



Court Historical Society NEWSLETTER



Eastern District of Tennessee

MARCH 2007

Long-running Sanction



Donald Ray

Tullahoma lawyer **Donald J. Ray** says he believes he is "under the longest continuously running sanction ever levied" by a federal judge in the Eastern District of Tennessee.

The judge was the late **Charles G. Neese**, who served the district from 1961 until 1982. Ray, a member of the Court Historical Society, good-naturedly recalled the time he was admonished by Judge Neese in the early 1970s and

shared his memories of it with us.

Judge Neese held court in Winchester and Greeneville. "He began his jury trials at 9 a.m. and his non-jury trials at 10 a.m. Due to what I thought was explainable confusion, I appeared at 10 o'clock ready to begin jury selection in a case," Ray said.

"Unfortunately, Judge Neese, his staff, opposing counsel and the jury had been waiting an hour for my arrival. I learned later that Judge Neese had sent out the court officers with directions to bring my body to the courtroom. I suppose I had not been practicing law long enough to be recognized, since I walked untouched into the courtroom."

Ray said, "Not a word about my tardy appearance was said until after the jury verdict was returned. As Judge Neese was exiting the bench for his chambers, he politely asked me to remain in the courtroom."

"Those old enough to remember Judge Neese will understand the agony of waiting in the courtroom for Judge Neese to return. Knowing what was coming, adversary counsel and all my so-called friends had long since fled the courtroom," Ray recalled.

"When Judge Neese returned, I vaguely recall what he said, except: 'Explain.' I know I begged and pleaded as I attempted to present my obviously lame excuse. Judge Neese quickly turned on the 'red light.' (For an explanation of the red light, see the story at the right.)

He sentenced me to be at least 15 minutes early for every trial in that court for the remainder of my legal career. Over the past 30 years, I have continued to obey that sanction," Ray said. "Out of fear and respect for the late Judge Neese, I have made no effort to research the applicability of the statute of limitations."

In sharing his story with us, Ray said he considers it a tribute to Judge Neese. "When I think back on it, most nice judges would have held me in contempt, but this man taught me a much better lesson, and I've thought about that a lot. If you were brought up trying lawsuits before Charles Neese, there's no judge in the world that you feel uncomfortable around," Ray said.

After telling us about the sanction, Ray then told us why he was late that fateful day early in his legal career.

He received from the court clerk's office, on the same day,

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He Pays Bills

C. Kenneth Still of Chattanooga has been paying the bills of thousands of East Tennesseans since January 1, 1968.

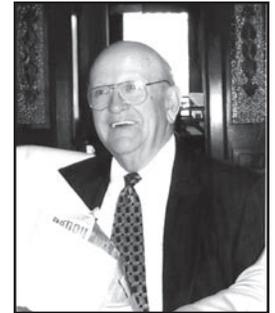
How much money has that involved? Just last year alone, he paid out \$85 million.

Still serves as Chapter 13 trustee for the Southern and Winchester Divisions of the Eastern District of Tennessee, administering the wage-earner plans of those who file Chapter 13 bankruptcy petitions. "Chapter 13" refers to a section of the U.S. Bankruptcy Code.

He by far has longer service to the government in bankruptcy matters over anyone else in the Eastern District of Tennessee and is the fourth longest-serving Chapter 13 trustee in the country. The others are in Ohio, Wisconsin and Virginia. One beats him by six years, the others by less.

Still, who is not a lawyer, was in the automobile financing business when appointed trustee. Although technically appointed by the late **Byron Pope**, bankruptcy referee in Chattanooga, it was the late **U.S. District Judge Frank W. Wilson** who chose Still for the job. Back then, the Bankruptcy Court came under

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Kenneth Still

The Red Light

The light system used by the late **U.S. District Judge Charles G. Neese** in the Greeneville and Winchester federal courtrooms for timing lawyers' arguments was infamous.

The lights--red, yellow, and green--were on the front of the jury box. (They are still there in the federal courtroom at Winchester but are not used, and they remain in the old federal courtroom in Greeneville, but that building no longer serves as a courthouse.)

The courtroom deputy clerk operated the lights. The green light was on while the lawyer was presenting his or her argument, but when time was narrowing down, the deputy clerk turned on the yellow light as a warning.

"We were told by all the older lawyers," **Donald J. Ray** said, "that when the light hits yellow, finish, so that when it turns to red, you're down."

"I was told by some lawyers who knew, that when the light hit red, if I wasn't down, the marshal would be taking a step toward me," Ray said. "Whether that was true or not, I don't know."

Judge Thomas Gray Hull, who succeeded Judge Neese in 1983, used the lights for only a short time, but they have seldom been used since Judge Neese's days on the bench.

Judge Neese had the lights installed in the late 1960s, recalls **Agnes Hawkins**, Greeneville, retired deputy clerk-in-charge of that office. "He didn't explain why he did it," Hawkins said, "but I think he got the idea from the Court of Appeals in Cincinnati." That court uses the light system.

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The Red Light *continued from page 1*

Fran Smith of Greeneville, Judge Neese's longtime secretary, said she thinks he had the lights installed to keep from having to embarrass attorneys by having to orally advise them their time was up.

