

# PORT NEWS

ALABAMA JUDICIAL SYSTEM

June 1961

## LEGISLATION MEASURES; SETS BUDGET

Passage of this legislation was slowed due to fear of a debate over a proposed amendment which would have provided for one jury strikes state-wide. However, on the final day of the session, district attorneys, and the proposed amendment to kill the bill, with an attempt to amend it to include one strike. The DA's strike bill was killed in the session. "We are optimistic that the district attorney's attempt to amend the bill and allowed this good piece of legislation to pass," Chief Justice said.

The legislation will afford  
(Continued On Page 2)

## ALABAMA JUDICIAL EMPLOYEES RETIRE

Mobile Circuit Clerk

is familiar to Mobileans as a judge or the Government of public service and the younger generation keep spinning.

Her name is "Miz Myrtle" to the judges, employees and spectators in the courtrooms of the Mobile Circuit. She will officially retire on her incredible 58 years in the judicial division. She has been in the division since 1951.

"I'm busy every minute," says the dear judicial system. "But I've been  
(Continued On Page 3)



## 'MIZ MYRTLE'

### DEAN OF JUDICIAL EMPLOYEES RETIRES

*(Continued From Page 1)*

around here so long that everytime they dust the furniture, they dust me, too."

Courthouse attaches will tell you there is more truth than fiction to her assessment. Long after the typewriters fall silent and the hallways empty, Myrtle's corner of the clerk's office bustles with activity.

Myrtle would be last to complain. "I wouldn't quit if they fired me," she quips.

This unmatched span of court service began June 11, 1923, five days after she graduated from the old St. Vincent's School for Girls. The late Sextus Smith was clerk, and there were only three judges assigned to the circuit court.

She recently recalled she was "scared" that day, but co-workers, lawyers and judges are quick to tell you, "if she was, it was the last time."

Now, six decades later, Myrtle is a courthouse legend. Her sharp wit and gravel voice have proved more than a match for some of the finest legal minds and acid tongues this city has produced.

Since that day in 1923, the popular court clerk has called the dockets, read the verdicts and supervised the selection of the jury in thousands of criminal trials.

"It hasn't been easy sometimes," she admits. "Especially when you have to read a verdict which calls for the death penalty." But she never shirked her responsibilities, explaining "Someone has to do it, and it's my job."

She is widely recognized as an authority on criminal case procedure, and frequently her vast knowledge and experience in this field has prevented judges and lawyers from committing reversible trial errors.

A pint-sized dynamo, the 76-year-old Myrtle is a master of the stinging quip, and her witty remarks are often repeated when lawyers and courthouse attaches reminisce of the "good ole days."

"Ounce for ounce," insists Harry Seale, one of Mobile's best known barristers and a longtime friend and admirer, "Miz Myrtle

has more energy than anyone in Mobile County, and no one can best her in a battle of wits."

Few dare to challenge.

Take the occasion when a certain lawyer--one of her best friends--persisted in deviling her while she pecked away on the typewriter.

This attorney had no chance of ever being considered for the "best dressed list" and a crease in his shiny pants was a thing forgotten.

"Oh! go get that suit cleaned and pressed," she roared, never missing a peck on her ancient Royal. "And when you do--stay in it."

If it's a fight or favor, you can get either from the peppy, petite court clerk.

Myrtle's sometimes gruff exterior conceals a warm heart and sunny disposition which results in her being a sucker for a soft touch. She is always first to lend a helping hand when someone is in trouble, and never learned to say "no."

Consequently, you find her on every courthouse committee, in charge of United Fund collections and has for years served on the credit union advisory board.

While Myrtle is known for speaking her mind, she never lets personal feelings interfere with her work. If asked, she will assist even someone she dislikes solve a difficult problem, and while doing so, the uninformed would have thought them the best of friends.

During her record tenure of service, Myrtle has gained a spotless reputation for integrity and dedication. She follows closely the advice of her first boss, who told her "if you respect yourself, then everyone else will respect you."

"I have never forgotten," she says.

Her prodigious memory is a source of joy to lawyers and reporters. Whenever a quick check of an old case is needed, they turn to Myrtle. She rarely fails to deliver, usually pinpointing the case on the exact day and year.

Naturally, it would be impossible to estimate how many cases in which Myrtle has played a role. They number in the tens of thousands and include most of the famous criminal trials of the 20th century. She loves the drama of a sensational trial, but gives the same careful at-

*(Continued On Page 6)*

## LEGISLATURE

(Continued From Page 2)

revenues. Prior to the conference committee issuing its report, Chief Justice Torbert met with all the conferees and we were able to get \$600,000 of the proposed \$1 million reduction restored. However, we did take a \$400,000 cut in the amount which had been initially requested. This cut means that some new programs, improvements or additional positions may have to be delayed.

The budgets for the appellate courts were not reduced from the amounts earlier approved. Those budgets, as finally approved, are: Supreme Court, \$2,505,738; Court of Criminal Appeals, \$963,283; Court of Civil Appeals, \$659,669; and Judicial Inquiry Commission, \$69,604.

Other legislation of interest to the court system, which passed, is listed as follows:

Removal of Challenge by Cause of Jurors Over Age 65--This bill passed early in the session. Sponsored by Sen. deGraffenried. Act No. 81-97. Effective date--Act is in effect.

Investment of Clerks and Registers Supernumerary Fund--This bill passed on May 18. It places the fund under the management and control and operation of the Employees' Retirement System and requires that the fund be invested by the Retirement System. It also provides for withdrawal of contributions with accrued interest, upon termination of service and for payment of accrued amounts to the beneficiary of deceased clerks and registers. Sponsored by Sen. Larry Keener. Act No.--pending. Effective date--June 1, 1981. Rep. Frank Riddick handled the bill in the House. Rep. Charles Adams was instrumental in getting the bill on the House Special Order.

Fixing Term of District Judge in Tuscaloosa County--This bill corrects language concerning the term of the new district judge in Tuscaloosa County, which was approved last year. Sponsored by Sen. deGraffenried. Act No. 81-264. Effective date--already in effect.

Dismissal on Payment of Costs--This bill provides that cases may be dismissed upon payment of costs. Sponsor, Sen. Hinton Mitchem, handled in House by Rep. Rick

Manley. Act No. 81-353, already in effect.

District Judge Practice Law--This bill authorizes retired district judges to practice law by repealing in its entirety Section 12-18-62, Code of Alabama 1975. Sponsored by Rep. Manley. Act No. 81-223. Effective date--already in effect.

Repeal of "Super Miranda" Rights for Juveniles--Repeals in its entirety Section 12-15-67, Code of Alabama 1975. Sponsored by Rep. Bob Patton. Act No. 81-344. Effective date--already in effect.

Additional Judge, 33rd Circuit--This bill provides for a second circuit judge in the 33rd Judicial Circuit. The judgeship will be filled in the general election of 1982. Sponsored by Rep. Sasser. Act No.--pending. Effective date--already in effect.

Commitment Hearings for Insanity Acquittals--This bill establishes procedures and a hearing for possible commitment of persons acquitted by reason of insanity. Sponsored by Rep. Steve Cooley. Act No.--pending. Effective date--already in effect.

Statewide Court Costs for Police Academies--This bill provides additional court costs to be paid into the Peace Officers' Standards and Training Fund as follows: \$5 on all misdemeanor convictions or pleas of guilty except in traffic and conservation cases; \$10 on all felony convictions and pleas of guilty; \$5 on all juvenile cases. Sponsored by Sen. Teague. Act No.--pending. Effective date--upon signature of governor.

## JUROR COST FIGURES CORRECTED

In its May issue, *Court News* reported that a recent analysis of juror fees expended during the fiscal year 1979-80 revealed a 4.4 percent decrease in costs over the previous year. The total juror fees cited for the 1979-80 fiscal year was erroneously reported as \$1,734,858. This figure is the correct figure for the 1978-79 fiscal year juror expenditures. The correct figure for 1979-80 is \$1,659,385 for a net decrease of \$75,473.

