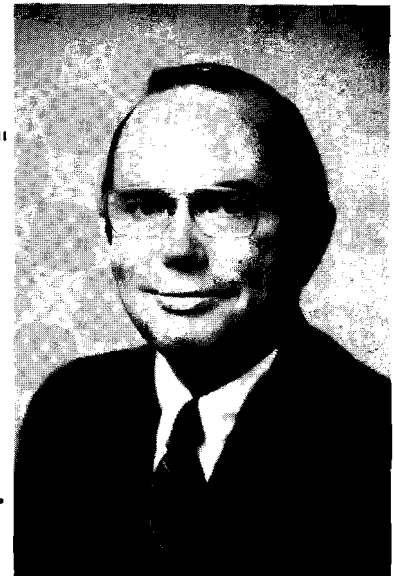
"Having been associated with the legislative and executive branches of government gives me a broader view and aids in the practicality of what we do here."

What the Civil Appeals Court does is hear appeals in civil matters when the amount of money involved is less than \$10,000 and appeals from administrative agencies other than the Public Service Commission.

In his eight years on the appellate bench, Judge Holmes has authored approximately 500 opinions, including 87 last year.

"Some time ago, I had the opportunity to attend a seminar at Harvard University with judges from all over the United States. I came to realize then that we don't do a very good job of appreciating and telling what a good court system we have here in Alabama. We get so involved with the problems, that we don't take the time often enough to recognize and accentuate the positive.

"I grew up where everybody respected the law, lawyers and judges. I see us getting away from that. But we're lucky here in Alabama--we've got good lawyers, a good bar and good judges. Everytime I hear bad publicity about a judge or the court system, I wonder how our systems of discipline compare with the ways other professions discipline themselves," he said noting the state's two judicial disciplinary boards, the Judicial Inquiry Commission and the Court of the Judiciary



JUDGE RICHARD L. HOLMES

as examples.

"We are constantly trying to better ourselves.

"I get briefs from lawyers every day and they are just excellent. And I'll toot Chief Justice Torbert's horn too--no one could have done a better job than he has organizing and making progress in the Alabama court system."

Statistics that show the average citizen knows little about the court system worries Judge Holmes.

"If they don't understand, it's our fault. For example, a friend of mine recently said to me 'I've been called for jury duty, I guess I'll see you next week.' Well, he knows what I do and should realize that we don't have juries. But we need to do a better job of letting people know how the courts operate. We, as judges and court personnel, need to make more speeches and talk about the good things the court system has going."

Born in Birmingham and reared in Mobile, Judge Holmes is the son of Gladys Wilson Holmes and the late Alfred P. Holmes Sr. He graduated from Murphy High School in Mobile; attended Southwestern at Memphis; earned a B.A. degree from the University of Alabama in 1959 and his LL.B. degree from the University of Alabama in 1961.

*(Continued On Page 4)*

## JUDICIAL STUDY COMMISSION SUPPORTS PROPOSED JURY BILL

*(Continued From Page 2)*

12-15-67, Code of Alabama, 1975, to allow juvenile courts to rely on existing case law to determine the admissibility of statements made by children; and 5) establish jurisdiction of paternity and non-support cases back in the juvenile court.

**JURY MANAGEMENT:** The subcommittee on Jury Management discussed the proposed jury legislation section by section, voting to make changes in the proposed language for the purpose of clarification. The subcommittee unanimously voted to endorse the bill as amended.

**COURT IMPROVEMENT LEGISLATION:** The subcommittee on Court Improvement Legislation recommended legislation be introduced to: 1) add several categories of membership to the presently constituted Study Commission. (Such additional members would include the administrative director of courts, director of the Department of Public Safety, two circuit clerks or registers, two district attorneys and two law enforcement representatives.); 2) request additional defendant service fees; 3) tax as costs expenses involving returning defendants to Alabama; 4) abolish the challenge for cause of jurors over 65 years of age; 5) authorize investment of clerks and registers supernumerary fund; and 6) allow the dismissal of criminal cases upon payment of costs.

### PROFILE: JUDGE RICHARD L. HOLMES

*(Continued From Page 3)*

He served on active duty in the U.S. Army from February 1962 to February 1965, attaining the rank of captain. While serving in the Armed Forces, he was awarded the Army Commendation Medal and received a Commander's Citation for exceptionally meritorious service. He is a past member of the Alabama National Guard and held the rank of major.

Judge Holmes practiced law in Elba after his release from the Army and later formed his own firm in Montgomery with partner Frank Ussery where he practiced

until his appointment as director of Industrial Relations.

After resigning as legal advisor, he returned to private practice as a partner in the firm of Hill, Robison, Belser, Brewer and Phelps where he remained until his election to the court.

He taught for seven years at the University of Alabama at Montgomery, Auburn University at Montgomery and Jones Law School. He said he enjoyed teaching and that he would like to go back to teaching if he were no longer on the court.

Judge Holmes is a member of the Advisory Committee on Judicial Ethics, the Alabama Rules of Judicial Administration committee, the Permanent Study Commission, the Alabama Judicial College Advisory Committee and the Judicial Coordinating Committee.

