

# Rooker Report

November 15, 1995

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## WHEW! NO STATE LIT SURTAX FOR PROBATE, TRAFFIC

Okay, let's see if we've got this right...

Earlier this year, the legislature approved a \$10 civil litigation surtax to help finance legal aid for the state's indigent clients, effective July 1.

But because of a Metro provision requiring county lit taxes to be the same as the state, the amount became \$20 for the privilege of suing someone in Davidson County's circuit or chancery courts.

So, even though the state intended for the total amount of the surtax to be earmarked for the poor, persons filing civil suits here were tossing an extra \$10 into the county's general fund.

The reason: Metro had previously tired of amending its codes every time

the state tax rate changed and had adopted a permanent provision to allow automatic increases to equal whatever the state rate happened to be.

So far, so good.

The total lit tax, which had been \$27.50, would now be \$47.50.

But was it fair for Metro to now get a windfall from the state's efforts to help an anemic segment of its citizens?

Metro leaders said no and amended the provision, effectively forfeiting the county's \$10 share of the increase.

(See LIT TAX, Page 2)

### *The Courts*

## Vacant Court Seat Appointments Due

With the pending selections of at least two judges to fill vacancies in the state's court system, speculation has dominated courthouse conversation during the past month.

The focus has been on six nominees vying for the Probate Court seat left vacant by the tragic October death of Judge Jim Everett. The Metro Council will select a replacement at its next meeting on Nov. 21, but the appointment will only be effective until the primary election next March.

There is no clear front-runner at this point, although most attention has centered around attorney Frank Clement Jr., president of the Nashville Bar Association, and General Sessions Judge John Brown.

Should Brown emerge the victor, the council then would be required to select his replacement on the sessions bench. That would mean at least three of the state's courts would be getting new jurists, considering the fact that a replacement is yet to be selected for Court of Criminal Appeals Judge Jerry Scott, who has retired.

Since two of the candidates under consideration for the appellate post are judges, that opens up the possibility of a fourth judicial appointment.

(See THE COURTS, Page 2)



**Special Olympian Pamela Inman presents General Sessions Judge Casey Moreland with his school's emblem after he made her an honorary court officer for a day. Story, Page 3.**

## Winter Holiday Season Means Office Closings

Aaahh, those winter holidays. They are upon us.

It will soon be time to carve the turkey, wrap the gifts and stock up on seltzer. Not necessarily in that order, of course.

For families, it is the season of togetherness -- a time to reflect on the blessings of another year past -- while those who find themselves alone falsify their glee in public and recoil privately to endure the most depressing time of year.

Regardless, it is a traditional time of reflection, of giving and of celebration. And much of the nation's labor force, including government workers, leave their posts to share time with loved ones and money with those who provide the season's wares.

At no other time of the year are more dollars spent, nor is more time given for workers to spend them. It is a period in which

diets are put on hold and bulging credit card balances dictate spending habits for months to come.

But it is all a part of the spirit that seems to arrive with winter's cold winds to magically warm man's heart in overcompensation for frigid discomfort to the skin.

To many, it is the most anticipated time of year. And to us all, it is the most meaningful. In honor of all it represents, work will be suspended according to the following schedule:

### THANKSGIVING

NOVEMBER						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

### CHRISTMAS

DECEMBER						
S	M	T	W	T	F	S
				1	2	
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

### NEW YEAR

JANUARY						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

## Attorneys in the News



AUBREY HARWELL, JR.



GEORGE LINEBAUGH

### A Good Year for the Harwells

Attorney Aubrey Harwell Jr. should never forget this year. Not only will he remember it as the year he was awarded the coveted Joe Kraft humanitarian award, he also will cherish it as the year his son became a bona fide member of his profession.

Aubrey Harwell III was one of 400 law students who successfully passed the state bar exams this fall.

The elder Harwell, one of Nashville's most accomplished barristers, was honored for his many contributions to the community, exemplifying the commitments of the late Joe Kraft, an accountant.

Harwell's work with the Middle Tennessee Council of Boy Scouts of America, the Nashville School of Law, Meharry Medical College, the American Board of Trial Advocates and the committee to select a new police chief were examples of why he was selected for the award.

### Linebaugh Gets Night Commissioner Post

General Sessions Court judges have selected attorney George Linebaugh to complete a one-year term as night court commissioner.

Linebaugh, who had served in the post as an interim appointee following the resignation in July of commissioner Joy Sims, beat out a large field of candidates to retain the post through next June.

Linebaugh won the seat after a second-round vote of 6-3 by the nine-judge panel, which failed to reach a majority vote on the first ballot.

The courts employ five night commissioners on a year-to-year basis. A graduating pay scale based on years of service begins at \$36,000-plus.

### Lit Tax (From Page 1)

Final assessment: \$37.50. Those who had paid the extra \$10 were entitled to a refund.

But wait. Wasn't that state surtax supposed to apply only to original *civil* lawsuits?

If so, why were the state's tax collectors suddenly applying the assessment to probate and traffic cases?

We object. Nowhere in the language of the statute are probate and traffic cases specifically included under the new surtax assessment.

So, we ask the state Department of Revenue for clarification. After all, it's been several weeks since the surtax law took effect and we certainly haven't collected any extra fees from our probate and traffic customers. There are no funds earmarked for paying the tax bills we have received.

Enter the state's Office Audit and Examination Division, which has subjected our protest to legal interpretation.

Sure enough, an extensive examination of the new statute has shown, there has been a misinterpretation at the state level and we should ignore the assessments. The authority was cited in two similar memorandums:

1) "...this office has determined that probate courts are not required by the law to collect additional privilege tax on litigation established by (the statute) in connection with civil cases in their courts."

2) "...we have discovered that the additional litigation tax does not apply to moving (traffic) violations."

Finally. Resolution to a taxing problem.

## The Courts

# Volunteer Guardian Workers Requested

(From Page 1)

Circuit Court Judge Connie Clark of Franklin and Chancellor Robert Corlew of Murfreesboro have been recommended by the Tennessee Judicial Selection Commission, along with deputy state attorney general Jerry Smith. