



# Court Historical Society NEWSLETTER *Eastern District of Tennessee*



MARCH 2016



An unusual scene--a photo made during an actual U.S. District Court civil trial, which took place in Knoxville in late 1992. **Judge Leon Jordan**, shown here on the bench, presided. Shown standing and questioning a witness is retired Knoxville lawyer **Robert R. Campbell**, who donated this photograph and nine similar ones. (See Footnote 1 on Page 2.) Photo by Ernie Tracy of Tracy Imaging



Recently, **Senior U.S. District Judge Leon Jordan**, center; Knoxville lawyer **Robert R. Campbell**, left; and **Ernie Tracy**, owner of Tracy Imaging, Knoxville, right, gathered to

record their recollections of the lengthy 1992 trial of the case filed by the FDIC against the accounting firm of Ernst & Whinney. The case was an outgrowth of the collapse of the Butcher banking empire in the 1980s. The interview was conducted recently by **Don K. Ferguson**, court historian. The video and transcript will be added to the Court Historical Society's archives.

## Memorable Trial

By Don K. Ferguson

The 1992 trial of the Federal Deposit Insurance Corp.'s lawsuit against the Ernst & Whinney accounting firm, which took place in U.S. District Court in Knoxville, was unusual in two ways.

First, it was one of the longest trials--maybe even the longest--ever held in the Eastern District of Tennessee--99 days. (See Footnote 2 on page 2.) On a national basis, it was reported to be the longest trial in the country that year.

Second, because of the significance of the trial, a photographer was called in to make a number of photographs while the proceedings were taking place, obviously a rare move.

**Robert R. Campbell**, a Knoxville lawyer and a charter member of the Court Historical Society, who represented Ernst & Whinney, piqued our interest in recording some recollections of the trial recently when he offered to donate to the Court Historical Society several photographs that were made during the trial. From that suggestion, we decided to ask the trial judge, **U.S. District Judge Leon Jordan**, now a senior judge; Mr. Campbell; and the photographer, **Ernie Tracy**, to sit for an interview. All agreed to do so.

Judge Jordan told how, after 99 court days--holding court on Monday through Thursday--the lawyers asked for, and he granted, a 30-day continuance for settlement talks to take place. "On the 100th court day, the lawyers came in and announced the settlement," Judge Jordan said.

He said that in addition to being the longest case he has ever  
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## Four Mentioned for High Court

With a U.S. Supreme Court vacancy now in the news, we thought it a good time to note here the four Eastern District of Tennessee people whose names have been mentioned for past vacancies on the high court--two of them judges, one a Chattanooga lawyer, another a Knoxville lawyer.

In the late 1870s, **David N. Key** of Chattanooga was offered a seat on the Supreme Court by President Rutherford Hayes, but he turned it down because he could not support his wife and

nine children in Washington on the \$10,000 annual salary the judgeship paid at that time. (This was reported in the November 2014 issue of this newsletter.) In 1880, however, Key did accept the appointment to the Eastern District of Tennessee federal bench and served until 1895.

In 1946, **U.S. Circuit Judge Xen Hicks** and **U.S. District Judge George C. Taylor**, both based in Knoxville, were mentioned as possible appointees to the Supreme Court after the death of **Chief Justice Harlan F. Stone**.

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## Memorable Trial

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tried, it was the hardest. Adding to the difficulty, he had to do double duty, handling this case and his regular docket. “I learned that there were two shifts of lawyers--those that were in the courtroom in trial during the day and those that worked in their office all night preparing motions,” Judge Jordan said. “I would come in at 7 a.m. and hear motions. We would convene court at 8:30 and I would rule on the motions. Then we would bring in the jury and start the regular proceedings at 9 o’clock,” he said.

Regarding the photography, Mr. Campbell said that midway through the trial, “we could see that this was going to be--already was, from the point of view of the lawyers involved and the judge-- a big event. So we asked Judge Jordan to allow photographs, and he agreed, but he set out some strict parameters.” They at first considered bringing in an artist to do courtroom sketches, but finally opted for still photography.

Mr. Tracy, who was already handling audiovisual work on the case, set up a tripod in the back of the courtroom, did not move around in the courtroom, and took still pictures with a cable release, which snapped the shutter silently. Judge Jordan first made sure the jurors didn’t object to being in the photographs. Mr. Campbell, smiling during the recent interview, said he thought the jurors rather liked the idea.

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**Footnote 1--**The courtroom shown in the top photograph on page 1 was at Court Square, a leased facility across the street from the U.S. Post Office and Courthouse in Knoxville. When a second federal judgeship for the Knoxville division was created in 1984, there wasn’t sufficient space for a second courtroom in the building, so the government leased the Court Square space, where a courtroom, chambers, and clerk’s offices were developed. It is no longer under lease to the government.

**Footnote 2--**It is believed that the longest Eastern District of Tennessee trial prior to this case was in Chattanooga in 1980, conducted by the late Judge Frank W. Wilson. It involved a products liability claim resulting from the construction of the Racoon Mountain Pump Storage Plant near Chattanooga. The trial lasted 86 court days.

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## Four Mentioned . . .

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A Page One story in the Knoxville Journal, a daily newspaper at that time, 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.” (Judge Hicks lived in Clinton but had chambers in the U.S. Post Office and Courthouse in Knoxville.)

The Journal, which had strong Republican ties, said, “The President might find it politically sound, in view of the Republican choice of a southerner for national chairman [**Congressman B. Carroll Reece** of Tennessee’s First Congressional District], to neutralize the GOP move by selecting the Supreme Court justice from the South.” The appointment went to **Fred M. Vinson** of Louisa, Kentucky.

In 1971, the late **Erma Greenwood**, a Knoxville lawyer, was discussed as a possible nominee for the U.S. Supreme Court. She graduated from Duke University School of Law in 1939, the only woman in her class. One of her classmates and friends was **Richard M. Nixon**, known by Greenwood simply as “Dick,” according to an article about her in the February 1991 issue of *DICTA*, the Knoxville Bar Association’s publication. It was during Nixon’s presidency that Greenwood’s name was in the news, at least the local news, as a possible nominee for the high court. The seat eventually went to **Lewis F. Powell, Jr.** In 1991, Greenwood was selected for the Knoxville Bar Association’s Governor’s Award, its highest honor. She was a member of the firm that is known today as Kramer-Rayson.



*This photograph, made 17 years ago, surfaced a few weeks ago while **Becky Campbell, Magistrate Judge Corker’s** judicial assistant, was cleaning out a closet in his chambers. The photograph was accidentally left behind by retiring **Magistrate***

***Judge Inman.** It was made in Chattanooga at the time now-retired **Magistrate Judge Carter**, seated, took office, on July 30, 1999. Judge Inman retrieved the photo one day recently when he filled in for Judge Corker, and he circulated a copy to all of today’s Magistrate Judges. Shown here standing--with dates of service in parentheses--are, from the left, **Robert P. Murrian** (1978-2002), **Thomas W. Phillips** (1991-2002, when he was appointed a District Judge), **Dennis Inman** (1995-2015), and **John Y. Powers**, now deceased (1984-2003). Thanks to **Magistrate Judge Guyton** for calling it to our attention.*