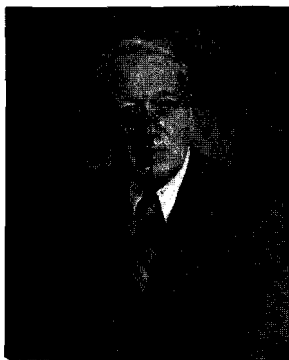
He is a past member of the administrative board of the First United Methodist Church of Montgomery; American Legion (past departmental judge advocate and parliamentarian); Lions Club (past member of the board of directors); past chairman of the board of directors of the Central YMCA member of Jimmy Hitchcock Memorial Award Committee board of directors; vice president and member, board of directors of Youth Legislature; Mason; Scottish Rite; Shriner; Alabama Peach Officer's Association; Alabama Sheriffs Association; Farrah Law Society; and Phi Delta Phi legal fraternity.

Judge Holmes served for five years on the Tennessee-Tombigbee Waterway Development Authority. He is a member of the American and Montgomery County Bar Associations, serving the county chapter's executive committee, and belongs to the American Judicature Society. In 1969, he was selected by the Alabama Jaycees as one of Alabama's four Outstanding Young Men.

He is co-author of a textbook which has been used in Alabama public schools, Civics and Law.

He is married to the former Jacqueline Ferguson of Forrest City, Arkansas, and they have two daughters, Ashton and Lee. Outside his official role, Judge Holmes enjoys playing tennis, racquetball and fishing with his two daughters.

Judge Holmes is only the fourth judge to have served on the three-member Court of Civil Appeals.



JUDGE ROSENAU



JUDGE BRUNSON



JUDGE BARBER



JUDGE SEALE

## JUDGES RETIRING AT END OF TERM

Effective in January, District Judges D.L. Rosenau, Thomas F. Seale, T.L. Borom, Robert A. Sapp, Hugh Rozelle and Circuit Judge William C. Barber will retire. Court News has previously spotlighted Judges Borom and Rozelle and herewith are interviews with retiring Judges Sapp, Rosenau, Seale, Barber and Brunson.

District Judge *Robert A. Sapp* of Cullman has been district judge and intermediate court judge for 14 years. Prior to that, he served as county solicitor for eight years and has a total service to the state of 22 years. He also served Cullman as its city judge for one year prior to his term as solicitor.

Judge Sapp said his retirement comes at age 65 because he thinks he "should step down and let some young man take over."

Noting that the caseload in Cullman District Court is the highest per judge in the state now that Tuscaloosa has an additional district judge, he said that the 9,000 to 10,000 cases per year were "beginning to tell on me."

After retirement, the judge hopes to be on call to fill in for other judges who may need his help. He is also in the construction and real estate business and he plans to continue with that after his judicial retirement.

"I work for the best county in the state and with the best people," he brags. "I am very pleased with the direction the court system has taken. We all worked hard during the 60s and early 70s in getting Act 1205 passed, and we've had wonderful results."

Judge Sapp and his wife, Opal, have

four children including two sons now in law school. They also have four grandchildren.

"I've enjoyed working with the people at the department of court management and have enjoyed watching that department come into being and grow."

District Judge *D.L. Rosenau Jr.* of Limestone County will retire at the end of his present term after serving 43 years, two months and one day as district and county court judge. He is believed to have held an Alabama judicial post continuously longer than any other Alabama judge except for Birmingham Judge J. Russell McElroy who made the half century mark.

Judge Rosenau was born in Athens, the son of David Lee Rosenau Sr. and Margaret Alice (Lewis) Rosenau. He attended Greene University School in Athens, going from there to Yale for an A.B. degree and to Stanford for a J.D. degree. He was admitted to the Alabama State Bar in 1925 and was recently awarded a 50-year certificate by the State Bar.

Judge Rosenau was appointed county judge by Gov. Bibb Graves in 1937 and since that time, the court has changed names and jurisdictions several times. From 1948 to 1977, the court had practically the same jurisdiction as circuit court (except for felonies) with jury trials and appeals directly to the Alabama appellate courts. "For 29 years, I probably tried more cases than many circuit judges," he said.

Judge Rosenau served as an official member of the five-judge delegation from the United States to the International Congress of Juvenile Judges at Brussels,

(Continued On Page 6)



## JUDGES RETIRING AT END OF TERM

(Continued From Page 1)

carrying an official letter of greeting from President Eisenhower. In 1958, he again attended that international meeting as chairman of the U.S. delegation.

The judge and his wife, the former Jewell Hertzler, have two daughters. He is a member of the Methodist Church and the Lions Club.

Judge Rosenau said that he has no hobbies and doesn't know how to do much other than "law and judging" therefore he plans to be on call for temporary duty.

"So if any judges want to take a vacation, a trip around the world, get sick, have an operation or just play hooky, call on me and I'll be happy to serve," he said.

District Judge *Thomas F. Seale* of Sumter County was appointed to the county court in 1971 and will retire at the end of his present term.

A native and lifelong resident of Livingston, he practiced law there prior to his appointment as judge. He is a graduate of the University of Alabama and attended military police school at Battle Creek Mich. and Judge Advocate's School in Ann Arbor, Mich.

"I have thoroughly enjoyed my nine and a half years working with the court systems of Alabama. The Department of Court Management has been a wonderful help to me through the years and I wish for it continued success in the future."

Judge Seale has been ill for some time and he said that when his health returns, he plans to visit some friends and keep busy around the house.

He and his wife, Lucy, have a son, Bob, who is a practicing attorney in Livingston.

