



CHRONICLE

The Newsletter of the Tennessee Supreme Court Historical Society • Fall 2008

Justice O'Connor to Speak at 2008 Dinner

The Society is delighted to announce the plans for its Third Annual Dinner. Justice Sandra Day O'Connor has graciously accepted our invitation to address our group. The Dinner is scheduled for Monday evening, October 27, 2008 at the Downtown Hilton Hotel in Nashville, with the reception to begin at 6:00 P.M., followed by dinner at 7:00.

True to our tradition of fellowship and collegiality and of honoring the mission of the Tennessee Supreme Court Historical Society, the 2008 Dinner promises to be a wonderful evening. In addition to Justice O'Connor's presence, we will pay tribute to the outgoing President of the Society, Justice Frank Drowota, and newly-retired Chief Justice William M. Barker. There will be recognition of Chief Justice Janice Holder and brand new Justice Sharon Lee, who has just been appointed to fill the vacancy created by Chief Justice Barker's retirement.

The Society is deeply honored that Justice O'Connor accepted our invitation. Her appearance in Nashville is in tandem with the annual Women's Economic Summit presented by the Tennessee Economic Council on Women, where Justice O'Connor will deliver the luncheon speech.

Justice O'Connor was born in El Paso, Texas, but is a proud Arizonan, having grown up on the family's ranch. She received her undergraduate degree with great distinction and her law degree from Stanford University. She was elected to the Order of the Coif and served on the Board of Editors of the Stanford Law Review.

She has had a fascinating professional life. She began her career as a Deputy County Attorney in California, a civilian attorney for the Quartermaster Market Center in Frankfurt, Germany, a private practitioner in Arizona, and an Assistant Attorney General for the State of Arizona.

In 1969, Justice O'Connor was appointed to the Arizona State Senate, and was elected twice, serving as



Photograph by Dane Penland,
Smithsonian Institution, Courtesy of the
Supreme Court of the United States

Majority Leader from 1972 to 1975 and holding other leadership positions.

Justice O'Connor joined the judiciary in 1975, when she was elected Judge of the Maricopa County Superior Court. In 1979, Governor Bruce Babbitt appointed her to the Arizona Court of Appeals. President Reagan nominated her to serve as Associate Justice of the United States Supreme Court on July 7, 1981. She was confirmed by the Senate, and took office on September 25, 1981. Although she retired from the Supreme Court in 2006, she continues to hold her judicial commission and sits as a judge on lower appellate courts.

Justice O'Connor's bar memberships include the American Bar Association, the Arizona and California

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Bars, the Maricopa County Bar Association, the Arizona Judges' Association, National Association of Women Judges, and the Arizona Women Lawyers' Association.

Since 2005, Justice O'Connor has been Chancellor of the College of William and Mary. Among her many other present and past contributions are serving as a Trustee of the Rockefeller Foundation; on the Advisory Board of the Smithsonian Museum of Natural History; on numerous ABA boards and commissions; as Honorary Chair of America's 400th Anniversary: Jamestown 2007; and as Co-Chair of the National Advisory Council of the Campaign for the Civic Mission of Schools.

Her devotion to the legal profession has also included court reorganization, continuing legal education, legal aid and lawyer referral services, the Maricopa County Juvenile Detention Home, and the National Defense Advisory Committee on Women in the Services.

Justice O'Connor has been married to Mr. John Jay O'Connor III since 1952, and they have three sons, Scott, Brian, and Jay.

The Society is making a contribution in honor of Justice O'Connor to The O'Connor House Project, a community effort to relocate both the adobe house where the O'Connor family lived from 1958 until 1981, and the spirit of Sandra Day O'Connor, to Arizona's spectacular Papago Park near Tempe. The house will be renamed the O'Connor House and Center for Civic Discourse. Interested persons can learn more at www.oconnorhouse.org.

The Society is also participating in an exciting gift to Abe's Garden, an Alzheimer's Disease facility underway in Nashville. Mr. Michael Shane Neal, an artist who has painted portraits of Justice O'Connor, is donating an original painting of an Arizona desert scene, and the Society is donating the framing of the picture, in honor of Justice O'Connor and her husband. ❖