## PROFILE

### Justice Oscar W. Adams Jr.

Justice Oscar W. Adams Jr., the newest member of the Alabama Supreme Court, admits that being a judge wasn't necessarily one of his earliest career aspirations. And it wasn't his father's aspiration that he become a judge.

"My father wanted me to be President and my brother to be attorney general. He even went so far as to purchase property near Washington, D.C. for our home-stead. My father, a newspaper publisher for 40 years, had always secretly wanted to be a lawyer and as a child I remember our family arguing cases around the breakfast table.

I suppose it's rather traditional for a lawyer to say he's always aspired to be a judge. I can't say that I have always entertained the notion of being a judge, but I have always aspired to be involved with the legal process. Now that I have gained the experience and ability, judging seems a natural extension of that aspiration."

Adams was appointed to the state Supreme Court by Gov. Fob James in October, 1980, to fill the unexpired term of the late Justice James N. Bloodworth. The first black to serve on the state's high court, Adams enjoyed a highly successful law practice in his native Birmingham with the firm Adams, Baker and Clemon. James K. Baker of that firm now serves as Birmingham city attorney and just weeks before Adams' appointment to the Alabama Supreme Court, U.W. Clemon of the firm was confirmed as United States district judge for the northern district of Alabama. Adams' son, O. William Adams III is now carrying on the business of the firm.

After receiving his A.B. degree from Talladega College in 1944 and his LL.B. degree from Howard School of Law in 1947, Adams began a solitary practice in Birmingham. His first partnership came in 1967 when he and Harvey Burg formed the state's first integrated law firm. That firm eventually evolved into the Adams, Baker and Clemon firm which was the first black law firm in Birmingham.

From 1963 until 1965, Adams practical-



*JUSTICE OSCAR W. ADAMS JR.*

ly had to stop his law practice as the Civil Rights movement, centered in Birmingham, demanded that his skills be applied toward the cause.

"We knew we were about to change the country," he says.

"Those were difficult times. Extremely dangerous. But when you feel like you're getting something done..." He leaves the thought dangling for a moment, then adds "these are not pleasant memories. I was fortunate to have been able to contribute."

His first fleeting interest in being on the Supreme Court came some time before his appointment. "I was arguing a case before the Supreme Court as it sat in Tuskegee in April of 1979. There was an all-black audience, the lawyers were all black and the Supreme Court was all-

*(Continued On Page 6)*

**'MIZ MYRTLE'***(Continued From Page 3)*

tention to the most trivial case.

To some it appears that Myrtle never leaves the courthouse, but actually she has enjoyed a successful career in local theatrical productions. Twice, in Mobile Theater Guild plays, she won awards as best supporting actress. She is well known for her character roles.

Since 1923, Myrtle has worked under six clerks--Smith, William Conrad, John Mandeville, Mrs. Mandeville, William J. O'Connor and Maurice Castle, the present clerk. She also served briefly as clerk when Mandeville was called into service during the Korean Conflict.

"I haven't had many bosses," she says, "but I've had the best." However, many say the strong-willed and voiced "Miz Myrtle" never had a "boss," just people with whom she worked.

In addition, there have been five presiding judges--Saffold Berney, Claude Grayson, David Edington, Robert Ervin and Joseph Hocklander, who now holds the post. There have been over 20 circuit judges since she first appeared on the court scene, and five district attorneys--Bart Chamberlain, Carl Booth, Randy Butler, Charles Graddick and currently, Chris Galanos.

Over the years, Myrtle witnessed many changes in the court system. She hasn't always approved, and was especially critical of the new Unified Court System. However, despite some strong vocal dissent, she gave her full cooperation to the change and is instrumental in making the new system work.

What's ahead for Myrtle?

"Plenty," she says. "I plan to increase my volunteer work at the Providence Hospital and Little Sisters of the Poor. She also intends to travel. Another trip to Rome is just one of many objectives.

You can count on one thing, the First Lady of the Mobile Circuit Court won't be idle.

That word isn't in her vocabulary.

Before she leaves July 1, courthouse employees plan to give "Miz Myrtle" a retirement party.

**PROFILE: OSCAR W. ADAMS JR.***(Continued From Page 5)*

white. I thought at the time that the Court needed racial representation and briefly entertained the thought 'What would I look like sitting up there with them?' Now I know.

"The Supreme Court of Alabama is one of the best in the Nation. I knew most of the members of the Court before my appointment. I have great respect for this Court--it has some of the best minds in the profession. Its opinions are well thought out and well-reasoned. I appreciate the efficiency of the court, the diligence of its members to keep current--a lawyer is likely to have his decision before he gets back to his office--a well reasoned decision, too.

"This Court has great maturity, too. I think the citizens can point with pride to the make-up of the Court--it represents a good cross-section of the people, racially, sexually and philosophically."

Adams is married to the former Willa Ingersoll of Fairfield and they have three children, Oscar III, Gail I. Harden and Frank T. Adams. Coincidentally, Frank was born on May 1, Law Day.

In his leisure time, Adams enjoys playing golf and is a past chairman of the AME Zion Church of Birmingham trustee board. He is a Mason, Shriner and a member of the Elks. Since his appointment, he has spent a great deal of his off-time traveling the state speaking to civic and church groups.

"Alabama is one of the greatest states in the Nation. I think my appointment and hopefully my election next year to this Court will signal to all in the state and Nation that if you study and work hard, you can make it to the top."

**DEADLINE SET FOR INSURANCE CLAIMS**

All claims for covered medical expenses incurred by state employees prior to Jan. 1, 1981, must be filed no later than Dec. 31, 1981. All claims for covered medical expenses incurred by state employees on or after Jan. 1, 1981, must be filed within one year of the date of incurrence. For example, claims for expenses incurred Feb. 2, 1981, must be filed no later than Feb. 1, 1982.

## SEN. HEFLIN INTRODUCES RESOLUTION CALLING FOR NATIONAL CRIME FIGHT

U.S. Sen. Howell Heflin, former Alabama chief justice, has introduced a Sense of the Senate Resolution that combatting crime be made a national priority.

"Next to inflation, crime is the most important domestic problem facing the American people today," Heflin said in a speech on the Senate floor.

"Crime, and particularly violent crime, has reached epidemic proportions in the United States and is spreading like a cancer across our Nation.

"Crime is no longer isolated to the Nation's big cities, but is running rampant in areas once thought of as safe, particularly suburbs and rural areas," Heflin said.

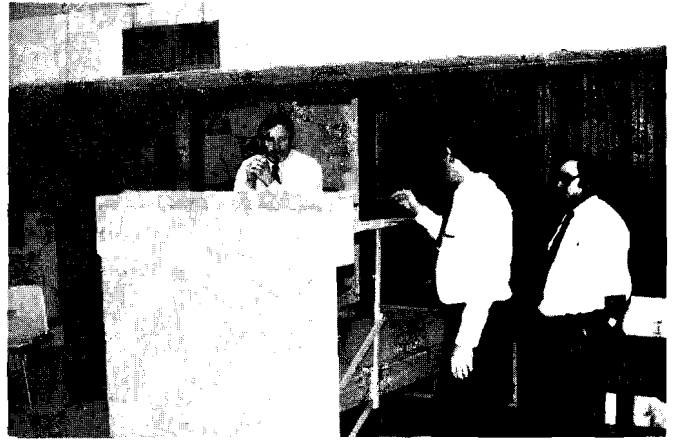
Heflin added that the general welfare of the American citizen is threatened and undermined by the frequent occurrence of violent crime, and violent crime has become a national problem deserving of immediate attention.

Statistics released in May by the Bureau of Justice Statistics show that 30 percent of American households were hit by crime in 1980, and six percent of these households were hit by violent crimes such as rape, robbery or assault.

