

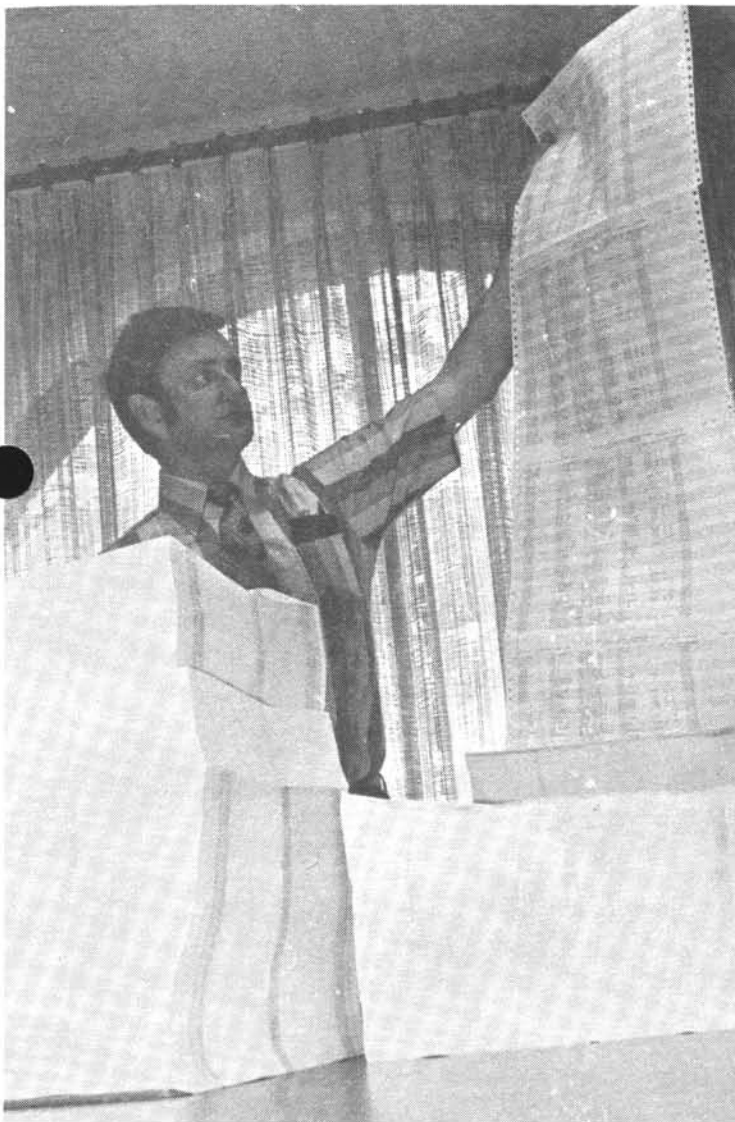


# COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

Volume 2 / Number 5

May, 1978



JOHN O'SULLIVAN of the Administrative Office of Courts coordinated project.

CHIEF JUSTICE WILL DELIVER  
JUDICIARY REPORT TO BENCH,  
BAR AT MOBILE IN JULY. SEE  
DETAILS INSIDE THIS ISSUE.

## ADMINISTRATIVE OFFICE OF COURTS PROVIDES COUNTIES WITH 2 MILLION NAMES FOR JURY BOX SOURCE LISTS

Over seven miles of computer printouts have been provided county jury commissions by the Administrative Office of Courts to aid in compliance with the recently enacted Juror Qualification and Selection Act.

These printouts contain the names, in alphabetical order, of all persons 19 and older in each county who currently have one of the new picture drivers licenses. In four counties - Jefferson, Madison, Montgomery and Tuscaloosa, the administrative office was able to secure a computer listing of motor vehicle registrations for passenger cars and pick-up trucks. This information was not available for other counties.

ALLEN TAPLEY, administrative director of courts, issued a special thanks to the State Data Systems Management Division and the Criminal Justice Information Center for making it possible for these lists to be prepared in less than three weeks after the new law was enacted. Tapley said that providing these lists cost the Unified Judicial System budget about

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## ADMINISTRATIVE OFFICE OF COURTS PROVIDES COUNTIES WITH 2 MILLION NAMES FOR JURY BOX SOURCE LISTS

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\$8,000. The computer lists were developed through the efforts of the State Data Systems Management Division, the State Criminal Justice Information Center and the Administrative Office of Courts and contain 2,049,147 names of prospective jurors. Those persons 19 years of age and older who have the new picture drivers license make up 1,359,000 of the names. An additional 690,147 names of persons registering motor vehicles (cars and pickup trucks) was available to provide jury commissions in Tuscaloosa, Montgomery, Jefferson and Madison Counties. Preparing the computer lists required 15 hours of printing time on a computer capable of printing 2,000 lines per minute.

Jury commissions with access to computers may obtain the lists on computer tapes by contacting the AOC. The Administrative Office of Courts is currently evaluating requests for financial assistance from presiding judges and jury commissions relating to compliance with the new Act. According to Tapley, limited funds are available. Those presiding judges and jury commissions seeking assistance should file their requests promptly with the AOC.

Initially it was thought that the Act mandated the use of drivers licenses, vehicle registration and voter lists. However, the final version of the legislation provided that the source lists used in compiling the master jury list may, as distinguished from shall, be obtained from those sources.

In regard for financial assis-

tance to employ clerical help to compile lists, Tapley said that the limited funds available will require a very close look at such requests. He urged that presiding judges and jury commissions seek volunteer assistance from civic groups or public-minded individuals in compiling the master list.

