

HISTORICAL SOCIETY NEWSLETTER



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News-Sentinel Photo

Patricia Brake Campbell
Leaving Knoxville

Author Moves Up

Dr. Patricia Brake Campbell, author of the Court Historical Society's book, *Justice in the Valley*, has accepted a position with an independent day school in North Carolina and will resign as Dean of Studies and Chair of the History Department at Webb School of Knoxville. Effective July 1, she will become director of the middle school at Cape Fear Academy in Wilmington. Her husband, **Mark Campbell**, a teacher at Webb School, will join the faculty of Cape Fear Academy's upper school and will teach history.

Pat did an outstanding job on the Society's book, which was published in September 1998. About 200 copies of *Justice in the Valley* are still available. The cost is \$25. Anyone who wants an autographed copy should let us know before Pat leaves town. We wish Pat and Mark success.

Judicial Commissions

The President of the United States signs the commission of an Article III judge, and so does the Attorney General of the United States. But why is the signature of the Attorney General, a member of the executive branch of government, necessary? The appointing is done by the President "with the advice and consent of the Senate," the legislative branch of the federal government, so where does the Attorney General fit in?

The Attorney General's role is one of witness to the President's signature. Not only does the Attorney General sign as the witness, the Department of Justice seal appears on the commission, not the court seal.

The witness role grew out of an early duty of the Secretary of State, the first subordinate officer established under the President in 1789, to be the keeper of the Great Seal of the United States. As such, it was his duty to "make out and record, and affix the seal of the United States to" commissions of officers appointed by the President. Section 2902(c) of U.S.C. 5 makes special provision for the commissions of "judicial officers and United States attorneys and marshal, appointed by the President," whereby the Attorney General makes out, records, and countersigns such commissions.

This subsection refers to commissions "which, before August 8, 1888, were prepared at the Department of State on requisition of the Attorney General." Presumably, this 1888 date was the time that the Attorney General assumed this function from the Secretary of State, according to **William R. Burchill, Jr.**, AO general counsel.

"Thus, the President necessarily signs the commission of office to manifest the judge's appointment, and it is appropriate that the President's signature be witnessed by another officer of the Executive Branch," Mr. Burchill said. "For judges, the Attorney General is by subject matter the proper officer to perform this function, as Congress determined in 1888," he said.

EDITOR'S NOTE—We wondered if the signature of the Attorney General being on judicial commissions was a carryover from the days when the Justice Department handled the administrative duties of the courts (prior to 1939), so we made an inquiry of AO Deputy Associate Director Cathy McCarthy. She in turn consulted with General Counsel William Burchill and then relayed his response to us. We are grateful to both of them for their assistance.)

Web Pages

Have you looked at the Eastern District of Tennessee's Web page? It provides a lot of information that is useful to attorneys and members of the public. All of the Historical Society's past newsletters are available there. Other options provide information on mediation and arbitration, the Local Rules, a variety of forms, and there is a section on "Frequently Asked Questions" that provides answers to many of the questions Clerk's Office personnel are asked regularly. The Web page address is

www.tned.uscourts.gov.

The Administrative Office of the U.S. Courts also has a Web page that provides a lot of information about law clerkships, judgeship vacancies, court fees, and many other helpful points of information. The address is **www.uscourts.gov**.

And the Federal Judicial Center has a Web page. The address is **www.fjc.gov**.

Wooden Cabinet Update

Background on the large, old wooden cabinet that was pictured on page one of the February issue remains a mystery, but we did learn one thing of interest—the company that made the cabinet also did the woodwork on **President Theodore Roosevelt's** private railroad car. The cabinet was left behind at the old federal courthouse on Main Street in Knoxville when the court abandoned that building in 1998. At that time, the court wasn't sure how the cabinet could be used in the new quarters, plus the size of it made it a problem to move. The company that made the cabinet was Steger & Sons Piano Manufacturing Co., Steger, Illinois.

When the company's piano business began to lag, it started specializing in cabinet-making and became known worldwide for the excellence of its craftsmanship. Consequently, the Pullman Co. had Steger do the woodwork on the presidential car. This information comes from Chicago amateur historian **John W. Wozny**, who wrote a history of the company. (For the past several months, the court has been considering moving the cabinet to the Howard H. Baker Jr. U.S. Courthouse, along with a large safe that also had to be left behind in the 1998 move; the safe also presented special problems because of its size.)

