

# HISTORICAL SOCIETY NEWSLETTER



---

May 2000

---

## *Society Wins An Award*

The Court Historical Society has won an Award of Distinction for the publication of its book, *Justice in the Valley*, in competition sponsored by the East Tennessee Historical Society.

The award will be made by the ETHS at its annual membership meeting May 16. "This well-researched book provides an intriguing look at the significant ways in which the U.S. District Court has shaped the history of East Tennessee over two centuries," **ETHS Associate Director Cherel Henderson** said in notifying us of the award. "It is an invaluable contribution to our regional story, presented by the author [**Dr. Patricia E. Brake**] in an informative and yet entertaining style."

Ms. Henderson said the ETHS received many excellent nominations, adding that this year's selection was the most difficult ever. "The Awards Committee, for the first time ever, awarded a three-way tie for the Award of Distinction," she said. The others chosen were *Mountain Rebels* by W. Todd Groce and *Place Names of the Smokies* by Allen R. Coggins.

There were 25 entries in the four categories of competition. Of the total, 10 were in the category in which the Court Historical Society won--Award of Distinction, designed to recognize an individual or organization for "a special project, such as a book or other publication; building preservation; or special programming." Organizations were invited to nominate their own projects, so we chose to nominate our Society for the publishing of our book.

As we have reported here in the past, the book-publishing project attracted attention from a number of other federal courts, which have inquired as to how the project was accomplished.

Copies of the book (now a prize-winning book!) are still selling, so if you haven't purchased yours yet, now is the time to do so. A publisher's card containing all the details is enclosed.

---

## *The mystery is solved!*

The unidentified judge in the portrait that we published in the February 2000 issue has been identified.

When **Sixth Circuit Historian Rita Wallace** received her February issue, she went to work to establish the identity. After a short search of her database, she telephoned us and said, "I know who your unidentified judge is."

The portrait is of **Judge John Baxter**, a Knoxvillean, who served on the Sixth Circuit Court--not to be confused with the Sixth Circuit Court of Appeals. Ms. Wallace searched through the history of the Sixth Circuit that she has compiled, compared judges' photographs and solved the mystery.

The Sixth Circuit Court was one of the Circuit Courts that were created in 1789. The Courts of Appeals were not formed until 1891--102 years later. The old Circuit Courts were created by Congress to have appellate

jurisdiction over district court decisions and original jurisdiction in diversity cases and major federal criminal cases. Knoxville was one of the places the Sixth Circuit Court sat. The courts originally were made up of two Supreme Court justices and one district judge. The justices rode a circuit, sitting at the various designated locations. In 1869, to relieve the Supreme Court justices of some of the circuit-riding burden, one circuit judgeship for each of the circuits was created, and it was that judgeship to which Judge Baxter was appointed in 1877. He served until his death in 1886.

Former **Sixth Circuit Judge Harry Phillips** wrote in his *History of the Sixth Circuit*, "The old circuit court was the weak point in the original federal court system. Yet the circuit courts remained a part of the federal judiciary

*continued on page 2*

## Mystery

continued from page 1

for twenty years after the creation of the Courts of Appeals. In 1911, the Federal Judicial Code abolished the old circuit courts and transferred their jurisdiction to the district courts, which survive as the only federal trial courts."

Judge Baxter's portrait was one of five portraits that had hung in the old courtroom on the second floor of the U.S. Post Office and Courthouse at 501 Main Street for years. It was one of four portraits that had no nameplates on them. When they were moved to the new Howard H. Baker Jr. United States Courthouse, the court decided to place nameplates on the portraits, and that is when the identification problem arose. Judge Baxter never held court in the old courtroom where his portrait hung all those years. He very likely sat at the old federal courthouse at the corner of Market Street and Clinch Avenue, in a building known today as the East Tennessee Historical Center, which was built in 1874 and served as the U.S. Courthouse in Knoxville until 1934.