A Message from the President

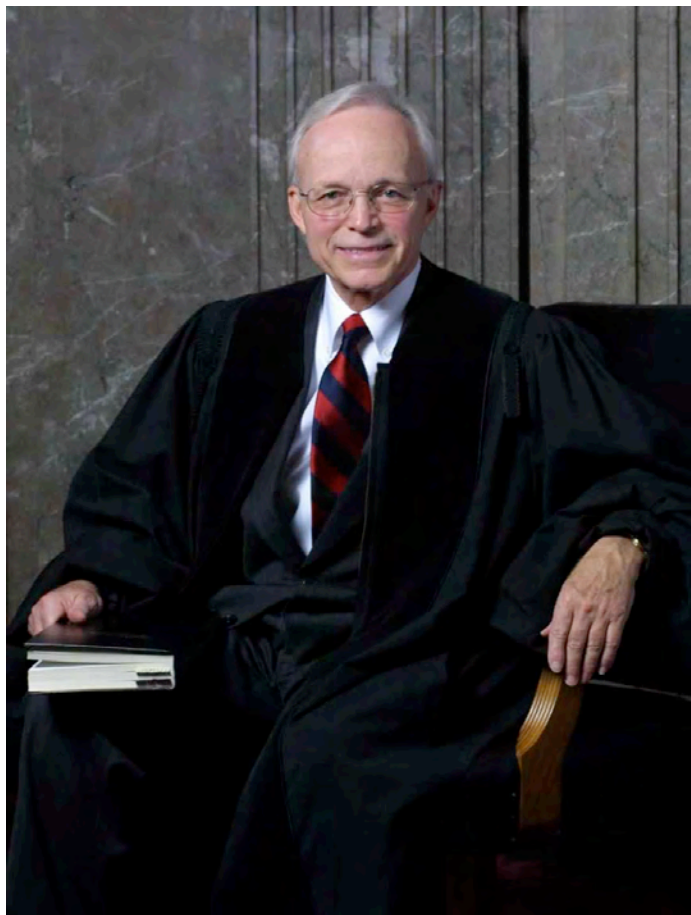
By *Frank F. Drowota*

In 1995, Riley Anderson, my colleague on the Supreme Court, convinced the Court that a Supreme Court Historical Society would be of great benefit to this state. He recruited several prominent attorneys from throughout the state to assist in this project. Notable among them was the late Val Sanford. As Val observed at our first annual meeting, "Thus to understand, appreciate, or evaluate the law of any state, it is necessary to know something of the history of that law and of those who shaped it. Lawyers, particularly, but, as well, all who take seriously their role as citizens, should foster a sense of the history of the law." We are indeed indebted to Riley and Val and many others who had the vision to create a Society whose mission is "to preserve and protect the records of the Tennessee Supreme Court and its predecessor courts, and to educate Tennesseans, both young and old, on the history and importance of the judicial system in this state."

I want to thank Judge Andy Bennett, President of the TSCHS in 2006 and 2007, for his outstanding service in carrying out our mission. Under his leadership, three committees were formed: one devoted to membership, chaired by Barri Bernstein; another to publications, chaired by Linda Knight; and the third covering finances, chaired by Marlene Moses. The latter committee started the Society's Annual Dinner in 2006 with the intention of raising the Society's profile in the legal community and having a fun evening for the bench and bar.

I also want to thank Kate Eyler, who took Gil Campbell's place as Executive Director and Administrator of the Society. Gil was the Society's first Administrator and he gave the Society a strong start and a solid foundation upon which to build. Kate kept us moving toward achieving our mission and we are grateful to her for her hard work and the service that she has given to the Society during her tenure.

The Society's new Executive Director is Joy Day with the law firm of Sutter, O'Connor and Farchione. Joy is married to John Day and they recently had a beautiful addition to their family, Kaitlin Irene Day. We are very fortunate to have Joy as our new Executive Director for we have already observed her many skills as she helped immensely with the success of the 2007 Society Dinner.



Let me announce some new committees for 2008. Mike Catalano, Clerk of the Appellate Courts, has chaired the Preservation of Records Committee. Chief Justice William (Mickey) Barker and Gil Campbell have co-chaired a new Travel Committee. This committee will mix fun trips with educational destinations. It will give those Society members who wish to participate in a trip an opportunity to know other members better.

I want to express my appreciation to Judge Ben Cantrell for agreeing to serve as President-elect of the Society and to Andree Blumstein and Jerry Adams who continued to serve this year as Secretary and Treasurer respectively.

Special recognition goes to Linda Knight who edits our newsletter, *The Chronicle*. She and the various contributors deserve all our thanks.