Oral Histories Grow

We have completed three more oral histories for the court and the Society. A total of 31 people who have served the court or have had a close association with the court over the years have been the subjects of the interviews. In March, your editor interviewed **Harry D. Mansfield**, Chattanooga, who served as U.S. Marshal in the Eastern District of Tennessee two different periods—in the 1960s and again in the late 1970s and early 1980s. During his first tour of duty, he was responsible for security at the 1964 trial of labor leader **James R. Hoffa**, who was tried and convicted at Chattanooga. And this month, your editor interviewed Society member **E.H. Rayson**, the senior member of the Knoxville law firm of Kramer, Rayson, Leake, Rodgers and Morgan. Earlier, **Patricia L. McNutt**, upon taking the office of clerk, interviewed your editor about his 27 years of service with the court.

Hicks and Supreme Court

A question arose recently about whether the late **U.S. Circuit Judge Xenophon Hicks**, who served as a judge in the Eastern District of Tennessee from 1923-1928, was ever considered for appointment to the U.S. Supreme Court. The question arose during the oral history interview your editor did with **Tennessee Supreme Court Chief Justice E. Riley Anderson** and Society member and retired lawyer **W. Hugh Overcash**, both of whom were employed by Judge Hicks in their early years. We've learned that the answer is yes. While researching through microfilm at the library on another matter, we ran across a 1946 newspaper article about a vacancy on the court and who was under consideration for appointment to it. The article said:

Speculation arose yesterday that if **President Truman** appoints a Republican to the United States Supreme Court the nod might go to either **Judge Xen Hicks** of Clinton or **Judge George C. Taylor** of Knoxville. Washington dispatches have indicated President Truman will name a Republican to fill the vacancy on the court left by the death of **Chief Justice Harlan F. Stone**.

The appointment ultimately went to **Fred M. Vinson**, a Kentucky native living in Washington, D.C. Although Vinson was appointed chief justice, it isn't clear whether Judges Hicks and Taylor were being mentioned for the post of chief justice or associate justice, a seat that would have become available had someone on the high court been elevated to the chief justice position.

Another point of interest is that when Judge Hicks died in 1952, he was succeeded on the Sixth Circuit bench by Cincinnati lawyer **Potter Stewart**, who served there 14 years and was then appointed to the U.S. Supreme Court, a point called to our attention by Mr. Overcash during our interview.

One other point: When Judge Hicks was appointed to the district bench in 1923, he succeeded a judge who had been appointed to the U.S. Supreme Court, **U.S. District Judge Edward Terry Sanford**, the only judge ever appointed to the high court from this district.

Society Recognition

Our Society continues to receive recognition for its accomplishments. **Mike Lantz** of the U.S. District Court for the Eastern District of Texas called for information on how we published our book. That court is considering compiling a book about its history and was referred to us by Federal Judicial Center Historian **Bruce Ragsdale** for advice. Mr. Lantz, the deputy clerk who is coordinating the effort, said he was told that our Society and our book would serve as good prototypes. He bought a copy of *Justice in the Valley* for the Texas court.

Another request for the book came from the office of "Documentary History of the Supreme Court of the United States 1789-1800," an organization established in 1977 under a special grant from the National Historical Publications and Records Commission. The group is documenting the first 10 years of the U.S. Supreme Court. When the group learned about *Justice in the Valley*, it asked for a copy to add to its resource material.

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

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Newsletter Editor

(The offices in the U.S. Courthouse at Greeneville, Tennessee, will move into a new federal courthouse in July. We thought it would be appropriate to trace for our members the background of the present courthouse, which has served the court for the past 96 years. Our thanks to the many people who contributed information for this article.)

HISTORY OF THE UNITED STATES COURTHOUSE AT GREENEVILLE, TENNESSEE

*By Don K. Ferguson
Newsletter Editor*

The United States Courthouse at the corner of Summer Street and Main Street in downtown Greeneville is one of only about 15 federal courthouses built in the early 1900s that are still being used today as federal courthouses. It was built in the period of 1903 to 1905 to serve the post office and the federal court.

The two-story, brick and marble structure, which stands on property once owned by President Andrew Johnson, was built during a period when there was a boom in federal courthouse construction. Courthouses were needed because of increased litigation at the turn of the twentieth century and because of the appointment of judges to the newly created U.S. Courts of Appeals, established by Congress in 1891.

Historians say that two federal projects were being considered for the northeastern area of Tennessee during this period. One was a new federal building to house the federal court and post office, and the other was a Veterans Administration hospital. The historians say that Greeneville leaders preferred to have the courthouse for their city, so the decision was made to construct it at Greeneville and the Veterans Hospital at Johnson City.

Early information about the building is sketchy. Minutes of the Board of Mayor and Aldermen of Greeneville show that the board held a called meeting on April 28, 1903, "to grant the United States government the privilege of putting in sewers" at the site of the new building.

The new building was officially opened on Monday, June 5, 1905.

