



CHRONICLE

The Newsletter of the Tennessee Supreme Court Historical Society • Fall 2009

A Great Supreme Court: 1974–1980 To Be Honored on October 20, 2009

By Justice Frank F. Drowota, III



The TSCHS Dinner at the Hutton Hotel on October 20, 2009 will honor and recognize the historical significance of the Supreme Court that was elected in 1974. The sons and granddaughter of these Justices will provide insight into this great Court.

The 1974 Court's campaign slogan was "Elect a Great Supreme Court," and they truly were a great Supreme Court. I believe the 1974 Supreme Court was one of the finest the state has ever known, because it transformed the way the Court functioned and operated in many respects.

The pre-'74 Court was not a collegial court. The members only met during formal court sessions. They conducted all other business in writing, by mailing memos and opinions to one another. The Justices had no Rule 11 conferences to discuss which cases to take; they had no business or opinion conferences. Since everything was done by memo, there was very little face-to-face discussion of the issues.

That all changed with the election of the 1974 Court. The candidates made several campaign commitments, which contrasted the old and new Supreme Courts. The '74 Court committed: [1] to read briefs prior to oral arguments (many on the prior Court did not read briefs); [2] to use law clerks in order better to prepare for oral arguments; [3] to have a new procedure for assigning cases - a blind draw (the prior Court rotated assignments, so a Justice would know before oral argument which cases he would be assigned); [4] to have no more one-judge opinions, and to have opinion conferences; [5] to have all opinions reflect the collective thinking of the entire Court; [6] to adopt court rules, particularly rules of appellate and criminal procedure; [7] to carefully consider the ABA Code of Judicial Conduct; and finally [8] to have a more open system for selecting the Attorney General.

Although none of the members of the new Court had ever served together on an appellate court, the '74 campaign

drew them closer together, so they bonded and became a collegial court. The '74 Court was a court with vision, and over the next six years, the Court carried out its campaign commitments. It worked to improve and to modernize the judicial system, to regulate the conduct of judges and lawyers, and to overhaul the procedures used to administer both civil and criminal justice. The Court also adhered to an open system for selecting the Attorney General.

The Court compiled a remarkable record of achievement in six short years.

In 1976, the Court created the Board of Professional Responsibility, which provided for the first time a statewide mechanism for lawyer discipline. The Rules of Criminal Procedure were adopted in 1978 and Rules of Appellate Procedure were adopted in 1979. A new and stricter Code of Judicial Conduct was created, and the Court worked with the Legislature to create the Court of the Judiciary in 1979. The '74 Court has been described as an activist court, because it used its rule making power so effectively. However, the Court preferred to be characterized not as an activist court, but as a progressive court.

The Court made major changes in Tennessee's common law. The Justices were willing to compromise on many issues so that they could speak with one voice, but they were independent thinkers and when necessary were willing to express their dissent from the views of the majority. The Court was composed of the following:

- **William H. D. Fones**, age 56, of Memphis. He served as the Court's first Chief Justice. He was a graduate of the University of Memphis and the University of Tennessee College of Law.
- **Robert E. Cooper**, age 53, of Chattanooga, served as the second Chief Justice. He graduated from the

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Great Supreme Court *continued from page 1*

University of North Carolina and the Vanderbilt School of Law.

- **Joe W. Henry**, age 57, of Pulaski, was the Court's third Chief Justice. He was a graduate of Middle Tennessee State University and the Cumberland University School of Law. He called himself a "country lawyer." He died in June of 1980 at the age of 63, at the height of his judicial career.
- **Ray L. Brock, Jr.**, age 52, of Chattanooga, was the fourth Chief Justice. He was a graduate of the University of Tennessee and the Duke University School of Law.
- **William J. Harbison**, age 51, of Nashville was Chief Justice from 1981-1982. He was a graduate of Vanderbilt University and the Vanderbilt School of Law.