Let me conclude by thanking Marlene Moses, Gif Thornton, Gil Campbell, Linda Knight and many others for making the Second Annual Society Dinner such a success. Marlene, Gif, Gil, and Linda have all helped plan our Third Society Dinner on October 27, 2008. Linda is helping make arrangements to have retired Supreme Court Justice Sandra Day O'Connor as our featured speaker. I hope that you will all make plans to attend this fun and festive dinner honoring our Tennessee Supreme Court. ♦

The Battle of the Titans

By Gil Campbell¹

The two Titans seemed to be everywhere
On Tennessee's rugged frontier.
They vied for power in the sixteenth state -
Andrew Jackson and John Sevier.

Both had egos as big as Roane Mountain.
Both were brave, respected and strong.
Both could be haughty and quarrelsome,
But, at first, they would both get along.

Sevier had come down from Virginia,
All alone by the age of sixteen.
The majority of time, he fought Indians,
Yet, soon, the Revolution would intervene.

Jackson came west thru the Smokies,
And, in Nashville, established a home.
He had swagger and a fiery temper,
But he always brimmed with aplomb.

Sevier got a win at King's Mountain
And, at Watauga, when he got back,
He was hailed a hero - and, from then on
Was called "Nolichucky Jack."

Later, Jackson took back New Orleans,
With troops as strong as dark chicory.
Versus Creeks, he stood like a hardwood,
And, soon, became known as "Old Hickory."

In '96, Sevier was the clear choice
For governor, and he ran unopposed,
And held the office for three more terms.
His future was bright - or so most supposed.

Jackson would make it to Congress,
When Sevier helped get him anointed.
Jackson wanted on the Superior Court,
So, Governor Sevier had him appointed.

But, in 1800, Hick and Jack would vie
For command of the state's armed forces.
The legislature soon gave Jackson the nod,
And Sevier was fresh out of recourses.

Old Hickory said there'd been land fraud
With Sevier in it up to his chin.
But most felt Jack was not guilty,
And they elected him governor again.

In Knoxville, in October 1803,
The rift would take on more fuel.
Sevier said Jackson was "gasconading,"²
And Jackson proposed that they duel.

Now, duels were illegal in Tennessee,
And Sevier said he'd uphold the law.
A furious Hick called Jack a "poltroon,"³
But, there was no duel - the feud was a draw.

Jackson would go on to the White House.
Sevier would hold a congressional seat.
Their pathways diverged; each went his own way,
And, from then on, they rarely would meet.

If, in fact, the duel had occurred,
History, of course, would be different but clear,
Concerning the legacy of one or the other -
Andrew Jackson or John Sevier.

Notes

¹Gil Campbell is a member of the Society's Board of Directors, and formerly served as its Executive Director. In his spare time, he is a "shade tree poet," and one of this Newsletter's favorite contributors, especially his biographical contributions, whether prose or poetry. The Chair of the Publication Committee is exercising her discretion to dub him the Poet Laureate of the Society.

²To talk boastfully, to bluster. The term was used by Sevier in a letter to Jackson in the Fall of 1803. It is derived from the reputation of the inhabitants of Gascony, who were considered to be boastful and swaggering.

³A thorough coward; a craven.

Tennessee Supreme Court Continues Making History

By Linda W. Knight



Two events of significance to Tennessee Supreme Court history have recently taken place.

The first was the investiture, on September 2, of Justice Janice M. Holder of Memphis to serve as Tennessee's first female Chief Justice. She succeeds Chief Justice William M. Barker of Chattanooga, who has retired from the Court.

Only one month later, on October 2, newly-appointed Justice Sharon G. Lee was sworn in. With this appointment, three of the five Supreme Court Justices are women.

Chief Justice Holder is a native of Pennsylvania. She received her undergraduate degree *summa cum laude* from the University of Pittsburgh and her J. D. from Duquesne University School of Law, where she served on the Law Review. Before moving to Memphis, the Chief Justice clerked for the U. S. District Court for the Western District of Pennsylvania. She was in private practice from 1977 to 1990, when she was elected a Circuit Court Judge. She was elevated to the Supreme Court in 1996. Chief Justice Holder has made countless contributions to the legal profession, the community, and the justice system, and has received numerous awards and recognitions for her accomplishments and service.

Justice Lee was born in Knoxville, where she graduated from the Webb School. After attending Vanderbilt, she graduated from the University of Tennessee with high honors in business administration and accounting, and from the University of Tennessee College of Law. She practiced in Madisonville from 1978 to 2004. Governor Bredesen appointed her to the Court of Appeals, Eastern Section, in 2004, and to the Supreme Court, to fill the vacancy created by Chief Justice Barker's retirement, in October 2008. Justice Lee has likewise been very active in the profession and the community and has received well-deserved recognitions.❖





Memorial Resolution Honorable Charles Herbert O'Brien

*Remarks Given By
Judge Frank G. Clement, Jr.
at 2007 Tennessee Supreme Court
Historical Society Dinner*

Charles O'Brien was born July 30, 1920 in Orange, New Jersey. After being raised and educated in the northeastern United States, he, like other members of what we recognize as the "Greatest Generation," joined the United States Army to serve his country. His service during World War II included a tour of duty in the European Theater.