## CHIEF JUSTICE TO ADDRESS BENCH, BAR IN MOBILE: JUDGES, DA'S BAR REGISTRATION FEE WAIVED; TICKETS MAY BE BOUGHT FOR INDIVIDUAL EVENTS

Chief Justice Torbert will present his "Judiciary Report" to a joint Bench/Bar Luncheon opening the annual meeting of the State Bar in Mobile on July 20. The Bar meeting will follow the meeting of Circuit and District Judges which is scheduled for Mobile on July 19-20 at the Sheraton Inn.

State Bar President E. C. Hornsby of Tallahassee has encouraged judges and district attorneys to attend the address by the chief justice and other State Bar functions. Hornsby recently announced that the State Bar has waived the registration fee for judges and district attorneys who register and attend their respective meetings preceding the annual Bar meeting. Tickets to all Bar functions may be purchased individually upon registration at the judge and district attorney meetings.

Tickets for the Bench/Bar Luncheon are \$7 each. The luncheon will be held in Ballroom B at the Admiral Semmes Hotel. Following the luncheon the Bar will convene in an adjacent room for its opening general assembly. At 7 p.m. that evening a reception and seafood buffet will be held at nearby Fort Conde. This will be a casual-dress event and the tickets are \$12.50.

## UNIFIED JUDICIAL SYSTEM STEERING COMMITTEE MEETS AT PRATTVILLE



THE UNIFIED JUDICIAL SYSTEM STEERING COMMITTEE met at Prattville on May 5th to hear Chief Justice Torbert and the staff of the Administrative Office of Courts give a briefing of recent legislative action and to discuss court system matters. Pictured from left to right, are: Margie McLeod, Lowndes County register; Circuit Judge Edgar Russell of Selma; District Judge Newman Sankey of Montgomery; District Judge John Karrh of Tuscaloosa; District Judge William Lumpkin of Centre; Joyce Martin, Winston County register and Circuit Judge Clifford Delony of Tuscumbia.

ANGELO TRIMBLE NAMED AS  
MUNICIPAL COURT COORDINATOR

Angelo V. Trimble of Lanett has been appointed by Chief Justice C. C. Torbert, Jr. to coordinate activities of municipal courts with the Administrative Office of Courts.

An administrator and principal in the Lanett School System since 1966, Mr. Trimble will begin work with the AOC on June 19. He will take over the function of coordinating municipal court activities from Mr. Herb Huie, who plans to retire later this year. "While we regret losing Mr. Huie, I am pleased that Mr. Trimble has accepted this posi-

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ANGELO V. TRIMBLE



## ANGELO TRIMBLE NAMED AS MUNICIPAL COURT COORDINATOR

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tion and I know that his strong administrative capabilities will be of benefit to the court system," Administrative Director of Courts Allen Tapley said. Trimble, who will soon receive his doctorate degree from Auburn University, is a graduate of Alabama A & M and Tuskegee Institute. He is married to the former Mary L. Short of Huntsville. The Trimble's have three sons.

## PROCEDURE OUTLINED FOR REIMBURSEMENT OF DUES, STATE TRAVEL

Procedure for Reimbursement of Dues: It was announced in the April newsletter that the Administrative Office of Courts would begin to reimburse court officials for membership dues paid to professional organizations. Maximum reimbursement annually is \$200 for circuit judges, \$150 for district judges, \$100 for circuit clerks and registers, and \$50 for court reporters. The following procedure should be used for receiving this reimbursement:

Step 1 - The membership dues should be paid by the individual court official directly to the organization.

Step 2 - The court official should write a letter requesting reimbursement for this payment to the Administrative Office of Courts.

Step 3 - Included with this letter should be either a paid receipt from the professional organization or a copy of your cancelled check for this payment.

Reimbursement for Official State Travel: The Administrative Office of Courts is attempting to initiate all procedures possible to speed up the turnaround time for processing travel claims. There is one step which is necessary for all court officials to follow in filing travel claims. In the blank square in the upper right hand corner for the name and address, please place your official title immediately under your name. This will aid the fiscal division in charging these expense claims to the correct budgetary line item.

## AOC IS NOW ACTING ON POSITION RECLASSIFICATIONS

Many additional requests for reclassification of positions have been received in the personnel division as a result of the recent announcements in the Court News that these requests could now be acted on with dispatch. Although study of the position classification questionnaires is underway, the arrival of so many requests on or just before the deadline of May 12, 1978 has made it impossible to complete this project as quickly as would be desirable. However, response to each request on an individual basis will be made as soon as possible and, in order to avoid time-consuming telephone inquiries, the following report is furnished. Those positions which are upgraded will be effective May 31, 1978, regardless of when notification of the approval is received.

For merit system personnel, salary increases are not automatic because an incumbent in an upgraded merit system position must be on the promotion register for the higher class and must have satisfactorily performed the duties which were the basis for upgrading the position for at least three months. However,

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for those employees whose positions are upgraded after May 31, 1978, the salary increase will be retroactive to that date if their names were on the appropriate register as of that date; otherwise, upgrading will be deferred until the employee's name appears on the appropriate register. For confidential employees, salary increases are not contingent upon the employee being on a promotion register and will be effective May 31, 1978.

Action on any requests for reclassification received by AOC after the May 12, 1978 cutoff date must, of necessity, be deferred. Consideration of these prior to October 1, 1978 will be contingent upon a review of available funding and the capability of the personnel division to accomplish the review consistent with other priority work requirements.

#### PERSONNEL POLICY CHANGE REGARDING TYPING TESTS

For Promotion to Court Clerk III and Above: Typing tests will no longer be required in order to apply for promotional consideration to the classes of Court Clerk III, Court Clerk IV, Court Clerk V, and Court Clerk VI. Applications for the Court Clerk III promotional register already received will be re-scored to reflect the change in policy. This information should be passed on to all interested Court Clerks II and Legal Secretaries I. Please be aware that a minimum of six month's service in either class is still required for consideration to the Court Clerk III promotional register.