I would describe the 1974 Court as bright, energetic, hard working, enthusiastic and compassionate individuals who were disciplined enough to set aside egos and personalities and operate as a five-member team. Their contribution was important to the entire legal profession and the judiciary today.❖

Web Site Revamp Coming

**Please be on the lookout
for the unveiling
of an exciting revamping
of the Supreme Court
Web site.**

**This is under construction,
with Justice William Koch
serving as the
Supreme Court's liaison
to the Web site developers.
It will take the place
of the present AOC Web site,
which has served
us very well.**



A Message from the President

By Judge Ben Cantrell

A wise person once said, "The social history of any particular period can best be learned by reading the law reports." A moment's reflection will reveal how

true the statement is. The law reports reflect what was important to the people, how they treated each other, how the economy was working and the essentials of crime and punishment. Val Sanford, the architect of the Tennessee Supreme Court Historical Society, understood the role of the Supreme Court as "the central figures in the history of the law of Tennessee" and promoted the Society as the vehicle to "preserve the records of their lives and foster the recognition of their significance."

During its short history, the Society has made a great effort to make Val Sanford's vision a reality. Most of you are aware of the publication of the history of the Court and the plaques placed in the Supreme Court buildings in Knoxville, Nashville and Jackson with the names of all the appellate judges who have ever served and the years of their service.

There is another project under way, however, that is equally as important but not as visible. The Tennessee Library

and Archives contains the Supreme Court case files covering substantially all of the years of the Court's history. They have been stored in a haphazard way, collecting dust and coal smoke for generations. Under the leadership of Judge Andy Bennett when he was the Society's President, the Society started a program that will ultimately sort, clean and preserve the records and put the essential information about each of them in a database. So far, approximately 10,000 of the records have been treated and catalogued and the archivists estimate that there are approximately 200,000 records in all. The Society welcomes your support for this essential program.

Another program the Society promotes is the annual dinner. This year, in keeping with our objective to inform the public about the history of the Supreme Court and the service of its members, the program will focus on the Court elected in 1974. The children of Justices Fones, Henry, Cooper, and Harbison and the granddaughter of Justice Brock will tell the audience about the lives of their parents and grandparents, the 1974 campaign, and the significant accomplishments of the Court.

We hope you will join us on October 20th and, if you have not done so, join the Society or renew your membership. ❖

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 • Sutter, O'Connell & Farchione • 341 Cool Springs Blvd., Suite 430 • Franklin, TN 37067

Cruising Down the River with the Tennessee Supreme Court Historical Society!

By Justice Muecke Barker

And what a river! This is a report on the 2009 TSCHS travel extravaganza. If you did not sign up this year, you missed a wonderful trip and great fellowship, and we hope you will be irresistibly tempted to join us in 2010.

The Danube, from the Zeppelin Field and Justice Palace of Nuremberg to the historic twin cities of Buda and Pest, provided daily feasts for our eyes while the chef on board the MS Amalyra served sumptuous feasts for our palates. Conversation was lively around the table and in the lovely observation lounge as we reflected on the day's excursion or anticipated the evening's entertainment.

Our trip began with a wonderful visit to Prague with its thousand-year history and more than a hundred church spires and towers. After wandering through the area of the Prague Castle and seeing St. Vitus Cathedral, we strolled across the Gothic stone Charles Bridge to the Old Town Square, where we paused for a leisurely drink and pastry while waiting for the apostolic figures of the astronomical clock to come to life. Our dinner



*The Jolly
Travelers*

together at the Pod Vezi Restaurant was the occasion for merry conversation with delicious Czech food in a welcoming atmosphere. Capping off the visit for many was the fabulous ballet Swan Lake at the Prague Opera House!

A lovely drive through the countryside of Bohemia and Franconia, with lunch and a visit to Karlovy Vary,

brought us to our embarkation at Nuremberg, where we met those who were joining us for the river cruise alone. We were impressed with the Nuremberg Trials Courthouse and awed by the mixture of the city's Gothic and World War II points of interest. Regensburg took us back to Roman days with its fort gates built in the second century and its medieval charm. At Passau, some chose a city tour through the cobblestone streets while others headed off to Salzburg, Mozart's birthplace and the setting for The Sound of Music.

