



Court Historical Society NEWSLETTER



Eastern District of Tennessee

OCTOBER 2005

The Gavel

When we hear the rapping of the gavel, we know what it means, but why is the gavel used? What is its history?

The gavel is one of "the least considered components of the American legal profession," according to Massachusetts historian **Stephen C. O'Neill**. An understanding of its history, however, shows that it deserves "far more attention and respect" than it has ever received.

"Gavels are the most common implement of authority and order associated with the judiciary. Judges are so frequently portrayed using gavels in the movies and on television in their courtrooms that it is hard to imagine modern-day trials occurring without them (although most do)," O'Neill wrote in an article for *Massachusetts Legal History*, a journal of that state's Supreme Judicial Court.

While the gavel is commonly associated with the American courtroom, its use is not limited to the courtroom, the author said, noting that a gavel is used to bring meetings of organizations to order, and "even auction houses conclude every successful sale with a single, loud rap of a gavel."



A typical gavel

Despite its important role, there is little information on why the gavel is used and even less as to when the gavel began to be used in America's courtrooms, O'Neill wrote. "Even the origin of the very term 'gavel' is unknown."

"The most plausible explanation for the use of gavels ... can be found in the traditions and rituals of Freemasonry," O'Neill said. Masons traced their origins to Medieval guilds of stonemasons, and Masonic ritual adopted the tools of working stonemasons, one of which was a gavel--"a wooden hammer used to chip off pieces of a stone block and gently set the block into place, representing the power to control and finish a work." A master Mason holding the gavel at a meeting carries the symbol of his authority as presiding officer of the Lodge, O'Neill said.

The fraternal organizations and lodges of the Masons developed in England in the late 17th and early 18th centuries, and those types of organizations found their way to the American colonies. Masonic membership was common throughout the colonies, especially among the Revolutionary generation that founded the United States, O'Neill wrote.

With a new republic being born, its founders began a search for forms and symbols that could be adapted. The gavel was one of those symbols, the author said. ■

Jarvis Interview

Senior U.S. District Judge James H. Jarvis, on September 12, became the fortieth person to be interviewed in the Tennessee Bar Foundation's "Legal History Project," in which the Fellows of the Foundation support the interviewing of senior attorneys across Tennessee. The videotaped interview was conducted by Knoxville attorney and Court Historical Society member **Howard Vogel**, who has served as chairman of the Bar Foundation project since its inception in 1998. Jarvis was his third interviewee.

From the taped interviews, the Foundation has professionally compiled three collages, selecting short clips from each, depicting the subject commenting on a variety of topics. Music and titles were added, providing a very effective program. The collages are available, free of charge, to be shown to bar associations and civic groups, according to **Barri Bernstein**, executive director of the Foundation.

Vogel said, "People have shown the collages at law firm retreats, particularly to young lawyers, to stimulate conversations about ethical issues and those sorts of things. We've always had a very nice response to the collages." ■



SANFORD PAPERS DISPLAYED--*The University of Tennessee Special Collections Library has prepared this exhibit of documents from the collection of U.S. Supreme Court Justice Edward T. Sanford, the only judge from this district to serve on the high court. It contains the jurist's commission from his appointment to the Supreme Court, signed by President Warren G. Harding and dated January 29, 1923. It is interesting to note that portions of the wording on the document are handwritten, presumably by the president, where blank space was left for certain words--standard language that appears on judicial commissions even today but which is printed. The exhibit also contains a photograph of Justice Oliver Wendell Holmes on which Holmes has written a note to Sanford. And there are some draft pages from a Supreme Court opinion written by Sanford that contain changes he made in handwriting. Sanford served until his death in 1930. The exhibit will remain on display through December.*

A Judicial Milestone

We reached a milestone in the Eastern District of Tennessee when **Judge R. Allan Edgar** took senior status on October 7. (Please see the accompanying photos.) It marked the first time that all three divisions where judges are domiciled have a senior judge in residence. It is the second time that the Southern Division has had a senior judge on staff. The previous one was the late **Judge Leslie R. Darr**, who served on senior status from 1961 until his death in 1967.

