

HISTORICAL SOCIETY NEWSLETTER



November 2001

Justice Douglas's Visits

Few remember today that the friendship of a former Knoxville law clerk with a U.S. Supreme Court justice brought that jurist to East Tennessee on several occasions in the 1950s and 1960s. The law clerk was **Harvey Broome**, clerk for **U.S. District Judge Robert L. Taylor** and earlier, clerk for **U.S. Circuit Judge Xen Hicks**. The justice was **William O. Douglas**.

Both men strongly favored preserving America's wilderness, and it was this passion for the wilderness that was the basis of their friendship. They hiked together in the Great Smoky Mountains National Park on several occasions.

In 1958, when law clerk Broome was 55 and the justice was 60, they joined several others on a three-day hike in a remote area along the Pacific Coast to protest the building of a highway along the rugged ocean shore. Three years later, on one of their last hikes together, the two, accompanied by others, hiked and camped in the Cades Cove-Gregory Bald section of the Smokies. The justice was gathering information for an article he was to write about Cades Cove for *National Geographic*.



Broome



Douglas

From files of The Knoxville News-Sentinel

Mr. Broome himself was a writer. His book, *Out Under the Sky of the Great Smokies: A Personal Journal* by Harvey Broome, first published in 1975, was recently reprinted by the University of Tennessee Press. It was the news of the reprinting of Mr. Broome's book that reminded us of him and his friendship with Justice Douglas. Mr. Broome died in 1968 at the age of 65 while still serving as a law clerk for Judge Taylor. Justice Douglas, who retired in 1975, died in 1980 at the age of 82. ■

Judicial News

History is in the making in the Eastern District of Tennessee. Two of our district judges—**Judge Jordan** and **Judge Jarvis**—will soon take senior status (please see related article below), and **Magistrate Judge Murrian** will retire in February. These three developments make up the biggest judicial shift in the history of the court.

Judge Jordan will take senior status on November 30, and Judge Jarvis will do likewise on February 28. On February 12, Magistrate Judge Murrian, who has served since 1978, will retire.

We have recently completed oral histories on Judges Jordan and Jarvis and have made arrangements to do an oral history with Judge Murrian. These will bring to 32 the number of oral histories that we have completed on various court or court-associated personnel since starting the oral history program in 1990. ■

What Is Senior Status?

A federal judge who reaches the age of 65 and has completed 15 years of service (or one who is 70 and has completed 10 years of service) may retire from his position as an active judge and take the position of judge in senior status.

Retirement arrangements for Article III judges have evolved gradually over the past two centuries. For the first 80 years of the federal judiciary, no pension or financial support was afforded to judges who found it necessary to relinquish the judicial office.

In 1869, Congress enacted the first of a series of statutes allowing Article III judges to retire without sacrificing their guaranteed lifetime income. This option was applicable initially only to eligible judges who departed the bench entirely, but Congress eventually recognized that experienced, older judges could still perform valuable service. Accordingly, in 1919, Congress established the concept of "senior status" retirement under which judges could remain in office but assume less than a full-time workload. ■



The James H. Quillen United States Courthouse
Greeneville, Tennessee

Photograph by John E. May
Classic Photography

We happened upon this 1923 newspaper article recently while searching the microfilm at the Knoxville library for historical information on another subject and thought it was worth reproducing here. It tells of the swearing-in of **U.S. District Judge Xen Hicks** to the district bench. He succeeded **Judge Edward T. Sanford**, who had been appointed to the U.S. Supreme Court, the only judge from this district ever to go to the high court. After serving seven years on the district bench, Judge Hicks was appointed to the U.S. Court of Appeals, one of two judges from this district to be named to the circuit appellate bench, the other being **Judge H. Ted Milburn** of Chattanooga, who served as a circuit judge from 1984 to 1996 after presiding on the district bench at Chattanooga in 1983 and 1984.



NEW FEDERAL JUDGE XEN HICKS.

Judge Hicks Given Big Ovation

Special to The Knoxville Sentinel.

CLINTON, March 5.—Judge Xen Hicks will take the oath of office within a few days as federal judge for the eastern district of Tennessee. He probably will take the oath of office in Knoxville before Federal Court Clerk Horace Van Deventer. Judge Hicks was given a rousing reception when he arrived in Clinton Sunday afternoon. He brought back with him from Washington his certificate which had been signed by the president.

All of Clinton was at the station to meet him when he came here. It was a great demonstration and touched the judge very much. He was escorted to his home where he was again cheered. Clinton is very proud of her native son who has been chosen for entrance to Justice Hall.

One of the district federal bench and is confident he will sustain the traditions and records of that court.

Ovation at Home

Among those who made speeches at the home of Judge Hicks were Dr. B. B. Hall, Judge Wallace, B. F. Wicks, R. A. Meier, W. H. Miller, Fred Curtis Gentry, W. W. Underwood, W. A. Brown and E. C. Cross. They spoke of the pride Clinton has for the new judge and commended his best handling for his wise selection.