Earlier this year, Heflin introduced a bill entitled the "National War on Violent Crime Act" which contains a series of measures designed to establish an overall, coordinated program to improve our system of criminal justice, making it more effective in the battle against crime.

Heflin and a group of senators met with President Ronald Reagan to urge him to give his enthusiastic support to the legislative package. Heflin was encouraged to receive the President's assurance that the battle against violent crime will receive top priority in his administration. Heflin said he has received bi-partisan support from his colleagues in the Senate to pursue the battle against crime in the United States.

The Alabama Legislature just passed Act 81-840 amending Section 13A-5-6, Code of Alabama 1975, so as to set the penalty for using or attempting to use a deadly weapon in the commission of a felony at not less than 10 years imprisonment.



MONTGOMERY CIRCUIT JUDGE WILLIAM GORDON... (left) listens as John Gandy of the architectural firm of Pearson, Humphries and Jones explains a mock-up courtroom design. The Montgomery County Commission has agreed to remodel Judge Gordon's courtroom incorporating ideas gathered from courthouse visits in Columbia, S.C. and Savannah, Ga. Architects from both Columbia and Savannah stressed the prudence of building a mock-up of the proposed plans before proceeding with construction to ensure that a design which looks good on paper functions in reality. Helping with the design implementation, on right, is Montgomery Court Administrator Robert Merrill. Particular attention is to be given to lines of sight and other spacial relationships. Also included will be items such as a bullet resistant bench, built-in chalkboards and built-in X-ray viewers.



U.S. SENATOR HOWELL HEFLIN (LEFT) OF... Alabama confers with (from left) Sen. Ernest Hollings, Sen. John Stennis and President Ronald Reagan on crime bill.



# PEOPLE \* PEOPLE

**C**ircuit Judge *Julius S. Swann Jr.* has been elected presiding judge of the 16th Judicial Circuit following the retirement of former Presiding Judge James B. Waid.

**S**upreme Court Justice *Samuel A. Beatty* recently participated in a workshop for Mississippi prosecutors at the Mississippi Prosecutors College at the University of Mississippi. He participated in a panel presentation and discussed the topics "Brief Writing and Appellate Argument," "Heresay v. Non-Heresay" and "Evidence."

**P**am *Hutcheson* and her husband Gary are the proud parents of a new baby girl, Chrissy Nicole, born May 30. Pam is an employee in the office of Covington County Circuit Clerk Ray Bozeman. She and her family live in Andalusia.

**D**istrict Judge *John M. Karrh* of Tuscaloosa County was presented the seventh annual "Good Samaritan Award" by the Tuscaloosa firefighters recently. The award originated in honor of former firefighter Buddy Copeland who was killed in 1974 by people he stopped to help on the interstate highway.

**L**ee County Court Administrator *Ruth Henry* talked to a group of 130 students at Sanford Middle School in Lee County recently. Addressing the group on courts and the legal process, Mrs. Henry showed the students a newly-developed Jury Orientation slide show developed for Lee County.

**D**eborah A. Hay, court management operations supervisor with the Administrative Office of Courts, was guest speaker at the monthly meeting of the Tennessee Valley Genealogical Society in Huntsville on May 28. Miss Hay spoke about the trial courts' records management program including record inventory, record scheduling, microfilming, record disposal and what records are of particular interest or

value to genealogists.

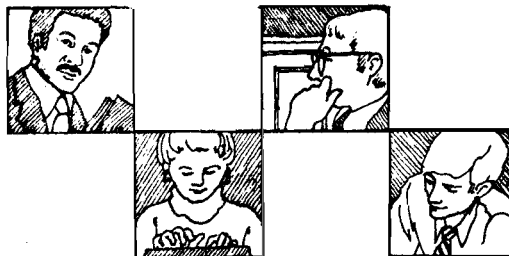
Miss Hay was asked to address the group by Circuit Judge William D. Page of the 23rd Judicial Circuit who is vice president of the society.

**E**dward B. McClain Sr. is the newest member of the Jefferson County Jury Board. A supervisor with the Koppers Company, Inc., McClain was appointed to the post by Gov. Fob James in early May. He joins other members William T. Bolden and J. Sam Johnson on the board.

**I**t's the kind of story that soap operas are made of. *Jean Holcomb* of the Administrative Office of Courts' Municipal Courts Division was recently reunited with her sister after a 31-year separation.

The sisters were separated while children when their parents separated. Diane Jellinghaus, the youngest of the two, was adopted by a family who only told her that she was adopted seven years ago. They told her the name under which she was born and thus the search for her real family began. Some time later, she located Jean in Montgomery and the two spent a wonderful week together catching up on each other's lives. They are now searching for their mother, who they believe is living in the South. Her name is Edith Thomas Dexheimer and she is about 60.

**L**arry Cohen, a University of Alabama Law School professor since 1954, has been appointed to the Marc Ray "Foots" Clement Professorship. Clement, who died in 1961, was a well-known Tuscaloosa lawyer and state politician. Cohen is an internationally known lecturer and the founder and faculty editor of "The Journal of the Legal Profession," published by the University's School of Law.





# PEOPLE \* PEOPLE



MILDREN SPILLER COLEY

**M**ildren Spiller Coley loves books and people and getting them together. A reader services librarian with the Supreme Court and State Law Library, Mrs. Coley has been working in libraries professionally for 47 years since college graduation and she actually began library work when she was in junior high school.

But Mrs. Coley has another love, too--her 323-acre farm in Duncanville (south Tuscaloosa County) and she has decided that the time has come to return to the farm, raise livestock, grow flowers and timber, build her solar greenhouse and windmill and work on a book of her own--a family storybook.

She grew up on a farm near the one to which she will retire the first of June the oldest of seven children of a farming family. Her parents joined 12 other couples in 1925 to found the Tuscaloosa County Curb Market which helped area farmers weather the depression.

She has been working with the Supreme Court Library for 16 years. Her first job after graduating from the University of Alabama in 1934 was at Shades Valley High School where she earned \$70 per month. She has since worked in libraries at the University of Alabama, Louisiana State University (while earning her Master's Degree) and Livingston State College (now University).

She is excited about returning to her "home" where she can be close to and care for her 89-year-old mother. While living

in Montgomery, Mrs. Coley has made weekly trips to Tuscaloosa to look after the farm she and her late husband assumed 39 years ago. She has, therefore, maintained her membership in the Taylorville United Methodist Church there where she is very active. In Montgomery, she is president of the Business and Professional Women's Association and is a past president of the VFW auxiliary.

Soon, Mrs. Coley and her son will make one last trip from Montgomery to Tuscaloosa--to stay.



STATE SENATOR LARRY KEENER (LEFT)... conducts swearing-in ceremonies for newly appointed Circuit Judge William W. Cardwell of the 16th Judicial Circuit. Holding the Bible is Cardwell's wife, Shirley. He was appointed to the position April 27 to fill the unexpired term of retired Judge James B. Waid.

**C**ircuit Judge Gardner Goodwyn of the 10th Judicial Circuit, Bessemer Division, retired his position June 1 after serving 31 years as circuit judge.

Bessemer District Judge Ralph D. Cook was appointed to fill the unexpired term of Judge Goodwyn. Cook has been district judge since January of 1977.

**A** Fort Payne attorney, David Rains, has been appointed to fill a 9th Judicial Circuit judgeship vacated by the retirement of Judge W.G. Hawkins. Rains has served as municipal judge in Rainsville.

## HEALTH INSURANCE PROCEDURES CITED FOR EMPLOYEES ON LEAVE WITHOUT PAY

Beginning July 1, 1981, employees who are on leave without pay must make quarterly premium payments for individual coverage (and family coverage, if applicable) for health insurance if they wish to continue the policy during the leave period.

Pre-payments must cover the full calendar quarter and are due no later than the first day of the first month in which the employee will leave. If the leave is to be less than three months, the entire payment is also due the first day of the first month of leave.

Late payments will not be accepted. If payment is not received by the state Insurance Board as required, coverage will be cancelled.

