



Court Historical Society NEWSLETTER *Eastern District of Tennessee*

MAY 2010

The U.S. Commissioner

The judicial post of part-time United States Commissioner is remembered by few today, but until 1968, commissioners had a key place in the judicial system, handling mainly the preliminary criminal matters that magistrate judges deal with today.

Newport lawyer **James C. McSween Jr.** is the only former U.S. commissioner in this district whose service in that post dates back nearly a half century. He was sworn in on October 10, 1962, by the late U.S. District Judge **Charles G. Neese**. McSween said he heard his first cases the next day. He was 32 years old at the time.

U.S. Commissioners were attorneys who served the court on a part-time basis while continuing to practice law. At times, there were six or seven U.S. commissioners serving at various locations in the district.

McSween says he conducted hearings in his law office, which was located only a few minutes from his home. "Frequently, the revenue officers, after raiding a moonshine still site, would bring in the operators to my office. The officers had a key to the office, would call me late in the evening, and I would come down and set the bond and make arrangements for the defendant to make bond," he said.

"The officers had their camera equipment and fingerprinting equipment set up in my office, so by the time I got there, the defendants had notified their bondsman, and bonds were in the process of being made," McSween said. "Most of the defendants would waive preliminary hearing on the spot; for others, a hearing date was set."



*MURAL STUDY UNVEILED--Judge Collier, left, and Judge Matice admire the **Hilton Leech** mural study that they unveiled at the Chattanooga Theatre Center on April 27 at a reception sponsored by the Court Historical Society and the Chattanooga Chapter of the Federal Bar Association. The court and the Society acquired the mural study, which measures 6 feet wide and 2 feet deep, from a Sarasota, Florida, art dealer who was selling the residue of the Leech collection. (More about the mural on Page 2)*



Judge Neese, right, administering the oath of office to James C. McSween Jr. in 1962. At the time this photograph was made, Neese was 46 and McSween was 32. (Photos from McSween's files.)

"My office was on the street level, and the officers could come in a back door without having to pass through the other part of the office," McSween said

In addition to moonshining cases, McSween also dealt with postal violations, interstate flight, counterfeiting, charges involving the transporting of stolen vehicles across states lines and firearms violations. And at times, he conducted hearings on violations in the national forests and the Great Smoky Mountains National Park.

The role of U.S. commissioners was expanded through the years, and in 1968, Congress passed the Federal Magistrates Act, which built upon and superceded the 175-year-old commissioner system.

By 1971, the magistrate system had replaced the commissioner system in all districts.

"By about 1973, the number of cases I was hearing was reduced considerably," McSween said, "primarily because there were fewer moonshine cases."

He was appointed special chancellor of the 13th Chancery Division by **Governor Ray Blanton** in 1976 upon the illness of **Chancellor Earl Hendry**, but as special chancellor, McSween said he did not have to give up his law practice or his duties as magistrate. In 1978, Hendry retired and McSween was appointed to the judgeship. "As soon as all my pending cases were resolved, I resigned as magistrate," he said. He served as chancellor for three years.

In serving in the federal post, McSween succeeded his father, **James Carty McSween**, also a Newport attorney, who served as a U.S. commissioner from 1952 to 1962. A few days after the elder McSween's death in September 1962, McSween Jr. was appointed to the post. ■



The top picture shows the mural that is on the wall of the third-floor courtroom in the Chattanooga federal courthouse, where **Judge Collier** presides.

The bottom two pictures are different studies, or samples, that artist **Hilton Leech** painted as proposals to win the commission to paint the courtroom mural in the 1930s.

The court recently acquired the study shown in the middle, and it will be hung in the first floor courtroom of the Chattanooga federal courthouse, where **Judge Mattice** presides.

The study shown at the bottom differs slightly from both the mural and the study owned by the court. This one is owned by a Washington lawyer and art collector, and he allowed the Court Historical Society to make this print of his study.

