



# Court Historical Society NEWSLETTER



Eastern District of Tennessee

MAY 2005

## A Senate Page Recalls

The recent articles in this newsletter about the late **Bankruptcy Judge Ralph H. Kelley** caused Kingsport lawyer and Court Historical Society member **D. Bruce Shine** to recall something he had in common with Judge Kelley.

Both served as pages in the Capitol for **Estes Kefauver**--Judge Kelley in the 1940s, when Kefauver was a member of the U.S. House of Representatives, and Mr. Shine in the mid-1950s, when Kefauver served in the U.S. Senate.

Mr. Shine said both Judge Kelley and **U.S. District Judge Frank W. Wilson** were strong supporters of Sen. Kefauver and that this was at least one of the reasons for their close relationship. [We reprinted in the July 2004 issue of this newsletter, after Judge Kelley's death in June 2004, an excerpt from his oral history, in which he told of his close relationship with Judge Wilson.--EDITOR]



Bruce Shine

Judge Kelley's father and Sen. Kefauver were both from Madisonville and knew each other there. During the early years of World War II, the elder **Mr. Kelley**, a machinist, went to work in the Naval gun factory in Washington, taking along his wife and young son Ralph, and the Kelleys and Kefauvers visited with each other from time to time.

In his oral history, Judge Kelley told this story: "**Mrs. Kefauver** was Scottish and couldn't say Ralph; she said Rolf. While I was visiting one Saturday, she said, 'Rolf, do you want to be our page boy?' I said, 'You mean here in Washington?' And she said, 'Yes. Estes, what about Rolf as our page boy?' So that's how it turned out," Judge Kelley said, "and I was a page boy on Capitol Hill for six years."

Mr. Shine remembers meeting the elder Mr. Kelley while serving as a page for Sen. Kefauver. "I would go to the movie house on Capitol Hill, and Mr. Kelley would pick up my ticket or sell concessions. Being young, I couldn't tell ages, so I don't know whether he was retired or that was his work."

Mr. Shine, who, as a Vanderbilt Law student served as Sen. Kefauver's field secretary, recalled for this Newsletter some of the background on the association of Sen. Kefauver with **U.S. District Judge Charles G. Neese**, who presided in Greeneville from 1961 until he took senior status in 1982 and moved to



**Sen. Kefauver**  
Democratic member  
of U.S. House of  
Representatives from  
1939-1948; U.S.  
Senator, 1948-1963.

*continued on page 2*

## Clear Jury Instructions

It's a rare occasion, indeed, when a complete jury charge is printed in a newspaper. But that's what happened in the 1957 case in which 10 defendants were tried in Knoxville's federal court on conspiracy charges involving the desegregation of Clinton High School.

The charge, which took **Judge Robert L. Taylor** 54 minutes to deliver, filled one and a third pages in the Knoxville News Sentinel.

Ten defendants were charged with conspiring to violate a federal court injunction against interfering with the desegregation of the school. It was one of the first legal battles over desegregation during that period, and it attracted national attention. Six of the defendants were convicted, four were acquitted.

In an editor's note accompanying the printed jury instructions, The News Sentinel said it was publishing the document "because of widespread interest in this case" and because "competent observers have stated that the quick action of the jurors was traceable in large measure to the clarity" of Judge Taylor's charge. The jury returned its verdict in two hours and 31 minutes, concluding a 12-day trial. The charge was published on July 28, 1957, five days after the conclusion of the trial.

This is the only instance we know of in which a jury charge was published in full, but on August 8, 1989, **U.S. District Judge R. Allan Edgar's** opinion in what became known as the "Voting Rights Act case," which changed the form of city government in Chattanooga, was published in full, minus the case citations and footnotes.

**Janet Prince**, Judge Edgar's secretary, said the late **Dick Kopper**, veteran reporter for The Chattanooga Times, told her that it was only the second time in the newspaper's history that a full court opinion had been published. The other time was in the early 1960s, when the Times published **Judge Frank W. Wilson's** first opinion in the Chattanooga school desegregation case, a case that was ultimately closed by Judge Edgar in 1986. ■

## Reaching for the Gavel

The U.S. Sixth Circuit Court of Appeals holds the distinction of being the first federal appellate court in the country to have a female member. She was **Judge Florence Allen**, appointed in 1934 by **President Franklin D. Roosevelt**.