Melk was truly awesome! This Benedictine Abbey with its baroque architecture and extensive library was particularly inspiring for those of us who had read Umberto Eco's *The Name of the Rose*. As we docked in Vienna, many succumbed to the lure of hearing Mozart and Strauss performed in an after-dinner concert followed by a breathtaking illumination tour of the Ringstrasse before returning to the ship. We savored the Baroque elegance of romantic Vienna as we toured in the morning and strolled leisurely in the afternoon, stopping for a Sacher torte, of course, and imagining the glories of the Holy Roman Empire and the intrigues of World War II and the Cold War. Those Hapsburgs!

All good things must come to an end, and we eventually reached Budapest with its gracious offerings on both banks of the river. St. Stephen's Basilica impressed us and the marvelous Royal Palace amazed us as we completed our final tour together and joined in grateful toasts to each and every one—our Society friends, the helpful crew, and our new shipboard friends.

Frank and Claire Drowota, Riley and Pandy Anderson, Frank and Lynn Clement, Doug and Julie Fisher, Gil and Matt Campbell, and Muecke and Cathy Barker invite you join us next year. We are already checking dates and considering a cruise to the Canadian Maritimes or perhaps travels to points south. Let us know your thoughts, and definitely make plans to be a part of this wonderful group on our adventure in 2010. ❖

“With All My Wordly Goods I Thee Endow”: Legal Disabilities of Women in the Nineteenth Century Part 1

By Carole S. Bucy, Ph.D.

Editor’s Note: Dr. Carole S. Bucy is a noted local historian, author and speaker. She is a Professor in the Social Science Department at Volunteer State Community College. Her husband is G. Rhea Bucy, a member of the Nashville law firm of Gullett, Sanford, Robinson & Martin, PLLC. The Society is grateful for the author’s permission to publish this article. Our regular columnist, Gil Campbell, recommended this article to the Board. It will appear in two parts, and will conclude in the next issue of *The Chronicle*.

Tennessee’s ratification of the Nineteenth Amendment, which gave women the right to vote, marked an important milestone in a decade of intense political activity by Tennessee women. Throughout the ten years that preceded the August 18, 1920, vote by the Tennessee House of Representatives, women working together through statewide organizations had been successful in convincing the General Assembly to pass several reforms to remove numerous legal disabilities of women. The dramatic events surrounding ratification overshadowed these important gains. Although each of these changes in the laws of the state individually represented small and even minor steps in progress toward women’s equality, collectively, they demonstrated a significant achievement. These bills covered a wide array of legal disabilities toward women from property rights for married women to holding public office. One of these seemingly minor bills was a bill to allow women to hold the public office of notary public in Tennessee. When this bill passed in March 1915, there was no notice of it in local newspapers, yet twenty years earlier, the Tennessee Supreme Court heard a case which was argued on the issue of whether or not women could legally serve as notaries public. In spite of the fact that the Supreme Court ruled in *Stokes v. Acklen* that women who were commissioned as notaries were legitimate public officers, it was twenty years before the law was changed to comply with the high court’s ruling. This case highlights the complexities of legal disabilities of women in Tennessee in the nineteenth century.

