

# GENERAL LAWS

(AND JOINT RESOLUTIONS)

OF THE

## LEGISLATURE OF ALABAMA

PASSED AT THE

SESSION OF 1923

HELD AT THE CAPITOL, IN THE CITY OF MONTGOMERY,

Commencing Tuesday, January 9, 1923



WM. W. BRANDON, Governor

CHARLES S. McDOWELL, JR., Lieutenant-Governor

JAS. B. ELLIS, President Pro Tem. of the Senate

HUGH D. MERRILL, Speaker of the House

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I, S. H. BLAN, Secretary of State in and for the State of Alabama, do hereby certify that this volume is published by the authority of the State of Alabama, and in accordance with law.

S. H. BLAN,  
Secretary of State.

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No. 132.)

(S. 249. Waddell.

## AN ACT

To provide for appeals from the recorder's court or other courts of municipalities where the territory lying within the corporate limits of the municipality are in different counties.

*Be it enacted by the Legislature of Alabama:*

Section 1. That when the corporate limits of a municipality include territory in different counties, appeals taken from the recorder's court, courts of like jurisdiction, of such municipalities shall lie to the circuit court of the county in which the offense or violation of law or of a city ordinance was committed.

Section 2. It shall be the duty of the recorder of such municipality or the person acting as the judge of the court with similar jurisdiction as that of the recorder's court, to ascertain upon the trial of any person charged with the commission of an offense or violation of law or of a city ordinance, the county in which such alleged act was committed, and to make a matter of record of the same by entering on the judgment entry in such cases the county in which such offense was committed.

Approved August 9, 1923.

No. 133.)

(H. 412. St. John.

## AN ACT

To provide for the organization, regulation and government of the State Bar including admissions and disbarments of lawyers.

*Be it enacted by the Legislature of Alabama, as follows:*

Section 1. Board of Commissioners Established: There is hereby established a Board of Commissioners of the State Bar, consisting of as many members as there are judicial circuits to hold office for three years and to be elected in the manner hereinafter provided.

Section 2. Selection of Commissioners. The Board of Commissioners shall be selected by the members of the State Bar, who shall vote by ballot. Each judicial circuit of the State of Alabama shall be entitled to a commissioner on said Board of Commissioners, and no judicial circuit shall have more than one commissioner. If hereafter additional judicial circuits are constituted, such additional circuits shall be entitled to a commissioner on said Board. The ballots shall be deposited in person or by mail with the Secretary of the Board or such other officer as it

may designate. There shall be an annual election held on the 2nd Tuesday of October of each year, and continuing for such time as may be provided by rules of said Board and as may be reasonably necessary to give those entitled to vote an opportunity to cast their ballot, for the purpose of selecting successors to the Commissioners whose terms expire and for the purpose of filling vacancies. The Board shall prescribe rules and regulations in regard thereto not in conflict with the provisions of this Act. The Board shall in accordance with its rules, give at least sixty days' notice of the time for holding the election each year. In the first election, and in all elections thereafter, the commissioners for the respective judicial circuits shall be elected by the Members of the Bar of the respective circuits, voting by ballot in the annual election hereinabove provided for.

Section 3. First Election of Board. For the purpose of the first election of commissioners the Clerk of the Supreme Court of Alabama, the Clerk of the Court of Appeals of Alabama and the Court Reporter of the Supreme Court of Alabama, shall constitute an election and canvassing board. If for any reason any members of said election and canvassing board cannot serve, the vacancies thereto shall be filled by the Chief Justice of the Supreme Court of Alabama. They shall, immediately upon the enactment and approval of this Act, (a) Set a time for closing the voting not less than sixty days from the time of notice to the Members of the State Bar whose names appear on the roll of attorneys of the Supreme Court of Alabama; (b) Notify all such members by mail of the time for voting and the time for closing nominations, which latter time shall be thirty days from the time of mailing notice; (c) Receive nominations and prepare a ballot containing the names of all persons nominated according to the provisions for nominations hereinafter set forth; the ballot shall be so prepared as to submit to the members of the State Bar of the respective circuits the candidates for commissioner as representing such judicial circuits; (d) Mail such ballot to every Member of the State Bar whose name appears on the roll of attorneys of the Supreme Court of Alabama, at least fifteen days before time for closing the voting; (e) Adopt such regulations and rules as they deem best to insure a fair and full vote of all lawyers entitled to vote and a fair and correct return and canvass of such votes. (f) Receive and canvass the vote and certify the names of the candidates in each of the respective circuits receiving the largest number of votes in the respective circuits to the Secretary of State as the first Board of Commissioners. The Secretary of State shall announce the names of these elected and notify each one of his election.