For Promotion to Court Clerk II: Employees who were assumed by the State as a Court Clerk I will have an option with regard to the typing test required for the Court Clerk II class. A Court Clerk I will have the option of either taking the typing test (required minimum: 40 words per minute net) and being given points accordingly; or, the second option: not taking the typing test and being given the minimum amount of points. Please note that the better a person types, the greater the number of points given when applications are scored. Those applicants for both the Court Clerk I and Court Clerk II classes who were hired as a Court Clerk I after October 1, 1977, will not have to take another typing test in order to be considered for a promotion to Court Clerk II. The score received in the Court Clerk II class when the application was first graded will stand.

For First Time Employment: In order to assure a minimum level of typing proficiency when attempting to secure first-time employment in the court system, typing skills tests are still being required when applying for the entry level classes of Court Clerk I and Court Clerk II. Inasmuch as the Alabama State Employment Service administers validated, standardized typing tests and as they serve as the main AOC recruiting source, only those typing tests which were given by that agency are being accepted.

#### DRIVERS LICENSE EXEMPTIONS INCREASE

Pursuant to the authority vested in the director of public safety, and the governor, by Title 32, Chapter 6, Section 13, 1975 Code

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of Alabama, to promulgate reasonable rules to facilitate the enforcement of the provisions of the motor vehicle laws, the following rule is hereby promulgated:

In addition to those classes of drivers exempt from securing an Alabama drivers license as provided by Title 32, Chapter 6, Section 2, 1975 Code of Alabama, as amended, the following persons shall be exempt from securing an Alabama drivers license so long as they hold a valid drivers license issued by their home state:

1. A nonresident on active duty in the armed forces of the United States and such nonresident's spouse and dependent children.

2. Any nonresident fulltime student, properly enrolled and registered in a school, college, university or trade school in this state.

#### INGRAM'S COMMITTEE DEVELOPING MANUAL OF STANDARDIZED FORMS

The Forms Committee, appointed by Chief Justice Torbert, has now held two meetings. Judge Kenneth Ingram, committee chairman, has outlined his plans for the direction for the committee to take in analyzing and standardizing court forms. The ultimate goal of the committee is to publish a manual of standardized court forms. This is a project of high priority so that all forms approved by the committee can be disseminated to all offices in the court system. Members of the committee represent a cross-section of court personnel and attorneys.

It is essential that all persons utilizing court forms have input for the design and analysis of the forms so that the forms will meet the needs of all concerned. The committee members were urged to solicit input on forms needs from their contemporaries. All court personnel should feel free to contact any committee member to provide input relating to the development of forms. The Forms Committee will assist the Administrative Office of Courts in identifying forms needs so that within the relatively near future all forms used in the courts will be standardized to one degree or another. Specific actions of the committee will be announced as soon as such actions are formalized.

Members of the committee are: Circuit Judges Kenneth F. Ingram, Chairman, 18th Judicial Circuit, and H. E. Holladay, 30th Judicial Circuit; District Judges William H. Lumpkin of Centre and Ralph D. Cook of Bessemer; Circuit Clerks Billy Harbin of Huntsville and Julia Trant of Dothan; Registers W. Elsworth Haughton of Mobile and Barbara Pippin of Anniston; District Clerks George Edgar of Mobile and Jeanell Raney of Cullman; Attorneys George Howard of Wetumpka and Oakley Melton of Montgomery.

#### USE OF INDEX CARDS PROVIDES QUICK REFERENCE

The AOC would like to call to the attention of all municipal and district clerks paragraph 15.D on page 3-12 of the UTC manual regarding the use of index cards (UTC-10). This card provides a quick reference for judges concerning a defendant's local drive history. It also provides a quick means of finding a ticket when a defendant arrives late to settle a

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case. The AOC has several thousand UTC 10's on hand and will be happy to provide them to clerks. Contact Jean Norris or Bob Simpson at 1-800-392-8077.

CHIEF JUSTICE BURGER,  
JUSTICE WHITE, TO SPEAK  
AT DEDICATION OF NEW UA  
LAW CENTER BUILDING

Warren E. Burger, chief justice of the United States, and Byron R. White, associate justice of the U. S. Supreme Court, will speak at dedication ceremonies of the new Law Center Building at the University of Alabama School of Law, May 26-27.

Chief Justice Burger will speak at a banquet Friday, May 26, at 8:30 p. m. in the Ferguson Center Ballroom. Justice White will speak at the noon Dean's Invitation Luncheon Saturday, May 27, at the same location. Burger will be introduced by U. S. District Judge Frank M. Johnson of Montgomery.

The addresses will be features of activities to be highlighted by the formal dedication of the \$8 million facility Friday afternoon.

"We are honored to have these two distinguished jurists with us for the dedication of a facility we are so proud of," Dean Thomas W. Christopher of the School of Law, said.

"These two days will, I'm sure, have a historical significance on legal education in the South. We consider the dedication the beginning of a new era of legal education and services at The University of Alabama."

According to Christopher, several seminars on contemporary topics of interest to lawyers will be offered during the two days.