Court personnel had thought that the portrait in question was of **U.S. District Judge David M. Key** (see inset), who served the Eastern District of Tennessee from 1880 until 1895, during about the same period that Judge Baxter served as a Circuit Court judge, 1877 to 1886. The other portraits are of **Judges Edward T. Sanford, Xenophon Hicks, George C. Taylor, and Robert L. Taylor.**



Judge John Baxter



Judge David Key

## Judge Baxter Background

Who was this man, **Judge John Baxter**? In the early 1870s, before he was appointed to the bench, Judge Baxter "conducted probably the most lucrative law practice that

ever has been acquired at the bar in East Tennessee," wrote **Joshua W. Caldwell** in 1898 in his *Sketches of the Bench and Bar of Tennessee*.

"In all the courts of the state his superiority was acknowledged and he was frequently employed in cases of importance and difficulty before the Supreme Court of the United States," wrote Caldwell. "He was by nature a leader, and never a follower. Sometimes his independence appeared to amount almost to eccentricity. He was positive, often extreme; sometimes arbitrary; always combative. He found his greatest pleasure in intellectual exercise, and his weapons were always sharpened and ready for battle. Such men do not go through the world without enemies. His life was militant and aggressive. He created bitter enmities, but found compensation in the devotion of sincere and faithful friends."

Judge Baxter also was featured in a paper prepared by and read to the East Tennessee Historical Society in 1943 by **John W. Green**, a Knoxville lawyer and history buff who served as president of the Knoxville Bar Association in 1945. That paper is on file in the McClung Collection of Lawson McGhee Library. Green said, "As a partner of his son, it was my privilege as a young lawyer to often see and hear Judge Baxter, who came, for a short stay, to the office of Baxter and Green nearly every day while his court was in recess and the impression then made that he was one of the ablest lawyers I ever met still survives."

## Major Accomplishment

The Society can take great pride for a job well done: its work in arranging for the preservation of **U.S. District Judge Leslie R. Darr's** papers. The Chattanooga-Hamilton County Bicentennial Library recently notified the Society that the collection of Judge Darr's papers, which the Society arranged to have donated to the library, has been cataloged and is now available for public use. Judge Darr served the court from 1939 until 1961, sitting in Chattanooga.

**Ms. Clara Swann**, head of the library's Local History and Genealogy Department, said that the collection contains sufficient important information for the collection to be listed on a national register of collections. She said library personnel will submit the listing to the national register, making it available to a wider number of researchers.

The collection contains nine scrapbooks, six boxes of Judge Darr's papers, and two oversized containers that hold, among other things, his 1939 commission, signed by **President Franklin D. Roosevelt**, certifying the appointment of Judge Darr as an Eastern District of Tennessee judge.

"The collection should be interesting to a variety of historians in its depiction of one man's effect on not only the judicial system but also on his community," wrote **Ms. Suzette Raney**, who did much of the cataloging of the papers. The Court Historical Society, working through Judge Darr's daughter, **Mrs. Katharine Hastings**, was instrumental in getting the collection donated to the library.

Upon learning of the completion of the project, **Society Chairman Jack Wheeler** said, "This is the kind of activity in which I believe the Court Historical Society should engage and in which we can justifiably take pride. We are pleased to be able to notify our members that this work has been accomplished, work that is of value to the area and to the Society."

**Max Bahner**, the Society's vice chairman for the Southern Division, who helped in the transferring of the papers to the library, was pleased to learn of the status of the collection and wrote to the library: "I am taking the liberty of publishing your letter in our firm newsletter to better inform people about this material."

### **First Woman Clerk**

The court made history April 26 by naming its first woman clerk of court. **Patricia L. McNutt** will take office on June 19, succeeding **Murry Hawkins**, who retired earlier this year. She has been general counsel for Lockheed Martin Energy Systems in Oak Ridge, but is not a stranger to the court. She was appointed a law clerk by the late **Judge Robert L. Taylor** in 1983 and served until 1985, and during that

period, she also assisted as a law clerk for **Judge Thomas Gray Hull** and for **Judge James H. Jarvis** after he took office in 1984.