Section 4. Nominations. Nomination to the office of Commissioner shall be by written petition of any five or more members of the Bar in good standing who reside in the circuit where such nominee resides. Any number of candidates may be nominated on a single petition. For the purpose of the first election the petitions shall be sent through the mails to the Clerk of the Supreme Court of Alabama. Thereafter such nominating petition shall be mailed to the secretary of the Board of Commissioners within a period to be fixed by the rules made by the Board of Commissioners. Any attorney may become a candidate for membership on said Board from the circuit of his residence by filing a written declaration in the same manner as the nominations are required to be filed.

Section 5. Organization of the Board. On the fourth Tuesday following the certification of their names the first Commissioners shall meet at the office of the Clerk of the Supreme Court of Alabama and organize by the selection of the following officers of the State Bar and its Board of Commissioners, namely: A president, a first and second vice-president and a secretary. The Commissioners shall be divided into three groups holding office for one, two and three years, respectively, and at the first meeting their terms shall be determined by lot. Their successors shall hold office for three years. The Board of Commissioners is authorized to appoint a secretary, if it so desires, a person who is not a member of the Board of Commissioners or not a member of the Bar. The Secretary shall be the only paid officer of the Board and shall be paid such salary as in its judgment it deems best, not exceeding the sum of three hundred dollars per month.

Section 6. Authority Conferred. The Board of Commissioners shall have power to determine, by rules, the qualifications and requirements for admission to the practice of law, and to conduct through a board of examiners, hereinafter provided for, the examination of applicants, and they shall from time to time certify to the Supreme Court and to the Secretary of the Board of Commissioners the names of those applicants found to be qualified. The educational qualifications of applicants and subjects to be examined upon shall be, as now, or as may hereafter be, provided by law. Such certifications shall entitle such persons to be enrolled in the Bar of the State and to practice law, provided the fees hereafter required are paid. The Board shall, subject to the approval of the Supreme Court, formulate rules governing the conduct of all persons admitted to practice and shall investigate and pass upon all complaints that may be made concerning the professional conduct of any person who has been or who may hereafter be admitted to the practice of the law, and subject to like approval formulate rules governing the re-instatement of members of the Bar who have been disbarred and pass

upon all petitions for re-instatement. Said Board shall have power to appoint one or more committees to take evidence on behalf of the Board and forward the same to the Board. In all cases involving suspension, exclusion or disbarment, testimony in reference thereto shall be taken at the Court House of the County of the residence of the party charged, provided the evidence of witnesses residing outside of said county may be taken in the same manner as provided by law for the taking of depositions in civil cases. In all cases in which the evidence, in the opinion of a majority of the Board, justifies such a course, they shall take such disciplinary action by public or private reprimand, suspension from the practice of law, or exclusion and disbarment therefrom, as the case shall in their judgment warrant, provided that in case of exclusion and disbarment two-thirds of the Board shall vote affirmatively before the exclusion and disbarment become effective and provided further that said Board shall not have jurisdiction over anything which may have occurred before the passage of this act. The Supreme Court may, and on petition of the party aggrieved must, in any case of suspension or disbarment from practice, review the action of the Board, and may, on its own motion, and without the certification of any record, inquire into the merits of the case and take any action agreeable to their judgment. Rules regulating the manner of such review and providing for the certification of the evidence, or if the Supreme Court desire, the taking of additional evidence shall be promulgated by said Board and become effective upon approval by the Supreme Court. The Board of Commissioners shall also have power to make rules and by-laws not in conflict with any of the terms of this Act concerning the selection and tenure of its officers and committees and their powers and duties, and generally for the control and regulation of the business of the Board and of the State Bar. Said Bar shall also have authority to hold and conduct educational and social meetings and activities among the members of the Bar, to publish journals and generally to do such things as in their judgment may tend to improve the educational and ethical standing of Bench and Bar. Should any vacancies occur on said Board it shall have the authority to fill such vacancies by appointment of a member of the State Bar from Judicial Circuit in which said vacancy exists and such appointee shall hold for the time of the unexpired term or pending the election of their successors. Said Board shall have authority to establish Circuit or Branch Associations of the State Bar and if Circuit Associations are established, the member of the Board from said Circuit shall be ex-officio the President of such Circuit Association. Said Circuit or Branch Association shall have no authority to suspend or disbar attorneys and in all matters shall be subordinate to the authority of the Board. If any mem-

ber of said board is a party to the preferment of charges for disbarment or suspension of any lawyer, or there exists as against any member of such board any cause provided by law for the disqualification of judges or jurors in civil or criminal cases, such member shall be disqualified from sitting as a member of said board in the hearing of such charges. Said board shall have no authority, nor shall it in any way undertake to regulate the fees or charges of lawyers for the rendition of their professional services.