The differences in the murals are that the final version--the one on the courtroom wall--does not have the prisoner figure in

striped pants like the studies do. And the cross held by the missionary or minister figure in the study owned by the court was omitted from the final version.

The following excerpt from a 1936 letter to the artist from the U.S. Treasury Department, which oversaw the artwork project, tells about the two changes:

“It is understood that you are substituting the figure of the architect for the prisoner at work. The other two substitutions are additions to the general composition and it is agreeable that in the case of the missionary the cross is omitted in accordance with the suggestion of Mr. Hunt.” (The architect for the courthouse was **R.H. Hunt**.) ■

[EDITOR'S NOTE--Full-color reprints of the two top murals are available from the Court Historical Society in two sizes--34 inches by 10 inches, \$40; and 20 inches by 6 inches, \$35. Prices include \$5 postage. Contact the Court Historical Society by e-mail, by U.S. mail, or by telephone, as shown in the masthead of this newsletter.]



O'REAR DONATES PHOTOGRAPH--Longtime Court Historical Society member **Alf O'Rear**, left, has donated to the Society a framed photograph of **Marguerite Kelly Lanham**, the first female lawyer to be admitted to practice in the U.S. District Court in Chattanooga and possibly the first female lawyer to be admitted in the Eastern District of Tennessee. She took the oath on November 14, 1939, along with 10 other lawyers, all men, according to court records. Shown here accepting the photograph are **Magistrate Judge Lee**, the first female to be appointed to a federal judgeship in Chattanooga, and **Judge Collier**. Lanham's photograph has been hung in the Frank W. Wilson Library in the U.S. Courthouse. O'Rear is married to Lanham's niece and practiced law with Lanham from 1952 to 1989. She died in 1994. The presentation took place at the reception for the unveiling of the Allegory of Chattanooga mural study on April 27. (See unveiling article and pictures elsewhere in this newsletter.--EDITOR)



SOCIETY WINS AWARD--The East Tennessee Historical Society has presented the U.S. District Court and the Court Historical Society with an "Award of Distinction" for their acquisition and preservation of the mural Allegory of Chattanooga. It was one of three such awards made by the ETHS at its annual meeting on May 4. **Judge Jordan**, center, and **Don K. Ferguson**, Court Historical Society executive director, right, and longtime Court Historical Society member and Knoxville attorney **G. Wilson Horde**, left, were on hand to receive the award. The Court Historical Society won a similar award in 2000 for the publishing of the book *Justice in the Valley* by **Dr. Patricia Brake**.

A few copies of *Justice in the Valley* are still available and may be purchased at the intake counter of each Clerk's Office in the district (cost \$25) or by mail (\$25 plus \$4 postage). Contact the editor; see contact information in the masthead of this newsletter.

Judge Collier on History

Chief U.S. District Judge **Curtis L. Collier**, who serves as honorary chairman of the Court Historical Society, emphasized the importance of preserving the court's history in his remarks at the April 27 reception marking the unveiling of the mural study *Allegory of Chattanooga*.

"The history of the court, the people who contributed to that history, and the records and documents of that history can be easily lost. That is where the Court Historical Society comes in. Its role is to capture, retain, preserve and explicate that history," he told the some 100 in attendance.

"This important work cannot take place without members. I encourage you to support the Society. Join in as a member. Give ideas about what you would like to see it do.

"I am ambitious. I hope that we can have public events such as this on at least an annual basis. We could put on events involving speakers; would it not be great to hear from some of the participants in these past great events or their relatives? Or panel discussions, made up of scholars or noteworthy individuals. Perhaps conferences or dinners or lunches." ■

Noted Trial Recalled

The large group of journalists--national and local--who covered the recent federal court trial in Knoxville at which former Alaska Governor **Sarah Palin** testified brought to mind a noted trial in that same court 53 years ago.

It was the trial of rabble-rousing segregationist **John Kasper** of New Jersey and several Anderson County residents charged with violating the court's order that desegregated Clinton High School. It was the South's first court case involving the desegregation of public schools.