Circuit Judge *William C. Barber* of Birmingham will retire Jan. 1 after having served on the 10th Circuit bench since 1965. Prior to his term on the circuit bench, he served three years on the intermediate civil court of Birmingham.

He graduated from the University of Alabama and attended Tufts College in Boston and old Howard College. While at the University of Alabama, he was roommates with former Alabama Gov. George C.

Wallace.

World War II interrupted his college studies and he served in combat duty in the U.S. Navy as a gunnery officer.

His retirement comes at this time because he says "all things being equal, the sun's going to go down soon and I have some things I want to do in life. I am a student of the Bible and I like to write poetry so I have some unfinished poetic works of a Biblical nature I want to complete and maybe publish a book of them. I just have this in my system and I have to work it out," he said.

He is a member of the Southside Baptist Church where he teaches a men's Bible class, serves on the Board of Deacons and sings in the choir.

He and his wife, Frances Elliot Barber, have three children, six grandchildren and four great-grandchildren.

After retirement, Judge Barber plans to be available for temporary duty. In addition to his poetry writing, he is a great football fan and says "Roll Tide."

Mobile District Judge *Paul Brunson* will end his 14-year career with the judicial system in January as he gives up his seat for retirement. After being admitted to the Alabama State Bar, Judge Brunson practiced law in Mobile for two years. He then became director of the University of Alabama, Mobile center, serving as such for 10 years. At the end of this period, he returned to private practice and continued until his election to the Court of General Sessions of Mobile in 1966.

A native of Clarke County, Miss., and a resident of Mobile since the age of 5, Judge Brunson attended Murphy High School and graduated from Spring Hill College and earned his LL.B. from the University of Alabama. He has since attended the National College of the State Judiciary in Reno, Nev., and has completed graduate courses in Criminal Law and Sentencing, Special Court classes and General Jurisdiction programs.

Judge Brunson is one of only a few blind judges in the history of the Nation. He has, in his years on the bench in Mobile, won the acclaim of the legal community for his handling of cases--sometimes under the familiar judicial symbol depicting justice as being blind.

(Continued On Page 7)

## JUDGES TO RETIRE AT END OF TERM

*(Continued From Page 6)*

He and his wife, the former Eliza B. Stokes who has generally been recognized as his partner in his career as well as his personal life, have two children and five grandchildren.

He is a patron of the Mobile Symphony and the Mobile Civic Music Association. Judge Brunson holds advance class FCC license in amateur radio and plans to further this interest after retirement. He has been active in disaster communications during storms and earthquakes and has recently been talking with disaster victims in Italy. His work in this area has won him a citation for his work during the Alaska earthquake and Hurricane Frederick. He has been a member of a discussion group (Great Books) and has been a discussion leader for 20 years.

Judge Brunson enjoys fishing, porch sitting and bird call listening and walking in the city and country. He is a plumber, electrician, furniture re-finisher and has restored the historic Bunker House in Mobile.

Judge Brunson is a member of the Alabama and American Bar Associations, the American Judicature Society and serves on the Literary Arts Committee, Allied Arts Council of Metropolitan Mobile.

"I have enjoyed my years on the bench. Being in contact with the law and with the people involved with the law has been a rewarding experience. The Administrative Office of Courts represents a great step forward for the Alabama court system. Chief Justice Torbert is doing a great job and should get credit for the accomplishments. I have a working library here at my fingertips, adequate equipment and adequate personnel. This is due in great part to the administrative office."

## YMCA-SPONSORED YOUTH JUDICIARY GEARS UP FOR THIRD YEAR IN STATE

The Youth Judiciary Program, sponsored by the YMCA Youth Legislature, will be conducted again this year according to Justice Hugh Maddox, President of the YMCA Youth Legislature.

The Youth Judiciary Program, now in

its third year, is designed to bring an understanding of the Alabama Judicial System to as many high school students in Alabama as possible through first-hand participation in simulated trials and appeals.

Chief Justice C. C. Torbert, Jr., and Allen Tapley, Director of the Administrative Office of Courts, have expressed a keen interest in the Youth Judiciary Program and have offered to assist in the development of the program statewide.

The Young Lawyers section of the Alabama State Bar has accepted the Youth Judiciary Program as a project and has agreed to provide assistance to young people who are interested in participating in a mock trial at the local level and in the preparation of briefs for an appeal to the Youth Supreme Court which will sit in Montgomery in March, 1981, at the same time the Youth Legislature meets.

During the past two years, the participants in the Youth Judiciary Program have come from YMCA and Government Clubs involved in the YMCA Youth Legislature Program, but plans are being made to expand participation to include more areas and more high school students.

In areas where YMCA or Government Clubs will participate in the program, there will be a need for an active or retired district or circuit judge to actually conduct the mock trial. Also, local Bar association support of the program is a must, according to Justice Maddox. He said that the format of the Youth Judiciary Program is fairly straightforward and simple, but that some time and effort of local lawyers will be required to insure that the student lawyers are given sufficient guidance.

Anyone interested in the Youth Judiciary Program should contact the Alabama YMCA Youth Legislature, P.O. Box 2336, Montgomery, Alabama, 36103, Mr. Bill Barringer, Program Director, Telephone #205 265-9568.

## JUDGE STRICKLAND SERVES ON JURY

On Dec. 9, Mobile Circuit Judge James T. Strickland became the first judge in the state to serve on jury duty. While everyone predicted he would be "struck" from the venire as "too learned in the law" he was chosen for a civil case. He also served as foreman of the jury.