After receiving an honorable discharge in 1945, he came to Tennessee to attend Cumberland Law School. After graduating from Cumberland, he moved to Memphis, where he began his law practice. His legal career, however, was interrupted in 1950 when his country again called upon him to serve during the Korean War. This time, he served under General Douglas MacArthur at General Headquarters, United Nations Command in Tokyo, Japan. First Lieutenant O'Brien was honorably discharged for the second time in 1953, following which he returned to Memphis to resume his law practice.

Ten years later, Charles was elected to the Tennessee House of Representatives. After serving one term in the House, he was elected to the Tennessee State Senate. While serving in the General Assembly, Sen. Charles O'Brien met a special lady, Anna Belle Clement.

They met in 1964 at a legislative luncheon at the Hermitage Hotel. It was during this fortuitous meeting that Charles invited Anna Belle to be his guest at a reception for the Shelby County delegation the following day. She accepted his invitation and he informed her that he would pick her up at 3:30 the following afternoon.

The next morning Anna Belle was in her office early, when her secretary came in and said, "Senator O'Brien is here to see you. You must have made quite an impression on him last night."

When Charles was invited into her office, he shut the door, and said, "I invited you to go the Shelby County reception, but I've been thinking about that. With my recent vote on lieutenant governor and your brother being governor, well, I think it may be embarrassing to you."

That's what Charles said, but not surprisingly, Anna Belle thought something was up, that he had a cute young thing lined up and, thus, he wanted out of the date.

In classic Anna Belle fashion she told him, "You don't know me well, but when information is spread about me that is not true, it doesn't worry me. I had

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Memorial Resolution *continued from page 6*

nothing to do with your vote concerning the lieutenant governor. Therefore, I expect to see you at 3:30."

That was the first of many directives Anna Belle gave Charles which he obeyed, and it was also the beginning of a beautiful romance that lasted the rest of Charles' life.

They married in November of 1966 at the Union Avenue Baptist Church in Memphis. After living together in Memphis for a year, Charles and Anna Belle moved to Lake Tansi, not knowing this would be home for the rest of his life. After practicing law in Crossville for a couple of years, Attorney Charles O'Brien was elected to fill a vacant seat on the Court of Criminal Appeals in 1970.

He served on the Court of Criminal Appeals for seventeen years, until being appointed by Gov. McWherter to the Supreme Court in August of 1987. Justice O'Brien served on the Supreme Court seven years, and as Chief Justice for a part of that time, before retiring in 1994.

Over the next thirteen years, Retired Justice O'Brien devoted himself to his wife, his family, his church, and last, but not least, his dogs.

Shortly after Justice O'Brien left this universe in January, his long time friend, Mike Moser, editor of the *Crossville-Chronicle* newspaper, wrote an article in which he said:

Charles O'Brien was just a common man. By most standards, he accomplished lofty heights, but he never talked about his accomplishments.

Charles O'Brien had rather give you a fish fry, or cabbage and beef, than tell you he never lost a political election. He had rather sing you an Irish ditty than tell you about storming the Pacific beaches in World War II or about the Purple Heart for being wounded in battle. Or about his service in Korea, or serving with and sharing quarters with Gen. Douglas MacArthur. The Judge had rather talk to you about his dogs than tell you about being elected to and serving on the

Court of Criminal Appeals for 17 years, or his service on the Supreme Court retiring as Chief Justice. He had rather talk to you about being "Mr." Anna Belle than talking about his own political experiences in the Tennessee General Assembly. That's just the way "The Judge" liked it.

It has been said that as we grow older, the only things we regret are the things we didn't do. Charles lived his life with few regrets.

He experienced a full and rewarding 87 years during which he was respected for his legal attainments, but also for years of service as the enthusiastic - though not professionally trained - Choir Director at his church, and for his participation in the Cumberland County Playhouse, where he was usually cast in the role of a flamboyant character. He was also well known for entertaining guests at the O'Brien Estate with hearty renditions of Irish tunes and humorous, if not spicy, limericks.

He is survived by his wife of forty years; two daughters, Diane Soloman and Heather O'Brien; six grandchildren; and three great grandchildren. He was preceded in death by his son, Steve O'Brien.