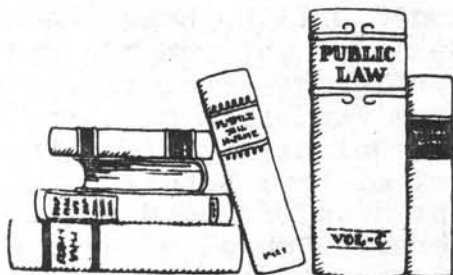
A special law school deans' symposium on "Have Law Schools Gone Overboard on Clinical Education?" will be held from 9:30-11:30 a. m. Saturday in the new Law Building. Featured panelists include Frederick M. Hart, dean of the University of New Mexico School of Law; Robert B. McKay, former dean of the New York University School of Law; L. Ray Patterson, dean of the Emory University School of Law; Frank R. Strong, former dean of Ohio State University School of Law; and Randolph Thrower, former Commissioner of Internal Revenue.

MERIT SALARY RAISES TO BE  
REFLECTED IN JUNE PAYCHECKS

Several inquiries have been received concerning when those employees who have been recommended for merit raises will receive the salary increases. The first increases will be reflected in paychecks of June 2, 1978. However, for those who are due retroactive increases, AOC will process a supplemental payroll and affected individuals will then be paid that amount by separate check. Due to the time and paperwork required to prepare a supplemental payroll, it will be four to six weeks before we will be able to mail these checks. The income derived from this retroactive pay increase will be reported as earned income for the year 1978, thus, an amended income tax return for 1977 will not be necessary.

Some employees are due raises for which the necessary supporting documents have not yet been received (employee performance evaluations and personnel action forms). These will be paid in the same manner described above, but on later payrolls.

## LEGAL NOTES



Procedure for Municipalities to Opt into District Court System: Based upon the 1975 Code, it is the opinion of the AOC that municipalities must adopt an ordinance coming within the district court system.

Section 12-14-1(a) of the Code provides that there shall be a court in each municipality unless the municipality abolishes the court and elects to come within the district court. This would appear to mandate establishment of a municipal court, requiring passage of ordinances to enforce infractions and establish other permissive provisions (fine schedule, etc.).

It, therefore, appears that a municipality which has not done anything toward compliance with Chapter 14 of Title 12 of the 1975 Code must adhere to the provisions of Section 12-14-17; that is, adopt the necessary ordinance.

Fees Payable to Clerks and Registers: Upon implementation of the new court system in January of 1977, the question was raised regarding the correct interpretation of Section 16-133(b) of Act No. 1205, 1975 Regular Session. That section provides that, in all cases filed prior to January 16, 1977, fines, costs and fees shall be assessed and

distributed according to law in existence on the date of filing, including monies collected on or after January 16, 1977. In an opinion dated March 10, 1977, the attorney general determined that if, under the prior laws, clerks and registers were entitled to receive any fees, they were entitled to receive these monies on cases filed prior to January 16, 1977.

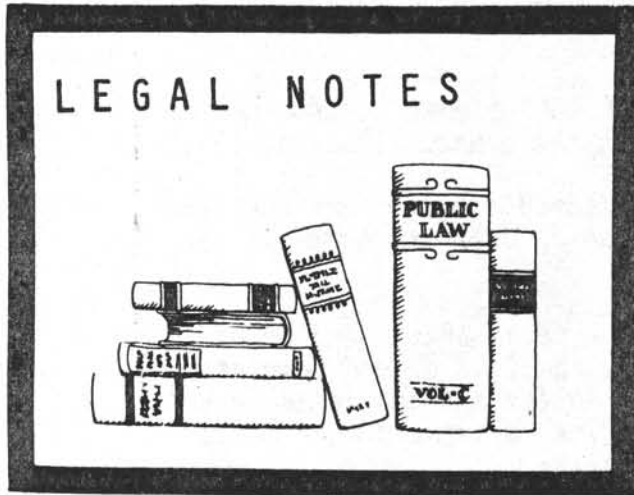
Shortly thereafter, the examiners of public accounts requested a clarification on this opinion on the grounds that the attorney general's opinion did not distinguish between commissions and fees. Because of the gravity of this question, it was determined that all commissions being collected on old cases should be held until the attorney general had an opportunity to clarify the March 10, 1977 opinion.

To date, the March 10, 1977 opinion has not been clarified. Because of our concern, discussions have resulted in a modification of the prior suggestion that you hold all these monies. It has been determined that clerks and registers should continue to hold only commissions resulting from collections of pre-January 16, 1977 cases, thereby allowing distribution of fees from these cases.

It is important to remember that the commissions which should not be disbursed include those commissions contained within old Title 11, Section 22, and old Title 11, Section 27, commissions on sales and commissions on child support payments. Please bear in mind that there are no fees or commissions to be collected on cases filed after January 16, 1977.

Attorney General Opinions: Several weeks ago, the AOC was





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requested to review attorney general's opinions to determine if a clerk would be liable for any loss incurred by virtue of receipt of counterfeit money. In an opinion to Judge James W. Webb dated September 16, 1968, the attorney general ruled that a clerk would not be liable for any loss incurred by virtue of receipt of counterfeit money. The attorney general stated that if public officers or their employees exercised the highest degree of care and diligence in

the performance of their duties, no personal liability would accrue.

The AOC was also asked to research the attorney general's opinions to determine if municipal court appeals should be docketed on the criminal or civil side of the circuit court docket. In an opinion dated October 10, 1950, the attorney general determined that municipal court appeals should be docketed on the criminal side of the circuit court docket.

Oaths of Office Should be Filed in Probate Office: As you will recall, we previously requested that you submit oaths of office for yourself and your deputies to this office for filing at the state level. Conversations with the chief justice have resulted in a determination that, pursuant to Code of Alabama 1975, Sections 36-4-4 and 36-4-5, you should file copies of your oath and oaths of your deputies in your local probate office.