## NEWS FROM THE JUDICIAL COLLEGE



### JUDGES PLAN MID-WINTER CONFERENCE

The circuit and district judges have planned their Mid-Winter Conference for Jan. 22-23 at the Hyatt House in Birmingham. Meeting in joint sessions, the judges will be addressed by Chief Justice C.C. Torbert Jr, State Bar Association President E.T. Brown of Birmingham and Gov. Fob James. This marks the governor's first address to the judges.

In addition, several important educational seminars are scheduled. These include David Strawn, former circuit judge in Orlando, Fla., discussing Innovations in Delivering Charges to the Jury (Civil and Criminal) and in the afternoon, Joe Marston of the attorney general's office and Judge Joe Colquitt of the 6th Judicial Circuit in Tuscaloosa will discuss Recent Developments in Criminal Law and Sentencing with special attention to the Habitual Offender Act, Correctional Incentive Time and Restitution. J.O. Sentell, clerk of the Supreme Court of Alabama will make a presentation on the Pitfalls in Judgments. Circuit judges will divide into groups based on the number of judges in the circuit for discussing problems and concerns of mutual interest.

L. Scott Atkins, assistant district attorney in the 4th Judicial Circuit from Centreville, will discuss Trials of Traffic Cases addressing specifically DUI, radar and overweight vehicles. Judge Joe Barnard of the 10th Judicial Circuit in Birmingham will discuss Search Warrants. Justice Sam Beatty of the Supreme Court of Alabama will lead a discussion on Evidence using video tapes of trial vignettes.

### COURT REPORTERS SET CONFERENCE

Alabama's court reporters are set for their Educational Conference sponsored by the Alabama Judicial College at the Mobile Sheraton Inn on Jan. 22-23. Appellate Transcripts will be the topic of discussion for a distinguished panel comprised of Justice Richard L. Jones of the Alabama Supreme Court, Dorothy Norwood, deputy clerk of the Supreme Court and John L. Wilkerson, clerk of the Court of Civil Appeals. David Miller, president of the

Alabama Shorthand Reporters Association will serve as a panel moderator. The group will be asked to pose questions to the panel for discussion.

On Friday, there will be skill building workshops for machine writers and for pen writers. Jere L. With of San Diego, Cal. will conduct the workshop for machine writers while the pen writers will concurrently be instructed by Sally J. Cochran of Chicago.

### CLERKS AND REGISTERS PREPARE FOR TUSCALOOSA MID-WINTER CONFERENCE

The clerks and registers have scheduled their Mid-Winter Conference at the Ramada Inn South in Tuscaloosa on Feb. 5-6. A full agenda promises a most worthwhile educational experience. The conference will open with addresses by Chief Justice C.C. Torbert Jr. and Administrative Director of Courts Allen L. Tapley. The next two sessions will be a discussion of problems encountered with the implementation of the Record Retention and Disposal Schedule led by Deborah Hay and Randy Helms of the Administrative Office of Courts staff. Stella Pierce of Chambers County and the Clerks Committee Studying Minute Entries will discuss Criminal and Civil Final Minutes.

Six Mini-Seminars will be offered on Friday with each participant having the option of selecting two. These seminars are: Uniform Child Custody Jurisdiction Act with Carol Kiker of Russell County, Mary Auburtin of Perry County and Bobby Green of Blount County; Defaults with Devon Kiker, Russell County, Ronald Harwell of Sumter County and Elizabeth Hamner of Tuscaloosa County; How To Compute Jail Time (workshop) with Bobby Branum of Butler County. The second set of Mini-Seminars include: Problems With Aid to Dependent Children with Barbara Pippin of Calhoun County and Bill Moman of the Department of Examiners of Public Accounts; Jury Management with Julia Trant of Houston County; and Innovations in Clerks and Registers Offices with Morris Moatts of Chilton County and Bob Bradford of the Administrative Office of Courts staff and Sam Grice of Talladega County.



## SERVICES OFFERED TO AID JURY PROCESS

Jury service can be a good public relations tool. It offers court officials a unique opportunity to meet the citizens of the county in an official capacity and to develop public esteem. With the new process of juror selection, many citizens are now experiencing jury duty for the first time. A juror's first impression of service is important. The court should seek to inform the jurors of the trial process and to reduce the inconvenience of service. An efficient introduction to the judicial system can serve to make jury duty a rewarding and enjoyable experience for the citizen.

As part of the Juror Utilization/Management Incentive Program, the Jury Management staff of the Administrative Office of Courts has various services and materials available to make the juror's

court experience more rewarding and to save time for court officials and employees. These services include:

- \*Telephone call-in system for jurors and/or witnesses to notify citizens when to come to court.

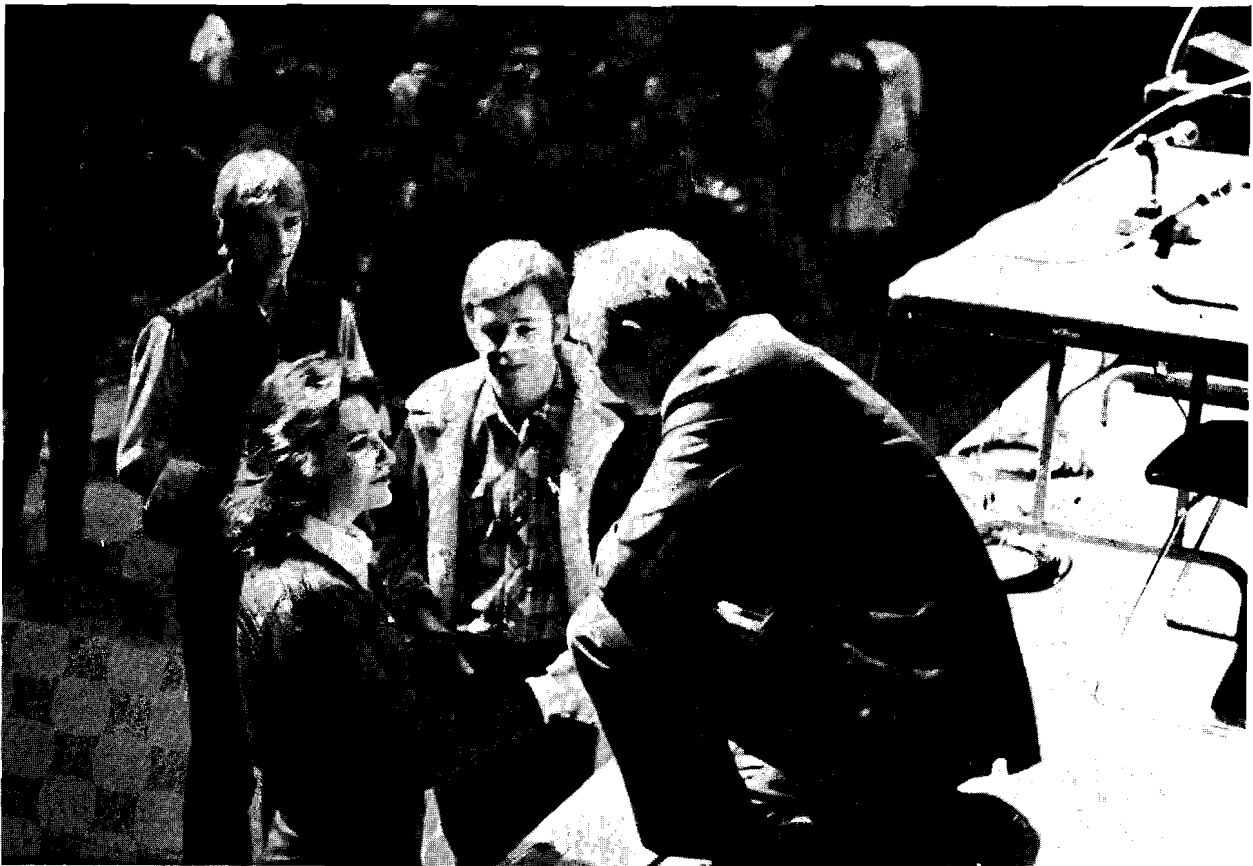
- \*General information letter for enclosure with the official juror summons to answer routine questions and to decrease citizen apprehension concerning jury service.

- \*Computerized qualification questionnaires used in conjunction with the drivers license list to decrease the need for manual preparation of questionnaires.

- \*Data strip binders for the preparation of the venire and strike lists to minimize clerical time and to produce new strike lists quickly.

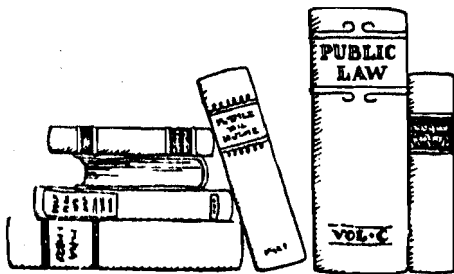
- \*Orientation film to introduce jurors to the court system and the various court officials.

Anyone interested in receiving any of these materials or services should contact Janie Alexander at the AOC.



*CHIEF JUSTICE C.C. TORBERT JR.... talks with senior high school students following educational forum in Dothan Nov. 20. The chief justice led a similar educational forum at Prattville High School Dec. 17 attended by some 400 seniors. Approximately 1,000 students attended the Dothan forum.*

## LEGAL NOTES



### ATTORNEY GENERAL OPINIONS

#### Good Time Law

On Nov. 20, 1980, the attorney general construed the Alabama Correctional Incentive Act, Sections 14-9-40 to 14-9-44, Code of Alabama 1975, as applying to prisoners who have been incarcerated for violation of municipal ordinances.

#### Controlled Substances

In an opinion dated Nov. 18, 1980, the attorney general ruled that Act 80-579, amending Section 20-2-75 of the Code relating to possession and sale of drug paraphenalia, repealed subsection (b) of Section 20-2-75 which made it unlawful to be in a room or place where any controlled substance, enumerated in Schedule I through V, is being unlawfully smoked or used with knowledge that such act is occurring. Act 80-579 was a substitute bill and the form in which it was written reveals that the legislature struck through and deleted all the previously existing provisions of Section 20-2-75. Thus, persons may no longer be prosecuted for merely being present when a controlled substance is being unlawfully consumed. The attorney general announced in the opinion that he is supportive of legislation to re-enact the deleted provisions into law.

#### Municipal Judge--Search Warrants

The attorney general, on Nov. 18, 1980, issued an opinion that municipal judges have the authority to issue search war-

rants to be executed anywhere within the county. The opinion relied upon Section 12-14-31 of the Code, providing that a "municipal judge...shall have power co-extensive with the jurisdiction of the district court to issue writs and other process," and upon Section 12-14-32, providing that municipal judges have authority to issue search warrants returnable to any state court for a violation of state law. The opinion stated that even though municipal judges may issue county-wide search warrants, if the search warrant was for a violation of state law as opposed to a breach of a municipal ordinance, the warrant must be returned to a district or circuit court.

#### Name Change of Minor

The attorney general issued an opinion on Nov. 18, 1980, holding that the probate court is the proper court for the filing of a petition to change the name of a minor.

#### City Police Officers Arrest Authority

##### Is County-Wide

On Oct. 30, 1980, the attorney general issued two opinions discussing city police officers arrest authority. In one opinion the attorney general determined that where a municipality's "police jurisdiction" extends into an adjoining county, police officers may make arrests in that part of the adjoining county which is within the municipality's police jurisdiction. In a second opinion, the attorney general determined that municipal police officers are authorized to make arrests anywhere within any county in which the "town limits" (as opposed to police jurisdiction) extend.

### MISCELLANEOUS LEGAL NOTES

#### Amendment To Rule 2--Alabama

##### Rules of Judicial Administration

On Dec. 2, 1980, the Supreme Court of Alabama entered an order amending Rule 2, Alabama Rules of Judicial Administration. In addition to providing a discretionary

*(Continued On Page 11)*

## MISCELLANEOUS LEGAL NOTES

*(Continued From Page 10)*

bond schedule, the Rule establishes certain mandatory conditions which attach to every order of release. It also provides the courts with flexibility to establish such other conditions as it deems necessary to secure the defendant's appearance and provides a method to modify such conditions. A copy of this amendment, which takes effect on Jan. 2, 1981, was supplied to circuit judges, district judges, circuit clerks and district clerks by way of a memorandum dated Dec. 12, 1980.

### TWO HEFLIN BILLS TO IMPROVE

### JUSTICE MAY SOON BECOME LAW

Two bills introduced in the United States Senate by Alabama Senator and former state Chief Justice Howell T. Heflin are now being considered by the House of Representatives. He is hopeful that the two bills, the State Justice Institute Act and the Chief Justice State of the Judiciary Address Act, will soon become law.

The State Justice Institute Act will establish a non-profit corporation for the purpose of improving the quality of justice in state courts.

It will provide funds for research, training and other technical assistance to state courts. The non-profit corporation will provide the margin of excellence in state court administration while insuring the independence from the federal government that is necessary for state courts.

The other bill, the Chief Justice Address Bill, will do much to improve the relationship between the Congress and the federal judiciary.

The bill requests that the chief justice of the United States Supreme Court make an address to a joint session of Congress--on a periodic basis--on the state of the U.S. Judiciary.

This will allow Congress to set priorities and provide impetus to programs which require Congressional action. It would also serve as a forum to highlight the important role that an independent judiciary plays in protecting the rights and freedoms of the American people.



LEE COUNTY COURT ADMINISTRATOR RUTH HENRY (right) talked with members of the Opelika Kiwanis Club recently about the duties and responsibilities of a court administrator. With Ms. Henry above are Sarah Sasser, deputy circuit clerk for Lee County and Rainer Meadows, program chairman for the Kiwanis Club.

### PROCEDURES OUTLINED FOR DUI CASES

The Administrative Office of Courts has received several inquiries from judges seeking recommended procedures for handling DUI cases under the provisions of the new Rules of the Road Act. Specific concern relates to procedures which ensure that defendants complete an approved DUI program as required by the Rules of the Road Act.

The procedures outlined at recent Alabama Judicial College training sessions for both municipal and district judges are for courts to continue DUI cases and delay sentencing until defendants fulfill the mandatory requirements of completion of the DUI program. This enables the court to base the fine, license suspension and other sanctions on whether the defendant has successfully completed the program as ordered. In cases where judges prefer to complete the adjudication process prior to defendants completing the school, those defendants who do not comply with orders of the court may be held in contempt.

Any further questions involving these procedures may be referred to AOC staff attorney Mark Hart.

*Happy*

## MUNICIPAL JUDGES' COMMITTEE BEGINS DEVELOPING CONTINUING EDUC CURRICULA

A committee of 11 municipal judges has been selected to develop a curriculum for a comprehensive, continuing education program for municipal judges. An orientation program for all newly appointed judges will be included in the curriculum and will be offered on an annual or biennial basis.

Members of the curriculum development committee are: Municipal Judges Jerry Batts of Ardmore, Richard Cater of Anniston, John Coggin of Centre, George Elbrecht of Monroeville, George Howell of Prattville, Eugenia Loggins of Opp, Eason Mitchell of Calera, Wilton and Montevallo, Tennant M. Smallwood Jr. of Birmingham, Phillip Smith of Talladega, Larry Ward of Bon Air, Childersburg, Hollywood, Riverside and Lincoln and Norman Winston of Gardendale.

Assisting the committee will be personnel from the Alabama Judicial College and the Municipal Court Division of the Administrative Office of Courts. The work of the committee is funded through a grant for judicial education provided to the AOC by the Alabama Office of Highway and Traffic Safety.