Judge Hicks also spoke briefly, telling of his business and his appreciation for the reception which has been accorded him by the people of his home town. The judge said that he was here and visited in Clinton and probably will continue to reside in Clinton. He said that he knew of no place where he would rather live than in Clinton.

Keenest Tonight

Keenest tonight's anticipation in town of Judge Hicks will be held at the high school auditorium.

Lawyers of the counties which composed Judge Hicks' circuit are also to arrange a farewell banquet for him. The date has not yet been fixed.

The Knox County Bar association will also honor Judge Hicks. A banquet is to be arranged at a date yet to be fixed. Chattanooga lawyers are also expected to have him as their guest.

Whether the Knoxville or Greenville session of court will be held first will soon be decided by Judge Hicks. The Greenville session was to have started today, but was postponed. Cases on the Knoxville docket were also deferred and a week's notice was to be given when they were re-arranged on the docket.

Judge Hicks will name the federal court clerk. He said today that he has not yet given consideration to the question of an appointment. It is believed by many that he will re-appoint Mr. Van Deventer, attorney of the late Justice Lorton, although no statement would be made by Judge Hicks.

The Judicial Robe

"Why do judges wear robes?" deputy federal court clerk **Norma Graham Winton** asked recently as she did her "homework," preparing for a courtroom visit by a group of school children and thinking that that might be one of the questions. A simple question, but not simple to answer.

Most know that the judicial robe is rooted in early English tradition, but beyond that, their knowledge is limited.

Believe it or not, it's a popular question. A few days after Norma asked her question, your editor was talking with a U.S. Supreme Court historian about another matter and thought it might be a good question to pose to him.

"That question has come up more than any other in the past 20 years," the historian said.

The judicial robe is an early English custom that carried over into the American judiciary, but credit for the tradition of the black robe American judges wear goes to **Chief Justice John Marshall**. On the morning he took the oath of office in 1801, "Breaking with tradition, he wore a plain black robe," a custom he adopted from the judges of the court of appeals of Virginia, where he had practiced, according to Marshall biographer **Jean Edward Smith**.

"The other justices...were attired either in the traditional scarlet and ermine of the King's Bench or their individual academic gowns," described by some as "party-colored." By wearing black, "Marshall was making a quiet statement. Why flaunt the colors of the English judiciary when the black robes" worn by the Virginia high court "would do just as well?" Smith wrote.

"The decision had symbolic importance, but the chief justice had another motive. Marshall was...uncomfortable with trappings of power," Smith wrote. "The new chief justice was preparing to lead his judicial colleagues onto new ground."

The judicial robe and barrister's gown date back to the mid-1300s, when fur and silk-lined robes were well established as a mark of judicial office, according to **Professor Charles M. Yablon** of Benjamin N. Cardozo School of Law in New York, who wrote an article on the subject for the *Wisconsin Law Review*.

Offering his comment on the subject, **Magistrate Judge Thomas W. Phillips** recalled that one of his professors at Berea College who had researched this subject while serving as a visiting professor at Oxford University said that in early English times, robes were worn by academics, scholars, clergy and judges because the stone buildings they worked in were cold. Also, the professor said that the robe was the typical work attire in those early times, except for the laborers who worked in the fields, where the flowing robes would interfere with work. ■

Society Thanked

The Society received a thank-you letter from the Greenville-Greene County Public Library for donating to the library a history of the old federal courthouse in Greenville. The history was compiled by your editor last summer. "Thank you very much for your recent donation of material," wrote **Don Miller**, director of the T. Elmer Cox Historical and Genealogical Collection, a branch of the library. "Your contribution, and those of others, help to maintain a strong collection that serves not only our region but also patrons throughout the United States." ■

Plaque Honors Judge Hull

(The following text appears on a metal plaque on the front walkway of the new federal courthouse in Greeneville. It tells how Judge Hull spearheaded the drive to obtain the new courthouse for the Northeastern Division of the court. The document was written by Kate Ambrose, longtime law clerk for Judge Hull.—EDITOR)

The United States District Court of Tennessee was established in 1797, one year after Tennessee became a state. Initially, one federal judge, John McNairy, served the entire state. The state was later subdivided into two, and then three federal judicial districts served by additional judges; eventually these districts were carved into divisions. The Northeastern Division of the United States District Court for the Eastern District of Tennessee was established in 1900. In a political trade-off with Johnson City, Tennessee, which obtained the veterans' home, Greeneville was chosen as the site for the federal courthouse. The original courthouse and post office building, erected on the southwest corner of Main and Summer Streets, was completed in 1904. Despite the existence of this handsome facility, no federal judge presided in Greeneville on a full-time basis until the appointment of Charles G. Neese in 1961. Judge Neese was succeeded by Greeneville native Thomas Gray Hull in 1983. It was Judge Hull who had the foresight to recognize that the courthouse that had served the division so well in the 20th Century would not be adequate to meet the expanding needs of the federal court in the 21st Century. With the invaluable assistance of his friends First District Congressmen James H. Quillen and William L. Jenkins and Senators Fred Thompson and Bill Frist, Judge Hull maneuvered for years to obtain the funding for, and achieve the construction of, Greeneville's second federal courthouse — the building before which you stand today.