Section 7. Graduates of Law Department of the University of Alabama. Whenever the President and Dean of the Law Department of the University of Alabama, shall officially certify to the Secretary of the Board of Commissioners that the University has conferred the degree of Bachelor of Law upon a graduate in that department, it shall be the duty of such secretary upon presentment within twelve months of such certificate to enter the name of such graduate upon the rolls of the State Bar, and such graduate upon complying with the other terms of this Act shall without further examination become a member of the State Bar, with all the rights, duties and privileges of the other members thereof.

Section 8. Board of Examiners. The Board of Commissioners shall appoint a Board of Examiners on admission to the Bar, which board shall consist of three members, and said Board of Examiners shall conduct examinations of applicants for admission to the practice of law and from time to time certify to the Secretary of the Board of Commissioners the names of those applicants found to be qualified; such examination and certification to be made in accordance with rules and requirements made by said Board and approved by said Board of Commissioners. The Board of Examiners shall be reimbursed for their expenditures for all necessary and reasonable expenses incurred in the performance of their duties, said expenses not to exceed actual railroad fare and four dollars per diem, and shall in addition receive the sum of ten dollars per day for each day engaged by them in the performance of their duties, said moneys to be expended by them out of the fund hereinafter provided for. The Board of Examiners as now appointed and constituted under the provisions of the Code of 1907 shall constitute the Board of Examiners hereunder until the expiration of their term of office on the first day of March, 1924. Thereupon and thereafter said Board of Examiners shall be elected by a majority vote of the Board of Commissioners and shall hold office for the term of two, four and six years respectively, and as designated by said Board, after their election and until their successors are elected and qualified, and thereafter their successors shall be elected as vacancies occur, to hold office for a term of six years, or if appointed for an unexpired term for the time of such unexpired term.

Section 9. Existing Causes of Removal of Suspension and Laws Relating thereto Cumulative. The causes of removal or suspension of attorneys, and methods of proceeding in reference to such removal or suspension, as now existing, are hereby declared to be cumulative with the right and power herein given to the Board of Commissioners to reprimand, suspend, exclude or disbar attorneys.

Section 10. All applicants for admission to the Bar shall pay to the Board of Commissioners a fee of ten dollars, which shall be paid to the State Treasury and shall become a part of the separate fund in Section 11 hereof provided for.

Section 11. **License Fee.** Every member of the State Bar shall, prior to the first day of October in each year in the same manner as required by law for the payment of license fees, pay into the State Treasury as a license fee the sum of ten dollars, five dollars of which shall remain in the State Treasury as part of the general fund and five dollars of which together with the fees paid by applicants for admission, shall constitute a separate fund to be disbursed by the State Treasurer on the order of the Board of Commissioners. The State Treasurer is authorized to provide such rules as may be necessary for the payment and collection of such fees through the Probate Judge, Auditor or other officials. As soon after the first day in October in each year as practicable the State Treasurer shall certify to the Secretary of the Board of Commissioners the names of attorneys who have paid such license fee, and no attorneys who are in default in the payment of such fee shall be recognized in the voting or transaction of business by the State Bar as being in good standing. Provided however that no lawyer shall be required to pay a license until after he has practiced his profession for two years.

Section 12. The fees and license above provided for shall be in lieu of all other state and county license and revenue fees and charges.

Section 13. Disbursements. For the purpose of carrying out the objects of this Act, and for the exercise of the powers herein granted, the Board shall have power to make orders concerning the disbursement of said fund, but no member of the Board other than members of the board of Examiners shall receive any other compensation than his actual necessary traveling expenses connected with attending meetings of the Board. The State Treasurer is directed to pay money out of the separate fund hereinabove provided for upon the order of the Secretary of the Board of Commissioners countersigned by the President or Vice-President of the Board of Commissioners, and for the expenses and fees of the Board of Examiners upon the order of the Chairman of the Board of Examiners.

**Section 14. Discipline - - - Procedure.** The Board of Commissioners shall establish rules governing procedure in cases involving alleged misconduct of members of the State Bar, and may create committees for the purpose of investigating complaints and charges, which committees may be empowered to administer discipline in the same manner as the Board itself, but no order for the suspension or disbarment of a member shall be binding until approved as hereinbefore provided for by the Board. The Board may or any such committee may designate any person as commissioner to take testimony under oath in any such investigation.

**Section 15. Approval by Court of Rules and Regulations.** The Rules and Regulations adopted by the Board relative to disbarment or admission to the Bar shall not become effective until approved by the Supreme Court.