In the past, judicial education for municipal judges has been provided by, or in conjunction with, the Alabama League of Municipalities. The programs were in the format of general conferences and seminars and not a part of a comprehensive educational plan. A planned curriculum will ensure that municipal court judges are knowledgeable of their judicial responsibilities and are aware of changes and new developments as they occur. It is not designed to replace the conferences and seminars but should complement them.

The committee is currently developing an initial orientation program for municipal judges to be scheduled on Feb. 21-22, at the Judicial College in Tuscaloosa.

A number of municipal judges receiving judicial appointment during the past several years have had no previous bench experience and are urged to attend the orientation program. Additional information will be mailed to judges. The committee plans to present its basic curriculum recommendations to the annual municipal

judges conference which will be held in Montgomery May 16-17.

## PROCEDURES SOUGHT TO ASSIST COURTS WITH HANDLING DUI CASES

A comprehensive study, funded by the California Department of Alcohol and Drug Abuse, has been published which presents findings regarding the DUI driver. The picture obtained from the review of the literature clearly suggests that, in general, the DUI is an alcohol abuser with behavioral trends approaching that of the alcoholic. Although his drinking problems may not have reached the extremes found among the majority of those in treatment programs, clearly the DUI is in need of help for his drinking problems. Another significant statement from the report is "successful treatment of first offenders saves the necessity for more extensive and less successful treatment of multiple offenders."

Similar conclusions by the Department of Transportation have led the Administrative Office of Courts toward the development of a means of identifying those first offenders entering DUI schools who exhibit drinking problems and a standard means of providing courts with recommended treatment.

The procedure will involve evaluating each person entering the DUI program using a questionnaire developed for the Department of Transportation by the Traffic Safety Institute of the University of Michigan. Those persons suspected of having problems or potential problems with alcohol will be required to attend a session with a certified alcohol counselor. In those cases where treatment is indicated, courts will be provided recommendations as to the type and extent of treatment that would be most beneficial. Judges would have that information available when the defendant returns to court for final sentencing. Courts in six counties will be testing these procedures from Jan. 1 through Jan 30, 1981. Results of this test will be made available at the conclusion of the evaluating period.

*New Year*

# PEOPLE \* PEOPLE

**L**arry Lapkovich, former assistant district attorney for Walker County, has been appointed to a district judgeship for that county.

Lapkovich filled the seat made vacant when District Judge Horace Nation was appointed to fill a vacant circuit judgeship in the 14th Judicial Circuit. That seat was vacated with the retirement of Circuit Judge T. Leon Beard. Lapkovich's term began Dec. 1.



**F**ormer District Judge Jerry Vanderhoef of Colbert County, who was recently appointed to an associate justice position in the High Court of American Samoa, has now assumed his duties there.

His address is Jerry Vanderhoef, associate justice, High Court, Courthouse, American Samoa, 96799.

**F**rancis Oliver, son of Tallapoosa County District Judge John P. Oliver, died Dec. 17 of cancer. At the age of 28, Francis was a classical pianist with the San Francisco Orchestra. His interment was in Dadeville.

**T**he Institute of Judicial Administration has announced the appointment of Robert B. McKay as its new director effective Dec. 1.

A former dean and instructor at the New York University School of Law, McKay has been director of the Justice Program of the Aspen Institute for Humanistic Studies since 1975. He will continue on a part-time basis with the Aspen Institute as senior fellow with principal responsibilities for the justice-related activities of the Aspen Institute.

He is vice president of the American Judicature Society.



MONTGOMERY CIRCUIT JUDGE JOSEPH PHELPS... dons "Man of the Year" coat after being named to that honor by the YMCA's Youth Group. "I just thank the Lord that he has given me the opportunity to work with the wonderful young people of Montgomery. I think you're great," Judge Phelps told the group upon being named to the honor.

**J**im McGee of Ft. Payne has been named court administrator for the 9th Judicial Circuit which includes Cherokee and DeKalb Counties. His appointment, effective Nov. 3, was announced by Presiding Circuit Judge Randall Cole.

McGee is the sixth court administrator for the state's court system.

He has served for the past two years as clerk of the DeKalb County Commission. Prior to that, he was co-owner of a DeKalb County newspaper and worked for the State Department of Pensions and Security.

He and his wife, the former Mary Burns, have two children.

**C**ourt News has learned of the death of former Wilcox County Circuit Clerk Merle C. McNeill. Her death occurred over July 4 holidays of cancer. Prior to her term as clerk, her husband served in that capacity while she served as an employee of the clerk's office.

**R**uth Staarup, a veteran clerk in the criminal division of Mobile Circuit Court, retired Dec. 12. She was employed since Sept. 14, 1970.



## RETIRED SUPREME COURT JUSTICE

### JAMES N. BLOODWORTH DIES

Retired Alabama Supreme Court Justice James N. Bloodworth died Sunday, Dec. 28, in a Birmingham hospital after an extended illness which had caused him to resign his position on the high court in September. He was 59.

Funeral services were held Tuesday, Dec. 30, from the Trinity Presbyterian Church in Montgomery and graveside services and burial were in his hometown of Decatur later that day.

At the time of his retirement, Justice Bloodworth was the senior member of the state Supreme Court. He had served on the court for 12 years.

Prior to his term on the Supreme Court, he served as circuit judge of the state's 8th Judicial Circuit comprised of Lawrence, Limestone and Morgan Counties. He also served as associate member of the state Board of Pardons and Paroles and as judge of the Recorder's Court of Decatur.