A "Completion and Opening" ceremony was held from 8 p.m. to 11 p.m. on that date. Speakers included the judge who served the Eastern District of Tennessee at that time, U.S. District Judge Charles Dickens Clark, and U.S. Representative Walter Preston Brownlow.

The best evidence available today of that event is an invitation to it that is in the possession of U.S. District Judge Thomas Gray Hull. It was given to him by Greeneville artist Mrs. Judith Plucker, who found it among the belongings of Miss Katy Gardner, an elderly Greeneville resident and longtime teacher who was a friend and neighbor of Mrs. Plucker and her husband, Loren. Miss Gardner died at the age of 90 about 10 years ago.

Mrs. Plucker noted that Miss Gardner's brother was P. E. Gardner, a Johnson City attorney who practiced during the time that the federal courthouse was built. Mrs. Plucker surmises that it was because of this connection with the legal profession that Miss Gardner had the invitation among her memorabilia. She also had many other invitations and announcements in her papers.

The post office, which moved from the building in 1983 into a new facility a few blocks away, exceeded the structure at that time and the General Services Administration of the United States government purchased it.

The courthouse is on the National Register of Historic Places. It acquired this status by being part of the Greeneville Historic District, which encompasses a large area of downtown Greeneville. The district was placed on the National Register in 1974.

The building has been expanded twice, once in 1938 and again in 1964. It initially was a rectangular structure, but the additions, both at the rear of the building, changed its appearance to what it is today. In the 1964 expansion, an elevator was installed.

Noted Greene County historian Richard Doughty recalls attending the dedication of the expanded building in 1938 as a member of the Greene County High School Band, which played for the ceremony. The key speaker

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Greeneville Courthouse History

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was U.S. Postmaster General Smith Purdom, Mr. Doughty recalls. Mr. Doughty's uncle, George Washington Doughty, who served as Greeneville's mayor from 1910-12, was a member of the committee on program and arrangements for the 1905 dedication of the newly constructed building.

The courthouse is noted for the artwork that it contains, two large woodcarvings. They will be transferred to the new federal courthouse.

In his book *Tennessee Post Office Murals*, University of Tennessee Professor Howard Hull (no relation to Judge Hull) reviewed the artwork in all of Tennessee's post offices. He said, "Greeneville has the most valuable artwork created for Tennessee post offices. On the wall of an upstairs courtroom in what was originally the post office and courthouse building hang two magnificent relief sculptures carved from teak wood." He quotes Judge Hull in the book, published in 1996, as saying the two sculptures "are now valued somewhere in the neighborhood of \$1 million."

Other artwork in the building includes a portrait of Judge Clark, the presiding judge at the time the building was dedicated, and portraits of U.S. District Judges Charles G. Neese and Hull, the only two federal judges who have been domiciled at Greeneville. Prior to Judge Neese's appointment in 1961, the judges presiding over federal court sessions in Greeneville traveled to Greeneville from Knoxville.



ONE OF THE OLDEST IN THE COUNTRY—The U.S. Courthouse at Greeneville was completed in 1905 and is one of about 15 federal courthouses built during that period that are still in use today as federal courthouses. (Photograph by John E. May)

The Greeneville court, known as the Northeastern Division of the Eastern District of Tennessee, serves the 10 northeast counties of the state. The district itself has jurisdiction in 41 East Tennessee counties. The district has courts in three other cities, Knoxville, Chattanooga, and Winchester.

Judge Hull is one of five Article III judges serving the district. In addition, the district has five magistrate judges, one of whom is Magistrate Judge Dennis H.

Inman, who presides in Greeneville. The other Article III judges are Leon Jordan, Knoxville, a former resident of Johnson City; James H. Jarvis, Knoxville; Curtis L. Collier, Chattanooga; and R. Allan Edgar, Chattanooga, who currently serves as chief judge.

The other magistrate judges are Thomas W. Phillips, Knoxville, who currently serves as chief magistrate judge;

Robert P. Murrian, Knoxville; and William B. Mitchell Carter and John Y. Powers, Chattanooga.

The U.S. Bankruptcy Court for the Eastern District of Tennessee also has offices and a courtroom in the U.S. Courthouse. Bankruptcy Judge Marcia P. Parsons is the judge. She is one of five bankruptcy judges who serve the Eastern District. The others are Richard S. Stair, Knoxville; and Chief Judge John C. Cook, R. Thomas Stinnett, and Ralph H. Kelley, Chattanooga.

Other units of the court that will move into the new building are the U.S. Probation Office and the U.S. Pretrial Services Office. In addition, four other federal agencies will have offices in the new courthouse—the U.S. Marshals Service, the U.S. Attorney's Office, the U.S. Trustee, and the Federal Bureau of Investigation.