On January 28, 1891, Jordan Stokes signed a contract to sell ninety-three acres of land west of downtown Nashville to Joseph Acklen. This real estate transaction brought together two of the leading lawyers from prominent Nashville families. Jordan Stokes, a respected member of

the Nashville Bar Association, practiced law with his brother, Ogden Stokes, in the law firm of Stokes and Stokes. Joseph Acklen returned to Nashville in 1885 and resumed his law practice after serving two terms as a United States Congressman from Louisiana where he owned sugar plantations that he had inherited from his mother, Adelia Acklen. He had become involved in several real estate ventures and was listed as the president of the American Trust Investment Company. At the time that Acklen agreed to make this purchase, he was a member of the Nashville City Council.¹ Although the deed to the property was in the name of Jordan Stokes and his wife, Mary Whitworth Stokes, Mary Stokes was not a party to the contract agreeing to the sale of the land. When the deed for the property was executed the following week, Mary Stokes’s conveyance of her interest was made by privy examination. The name of Joseph Acklen’s wife, Jeanette T. Acklen, did not appear on the contract or the deed.²

Nashville was experiencing a boom in real estate speculation in 1891 that had begun in the 1880’s. Speculators were buying land in anticipation that the value would dramatically increase. Many real estate investors saw the west side of the city of Nashville as a potential area for dramatic growth. They invested heavily in the area west of downtown Nashville that was referred to as “beyond the gulch” because they believed this area would be the next part of Davidson County to be developed. Expansion to the west had been inhibited by the deep gulch beyond Walnut (Tenth Avenue) until one of the mule-drawn streetcar lines, the McGavock and Mount Vernon Company, built a wooden viaduct across the gulch. Their purpose in constructing this viaduct was to make it possible to extend a streetcar line out the Richland Pike (Harding Road) to Vanderbilt University and beyond. As soon as the viaduct was completed, homes and churches began to be constructed on the west side of town. Many believed that this area would soon rival Edgefield on the east side of the city. By 1888, the McGavock and Mount Vernon Company had introduced its first electric powered trolley cars to replace its mule-drawn streetcars which made development even further out now possible.³ The next area to be developed on the west side could be the area beyond Vanderbilt.

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Jordan and Mary Whitworth Stokes purchased over two hundred acres of land in this area in 1888 and were now selling ninety-three of these acres to Joseph Acklen in 1891. The appropriate contracts were prepared and signed by the parties involved in the transaction. Although Mary Stokes had not signed the initial contract, she signed the documents required to transfer the deed. Mrs. Ladie Adams, a notary public for Davidson County, witnessed the signatures. The terms of the contract stated that the purchase price for the property was \$18,000.00. Acklen agreed to pay Jordan and Mary Stokes \$2,000.00 in cash. The Stokes agreed to accept two notes of \$8,000.00 each for the balance of the transaction. The two notes were due five and ten years after the date of the transaction with interest of 6 per cent to be paid semi-annually. Jordan and Mary Stokes retained a lien on the property. According to the terms of the note signed by Joseph Acklen with Jordan and Mary Stokes, Acklen was required to make interest payments twice a year. The note further stated that if a payment was missed, the Stokes had the right to accelerate the note and demand the full amount to be paid.⁴

At the time of this transaction, a married woman in Tennessee was not able to sell property or sign contracts without the consent of her husband. Until 1919, a married woman could only convey her interest in property in Tennessee by way of a privy examination. This statutory requirement stated that a married woman would have to appear privately without her husband being present before a public officer such as the clerk of the court or a notary public. During this privy examination, the public officer was required to determine that the woman understood the legal effects of her actions by signing the documents in question. The privy examination was also required to make certain that the wife was entering into this contract freely without any coercion from her husband. The policy behind the doctrine of privy examination was so strong that courts had ruled that if this privy examination was not properly conducted, the deed or contract would be considered null and the wife's interest would not be conveyed. It was not the wife's signature on the deed that passed the title of a married woman; the title was passed by the privy examination itself. While the privy examination could be considered to be a laudable effort to allow married women to participate in decisions regarding the sale of land, it could also be viewed as highly paternalistic since it said that married women were legally incompetent by requiring women to undergo this privy examination in order for a valid title to be conveyed.⁵ Mrs. Ladie Adams conducted the privy examination of Mary Stokes and then notarized the document by affixing her seal on the document and signing her name as a notary public.⁶