Service of Process: During the December, 1977 clerks' and registers' conference, Mrs. Jane Smith, Office of Circuit Clerk of Madison County, presented a program dealing with service of process under Rule 4 of the Alabama Rules of Civil Procedure. We have been requested to reprint this presentation and a reproduction follows:

**SERVICE OF PROCESS - Rule 4**  
Effective January 16, 1977

*Covers service of summons and complaints and other documents required to be served in the same manner as complaints such as garnishments; writs of seizure; attachments, etc.*

*Certified mail is the most significant change of service as provided in Rule 4.1(c). The plaintiff must file a written request with the clerk requesting that process be issued in this manner. The clerk may require that plaintiff furnish properly completed postal forms necessary for such service. (Rule 4(a)(5)).*

*The clerk shall place a copy of the document in an envelope with instructions to forward, return receipt requested and with instructions to the postal employee to show to whom delivered, date of delivery and address where delivered. If the person to be served*

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is a natural person, the clerk shall also request restricted delivery unless otherwise ordered by the court. (Rule 4.1(c)(2))

Service by certified mail shall be deemed complete and the time for answering shall run from the date of delivery shown on the return receipt.

If service of process is refused, the clerk shall send by ordinary mail a copy of the process. Service shall be deemed complete when the fact of mailing is entered on the summary action sheet. (Rule 4(e)). This applies when service is refused when it is being attempted by any method of service.

*Delivery by a Process Server.*

- 1) Sheriff or Constable. Clerk must forward to the sheriff of the county in which the party resides who is to be served. It is no longer necessary to give to local sheriff to be forwarded by him.
- 2) By Designated Person - must be designated by order of court, must be over 18 years of age and not a party to the suit. This method should be used when a faster method of service is needed.

When service is obtained, the process server must endorse this fact on the original and return same to the clerk's office. The clerk shall note this fact on the summary action sheet. If service is refused, the clerk shall send by ordinary mail a copy of the process and enter fact of mailing on the summary action sheet. The process is deemed complete when the fact of mailing is entered of record.

When service cannot be obtained within 30 days, the process server shall endorse this fact on the process and return same to the clerk.

*Acceptance or Waiver of Service (Rule 4(h))*

A defendant or his attorney may accept or waive service of process provided that said acceptance or waiver is in writing and is signed by the defendant and one credible witness.

*Service by Publication (Rule 4.3)*

This method should be used when service is being avoided or when the residence is unknown. If the residence of a defendant is known, service must first be attempted by another method other than publication. The fact of failure of service must be endorsed on the process and returned to the clerk. When service is being avoided, the court may on motion order service to be made by publication, an affidavit is also necessary in this case. This is the only time an order is necessary, when service is being avoided. (Rule 4.3(c))

An affidavit is necessary before service can be made by publication. If the residence is unknown, the defendant has been absent from his residence for more than thirty days or where

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*the defendant is avoiding service, an affidavit of a party or his counsel must be filed stating the facts of why service cannot be obtained. (Rule 4.3(d)(1))*

*Upon filing of the affidavit, the clerk shall direct that service of notice be made in a newspaper of general circulation in the county in which the complaint is filed. If there is not a newspaper in that county, then publication shall be in a newspaper of general circulation in an adjoining county. The notice shall be published once a week for four successive weeks. Service shall be deemed complete at the date of the last publication. (Rule 4.3(d)(4)) After the last publication, the publisher or his agent shall file with the court an affidavit showing the fact of publication together with a copy of the notice of publication. The affidavit and copy of the notice shall constitute proof of service.*

*Alternative to Publication in Certain Domestic Proceedings (Rule 4.3(e))*

*This rule provides for a manner in lieu of publication for certain domestic cases to be served. The party requesting service must file an affidavit with the clerk setting forth substantial hardship in the payment of costs of publication and all of the known addresses of the defendant for the preceding two years or if this is unknown, the last known address of the defendant and the defendant's next-of-kin or some other person knowing the defendant's whereabouts.*

*The clerk shall place copies of the process to be served in envelopes addressed to the parties and addresses stated in the affidavit notifying the defendant that his time for answering begins running three days from the postmark. The clerk shall mail by ordinary mail and enter the fact of mailing on the summary action sheet. Service is deemed complete 33 days after the date of mailing.*

*Service by Publication in hardship cases was ruled unconstitutional in Land vs. Cockrell.*

*Methods of Out-of-State Service (Rule 4.2)*

*The methods for out-of-state service are the same as the methods used for in-state service. However, when service is attempted by a process server, the clerk may on request deliver the process to the plaintiff or his attorney for transmission to the person who will make service (Rule 4.2(b)(2)(B)).*

*Service Through Secretary of State*

*This has been abolished by Rule 4. Corporations may now be served by certified mail.*

*Service Through Superintendent of Insurance*

*This was not abolished by Rule 4, however, when the Superintendent of Insurance receives process for service, he will return the same*

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to the clerk requesting that the attorney attempt service by certified mail. If the attorney does not have the address of the insurance company, he may obtain this information by calling the Superintendent of Insurance, Montgomery, Alabama at (205)832-6140.

*Service in a Foreign Country (Rule 4.4)*

This rule provides a method of service of process in foreign countries and it is new in Alabama procedure. These methods will more than likely be used to serve foreign corporations and defendants in domestic relations cases. This rule provides that certified mail or equivalent may be used or service by a process server. The same procedures are to be used as are used for a resident of the United States.

In addition, service may be obtained by a letter rogatory. This is a request of one court of another in an independent jurisdiction as to how service should be sought. The process should be served as directed by the foreign authority in response to the letter rogatory.

Service may be obtained pursuant to the law of the foreign country or in a manner prescribed by order of the court in which the action is pending.