The University of Alabama graduate held B.S. and LL.B. degrees and practiced law in Decatur for 11 years. He was named Alumnus of the Year in 1980 by the University of Alabama Law School. He also attended Athens College in Athens, Ala.

Bloodworth served in the U.S. Army, entering in 1943, and later retiring as lieutenant colonel, JAGC, U.S. Army Reserve.

A Presbyterian, Bloodworth was elder of First Presbyterian Church of Decatur and, for the past 12 years, of Trinity Presbyterian Church of Montgomery.

He was a Rotarian, Mason and Shriner.

He is survived by his wife, Jean Bloodworth, and three daughters, Catherine, Sandra and Peggy.

## COURT NEWS, OTHER PUBLICATIONS

### WIN AWARDS IN MABC COMPETITION

Court News, newsletter of the Alabama Judicial System, was given a gold award in the Montgomery Association of Business Communicator's 13th Annual Awards Competition held in December.

The newsletter, winning in the external

newsletter category, was cited by judges from the University of Alabama as an "excellent example of a newsletter that is well done even though it is typewritten and simple."

The Alabama Judicial System 1978-79 Annual Report and the court system's brochure "Alabama Courts Come To Order" also won gold awards in the publication writing category.

Three articles from previously published newsletters won awards in the 1980 competition for individual writing.

A gold award was given to an article written by Court News Assistant Editor Karan S. Sims which appeared in the January 1980 issue, "Better Management Techniques Key To Providing Better Services." Two articles from the "PROFILE" series, "Justice Samuel Beatty" and Judge John Paul DeCarlo" were cited with silver awards.

The competition is an annual event sponsored by the Montgomery Association of Business Communicators and features publications developed from the Montgomery area.

### BAILIFF L.D. WALL RETIRES

L.D. Wall, bailiff for Circuit Judge Thomas Younger of the 23rd Judicial Circuit, retired during December. Wall, former sheriff of Madison County, has served as bailiff for the past nine years.

"...Paying very strict, fastidious attention to individual justice is terribly, terribly expensive. It takes lots of people -- police, judges, lawyers, probation officers, doctors, guards -- lots of courts, jails, police stations. So we slacked off. We saved money. But when justice for the individual erodes, the strength and safety of society erode. As you lost individual justice, you lose group justice. Then you lose the appearance of justice, then the belief in justice..."

--from *One Just Man*  
by James Mills, 1974

## CAMPBELL, GREGORY TO HEAD REALIGNED DIVISIONS OF AOC

Directors William A. Campbell and Frank W. Gregory have assumed new roles within the operation of the Administrative Office of Courts.

Campbell has assumed the responsibility as director of a division of the administrative office which will work in the areas of juvenile courts, municipal courts, the judicial study commission, planning and research.

Gregory will assume the responsibility as director of a division which will deal with state court operations. This division will have the responsibility of court operations work in the areas of case, jury and records management.

Administrative Director of Courts Allen Tapley said the realignment of responsibilities will allow Campbell and Gregory to work in areas where their individual strengths lie. "This change will allow Bill to become involved in-depth in some areas in which he is extremely interested and will permit us to better utilize Frank's knowledge and experience in the area of court management," Tapley said. "The area of juvenile court proceedings is one which has too long been neglected and I believe Bill can offer a great deal of expertise and leadership as we move into an expanded role of assistance to the state's juvenile courts," Tapley added.

"The thrust of the work we do in all these areas is geared toward assisting the courts of our state to do a better job and I feel that this realignment of responsibilities will accomplish this task in an improved manner for our entire system," Tapley said. "Both Bill and Frank will continue to work closely together in all areas of court improvement operations within the state," he added.

## BARTON ADVOCATES NON-PARTISAN ELECTION OF STATE APPELLATE JUDGES

The outgoing president of the Birmingham Bar Association has asked the state's lawyers to consider a recommendation to the legislature for the non-partisan election of state appellate court judges.

James Barton told the annual meeting of the Birmingham Bar in December that electing judges without party association would let the voters focus on the professional ability, integrity and temperament of a judicial candidate. He argued that party label implies to a voter some qualification for a higher office even though neither of the two major political parties in the state has any procedure for weeding out unqualified candidates. "It is now time to carefully consider whether competition between political parties is the best way to select appellate judges," Barton said.

John H. Morrow assumed office as the Birmingham Bar's new president. Other officers are: Charles J. Najjar, vice president; Gerald J. Durward, secretary, treasurer; Richard F. Ogle, Duncan Y. Manly and Roderick Beddow, Jr., new executive committee members.

## CEIL COPELAND, JULIE YOUNG ASSUME NEW POSITIONS AT AOC

Ceil Copeland has assumed new responsibilities within the AOC State Court Operations Division and Julie Young, formerly in the Case Management area, has assumed the duties of handling AOC's Courts Education Program.

Ceil will provide staff support in the court management areas under the direction of Frank Gregory. Julie will head the effort to provide schools expanded educational opportunities about courts and the law. She will be working under the direction of Robert Martin, director of administrative services.



# COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

COURT NEWS, Volume 5, Number 1, newsletter of the Alabama Judicial System, is published monthly as an informational and educational service to state judicial officials and personnel. Inquiries should be addressed to Administrative Office of Courts, 817 South Court Street, Montgomery, AL 36130. Telephone: (205) 834-7990 or 1-800-392-8077.

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