Within two years after Joseph Acklen purchased the land, Nashville was hit by the Panic of 1893, a major national financial crisis with widespread consequences. Several banks in Nashville failed during the summer and

fall of 1893 and real estate values plummeted downward. The Panic led to a deep depression, which lasted until 1897.⁷ Many who had borrowed money to speculate in land purchases were unable to pay their debts. Joseph Acklen suffered significant financial losses in the Panic. When Acklen failed to make two successive interest payments owed to Jordan and Mary Stokes in August, 1893 and February, 1894, the Stokes accelerated the note and demanded full and immediate payment of the debt. Stokes declared the two outstanding eight thousand dollar notes to be due since the interest payments were delinquent. When Acklen failed to pay the debt, the Stokes then filed suit against him in the Chancery Court of Davidson County to obtain a judgment against Acklen for the money owed and to have the land sold to satisfy the remainder of the judgment.⁸ Stokes found that Acklen was insolvent and sought to retake possession of the land.

Joseph Acklen now faced a serious financial crisis. He established a private trust fund with James Beard listed as trustee for his wife, Jeanette T. Acklen, to protect his remaining assets. He maintained that the land had greatly declined in value because of Nashville's economic crisis and by 1894 values was now worth less than half of the eighteen thousand dollars he had paid for the property. By his own admission, Acklen faced losing the land through foreclosure, losing the two thousand dollars he had already paid to Jordan and Mary Stokes, and still owing the remainder of the contracted price to the Stokes. Acklen sought the assistance of another lawyer, James Trimble, to provide him with personal legal and financial advice with this problem. Trimble and Acklen devised a strategy to try to convince the court that Jordan and Mary Stokes did not give him a good title to the disputed property because the deed was defective. Although this strategy may have been flawed from the beginning, Acklen proceeded to file a counter suit against Jordan and Mary Stokes. Acklen's financial situation was critical and he desperately needed the two thousand dollars he had already paid to Stokes. In his counter suit, Acklen argued that the deed was invalid because Mrs. Ladie Adams, the notary public, who had conducted the privy examination of Mary Whitworth Stokes was a female. Acklen's suit maintained that the law of Tennessee did not permit women to be notaries. When Jordan Stokes was informed of Acklen's arguments, he immediately filed a petition on December 8, 1894 with the court to which a second deed notarized by a male notary public was attached to the first deed. When the Chancery Court handed down its decision, Chancellor H. H. Cook ruled that under the circumstances of this case, Acklen could not be compelled to accept the second deed from Stokes. His opinion stated that the first deed did not legally convey Mrs. Stokes's interest in the property and that the second deed was insignificant. He then ordered Stokes to pay Acklen the two thousand dollars in question. The property now reverted back to Jordan and Mary Stokes because the transaction was invalid. Chancellor Cook's

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Supreme Court Record Preservation Project Update

by Mike Catalano, Clerk of the Appellate Courts



This is an update on the Society's ongoing project of preserving, archiving and cataloging historic records of Tennessee Supreme Court cases going back to 1794, which were stored in the upper floors of the Capitol before eventually being moved to the Tennessee State Library and Archives.

Since the report on this project in the October 2008 *Chronicle*, I met again with Dr. Wayne Moore, the Assistant State Archivist, and his staff regarding the Supreme Court Record Preservation Project. The bad news is that the Federal Grant funds that enabled the State Library and Archives to begin this project ceased. These funds were used to pay for laptop computers and various other equipment. They also paid for several interns from the graduate archival studies program at Middle Tennessee State University. These interns provided the crucial resources to begin the preservation project.

The good news is that the State Library and Archives staff made the decision to continue the project with existing staff. Each staff member of a staff of 20 persons dedicates about 4 hours per week to the project, which is the equivalent of having 2 full-time employees assigned to the project. Since the project began in January 2008, at least 9,672 Supreme Court records have been cleaned, refoldered and entered into the computer database.

Between May of 2009, when staff began dedicating their time to the project, and the TSCHS's Board meeting in August, 1,763 Supreme Court Records have been completed.