Service may be attempted in more than one method simultaneously, however, the perfection of one method is sufficient. (Rule 4(g))

*Summons (Rule 4)*

This section provides that the attorney shall furnish the clerk with sufficient copies of the summons and process to be served. The summons should contain the name of the court, the name of the first party on each side with an appropriate indication of other parties in cases involving multiple parties, state the name and address of the plaintiff's attorney if there is one, if not the address of the plaintiff, the time that the defendant has in which to answer.

Rule 4.1(b)(4) states that the clerk shall notify the attorney or the party when service is unsuccessful and enter this fact of notification on the summary action sheet. This is a good practice to follow whenever there is any type return on service. This could be done by a form checking whether service was obtained and date, if defendant was not found or if service was refused.

**RODEN RE-ELECTED PRESIDENT  
OF STATE'S MUNICIPAL JUDGES**

Judge EMMETT RODEN of Florence has been re-elected as president of the Municipal Judge's Association of Alabama. Judge Roden was re-elected at the association's meeting recently in Mobile. Other officers elected were: WILLIAM SALIBA, Mobile, 1st vice president; TENNANT SMALLWOOD, Birmingham, 2nd vice president; LARRY WARD, Childersburg, secretary-treasurer. Some 70 municipal judges and court-support personnel attended the event.

## Continuing educational programs scheduled for judges, other court personnel

An expanded educational program for Alabama judges and other court officials and personnel has been scheduled for the remainder of 1978.

These programs for judges and other court personnel were reinstated in this year's Unified Judicial System budget following the legislature's approval of a supplemental appropriation for the trial courts.

Planning and development of new educational programs for fiscal year 1978-79 is currently under way by the judicial education division of the Administrative Office of Courts.

In addition to the training and education programs currently scheduled for the remainder of this fiscal year, the AOC has two other conferences currently in the planning stage. These meetings, which will be conducted prior to October 1, 1978, include training for state magistrates and warrant clerks and municipal magistrates and warrant clerks.

Although no funds are available the remainder of this fiscal year for out-of-state educational programs, the administrative office has been informed that ALEPA grant funds for fiscal year 1978-79 will be available to permit resumption of attendance at national educational institutions on a limited basis. Attendance at these meetings will be approved on a case-by-case basis by the administrative director of courts.

The judicial education division is currently attempting to determine the out-of-state training and educational requirements for judicial and

court supportive personnel by the establishment of individual training records. A training survey to determine these requirements was initially conducted during June, 1977. The survey will be completed during June, 1978.

This survey or training profile is divided into two sections: (1) training accomplished during the years 1972-76 (information is on hand for 1977); and (2) future training desired by the individual (basic, intermediate or advanced, specialty courses, and the institutions from which training is desired). Training profile forms will be forwarded to those judicial and court supportive personnel whose training records folder does not contain any type of training profile.

All major judicial training and educational institutions have been forwarded copies of name and address rosters and periodic update sheets so that information on courses offered by the institutions may be sent directly to those persons for whom the training is geared. If you are not receiving training brochures from judicial education institutions, please notify the judicial education division so that immediate action may be taken in this regard.

The objective of the Administrative Office of Courts' education programs is to insure that those judicial and court-supportive personnel charged with the administration of justice will receive the benefit of a continuing education process which will enable judicial officials to discharge their responsibilities in an effective manner.

(See schedule on Page 14.)

## In-state training programs

### SCHEDULE OF MEETINGS, MAY 1978 - JULY 1979

<u>MEETING</u>	<u>1978 DATE</u>	<u>LOCATION</u>	<u>SPONSOR</u>	<u>REIMBURSE</u>
Appellate Law Clerks Seminar	May 29	Judicial Bldg. Montgomery	App. Cts.	Yes
Clerks & Registers Annual Conference	June 7-10	Point Aquarius, Alpine	AOC	Yes
Circuit Judges Secretaries Conference	July 19-20	Sheraton Inn Mobile	AOC	Yes
Circuit & District Judges Annual Conference	July 19-21	Sheraton Inn Mobile	AOC	Yes
Ala. State Bar Association Annual Meeting	July 20-22	Admiral Semmes Mobile	ABA	No
Ala. Shorthand Reporters Association Annual Meeting	July 21-22	Callaway Gardens, Pine Mountain, Ga.	ASRA	No
Appellate Judges Conference	Aug. 24-25	Lake Guntersville State Park, G'vle.	App. Cts.	Yes
Juvenile Court Judges Conference	Sept. 21-22	Hilton Inn Birmingham	AOC	Yes

<u>MEETING</u>	<u>1979 DATE</u>	<u>LOCATION</u>	<u>SPONSOR</u>	<u>REIMBURSE</u>
Circuit Judges and District Judges Mid-Winter Conf.	Jan. 11-13	Montgomery	AOC	Yes
Alabama State Bar Assn. Mid-Winter Meeting	Jan. 12-14	Montgomery	ASBA	No
Circuit Judges and District Judges Annual Conference	July 18-20	Huntsville	AOC	Yes
Alabama State Bar Assn. Annual Meeting	July 19-21	Huntsville	ASBA	No



NEWS  
CLIPS  
FROM THE  
STATE PRESS

## Judge tours station

Montgomery Circuit Judge Sam Taylor toured Union Station Friday as part of a lawsuit over the lease agreement on the city's empty railroad depot.

Taylor, armed with a flashlight, inspected the building from top to bottom and was accompanied by Arthur G. Foster, the leaseholder from Jacksonville, Fla., Mayor Emory Folmar and attorneys in the case.

When trial resumed back at the courthouse, John Bailey, a Montgomery County Health Department environmentalist, testified that the station was infested with rats and mites and that human feces in addition to pigeon droppings were on the floors.