Any employee who chooses not to continue coverage through direct payment of premiums will be re-enrolled as any new employee effective upon his return from the leave without pay. At this time, he will again be subject to the nine-month waiting period for pre-existing conditions.

## ATTENTION: ALL JUDICIAL PERSONNEL TRAVELING OUT-OF STATE VIA AIR

Most airlines are now offering a special rate of \$358, round-trip, to any location within the United States. However, travel must begin no later than Sept. 15, 1981, to take advantage of this special rate.

If you have your tickets or have made previous arrangements for air travel, you may contact your travel agency and request that they reissue the tickets at the special rate of that they issue your ticket using this special rate.

This is a substantial savings over the normal Super Saver rate and all concerned should take advantage of this opportunity.

## THE JUDICIAL STUDY COMMISSION IS 'PERMANENT' BUT ITS NAME IS NOT

Section 12-9-1, Chapter 9, Code of Alabama 1975, is titled "Judicial System

Study Commission." This section provides for the creation of a "permanent study commission (lower case) on Alabama's Judicial System."

Since the creation of this commission in 1971, it has been commonly, but erroneously, referred to as the "Permanent Study Commission." The word "permanent" in the law is used as an adjective to describe the "continuous study" aspect of the commission.

Although the commission was created to permanently study the judiciary, its proper name is the Judicial System Study Commission.

## TRIAL COURTS' RECORDS RETENTION SCHEDULE CONTAINS 256 RECORDS

The 1980 trial courts' records retention schedule contains 256 records, 86 of which, or 34 percent, are permanent and will be transferred to the Department of Archives and History. Of the remaining records, 109 or 42 percent will either be disposed of immediately or will be disposed of following an audit report. The remaining 61 records, or 24 percent, will either be stored in the local courthouse due to long retention schedules or will be reviewed by Archives for storage there.

The Records Retention Committee is chaired by Annette Hardy, Lee County circuit clerk.

Great progress is being made in microfilming the state's trial court records.

The microfilming of trial court records in Chilton County, originally called Baker County, is nearing completion. Bibb County records are scheduled to be filmed next. Those records scheduled for destruction are presently being disposed and the actual microfilming will begin soon.

Mobile's in-house microfilm system should be ready for use by the end of June. Once the county's records are current, it is anticipated that neighboring counties will bring their records in for processing.

The Montgomery and Jefferson County programs are progressing well. Once Jefferson County's records are completed, Bessemer's will be brought in for filming.

Madison County's microfilming process is almost current with paper creation. All permanent records there were filmed some time ago.

## 1980 HIGHWAY TRAFFIC FATALITIES THE HIGHEST IN OVER SEVEN YEARS

An average of 142 persons died every day in traffic accidents in 1980, which resulted in a total of 51,700 lives lost for the year, according to preliminary estimates by the National Highway Traffic Safety Administration. This is the highest fatality toll in seven years.

While the number of fatalities exceeded the 50,000 mark for the third year in a row, the fatality rate (the number of deaths per 100 million miles driven) has been reduced by 39 percent since 1966, the year NHTSA was established by Act of Congress. The fatality rate for 1980 is estimated at 3.44.

In addition to the persistent problems of drunk driving and speeding, the increase in fatalities can be attributed to several factors:

- \*The shift to smaller, lighter cars.
- \*Continuing decline in the use of safety belts by drivers.
- \*The repeal or weakening of motorcycle helmet laws since 1976.
- \*The increasing involvement of heavy trucks in accidents.
- \*The growing popularity of light trucks and vans as automobile substitutes and for recreation.

A survey conducted last spring shows only one in nine drivers uses a safety belt, even though belts are the best life saving devices available to the motoring public.

Belt usage is highest for occupants of subcompact cars (18.5 percent), compacts (11.1 percent), intermediates (9.5 percent) and full-sized cars (8.6 percent).

Subcompact vehicles accounted for 6,573 deaths in 1979, a higher number than for any other sized car. While small cars made up only 38 percent of the cars on the road in 1979, small car occupants accounted for a disproportionate 55 percent of the deaths that year in



two-vehicle crashes.

Other facts in the 1979 annual fatal accident report show an increase in deaths of 1.5 percent over 1978 and a rise of 1.8 percent in the number of fatal accidents to 45,212. The pedestrian fatality toll reached 8,090.

The majority of occupant fatalities in 1979 accidents occurred by: passenger cars--27,788; motorcycles--4,709; light trucks--7,119; heavy and medium trucks--1,341. For passenger cars, the fatalities were associated primarily with these impact modes: frontal impact--13,708; side impact--7,924; top of car impact (vehicle lands on roof)--3,240; non-collision (includes rollover)--1,308.

*This article is reprinted from the January/February 1981 issue of Traffic Safety Newsletter, published by the U.S. Department of Transportation and the National Highway Traffic Safety Administration.*

### MOTOR VEHICLE THEFT REPORT

A report by the Bureau of Justice Statistics released in May showed that motor vehicle crimes have touched two percent of all households in the United States each year since 1975. Thirty percent of U.S. households were touched by some crime.



## NEWS FROM THE JUDICIAL COLLEGE

### CLERKS AND REGISTERS SCHEDULE

#### ANNUAL CONFERENCE IN EUFAULA

The clerks and registers 38th Annual Conference has been scheduled on June 11-13 at Lakepoint Resort State Park in Eufaula. In cooperation with the Alabama Judicial College, a full agenda of events has been scheduled. Association President Joyce Martin, Winston County register, will welcome the group and preside over the sessions.

Chief Justice C.C. Torbert will deliver his address to the group on Thursday morning. Also included on Thursday's agenda is John Hall with the Sarasota YMCA Cardiac Rehabilitation Unit to talk about stress and stress management.

As part of the judicial system's project on case and juror management, one of the sessions will be devoted to these topics. Included on the program will be Frank Gregory, director of State Court Operations for the Administrative Office of Courts, to give an overview of the Court Delay Reduction grant; Hunter Slaton and Mike Carroll of the AOC discussing the Utilization of Court Information; and Billy Harbin, Madison County clerk, Circuit Judge William R. Gordon of Montgomery and Jan Shultz of AOC presenting new programs currently in progress.

Aid to Dependent Children will be discussed by Judge Ted Bozeman of Lowndes County and Attorney Gordon F. Bailey Jr. of Anniston. The new forms in this area have been approved and will be distributed and discussed.

### JUVENILE COURT JUDGES HOLD

#### ANNUAL CONFERENCE IN BIRMINGHAM

The Alabama Judicial College in cooperation with the National College of Juvenile Justice scheduled the Annual Conference for Juvenile Court Judges in Birmingham June 4-5. The program consisted of an update on Juvenile Law by Wright F. Walling of Hudak & Walling of Minneapolis, Minn. Donald C. Morris, chief prosecutor of Louisville, Ky. discussed cases arising from the Uniform Reciprocal Enforcement of Support Act. An update on Alabama

Juvenile Cases and Legislative Acts was presented by William J. Samford, legal counsel for the Department of Youth Services.

A nationally recognized authority, Dr. Robert ten Bensel, professor and director of Maternal and Child Health, University of Minnesota, Minneapolis, presented an extended program on Child Abuse, Dependency and Neglect: Medical Issues.

A panel consisting of Circuit Judge John Davis of Montgomery, District Judge James White of Centreville and William Samford discussed the effective use of advisory committees.

Dr. Catherine Spears of Chatham, New Jersey, presented a session on Learning Disabilities and Nutrition. The participants found the session to be very helpful in understanding defendants who appear before them.

Juvenile chief probation officers and workers with the Department of Pensions and Security were also invited to participate.

### JUDICIAL SECRETARIES EDUCATION

#### CONFERENCE SCHEDULED IN JULY

The Alabama Judicial College has scheduled the judicial secretaries Education Conference on July 16-17 at Lake Guntersville State Park.