The project will take a number of years to complete, but it is now a well-established program within the State Library and Archives and will provide judges, lawyers, historians, genealogists, and the general public with an invaluable resource regarding the history of the Supreme Court of Tennessee in particular, and of the State of Tennessee as a whole. ❖

opinion stated that Joseph Acklen conveyed his right to recover this money from Stokes to James N. Beard, trustee for Acklen's wife, Jeanette T. Acklen.⁹ Although the court records do not give Acklen's reasons for establishing a trust fund for his wife, it is reasonable to speculate that Acklen was concerned that he might be forced into personal bankruptcy because of his debts. If that occurred, other unsatisfied creditors could seek payment for debt from any money collected in the case of Stokes v. Acklen. It can be assumed that Acklen assigned any money collected to the trustee acting on behalf of his wife to keep the money from his creditors.

Ladie Adams was a public stenographer with an independent office outside of her home in 1891. Until the typewriter began to be used in the 1870's, male clerks and apprentices worked in legal offices and copied legal documents by hand. The invention of the typewriter had changed the work of many offices. These machines allowed documents to be produced at a faster rate of speed. The

typewriter also opened a new profession, the stenographer, to women because women's fine motor skills enabled them to become proficient typists. Stenographer's offices began to open to prepare documents. An important part of their jobs were to prepare written documents. Ladie Adams had such an office. According to Joseph Acklen's deposition, Adams worked as a typist for Stokes, but the court records show that she had been officially commissioned by the Davidson County Court Clerk to be a notary public.¹⁰ Although little is known about Ms. Adams's professional life, she was attempting to support herself in a time when few women lived independently in Nashville. She lived alone and had no children living with her.

Merriam Webster defines a notary as a "public officer who attests or certifies deeds and other writings to make them authentic, and takes affidavits, depositions and protests of negotiable paper." The purpose of notarizing a

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Society's 2008 Dinner Huge Success

By Linda W. Knight

The 2009 TSCHS Dinner, with retired United States Supreme Court Justice Sandra Day O'Connor as our honored guest, was a grand evening and a great success. It was held on October 27, 2008, at the Downtown Nashville Hilton Hotel. Please enjoy our selection of photographs from the evening in this newsletter.

Justice O'Connor's acceptance of our invitation was a distinct honor. She attended the reception before the Dinner and graciously greeted many of the attendees and posed for pictures. She was unfailingly charming, delightful, kind and humorous. Her hostess while she was in Nashville was her friend Mrs. Jack Massey, who is beloved by many TSCHS members, and who attended the Dinner as our guest along with the Justice.

Justice O'Connor delivered a fascinating speech on past Supreme Court Justices, which enthralled the audience. In honor of Justice O'Connor, the Society contributed to the O'Connor House Project, a community effort to move Justice O'Connor's family home and her spirit to Arizona's Papago Park.



Also, in honor of Justice O'Connor and her husband, Mr. John Jay O'Connor, III, who suffers from Alzheimer's Disease, prominent local artist Michael Shane Neal created a beautiful painting of an Arizona desert scene. He donated the painting to Abe's Garden, a new Alzheimer's residential facility in

Nashville spearheaded by Nashvillian Michael Shmerling. The Society donated the framing for the painting. Mr. Neal has also painted two official portraits of Justice O'Connor. Mr. Neal and Mr. Shmerling were also our guests.

At the conclusion of her speech, the Society presented Justice O'Connor, an enthusiastic angler, a set of special Tennessee fishing flies to lure her back to Tennessee.

Senators Lamar Alexander and Bill Frist encouraged Justice O'Connor to accept our invitation, and although the Senators and Mrs. Frist could not be with us, we were delighted that Mrs. Alexander and their son, Will, were present.

The evening's program featured the women members of the Tennessee Supreme Court, in light of the fact that three members of the Court are women, Chief Justice Janice M. Holder, who had recently been sworn in as the Court's first woman Chief Justice, and Justices Cornelia Clark and Sharon Lee. Of course, we did not forget our other Justices, Gary Wade and William Koch!