He said he identified a mite on one of the persons touring the building with Judge Taylor.

Pete Young, chief electrical inspector for the city, later testified there were some live wires present in the building and it was "in a dangerous condition."

Young also said the smell of the depot was "not a desirable odor."

Folmar took the stand and testified that as president of the City Council when the lease with Foster was signed in June 1976, he had "serious reservations" about it but was advised by the then-administration that action was needed so development could begin. Jim Robinson was then mayor.

Folmar said that since becoming mayor, he has had numerous complaints about the fact nothing has been done with the station. The mayor said that before the lease, the city was receiving about \$20,000 a year from Amtrak and now Foster gets \$1,700 a month and the city \$136 a month.

He added that he "strenuously objected" when the lease was negotiated to Foster getting Amtrak funds and termed it "a built-in incentive to do nothing."

MONTGOMERY ADVERTISER

# McRae meditates on juvenile court

By CATHY D. WAHL  
DAILY Staff Writer

The juvenile court system needs help. Eighth Judicial Circuit Court Judge C. Bennett McRae told a national commission today in Atlanta.

As president of the Alabama Council of Juvenile Court Judges, McRae is speaking today to the National Commission for Children in Need of Parents. McRae, along with four other Alabama child care officials, told the commission today about child care in this state. Alabama was allotted a 50-minute period. Other states speaking today to the southeastern forum of the commission include Georgia, Florida, Mississippi, North Carolina, South Carolina and Tennessee.

McRae, who handles juvenile court cases in Morgan County, talked about the judicial aspects of children in need of parents.

"My remarks are intended to approach the problems faced in the permanent placement of children as seen from the point of view of the judiciary," McRae explained in a prepared statement. "...too frequently temporary foster care becomes, as a practical matter, unintentional permanent placement...I think the reason and the fault is...bureaucratic paper work...and judicial delays."

Among the aids McRae calls for in clearing up paperwork and delays are a periodic review on recent court decisions and laws, a federally-funded panel of technical experts, periodic judicial review of cases, more legislation in terminating

parental rights and federal payments for lawyers who take hardship cases.

"At least once in every 24-month period a juvenile court judge should have the opportunity to attend an educational seminar with emphasis on practical problems and recent statutory and case law changes," remarked McRae. "...Technical experts...could serve as a source of legal aid and information for the preparation and disposition of cases."

Although followups are provided through the Department of Pensions and Securities, McRae feels a judicial review should also be made.

"The welfare agency must be sufficiently staffed to provide post decree information for the court's review," he said. More legislation in the area of terminating parental custody would reduce the number of children who spend much of their youth in child care institutions or foster care.

"We need federal assistance to assure competent legal representation...It is wrong to abuse one in the private practice of law by repeatedly asking he give his time and knowledge and not receive in return a reasonable sum for his services," said McRae.

Other Alabamians addressing the commission today were Chessie Harris, executive director of the Harris Home for Children; Louise Pittman, director, Alabama Bureau of Family and Children's Services; Terry Benton, representing county directors' association; and a representative of the Jefferson County Foster Parents' Association.

DECATUR DAILY

## New 39th Judicial Circuit goes into operation June 1

By Bob Dunnivant

Correspondent

ATHENS—The state's 39th Judicial Circuit will come into existence in Limestone County on June 1 after the Alabama House concurred with the Senate and passed a bill creating the new court circuit this week.

The act separates Limestone County from the Eighth Judicial Circuit and creates a separate circuit court system, including a judge and district attorney for the county.

The county has shared judicial officials with neighboring Morgan County as part of another circuit.

"I see this as a sign that Limestone County is growing and developing and making a place for itself," said state Rep. Tommy Carter of Elkmont.

The legislation was written and introduced in the Senate by Sen. Albert McDonald of Madison, who drew up the act at the request of the Limestone Bar Association.

Creation of the circuit presents

Judge Tom Coggin with the choice of remaining in the Eighth Circuit, which will now encompass only Morgan County, or choosing an appointment as the first judge of the 39th Judicial Circuit.

Coggin was appointed to his judgeship five years ago by Gov. George Wallace after winning a Democratic primary, and was later elected to a full, four-year term.

Coggin, a native of Limestone County, has lived in Decatur during the past few years and is now residing in Hartselle. A section of the bill creating the circuit directs that the judge of the circuit must have been a resident of Limestone County for one year.

Coggin could not be reached for comment yesterday, but has said that he has not decided what he will do.

The circuit court will be funded with a \$125,000 appropriation from the legislature and will include creation of a district attorney's office. Mark Sandlin, a 26-year-old Athens attorney, is the only announced candidate for the post.

BIRMINGHAM POST HERALD

## NEWS CLIPS FROM THE STATE PRESS

## Court polices judges

Since the Judicial Article created a process for disciplining and removing errant state judges in 1973, the Judicial Inquiry Commission has made formal charges against eight judges.

As a result of those charges two judges have been removed from office by the Court of the Judiciary and those removals were upheld by the Alabama Supreme Court.

Four judges were publically censured by the court and two resigned from office.

Since 1973 the Inquiry Commission has received 280 complaints.

About half of those complaints were not within the jurisdiction of the commission but pertained to the judicial decision-making process.

"These were usually complaints about the decisions of judges whereby the proper action would be review by one of the state appellate courts through the appeal process," said Judge Robert Bradley, commission chairman.

The commission received 60 complaints in 1977, and of those, half were not in the jurisdiction of the commission and five were found to have insufficient evidence and were dismissed.

Official investigations were made into 16 complaints and from those probes, charges were brought against

five judges.

The results included the resignation of one judge, censure of three judges and the removal of another judge.