**Section 16. Power of Subpoena.** In the investigation of charges of professional misconduct the Board, and any committee appointed by it for this purpose shall have power to summon and examine witnesses under oath and compel their attendance and the production of books, papers, documents and other writing necessary or material to the inquiry. Such summons or subpoena shall be issued under the hand of the Secretary of the Board or the Chairman of any duly constituted sub-committee of the Board, and shall have the force of a subpoena issued by a court of competent jurisdiction, and any witness or other person who shall refuse or neglect to appear in obedience thereto, or who shall refuse to be sworn or testify or produce books, papers, documents or other writings demanded shall be liable to attachment upon application to the Supreme Court of the State or to any judge of any court of record for the district where the investigation is conducted as in cases of contempt.

**Section 17. Rights of Accused Member.** Any member of the Bar complained of shall have notice and opportunity to defend by the introduction of evidence and the examination of witnesses called against him, and the right to be represented by counsel. He shall also have the right to require the Secretary to summon witnesses to appear and testify or produce books, papers, documents or other writings necessary or material to his defense in like manner as above provided.

**Section 18. Payment of Witnesses.** Said Board shall by rules provided for such purpose and out of the funds herein provided for arrange for the payment of reasonable costs for the summoning of witnesses and the payment of their fees which costs and fees shall be the same in amount as provided by law in civil cases.

**Section 19. Record of Proceedings.** A complete record of the proceedings and evidence taken by the Board, committee, or



commissioner shall be made and preserved by the Board, but it may, where sufficient reason appears and the accused gives his consent, cause the same to be expunged.

Section 20. Annual Meeting of Bar. There shall be an annual meeting of the lawyers of Alabama, open to all members of the Bar in good standing and who have paid the license fees herein provided for, to be held at such place and time as the Board of Commissioners may designate for the discussion of the affairs and the administration of justice. At the first annual meeting such organization or such consolidation or association with the now existing Alabama State Bar Association may be had and such constitution and by-laws may be adopted as may then be determined upon and which are not inconsistent with the terms of this Act. No fees of any kind other than the payment of the fees herein provided for shall be required as a condition to full membership in such State Bar, and all lawyers duly licensed to practice law and in good standing under the provisions of this Act shall *ipso facto* be and become members of the State Bar of Alabama.

Section 21. Unlawful Practice of Law. If any person shall, without having become duly licensed to practice, or whose license to practice shall have expired either by disbarment, failure to pay his license fee within six months after the day it becomes due, or otherwise, practice or assume to act or hold himself out to the public as a person qualified to practice or carry on the calling of a lawyer, he shall be guilty of an offense under this Act, and on conviction thereof be fined not to exceed Five Hundred Dollars, or be imprisoned for a period not to exceed six months, or both.

Section 22. Repealer. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Approved August 9, 1923.

No. 145)

(S. 193. Overton.

### AN ACT

To permit newspaper editors and publishers of newspapers to accept mileage from railroads and other common carriers in exchange for space and advertisements in their newspapers.

*Be it enacted by the Legislature of Alabama:*

1. That editors and publishers of newspapers published in Alabama are permitted and authorized to exchange with railroads and other common carriers in this State advertisements and space in the columns of their newspapers for mileage over

the said railroads and other common carriers issued to editors and publishers of newspapers.

2. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Approved August 9, 1923.

No. 146.)

(S. 206. Craft.

AN ACT

To amend Section 1 of an Act, entitled an Act to provide for the appointment of deputy registers and deputy clerks for circuit courts in all judicial circuits in the State having more than two and less than five circuit judges, to prescribe the duties and fix the compensation and salary of such deputies, Approved October 1st, 1920.

*Be it enacted by the Legislature of Alabama:*

Section 1. That in all judicial circuits in this State having more than two and less than five circuit judges, the register and the clerk of the circuit court shall each subject to removal at his will, appoint a deputy for said court; the deputy register and deputy clerk shall each be paid a salary of Two Hundred Dollars per month, payable monthly, out of the treasury of the county composing such circuit. Said deputy register and deputy clerk shall respectively possess all the powers and authority, both ministerial and judicial now or hereafter possessed by such register and clerk by whom said deputies are respectively appointed.

Section 2. This Act shall take effect upon its approval by the Governor and all laws in conflict herewith are hereby repealed.

Approved August 13, 1923.

No. 147.)

(S. 209. Craft.

AN ACT

To provide for the appointment of an additional deputy clerk for circuit courts in all judicial circuits in the state having more than two and less than five circuit judges; to prescribe the duties and fix the compensation and salary of such deputy."

*Be it enacted by the Legislature of Alabama:*

Section 1. That in all judicial circuits in this State having more than two and less than five circuit judges, the Clerk of the circuit court shall, subject to removal at his will, appoint an additional deputy clerk for said court, such additional deputy clerk