The Education Committees of both the Circuit Judges' Secretaries Association and the District Judges' Secretaries Association have worked diligently in their efforts to provide a worthwhile education program to meet the varying needs of judicial secretaries.

There are many excellent sessions planned which include Time Management with Dr. Ezell from the University of Alabama; Communication with Pat Seymour, senior writer-editor, the University of Alabama; and mini-workshops on Juvenile, Civil and Criminal Procedures with a workshop on legal terminology and letter writing.

## 'STUDY BUDDIES'

### DALE COUNTY VOLUNTEER STUDY ASSISTANCE PROGRAM HELPS STUDENTS WITH ACADEMIC DIFFICULTIES

The Dale County Juvenile Court in Ozark has developed a volunteer study assistance program called "Study Buddies" for students having academic difficulties. The program recruits successful students who have a proficiency in two or more basic areas of study to spend one or two hours a week tutoring younger students having difficulties in those areas.

The program has generated enthusiasm among both tutors and the students being helped. Berta Blackwell, juvenile probation officer and director of the program, said, "I was surprised and encouraged to see the eagerness with which both tutors and students signed up for the program. Our first session went extremely well and we feel that the program will prove successful in helping a number of students do well in school who have up to now been discouraged."

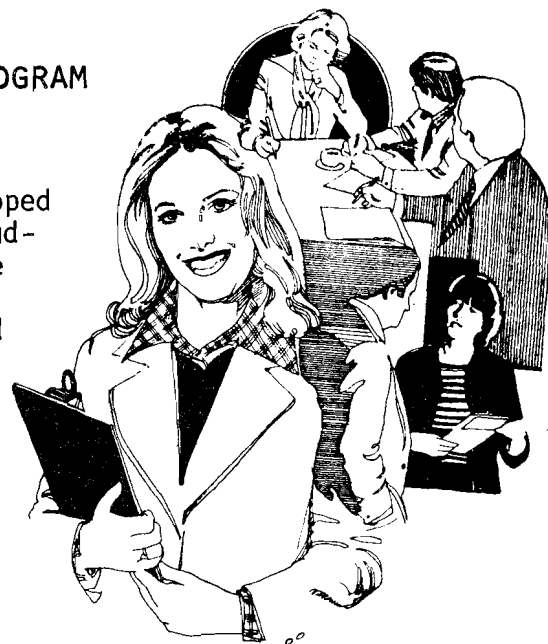
The goals of the program are really two-fold: to help students improve their grades and also to prevent truancy and academic failure. Tutoring participants are official juvenile court volunteers and each volunteer signs a contract with the student he or she works with, citing progress to be made and a schedule for study to be followed.

Janice Barnes, Carroll High School guidance counselor and program coordinator, says the qualifications are "a good knowledge of one or two basic courses, a good academic record and school reputation and some interest in social work or the teaching field. The real requirements are the one or two hours a week of actual time involved and a willingness to work with others coupled with a great deal of patience."

Many of the younger students on the program are under the supervision of the juvenile court; however, some students are participating in the program as a preventive method toward anticipated school-related problems.

Mrs. Blackwell hopes that the program will be adapted by other juvenile courts in the future. "It has been amazing to see these kids working diligently with one another," she said. "Not only have grades improved, but the social experience for the entire group has been remarkable."

The "Study Buddies" were recently re-



cognized by the Dale County Commission who cited the program as beneficial to the whole community. A banquet in honor of all participants was sponsored recently by local Sunday school classes.

### INSURANCE ELIGIBILITY CHANGED

Effective June 1, 1981, part-time employees of the state of Alabama are no longer eligible for enrollment in the state health plan. Formerly, all employees working 20 or more hours per week were included in the plan, but now only those full-time employees working a 40-hour week will be enrolled.

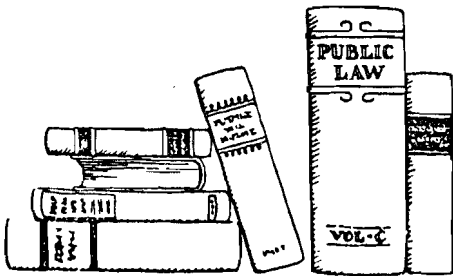
This information was the subject of a memorandum issued by the state Employees Insurance Board April 27, 1981.

### U OF A MOOT COURT TEAM WINS

The University of Alabama Law School's moot court team received first place honors for the best written brief in the Nation in the 1981 National Moot Court Competition held recently in New York. This is the highest award ever won by the University in moot court competition.

Team members are Leigh Bradley of Huntsville; Fred Fohrell also of Huntsville; and Mac Moorner of Eufaula. Team manager is Jim Sasser, son of State Representative James G. and Mrs. Sasser of Ozark and a former employee of the Administrative Office of Courts.

## LEGAL NOTES



## ATTORNEY GENERAL OPINIONS

Alabama Drug Paraphernalia Law AmendedIn Its Entirety By Act 80-579

In an opinion issued April 2, 1981, to Ron Myers, district attorney for the 27th Judicial Circuit, the attorney general concluded that the "Alabama Drug Paraphernalia Law" Section 20-2-75, Code of Alabama 1975 was amended in its entirety by Act 80-579.

ADC Has Authority To Maintain LocalFringe Benefits At The Same RatesAnd Amounts In Existence On Aug. 1, 1975

In an opinion issued to Allen L. Tapley, administrative director of courts on May 11, 1981, the attorney general determined that the ADC has authority to contract directly with an insurance carrier in order to assure continuation of fringe benefits to county personnel as required by Section 12-17-4(c), Code of Alabama 1975.

Sheriff May Approve Appearance BondFor Individual Incarcerated In CountyJail By City Police Officers

On April 10, 1981, the attorney general issued the following opinion:

"Reference is made to your letter of March 4, 1981 in which you requested an opinion as follows:

"I would like to have a written opinion from you about the following questions which I have pertaining to arrests made by cities, towns or other municipalities:

"1. Whose authority is it to approve bonds in such cases?

"2. Should the inmate need medical attention, I would like to know who you feel should be responsible to see that the inmate receives proper medical attention, and who would be held responsible for the bills?"

"In answer to your first question, it is your duty as sheriff as to any individual placed in your custody on a sufficient bond. Hammons v. State, 59 Ala. 164, 169; Taylor v. Smith, 104 Ala. 537, 16 So. 629, 631. Thus when an individual is arrested for violation of a city ordinance by city police officers and placed in the county jail you have the authority as sheriff to approve the appearance bond of the person so incarcerated. As to arrests by city officers for violation of state laws the procedure for approval of appearance bonds would be the same as set out in our April 26, 1979 opinion to you. Quarterly Report of the Attorney General, Vol. 175, p. 20. (Copy attached)

"In answer to your second question, you as sheriff are the legal custodian of the jail and are responsible for the welfare of the persons incarcerated in the jail. Code of Alabama 1975, Section 14-6-1. You may, however, charge the municipality for the treatment of indigent prisoners who are municipal prisoners. Quarterly Report of the Attorney General, Vol. 167, p. 23. (Copy attached)"

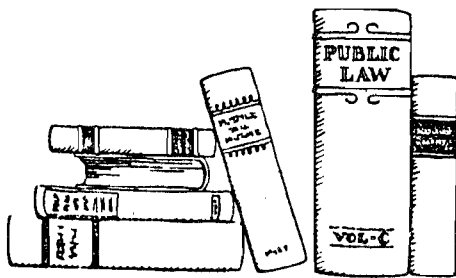
The two above referenced opinions provide as follows:

"Reference is made to your request for an opinion from the attorney general as to the authority of a sheriff as to bond approvals or who has authority to release inmates on bail bonds.