### **Artwork**

Works of art are taking their place at the Knoxville and Greeneville federal courthouses. It's all part of the General Services Administration's Art-in-Architecture Program, which was established in 1963 to foster, where appropriate, the incorporation of fine art in the design of federal buildings, "with emphasis on the work of living American artists." One-half of one percent of the total cost of a building is usually set aside for the commission of pieces of art.

In Knoxville, there will be a sculpture of a woman, with a headdress that combines symbols of Native Americans with the flowing robes of judges.

In Greeneville, a 40-foot-high column in the main lobby will be adorned with a tree-like cluster symbolic of the tulip tree, Tennessee's state tree. The cluster will be seven feet wide and will be in gold leaf, with replicas of blossoms of iris, Tennessee's state flower, throughout it. Halfway up the pole there will be a ring around the column on which will be hung various symbols of justice dating back through the centuries.

### **History Web Page**

The Federal Judicial Center now has a Web page that contains, among other information, the names and brief biographical sketches of judges of the United States Courts. Other information available on the Web site is a listing of the courts of the federal judiciary, landmark judicial legislation, topics of judicial history, historical publications available from the FJC, and a historic courthouse photograph exhibit. The address is [www.fjc.gov](http://www.fjc.gov).

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

*Howard H. Baker Jr. U.S. Courthouse  
800 Market Street, Suite 130  
Knoxville, Tennessee 37902*

Honorary Chairman  
The Honorable R. Allan Edgar  
Chief United States District Judge

John W. Wheeler  
Knoxville  
Chairman

Jack B. Draper  
Knoxville  
Vice Chairman  
Northern Division

T. Maxfield Bahner  
Chattanooga  
Vice Chairman  
Southern Division

Lacy West  
Kingsport  
Vice Chairman  
Northeastern Division

Jack M. Irion  
Shelbyville  
Vice Chairman  
Winchester Division

Roy L. Aaron  
Knoxville  
Secretary

Don K. Ferguson  
Chief Deputy Clerk  
Eastern District of Tennessee  
Newsletter Editor

## ***Chairman's Message***

Competing for awards is certainly not the business of the Historical Society. What we're about is an effort to investigate, document, organize and perpetuate the history of the federal legal system in the Eastern District of Tennessee. We have a number of ways in which we try to do that, and we're searching for more techniques as well as more members and volunteers to help with the effort. Awards, however, are welcome indicators that we may be doing something right and that someone outside the legal system has judged our efforts worthy of commendation.

Elsewhere in the newsletter, the editor, Don Ferguson has described in detail the decision of the East Tennessee Historical Society to present an Award of Distinction to the District Court's historical society, largely in recognition of publication of the book *Justice in the Valley*. While the book is the most significant and time-consuming endeavor yet undertaken by our society, it is by no means our only project of note. Other work by the Society includes assistance in preserving the papers of several judges. Just recently, officials of the Chattanooga-Hamilton County Bicentennial Library acknowledged the completion of the cataloging of the papers of the late Judge Leslie Darr, which were donated through significant effort on the part of Mr. Ferguson. The

library reported that it now has the papers available for review by interested people or use as source documents by anyone doing historical research.

One interesting by-product of our work is a contribution to the historical source material on the area, and it is not limited to legal history. Judge Darr's father, Rev. Joseph A. Darr, was a Methodist minister and newspaper editor, and Judge Darr's papers include histories, letters and resolutions from some of the Methodist churches of Marion and Hamilton Counties. Those histories likely were never published and the letters would surely offer unique perspectives on the religious life of the region. Without the help of the District Court Historical Society, these resources might well have been lost or, at least preserved in obscurity, unavailable to the public.

We know that lawyers, by nature, are frequently interested in history. We know that many of our members have interesting documents or recollections that could be shared with others, giving pleasure to the one providing and the ones receiving the information. If you have documents to share or stories to tell, please contact Don or me. We don't promise any awards, but the satisfaction of contributing to the preservation of the history and traditions of the District should be reward enough.

Jack Wheeler