The Inquiry Commission is also authorized to issue advisory opinions to state judges which pertain to matters of ethical conduct.

The commission has issued 33 such opinions. The commission is also authorized to employ independent investigators and the attorney general's office provides its prosecutorial function and acts as its house counsel.

The Judicial Inquiry Commission consists of seven members and is the investigative body to which complaints are made.

It is charged with policing more than 600 appellate, circuit, district, municipal and probate judges in the state.

After a charge has been brought by the commission, it is tried before the Court of the Judiciary, a five-member court which hears all disciplinary charges against judges.

Appeal from a judgment may be made to the State Supreme Court.

The proceedings of the Inquiry Commission are confidential until it files a charge against a judge. Once a charge is filed, the case becomes a matter of public record.

MOBILE PRESS REGISTER

## Dr. Montgomery first black to join judicial commission

Dr. James T. Montgomery, sworn in Wednesday as a member of the Jefferson County Judicial Commission, is the first black to serve on the commission.



Montgomery

He was selected by the Jefferson County Legislative Delegation to succeed Thurmon Cogins on the commission, which screens and recommends nominees to fill vacancies on the local bench. He will serve a six-year term.

Dr. Montgomery describes himself as an "activist" and he is active on a number of boards and committees, including the Community Affairs Committee of Operation New Birmingham. He is co-chairman of the committee and co-chairman of the CAC Law Enforcement-Community Relations subcommittee.

WORKING ON THAT subcommittee, he said, he has gained knowledge of the local justice system, including the courts.

"My first concern will be to find the best qualified people to recommend for appointment to a judicial vacancy,"

Montgomery said. "But I will look at representation in the courts. I believe the courts should be representative of the people."

The Birmingham District has no black or female judges at the district or circuit court levels.

Montgomery, a native of Atmore, attended Rosedale School in Homewood. He began his medical practice in Birmingham in 1957 and is clinical associate professor of medicine at the University of Alabama in Birmingham.

HE COMES TO THE Judicial Commission at a time when the body is likely to be active. Now pending before the state Legislature is a bill that would funnel the appointment of an assistant probate judge through the commission. Another bill would create a new circuit judgeship for divorce and domestic relations matters now handled by District Judge Wadell Zanaty.

The commission is made up of two lawyers, Drew Redden and Ray Large, selected by the Birmingham Bar Executive Committee; two laymen, Dr. Montgomery and Fred H. McCrory, named by the legislative delegation, and a judge, Wallace C. Gibson, appointed by the circuit judges.

BIRMINGHAM NEWS

## Judge Explains Courts

Judge Gary McAliley of the Coffee County District Court spoke to the Enterprise Junior Women's Club Monday evening, March 20. The club met at the home of Mrs. Harry King.

Judge McAliley presented an enlightening summary of the jurisdiction and duties of the five courts included in this district.

Included in the district court is the criminal court, which hears cases of suspects under the age of 17 who have been accused of committing a criminal act; the civil court, which hears cases dealing with lawsuits between individuals and/or business. Included in this court is the divorce court. In describing the Divorce Court, McAliley stated that Coffee and Dale Counties have the highest divorce rate in Alabama.

The newly established small claims court is most beneficial to small businesses and consumers, he explained, as one does not have to be represented by an attorney. It reduces the cost to the individual and the time involved in court sessions. THE DAILY LEDGER

## Ax-wielding man gives judge scare

United Press International

ALEXANDER CITY — Circuit Court Judge William Byrd opened his locked office door Thursday and found a mental patient with a double-edged ax raised above his head.

Byrd quickly shut the door, locked it and the man started swinging the ax, first breaking the glass then flailing away at the wooden portion of the door.

Police were called to the scene and they subdued D.C. Thomas, 55, a ward of the judge's wife. No one was injured.

Byrd said he had his door locked and opened it when he heard a rattle.

"I quickly closed the door and he started cursing," the judge said. "He never did tell me why he was there."

Then he broke through the glass. "He started whacking on the door, cutting on the door itself," the judge said. "All I could do was stand there and look at him and ask him to leave if he would."

BIRMINGHAM POST HERALD

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All Court Personnel	
<input type="checkbox"/> For your comments and advice	
<input type="checkbox"/> For your recommendation	<input type="checkbox"/> Per our conversation
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-----EDITORIAL COMMENT-----

**THE IMPORTANCE OF SURVEYS:** Accurate information is essential to the effective management of the Unified Judicial System as it is to the management of any other state government agency or private business. Accurate data concerning the needs of local court offices is both vital to the proper administrative planning by the AOC and to the needs of local offices. The absence of adequate information at the administrative office as to the needs of court officials reduces our effectiveness in providing you with the support necessary in carrying out the duties of your offices. We ask that you please remember that the surveys as to equipment needs, personnel needs, law books and other essential items are the only means by which the AOC has of acquiring the data necessary to provide you with assistance in these areas. Also, please remember that these surveys are used for long-range budgetary planning for the entire Unified Judicial System. We will attempt to hold surveys to a minimum; however, please utilize this means of providing us information so that we can adequately carry out our role and help you carry out your responsibilities more efficiently.

**ATHENS JUDGE WORE  
THREE JUDICIAL HATS**

If Judge D. L. Rosenau, Jr. of Athens had a difficult time deciding which judicial hat to put on recently it was because he had three of them. Rosenau, judge of the Limestone County District Court, was judge of that court, the circuit court and the probate court all at one time for a week's period earlier this year. As the judge relates it, during a vacancy in the office of probate judge he was appointed as acting probate judge. Also, during the time he was wearing both his own hat as a district judge and serving an interim period as acting probate judge, he was appointed to the circuit bench for a week.



## COURT NEWS

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