Sandra Hopson of Greeneville, a retired deputy clerk, said the judge would ask attorneys how much warning time they wanted in their arguments, and if they said two minutes, when the two minutes came, "I would turn on the yellow light. And when their time was up, I would turn on the red. If they didn't stop, the judge would stop them," she recalled. "I always liked the light system."

But ask almost any lawyer who ever had to deal with the lights, and they will tell you of their dislike for them. ■



*LIGHTS FOR LAWYERS--These are the red, yellow, and green lights on the front of the jury box in the U.S. District Courtroom at Winchester that were used in the court proceedings of the late **Judge Charles G. Neese** to indicate to lawyers the progress of their arguments.*

*Photo by Wayne Thomas
The Winchester Herald-Chronicle*

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copies of pretrial orders in two cases. The two were stacked, and when he picked up the first one, he inadvertently also lifted the second one, looked at what he thought was the back page of the one on top, and saw a 10 a.m. starting time for the trial. Unfortunately, the pretrial order on the bottom was for a non-jury trial, whereas the top one was for a jury trial, and they had different starting times, a point that escaped Ray at the time. ■

Editor's Note

We call to your attention two items in this newsletter--the story told by member **Donald J. Ray** and the photo of the old court document given to the Society by **Circuit Court Judge Tom Wright**. We invite others to share their recollections of days gone by with readers of this newsletter, and we urge any of you who have memorabilia they would like to pass along to the Society to please do so, as Judge Wright did. Call us or write to us.

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

Don K. Ferguson
Executive Director and Newsletter Editor
Howard H. Baker Jr. U.S. Courthouse • 800 Market Street, Suite 130
Knoxville, Tennessee 37902
865/545-4234, Ext. 222 • Don_Ferguson@tmed.uscourts.gov

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the supervision of the district court, and the district judges had a close hand in the operation of that court.

Still and **Gwendy Kerney** of Knoxville are the only two Chapter 13 trustees in the Eastern District of Tennessee. They serve under **Assistant Trustee Bill Sonnenberg**, Chattanooga, who also supervises the activities of the Chapter 7 trustees. Since the enactment of the Bankruptcy Reform Act of 1978, the work of the trustees falls under the jurisdiction of the Justice Department. Prior to 1978, trustees worked under the direction of the Bankruptcy Court.

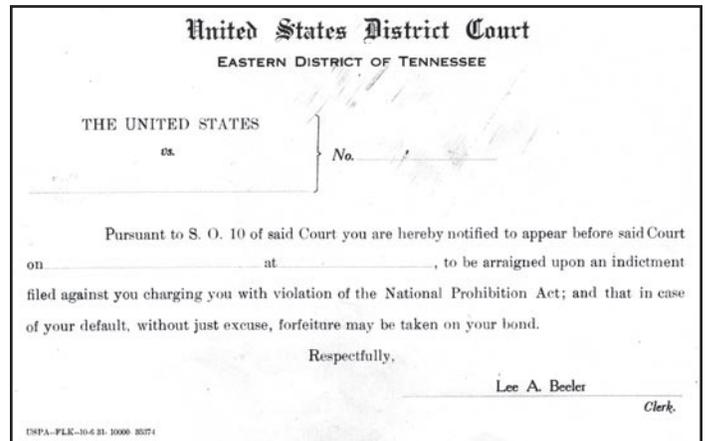
The work of the Chapter 13 and Chapter 7 trustees differs, as does their employment status. Chapter 13 trustees serve full-time and take charge of a petitioner's income, whereas Chapter 7 trustees, usually lawyers, are not full time and take control of a petitioner's property.

"We are administering about 9,500 cases in Chattanooga and Winchester at this time," Still said. This compares to about 6,000 in the Knoxville and Greeneville divisions.

The Chapter 13 trustees pay creditors' bills on a plan approved by the bankruptcy judges. Secured creditors are paid first, and the balance is then paid to the unsecured creditors, Still said. Law specifies that a payment plan cannot exceed five years, and most of them last that long, he said. Six months is the shortest time that one has run, he said.

The caseload for Chapter 13 trustees has grown substantially through the years, Still said, and he attributes the growth mainly to divorce. "A person cannot afford two families; I don't care how much money he makes. Add to that the aggressive marketing tools the credit card companies use. Credit card debt is second to marital problems in causing Chapter 13 filings," he said. "People just will run up debt on those cards."

"It's not unusual to find a person on Social Security with a \$75,000 credit card debt, and there's no way for them to repay it," Still said. ■



NATIONAL PROHIBITION ACT--As difficult as it might be for some to believe, there was a time when the sale and consumption of alcoholic beverages was a crime in the United States. This notice was an official form used by the U.S. District Court to notify those charged with this crime to appear in court. Our thanks to **Circuit Court Judge Tom Wright of Greeneville for saving it for the Court Historical Society. Wright, a former law clerk for **Judge Thomas Gray Hull**, found it in the floor of the clerk's office at the old federal courthouse while being shown through the building in 2005 during its remodeling by Greeneville Federal Bank, the new owner of the building. His host was bank president **Brandon Hull**, Judge Hull's son. The National Prohibition Act was in effect from 1920 through 1933.**