"The applicable provisions concerning the discharge of defendants arrested for misdemeanors of an aggravated nature are found at Code of Alabama 1975, Sections 15-7-20 and 15-7-21. Section 15-7-20 states that when the offense is a misdemeanor and the arrest warrant is executed by a sheriff or his deputy, the sheriff

(Continued On Page 15)

## LEGAL NOTES



## ATTORNEY GENERAL OPINIONS

*(Continued From Page 14)*

or deputy may discharge the defendant upon sufficient bail. Section 15-7-21 states that when the arrest warrant for a misdemeanor offense is not executed by a sheriff or his deputy, at the defendant's request, he may be brought before a judge or magistrate of the county where the warrant was executed and such judge or magistrate may discharge the defendant upon sufficient bail.

"Code of Alabama 1975, Sections 15-13-5 and 15-13-6 deal with offenses charged in an indictment. If the offense is a misdemeanor the sheriff or deputy must discharge the defendant upon giving sufficient bail. If the offense is a felony and bail is not given in open court, the judge sets the bond and the sheriff discharges the accused when sufficient bond is given."

"Reference is made to your letter of March 22, 1977 wherein you request an opinion of this office relative to the following questions:

"1. Who is responsible for payment of medical expenses incurred by a prisoner arrested by a municipality and held in the county jail?

"2. Does the county have the authority to refuse city prisoners?

"3. Can the county require cities using the county jail to agree by signed contract to pay any expenses incurred by their prisoners?"

"Before proceeding to these questions, I must assume that the prisoners, refer-

red to in your letter, are not those prisoners over which the municipality and the county have concurrent jurisdiction, but rather, include only those prisoners who are, in the strict sense, municipal prisoners. Secondly, I must assume that the expenses incurred are necessary and that the prisoner is unable to provide these for himself.

"Assuming that these conditions are met, the municipality should be charged with necessary medical treatment given to insolvent municipal prisoners. The county would not ordinarily have jurisdiction over these prisoners, since they are charged with violating municipal ordinances, and therefore, should not be charged with their maintenance. Title 37, Section 469 (1) 1973 cumulative pocket part, Code of Alabama 1940, recompiled 1958, gives the most insight into this question. This statute provides for removal of municipal prisoners to other jails, and reads in pertinent part as follows:

"Section 469(1)...the maintenance and cost of removal of said prisoners shall be borne by the municipality requesting said removal."

"Clearly, the legislature has expressed a desire to charge the municipality with the expenses incurred by their prisoners in other jails.

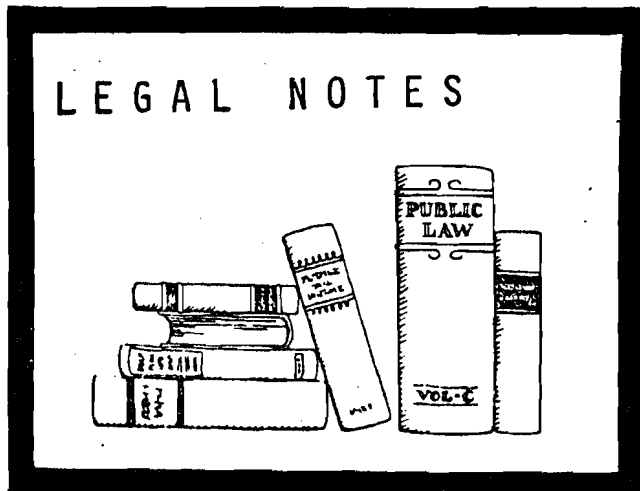
"Secondly, the county officials could refuse prisoners charged with municipal offenses, unless the Circuit Judge of the county directs their removal to the county jail pursuant to Title 37, Section 469(1), 1973 cumulative pocket part, Code of Alabama 1940, recompiled 1958. This position is, of course, strengthened by the necessity to provide space for housing those individuals charged and/or convicted of offenses against the county and the State of Alabama.

"In any event, the aforementioned conclusions would not bar the contractual ability of the counties and municipalities of Alabama. Title 37, Section 471, Code of Alabama 1940, recompiled 1958, provides in pertinent part:

"Section 471 (2317) MUNICIPALITIES AND COUNTIES MAY CONTRACT WITH RESPECT TO PUBLIC BUILDINGS--Municipalities and counties may contract with each other for the ownership or use and occupation of parts of

*(Continued On Page 16)*





## ATTORNEY GENERAL OPINIONS

*(Continued From Page 15)*

city halls, city jails, county courthouses and county jails...'

"Under these circumstances, we conclude that the counties may also require cities using the county jail to agree by signed contract to pay the maintenance and necessary expenses incurred by their insolvent prisoners."

### Municipality May Not Appropriate Funds To Juvenile Probation Office

The attorney general has opined, in an opinion dated April 10, that municipalities may not appropriate funds to aid in the expenses of the juvenile probation officer in the absence of a general or local law authorizing such appropriation. In this opinion directed to the county attorney for Barbour County, the attorney general cites Section 12-15-10, Code of Alabama 1975, as the controlling, general statutory provision. Thus, absent any general state law or a local law authorizing such appropriations by a municipality or municipalities in Barbour County, these expenses may not be shared by the municipalities and the county.

### Probate Court May Appoint A Curator For Mentally Or Physically Defective Person

The attorney general has opined that Section 26-7A-1, Code of Alabama 1975

confers equity jurisdiction upon the probate courts so as to permit them to appoint a curator to take charge of the property of a person who has become physically or mentally defective. This opinion stands for the proposition that probate courts may exercise such equitable powers as are conferred upon them by statute.

### Inspection Of County Jails By Probate

#### Judges, County Commission Chairmen

#### Now Discretionary

In an opinion dated April 10, the attorney general has ruled that the 1980 amendments to Section 11-14-22, Code of Alabama 1975, as found in Act 80-808, now allow the probate judge and the chairman of the county commission to inspect the county jails at their discretion, rather than on a mandatory, weekly basis.

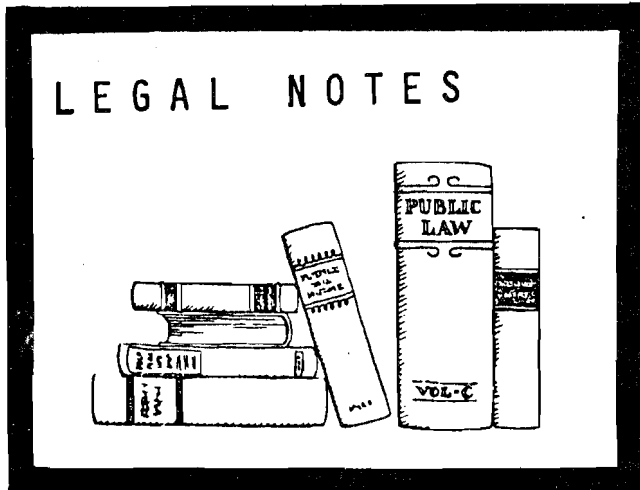
The 1980 amendment, effective May 28, 1980, substituted "the chairman of the county commission and the probate judge are hereby authorized and empowered..." for "it is the duty of the judge of the judge of probate and the clerk of the circuit court" at the beginning of the section. Please note, too, that any reference to the circuit clerk was deleted in the new version.

### Probate Judges' Expense

#### Allowance Act Not Revived

In an opinion recently released to a probate court judge, the attorney general stated that the adoption by the legislature in 1980 of an act establishing the salary of probate court judges could not revive a 1971 act providing for an expense allowance for the probate judge when that 1971 act had, in the interim, been repealed by a 1975 act prohibiting the expense allowance. The opinion cites Section 45 of the Constitution of Alabama of 1901 and decisions of the Supreme Court of Alabama as standing for the position that the first law, in point of time, may not be revived unless it is again enacted into law in its entirety.