We now have four judges on senior status, a designation given to a judge who has retired from regular active service but who continues "to perform judicial duties as he is willing and able to undertake," according to the United States Code. The others are **Judge Leon Jordan**, **Judge James Jarvis**, and **Judge Thomas Gray Hull**, who have taken senior status, starting in November 2001, in the order in which they are listed here.

The matter of senior judgeships has been a rarity in this district, compared to many other districts. Prior to the recent spate of senior judgeships and the advent of the Judge Darr senior judgeship, there have been only two others, but neither of them fulfilled the true senior judge mission for this district. They were **Judge Robert L. Taylor**, who was too ill to work while in a brief senior position in the mid-1980s prior to his death in 1987, and the late **Judge Charles G. Neese**, who moved to the Middle District of Tennessee upon taking senior status in 1982. He was on the rolls of both the Eastern and Middle Districts, but he tried only one or two cases here during his senior tenure.

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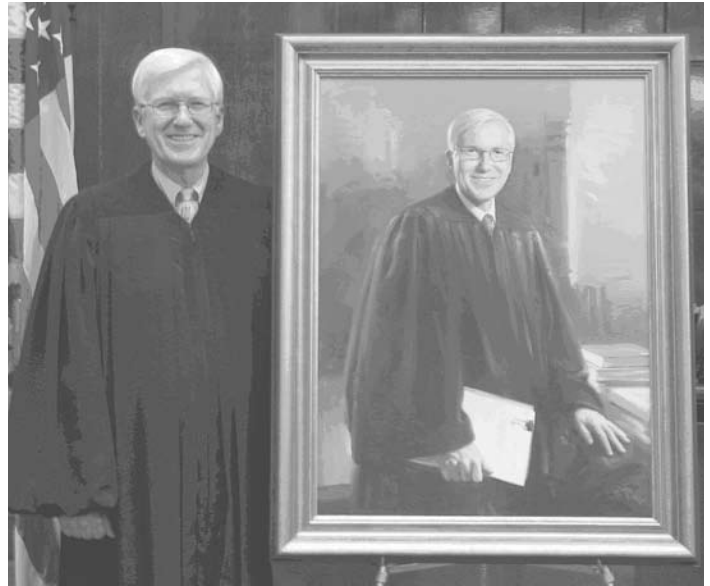
Judge Collier

Upon the retirement from active service by **Judge Edgar**, the chief judgeship for this district rotated to **Judge Curtis L. Collier**. The post rotates every seven years to the next judge in seniority who is under the age of 65. By becoming chief judge, Judge Collier, a longtime member of the Court Historical Society, also becomes the honorary chairman of the Society, a post he willingly accepted. The Society's bylaws specify that the chief judge of the district serve as honorary chairman. ■

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THE MAN AND THE PORTRAIT--**Judge Edgar** is shown standing beside his portrait, painted by **Jim Pollard** of Wisconsin, which was unveiled at a luncheon at the Chattanooga Convention Center October 7, marking his retirement from active service after 20 years on the federal bench. The luncheon was sponsored by the Chattanooga Bar Association and the Chattanooga chapter of the Federal Bar Association. This photograph was made in July. Artist Pollard has painted portraits of three past chancellors of UT at Chattanooga, the late **U.S. District Judge J. Robert Elliott** of Georgia, and **Episcopal Bishop Robert Tharp** of the Diocese of East Tennessee.



Photo by Alex McMahan, courtesy of the Chattanooga Bar Association

THE EDGAR FAMILY--**Judge and Mrs. Edgar** are surrounded by their family at his retirement luncheon--their two daughters, two sons-in-law, and the grandchildren. **Judge Collier** presided at the luncheon, and law clerk **Mike Hooper** gave his boss an advance copy of an article that Mike wrote about Judge Edgar for the October issue of *The Federal Reporter*, a surprise to the judge. The magazine, published by the Federal Bar Association, has a national circulation of approximately 16,500.