About 25 members of the national, regional and local media covered the trial. The late U.S. District Judge **Robert L. Taylor** accommodated the press by having six spectator benches temporarily removed from the courtroom in the U.S. Post Office and Courthouse on Main Street to make space for tables and chairs so the reporters could more easily take notes.

In addition, several telephone lines for use by the reporters were installed in a makeshift press room down the hall from the courtroom.

At the conclusion of the two-week trial, the reporters drafted a letter of appreciation to the judge. A framed copy hangs in the U.S. District Court Historical Society Museum in the Howard H. Baker Jr. U.S. Courthouse in Knoxville, a gift from the judge's

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Letters to the Editor

The Court Historical Society Newsletter is distributed to many people who have expressed an interest in our work. These include several judges around the country, the director of the Administrative Office of the U.S. Courts, the chief of the Federal Judicial Center's History Office, the Sixth Circuit historian, several news organizations, other court history groups, and Tennessee U.S. Senators and area Congressmen.

Here are notes received over the past few months from a few of our readers:

"I want to tell you again how much I enjoy your newsletter. The topics are always intriguing and the stories are just the right length. When I see that return address on the outside of the envelope, I know there's something good inside to read!"

Barri Bernstein
Executive Director, Tennessee Bar Foundation

"Enjoyed the newsletter as always -- great job!"

Margaret Klein
Knoxville lawyer and board member of the
Court Historical Society

"Great idea to have **Duncan Crawford** write about his father [January issue]; I was in the Senator's [Kefauver] office from August 1960 to August 1961 and can attest to Kefauver's admiration and respect for John Crawford [U.S. Attorney from 1953-1961]. I always enjoy the Newsletter and thank you for all that you do for the Society."

D. Bruce Shine
Kingsport lawyer and former Capitol Page

"Just wanted to let you know that I thoroughly enjoyed **Duncan Crawford's** article about his father. Well-written and informative. I learned a lot of him that I hadn't known before."

Edgar Miller
Former Knoxville Journal reporter who covered
the federal beat during a portion of John
Crawford's service as U.S. Attorney

"I greatly enjoyed **Duncan Crawford's** article about his father. Thanks for seeing that such stories are collected and shared."

U.S. Bankruptcy Judge Marcia Parsons
Greeneville

"Just read the latest edition of the Court Historical Society Newsletter. I have to do a lot of reading at work, but the newsletter is one of the most enjoyable things I get to read."

Douglas R. Pierce
Nashville lawyer and one-time law clerk for U.S.
District Judge Robert L. Taylor

"I just wanted to give you some feedback regarding the Court Historical Society display case outside **Judge Collier's** courtroom. I see people viewing the items on display daily. Some are jurors but many of the people I see taking an interest are folks from other agencies. It appears that it is a very popular display case, and I just wanted to let you know."

Mark McLain
Information Technology
U.S. District Court Clerk's Office

EDITOR'S NOTE--We deeply appreciate these comments. We invite members and other readers to pass along to us suggestions for articles related to the court's history. Perhaps some of you would like to write an article about an incident, an event, a judge or other individual, or an anecdote about a case from the court's past and offer it for publication in the Newsletter. If so, you are welcome to do so. Please contact the editor. ■

Noted Trial Recalled *continued from Page 3*

daughter, **Ann Taylor** of National Public Radio in Washington, who is a member of the Court Historical Society.

The letter bears signatures of writers for Life, Time and Newsweek magazines, the New York Times, the Washington Star, NBC, ABC, the Associated Press, United Press and a number of local and regional newspapers and television and radio stations.

It reads in part:

"The large number of press, radio and television correspondents, we realize, put a strain on the Court.

"However, we were most grateful for the ample space provided by the press tables, and their location so well situated for hearing the proceedings."

They praised the cooperation they had, "most particularly from Your Honor."

"In a lawsuit of such proportions, and with the far-reaching implications, the responsibility placed on us has been correspondingly great. Consequently, the assistance we have received places us deeply in your debt." ■

THE HISTORICAL SOCIETY
OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE, INC.

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