*(Continued On Page 17)*



## MISCELLANEOUS LEGAL NOTES

### Amendment To Rule 10(b)(2),

### Alabama Rules Of Appellate Procedure

### Relating To Reporter's Transcript

The second paragraph of Rule 10(b)(2), Alabama Rules of Appellate Procedure has recently been amended by the Alabama Supreme Court to read as follows:

"The reporter's transcript shall be on legal size paper, with pages numbered consecutively, the numbers being centered at the bottom of the pages, and beginning with the Number 'R-1.' Each page number shall carry the prefix 'R' to distinguish the reporter's transcript from the clerk's record." (emphasis added)

This amendment was adopted May 7, 1981, and is effective immediately.

## ALABAMA JUDICIAL INQUIRY COMMISSION

### SYNOPSIS OF ADVISORY OPINIONS

Below are synopses Nos. CV through CXII issued in the month of May by the Alabama Judicial Inquiry Commission.

SYNOPSIS CV--Is it permissible for a lawyer and a judge to sell jointly owned law books to any county or state agency?

Would it be permissible for the judge to sell his interest in the law books to the lawyer, knowing that he planned to sell the books to a county or state agency?

OPINION--The Commission is unaware of any state statutes or Canons which would pro-

hibit the sale of the jointly owned books or equipment by the judge and the lawyer to any state or county institution or agency. However, prior to entering into such a sale, you should take note of Section 13A-10-62, Code of Alabama 1975. The Canons do not prohibit the sale of the law books to your former law partner.

SYNOPSIS CVI--May a judge serve as an officer in civic or charitable associations and as such, actively solicit funds during fund-raising events sponsored for civic or charitable purposes by the organizations in which he is an officer?

OPINION--While the Canons do not specifically prohibit a judge from soliciting funds for any educational, religious, charitable, fraternal or civic organization or institution, the Canons do recognize the undesirability of such efforts on the part of the judge due to the danger of the prestige of the judicial office being used for the purpose of fund solicitation (Canon 5B(2)). It is therefore recommended that while a judge may serve as an officer or director or trustee of the above-named types of organizations, he should not engage in fund-raising activities for such organizations.

SYNOPSIS CVII--Would a judge, who serves as an officer in a real estate investment corporation, be restricted in any way concerning these corporations?

OPINION--As stated in Canon 5C(2), a judge may, subject to the restrictions stated in Canon 5C, hold and manage investments, including real estate and engage in other remunerative activities including the operation of a business. Whether the judge's serving as an officer in specific corporations would violate the provisions of Canon 5C is a determination which must be made on a case by case basis as to the restrictions set out in the Canon.

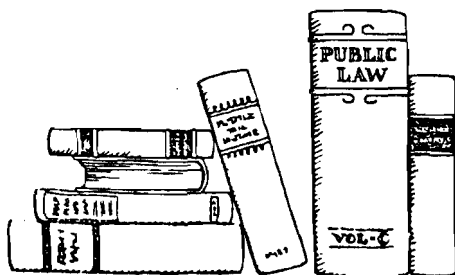
SYNOPSIS CVIII--May a judge, who is a member of a hunting club, participate as a club member in obtaining land, by lease or otherwise, on which to hunt?

OPINION--Such activity on the part of the judge does not in and of itself violate the Canons.

SYNOPSIS CIX--May a judge participate with

(Continued On Page 18)

## LEGAL NOTES



## ALABAMA JUDICIAL INQUIRY COMMISSION SYNOPSIS OF ADVISORY OPINIONS

*(Continued From Page 17)*

friends in a private home in a card game wherein nominal stakes are wagered if one of the participants is an attorney who practices before the judge?

OPINION--The Canons do not prohibit the described activity by a judge so long as the stakes wagered are nominal. However, should the judge become indebted to the attorney as a result of the card games, the judge would be required under Canon 3C to disqualify himself in any proceedings in which the attorney represented a party to the proceedings in that his impartiality might reasonably be questioned.

SYNOPSIS CX--An Alabama business corporation (a section 1244 corporation) has stockholders consisting of such directors of a national bank as choose to participate, the auditor for the bank, and the attorney for the bank. This attorney regularly practices before the circuit judge, who has recently become a member of the board of directors of the bank. May the judge become a stockholder in this business corporation without violating the Canons?

OPINION--Under Canon 5C, the judge should not become a stockholder in the corporation in question unless the judge can do so without violating the provisions of Canon 5C(1) and (3). Due to the close business relationship of the judge and the attorney in the facts as they have been

presented, Canons 5C(1) and (3) could prohibit the judge from becoming a stockholder in the corporation.

SYNOPSIS CXI--May a judge serve as a member of a criminal justice commission formed by a political action group? The purpose of the commission is to work for the safety, peace and tranquility of the residents of Alabama by examining the state's criminal justice system and developing suggested solutions to problems which might be found to exist within that system.

OPINION--Yes. Under Canon 5G, a judge may accept appointments to positions concerned with the improvement of the law, the legal system or the administration of justice. Also, under Canon 7A(3) regarding political activities of judges, it is provided that a judge may engage in political activity on behalf of measures to improve the law, the legal system or the administration of justice.

SYNOPSIS CXII--May a district judge file a lawsuit to collect unpaid attorney fees from clients he represented while engaged in the private practice of law? The judge would be represented in these proceedings by a former law partner or associate.

OPINION--Yes. A judge may seek the redress of the courts as may any other citizen. The Canons do not prohibit a judge from seeking the same legal remedies available to other citizens through the courts of this state.

## NOTES FROM THE APPELLATE BENCH

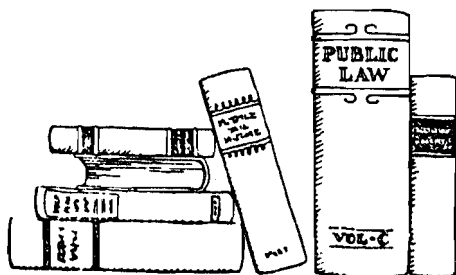
The following are some of the legal issues involved in appeals which were orally argued before the Supreme Court in May.

TIMELINESS OF APPEAL--CAN JUDGE USE 60(b) TO EXTEND 90 DAYS UNDER 59.1?--Appellant filed two post-trial motions on Jan. 9, 1980. The motions were argued and submitted, but the trial court did not rule on the motions within 90 days (Rule 59.1 ARCP). Appellant filed a 60(b) motion. The court ruled:

"It is the feeling of the court that the defendant's attorney neglected to count the days. In the opinion of this

*(Continued On Page 19)*

## LEGAL NOTES



## NOTES FROM THE APPELLATE BENCH

*(Continued From Page 18)*

court, had the court entered an Order Overruling the Motions which the defendants' attorney could reasonably expect the court to do under established procedure and also based upon the court's statement of intentions, he would have been put on notice and the time would not have expired."

Was appeal timely filed? (79-896--Causey)

LIMITATION OF ACTIONS--INCOMPETENTS--PERSONAL INJURY--Whether the appointment of a guardian for a non compos mentis begins the running of the statute of limitations in an action for personal injury to the incompetent.