I had the honor of introducing Justice O'Connor, having worked closely with Ms. Linda Neary, Justice O'Connor's wonderful and capable assistant in her chambers at the Supreme Court, for about a year and a half on arrangements. As the date of the Dinner approached, the United States Marshal's Service in Cincinnati prepared for Justice O'Connor's visit in order to provide security and transportation, visiting each location where Justice O'Connor would be. The Dinner Committee, with the input and participation of the Board, outdid itself, and our event planner, Jayne Bubis, contributed her expertise.

The Justice's visit to Nashville was jointly hosted by the Tennessee Women's Economic Council Foundation, which held its annual Women's Economic Summit that day, where Justice O'Connor was the keynote speaker at the luncheon. ❖

2008 TSCHS Dinner



2008 TSCHS Dinner



2008 TSCHS Dinner



document is to make it a legally effective instrument and to protect the parties to the document against forgery.¹¹ The office of notary public dated back to English common law and had been originally created to provide documentation for the authenticity of signatures on deeds.¹² Notaries could be called on to testify in court when deeds were contested. The English common law tradition was transferred with much controversy to this country as it was settled.¹³ As the area that became the state of Tennessee was settled, North Carolina court clerks witnessed or notarized real estate transactions. When Tennessee became a state in 1796, county clerks continued to attest to the authenticity of signatures on deeds until in 1809 the General Assembly passed legislation creating the office of notary public. The county court served as the governing body of Tennessee's counties and the county court clerk performed the administrative function for the court. Under the original 1809 act, the General Assembly was given the authority to elect one notary for each county of the state. These notaries were commissioned by the governor who also had the authority to fill vacancies should they occur when the General Assembly was not in session. Over the years, the law was changed to provide additional notaries for each county and to require the notary public to live in the county seat, but there were no changes made in the qualifications. Since women were disabled from holding public office under common law, they could not legally be appointed to be notaries in Tennessee.¹⁴

To Be Continued in Next Issue

NOTES

¹*Nashville City Directory*, 1890, 1891. *Nashville Banner*, 29 September 1938. *The Tennessean*, 20 October 1938.

²*Stokes v. Acklen*, Chancery Court file, found in the Metropolitan Nashville-Davidson County Archives.

³Don Doyle, *Nashville in the New South, 1880-1930* (Knoxville, University of Tennessee Press, 1985), 87-94.

⁴*Stokes v. Acklen* file.

⁵Abraham Caruthers, *History of a Lawsuit*, 6th edition (Cincinnati, W. H. Anderson Co., 1919),

⁶*Stokes v. Acklen* file.

⁷Doyle, 52.

⁸This procedure is known as a judicial foreclosure and is not a common legal procedure today. A judicial foreclosure is a legal proceeding that is filed to persuade a court to order the sale of property. The sale will actually be carried out by the clerk of the court or another person designated by the court to perform that function. Today, foreclosure commonly takes place pursuant to a power of sale granted in a deed of trust. A trustee who is named in the deed of trust conducts the sale.

⁹*Stokes v. Acklen* file.

¹⁰The Nashville City Directories contradict themselves

regarding Adams marital status. In the 1891 directory she was listed as Mrs. Ladie Adams, but in 1892, she was listed as Miss Ladie Adams. She married John W. Rowlett, pastor of the Humbreys Street Methodist Episcopal Church in 1892 and closed her stenographer's office.

¹¹*Merriam Webster's Collegiate Dictionary, Tenth Edition* (Springfield, Massachusetts, Merriam-Webster, Incorporated, 1994), 794.

¹²*American Jurisprudence*, 2d. Vol. 58, p. 523.

¹³*Words and Phrases*, vol. 28A (St. Paul, West Publishing Co., 1955), 459-460.

¹⁴*Laws of Tennessee*, 1809.

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