Charles O'Brien loved his family and his friends, and they loved him. His memory will continue to be cherished.

Presented at the annual dinner of the Supreme Court Historical Society on the Second day of October, 2007, by his nephew, Frank G. Clement, Jr., Judge, Tennessee Court of Appeals. ♦



2007 TSCHS Dinner — Continuation of a Great Tradition

By Frank F. Drowota

The second annual TSCHS Dinner on October 2, 2007 was a big success, mainly due to the extraordinary efforts of the Dinner Committee chair, Marlene Moses, and her committee of Gif Thornton, Gil Campbell, Linda Knight, Kate Eyler, Barri Bernstein, and Joy Day.

The annual Society Dinner honors the present Supreme Court members, deceased members of the Court and any newly appointed members of the Court during that year. In 2006, Justice Cornelia Clark and Justice Gary Wade were honored as the Supreme Court's newest members.

This year, after a welcome from Dinner Co-Chair Marlene Moses and an introduction of the current and former members of the Court, Nashville General Sessions Judge Leon Ruben gave the invocation. Over three hundred guests enjoyed a delicious dinner prepared by the Hilton Nashville Downtown. After dinner, Tennessee Court of Appeals Judge Frank Clement gave an eloquent memorial tribute in honor of his uncle, former Chief Justice Charles O'Brien, who passed away in 2007. Senator Anna Belle Clement O'Brien was present with family and friends. Gif Thornton then introduced a video presentation on the life of the newest member of the Court, Justice Bill Koch, Jr. As the tradition continued from the 2006 dinner, the video was both humorous and serious. Brand-new Court of Appeals Judge Andy Bennett, President of the Society, presented Justice Koch with a Life Membership in the Society.

Mr. Thornton then introduced a video of Chief Justice William M. (Mickey) Barker's latest trip to Peru. The Chief Justice and his wife, Cathy, are seasoned travelers, but this trip to Lima, Cusco, Machu Picchu, and the Amazon was one of the most adventurous ever. Lots of funny photos brought gales of laughter! Those who have attended the dinners have learned that the Chief is a good sport and takes kidding well - up to this point anyway! At the conclusion of the video, I presented the Chief with a trophy of the mounted piranha that he had caught in the Amazon. Claire and I joined the Barkers on their adventure, which explains how we were able to retrieve the piranha. Hopefully a good time was had by all. I know that the Chief and I enjoyed the evening.

I would like to thank everyone who attended and all those who worked so hard to make the dinner a success. Fourteen law firms bought tables and many individual attorneys attended in order to honor the Court. We are thrilled that Justice Sandra Day O'Connor accepted our invitation to be our featured speaker at the 2008 Dinner on October 27. This will be a dinner that you will not want to miss! ❖

2007 TSCHS Dinner



2007 TSCHS Dinner



2007 TSCHS Dinner



Supreme Court Record Preservation Project Update

By Michael W. Catalano, Clerk of the Appellate Courts

Since the report on this project in the October 2007 *Chronicle*, I met with Dr. Wayne Moore, the Assistant State Archivist, and his staff regarding the Supreme Court Record Preservation Project. In a nutshell, the project has begun in earnest. Dr. Moore hired interns to preserve and catalog early Supreme Court records in storage at the Tennessee State Library and Archives. The first intern hired was assigned to Middle Tennessee documents. The other two interns were assigned to the East and West Tennessee documents, respectively. To begin the process, Dr. Moore chose the records in Middle Tennessee from the 1870's, because these records are in fairly good shape and only need minimal preservation.

After preserving these original documents, the interns have been entering a variety of data into a computer program regarding the records, in order to permit lawyers, historians and genealogists to have better research tools to access these documents. The interns have processed and indexed a total of 1,394 cases, or approximately 100 archive boxes. To give an idea of the magnitude of the project, there are more than 10,000 archive boxes to be processed. So, this is definitely a long-term project, but one well worth the effort.

In addition to the above statistics for processing and data entry work, the Public Services Division of the Tennessee State Library and Archives reports that 256 researchers have used the Supreme Court records since the project began.

Finally, I am pleased to report that the remaining funds from the Byrne Grant for this project were renewed for the upcoming fiscal year, permitting the continued efforts in this worthwhile endeavor.❖

TSCHS Membership Application

I wish to join the effort to preserve appellate court history in Tennessee. Please enroll me as a member of the Tennessee Supreme Court Historical Society.

Annual Individual Membership

Name: _____

Firm/Company: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Email: _____

Mail this application together with a check made payable to TSCHS in the amount of \$50.00 to:

TSCHS
c/o Ms. Joy Day
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