Whether the statute of limitations on a wife's action for loss of consortium begins to run at the same time as the limitations period for her incompetent husband's personal injury action. (80-221--Emerson)

HANDICAPPED PERSONS--MINIMUM STANDARDS--Personnel director, applying a fixed standard in eyesight for jail guard, determined that board policy of hiring the handicapped did not apply to person with only one eye. Question on appeal: Did personnel director err? (80-66--Richardson, director v. Purvis)

LIMITATIONS OF ACTIONS--GUARDIAN AND WARD--Is statute of limitations tolled for insane person after a guardian is appoint-

ed for him? (80-221--Emerson)

WRONGFUL DEATH--BREACH OF WARRANTY--Can breach of warranty claim in products liability suit be maintained where the alleged injury was death of the product user or is wrongful death claim the sole claim which can be alleged? (80-132--Benefield)

RULES OF ROAD--INSTRUCTIONS--Did trial court err in instructing jury that all slow moving vehicles must use right hand, outside line on four-lane, divided highways? (79-921--Scrimsher)

TRESPASS--TRESPASS ON CASE--When sand and gravel piled up on property in surface mining operation is carried by rain to adjoining land and deposited, is it trespass on case? (79-632--W.T. Ratliff)

SCHOOL SECURITY PERSON--AN INSURED?--Was a security person an "insured" under city insurance policy covering "policemen," or under school board policy covering "executive officers," "stockholders," etc., or under homeowner's policy. Each denied coverage. (80-132--Pullen)

EXPERT WITNESS--CHIROPRACTOR--Did trial court err in refusing to permit a chiropractor to state an opinion about an alleged injury to the spine? (80-463--Copeland)

INSURANCE--TRANSFER--AGENT'S AUTHORITY--Did independent insurance agent have apparent authority to bind insurance company to transfer policy from seller to buyer, so that buyer covered when fire destroyed building he bought? (80-77--National Security Fire and Casualty)

REAL ESTATE COMMISSION'S POWER TO REGULATE ADVERTISING BY REAL ESTATE COMPANIES, ESPECIALLY FRANCHISES OF NATIONAL FRANCHISORS--Real Estate Commission adopted so-called 50-50 rule, which provided:

"Any company which operates under or uses a franchise name shall incorporate in the franchise name and logotype the company name; however, the company name shall not be less than 50 percent of the surface area of the entire combined area of both the company name and the trade name or logotype. This regulation shall be im-

*(Continued On Page 20)*

## NOTES FROM THE APPELLATE BENCH

(Continued From Page 19)

plemented immediately and effective in all advertising except, signs, letterheads, cards, other printed supplies and materials. Such items shall be required to comply on or before Nov. 1, 1978." (79-803--Century 21 Preferred Properties, Inc. v. The Alabama Real Estate Commission, et al. and 79-995--The Alabama Real Estate Commission, et al. v. Century 21 Preferred Properties, Inc.)

### NOTICE TO COURTS AND CLERKS--

### SPECIAL PROCEDURES CITED ON

### FORESTRY COMMISSION CASES

The state Forestry Commission has brought to the attention of the Administrative Office of Courts its intentions to begin initiating more cases under the provisions of the state's forestry laws. In relation to these cases, it is important to note the provisions of Section 9-13-24, Code of Alabama 1975 regarding the fees of the arresting officers and the informers' fees. That Code provides the following:

"Fees of arresting officers, etc.; informers' fees.

"When an arrest for a violation of the provisions of the forestry laws is made by a salaried officer or salaried employee of the state forestry commission and the defendant is convicted, there shall be taxed as costs the same fee as the sheriff in this state is entitled to for similar services and, if collected from the defendant, shall be immediately remitted by the trial court directly to the state forester, and said fee shall be used for the purpose of the administration of the state forestry commission. If the person making the arrest shall be a non-salaried officer or not an employee of the state forestry commission and if said fee is collected from the defendant, such person shall be entitled to said fee and shall receive in addition thereto an informer's fee of one-half the fine in each case where the information furnished by him results in a conviction and the fine is collected and paid into court; provid-

ed, however, that in no case shall the amount paid to the informant or party making the affidavit as to the commission of any offense embraced in this chapter exceed the sum of \$25. All amounts in excess of \$25 shall be remitted to the state forester as provided in this section. No fee shall be allowed in cases of acquittal. (Acts 1936-37, Ex. Sess., No. 161, p. 183, Cod1940, T. 8, Section 218; Acts 1951, No. 984, p. 1659)"

It is the interpretation of this office, based upon conversations with the state Forestry Commission, that these provisions require the following procedures of the clerks when an arrest is made for the violation of one of the forestry laws:

(1) If the arrest is made by an officer of the state forestry commission or a non-officer, the arrest fee collected upon conviction shall be remitted to the state forester; or,

(2) If the arrest is made by any other conservation officer or other officer, generally, disbursement of the arrest fee should follow normal procedure; e.g., if the arrest is made by state officer the arrest fee goes to the state general fund and if the arrest is made by a county officer the arrest fee goes to the county general fund;

(3) The informer's fee mentioned in this section should not be paid by the court. If any individual making an affidavit in a forestry law case requests the informer's fee mentioned therein, he or she should be directed to contact the state forestry commission.

Additionally, Section 9-13-11(a), Code of Alabama 1975, now establishes willful, malicious or intentional burning of forests, etc., as a Class C felony. Thus, for these felony offenses listed therein, the same procedures regarding the arrest fee (outlined above) will be applicable.

Subsection (e) of Section 9-13-11, supra, also provides that all moneys collected for any violation of that section as fines or forfeitures shall be remitted to the state forestry commission. The address for these transmittals and other inquiries is: State Forestry Commission, 513 Madison Avenue, Montgomery, AL 36130, Attention: Law Enforcement Section.

A separate column in the cash book may be established if a large number of these cases is being docketed.

**BEWARE !****IRREPUTABLE VENDORS OFFER OFFICE SUPPLIES AT 'SPECIAL DISCOUNT' PRICES**

The Administrative Office of Courts has been aware for some time of court officials having been contacted by irreputable vendors offering the sale of items, particularly office supplies, copier fluids, paper, typewriter ribbons, etc., at "special discount" prices.

Often times, these vendors will have a company name which could lead one to believe them to be a state agency. These unethical business practices have been brought to the attention of the Consumer Protection Division of the Attorney General's Office.

Quite often, their sales pitch is that the price of their product is "exceptionally low when compared to the prices now being paid." They are offering this special discount on "surplus materials" since the company had overstocked. Officials are cautioned to be exceptionally wary of anyone approaching them by telephone or otherwise and using such a sales technique.

These salespeople are more than happy to take the order without any purchase order. They will then send a bill and then later, send materials which prove incompatible with the kind of equipment being used. Most of these unscrupulous dealers are from out-of-state thus making it extremely difficult to track them down and deal with them appropriately.

Anyone who thinks their his or her office has been the victim of such a scheme should report it to either the Consumer Protection Division of the Attorney General's Office or to the purchasing agent at the AOC who will in turn relay the information to the attorney general.

Anyone being approached by what they believe might be a bogus offer in the future should get all the information they possibly can--salesperson's name, the company name, address and telephone number; the items and terms offered, etc. and report this data as soon as possible.

By following established procedures for purchasing office supplies, forms and equipment, much of the danger of dealing with these unscrupulous vendors may be

eliminated. In other words, it is advised that officials not deal with a vendor whose reputation is not known and remember to obtain a purchase order number and authorization from the AOC Purchasing Division before placing an order.

State Purchasing Agent Howard L. White Jr., in a memorandum to all departments, warns that the prices for the products are outrageously high even though they are presented as "exceptionally low when compared to the prices now being paid." He said that several agencies have already been taken in by the convincing sales pitches.

The following article appeared in the Montgomery Advertiser recently wherein Attorney General Charles Graddick warns consumers about the schemes.

**AG warns  
of schemes  
on supplies**

Some Alabama businesses, churches and government offices have been sold useless office supplies by bogus office supply companies offering special discounts on "surplus materials," according to the Consumer Protection Division of the Attorney General's Office.

In most cases, the business is offered a discount on copier fluids, paper or typewriter ribbon which the caller says his company has overstocked, Attorney General Charles Graddick said.

They then send a large bill and later send materials incompatible with the kind of equipment used by the company, he said.

"It appears that most of these outfits are calling from out of state, so it is difficult to track them down and put a stop to this kind of ripoff," Graddick said.

Anyone who thinks his company has been the victim of such a scheme should report it to the Office of Consumer Protection, Graddick advised.

**COURT NEWS**

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

COURT NEWS, Volume 5, Number 6, 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.

Robert Martin  
Director of Administrative Services  
and Editor

Karan Sexton Sims  
Assistant Editor

C.C. TORBERT, JR.  
Alabama Chief Justice  
ALLEN L. TAPLEY  
Administrative Director of Courts  
JOHN DAVID SNODGRASS, President  
Association of Circuit Judges  
JOHN KARRH, President  
Association of District Judges  
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