Judge Allen owed her appointment "in large part to the lobbying efforts of a network of women reformers who had obtained positions in the New Deal government," according to a 1999 article titled "Reaching for the Gavel" by **Rita F. Wallace**, historian for the Sixth Circuit Court of Appeals.

*continued on page 2*

**A Senate Page Recalls** *continued from page 1*

Nashville. As a lawyer, Judge Neese served in numerous political campaigns and was state campaign manager for Sen. Kefauver, later becoming his chief assistant.

Sen. Kefauver had recommended Neese for the federal judgeship, but “when it looked like the American Bar Association would veto Neese’s nomination, Kefauver backed off,” Mr. Shine said.



Judge Neese

“One day, Neese called the senator and told him that if he didn’t stick with him, never to talk with him again. I was in Washington at that time, in the spring of 1961, working in the senator’s office. Sen. Kefauver couldn’t bear losing a longtime friend and his administrative assistant during his first term in the Senate, so he stuck with Neese and went all the way to **President Kennedy** over **Bobby Kennedy**, who opposed Neese, and got his way.”

**U.S. District Judge Robert L. Taylor** and Judge Wilson “were aware of Judge Neese’s pressure on Sen. Kefauver, and I think this initially spoiled their regard for Judge Neese,” Mr. Shine said. But as it turned out, Judge Neese “rose to the occasion and made a fine judge.”

On a lighter note, Mr. Shine remembers that Judge Taylor, like him, a Democrat, always referred to Mr. Shine as “Estes’ Boy.” ■

**Reaching for the Gavel** *continued from page 1*

“Despite strong support for her nomination in many quarters, the appointment of a woman to the federal appellate bench provoked controversy,” the article said. “Judge Allen recalled in her memoirs that one of her Sixth Circuit brethren reportedly took to his bed for two days after her appointment.”

There were attempts to elevate her to about a dozen vacancies on the U.S. Supreme Court that occurred during three presidential administrations--those of Roosevelt, Truman, and Eisenhower--but the efforts were never successful, historian Wallace wrote.

“**President Truman** wanted to nominate Allen, but was discouraged by the negative reaction of **Chief Justice Fred Vinson** and the associate justices with whom he consulted. The justices evidently believed that a woman’s presence would inhibit their conference deliberations, where, with shirt collars open and shoes off, they decided the legal issues of the day.”

She was a strong supporter of Roosevelt’s New Deal initiatives. Her “most celebrated decision” had a direct bearing on the Tennessee Valley. It was a 1938 case challenging the constitutionality of the Tennessee Valley Authority Act, which authorized the construction of several dams and reservoirs in the Tennessee River watershed.

Judge Allen, who was born in 1884, “remained the only woman appointed to an Article III federal appeals court during her lifetime,” historian Wallace wrote. She retired in 1959 and died in 1966. ■

**Oral Histories**

One of the most important goals of our society is to compile as many oral histories as we can on those who have had a close relationship with the court through the years--judges, court employees, lawyers, and others. We have been quite successful in doing this, and now have 45 histories in the society’s archives. Most of these are on audiotape, but several--mainly those of judges--are on videotape or digital video disk.

All the histories have also been transcribed onto paper to provide a written document, and these also are filed in the society’s archives. These histories will be invaluable for researchers and historians in the future. We have as large a collection of oral histories as any court history group in the country, perhaps larger. ■

**Your Membership is Valued**

Your membership dues make possible the many activities of the society. They help cover charges for photo printing and reproductions, supplies, the printing of the newsletter, postage, and general office supplies. Our expenses also include stenographic charges, bookkeeping fees, and a variety of other expenses that are incurred in the operation of the society’s business.

We are fortunate in that the court provides office space and facilities for your executive director and space for the storing of the ever-growing archives. For our benefit and for the benefit of future researchers, we have a typed, single-spaced Finder’s Guide that lists the more than 1,000 files we have on hand. These files include a large number of photographs of various sizes, newspaper clippings, programs of special events, correspondence, and many other documents too numerous to describe.

Further, court employees who work in the courthouses in the district report that they often receive favorable comments from lawyers and the public on the displays of historical memorabilia in the courthouses.

So you can be proud that you are contributing to this effort to maintain and preserve the history of the U.S. District Court for the Eastern District of Tennessee. ■

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