HIGH-TECH COURTROOM—The latest courtroom technology was designed into the courtrooms in the new federal courthouse at Greeneville. This is a photograph of Judge Hull's courtroom. Note the monitors in front of the jurors' seats, on counsel tables, at the lectern, and the witness stand. The projection slot in the wall above the door is for security cameras manned the U.S. Marshals Service. The two woodcarvings that were in the main courtroom at the old courthouse are shown here on the rear wall. (The detail of the carvings cannot be seen in this photograph.)



CLERK'S OFFICE—This view of the Clerk's Office shows how spacious the new quarters are. Court personnel moved into the new building on September 28. The dedication and naming of the new building is scheduled for 1 p.m. December 17.

Collector's Item

Providence House Publishers reports that it has only 178 copies of the court's book, *Justice in the Valley*, available. Once the supply is gone, the book will become a collector's item, so if you haven't purchased one yet, now might be the time to do so. The book would serve as an excellent holiday gift.

Justice in the Valley, written by **Dr. Patricia Brake** under auspices of the Society, also can be an excellent reference book for any law office in the district. It contains the names and dates of service of all the district judges who have served this district. In addition, it contains a wealth of information about various notable cases that have been tried in this district. Questions about past judges and cases arise from time to time, and the answers often can be found in *Justice in the Valley*.

A copy is available at the public counter in each of the Clerk's Offices throughout the district for those who might wish to thumb through it. Each office has copies available for purchase in person at \$25. The book costs \$26.95 from the publisher (please see the enclosed card). ■

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

*Howard H. Baker Jr. U.S. Courthouse
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GREENEVILLE ART—The main column in the center of the entrance of the new federal courthouse at Greeneville was used by artist/sculptor **Michele Oka Doner** of New York City to serve as the centerpiece of her work in designing the artwork for the new building. The 40-foot-high column represents Tennessee's state tree, the tulip tree, widely known as the tulip poplar tree. At the crown is a gold cluster representing the tree's elegant flower, with pods of Tennessee's state flower, the iris (also formed from gold), scattered through it. The ring half way up the column has seven symbols of justice hanging from it.



HISTORICAL COLLECTION—The history room/attorney lounge at the Howard H. Baker Jr. U.S. Courthouse in Knoxville is taking shape, with the addition of the old safe at the left and the large wooden cabinet in the center. The safe, left, and cabinet, center, were moved last month from the old courthouse on Main Street. Because of their size and weight and the complications in moving them, they had been left behind at the old building in the 1998 move until a suitable plan could be worked out for placing them in the new courthouse. A lounge that had been in the judicial chambers of the old courthouse since it opened in 1934 is shown in the foreground at the right. A closer view of the lounge and safe are shown below.

Who Names Them?

Ever wonder how courthouses and other government buildings are named? One of **Judge R. Allan Edgar's** former law clerks, **Peter Varney**, recently commented on the **Joel W. Solomon** name given to the federal courthouse in Chattanooga, and asked, "Who is Joel W. Solomon? The courthouse in Knoxville is named after Sen. Baker, and we all know who he."

The Chattanooga federal courthouse didn't always have the Solomon name. It acquired that name in January 1981, when Joel W. Solomon, a former Chattanooga real estate developer, now deceased, was administrator of the General Services Administration, the top GSA job in Washington. The actual name of the building is:

JOEL W. SOLOMON
FEDERAL BUILDING
UNITED STATES COURTHOUSE

Previously, the building was known as the U.S. Post Office and Courthouse, as all the federal courthouses in the district were known at one time. The Baker name was given to the new courthouse at Knoxville when the court moved into that building in 1998. And the new courthouse at Greeneville has been named the James H. Quillen United States Courthouse after the retired congressman from Tennessee's First District.

The practice of naming federal buildings and courthouses after individuals started about 25 years ago, according to GSA. Most of the approximately 333 federal buildings owned by GSA in eight Southeast states are not named after anyone, only the newer buildings, according to the GSA public affairs office. GSA has had the authority to name buildings since 1949, but that agency rarely does so, leaving it generally up to members of Congress, GSA said. ■

Editor's note: U.S. Sen. Howard H. Baker Jr. of Huntsville and Knoxville, for whom the Knoxville courthouse is named, is the former Senate majority leader and White House chief of staff, and now ambassador to Japan.



The full history of this lounge is not certain, but it probably was purchased as part of the new furniture for the judicial chambers when the federal courthouse on Main Street was completed in 1934. It was on this lounge that Knoxville lawyer Baxter Lee died when he suffered a heart attack while in the chambers of U.S. District Judge George C. Taylor in February 1939, on the eve of being sworn in as a U.S. district judge. He had been nominated and approved by the U.S. Senate and was scheduled to take the oath of office two days later.



This safe, which weighs about 2,500 pounds, was very likely used by the Knoxville office of the court as long ago as the early 1900s, when the court was housed in the old courthouse that today serves as the East Tennessee Historical Center. Observers believe that it was moved to the federal courthouse on Main Street when that building was being constructed in 1932-1934.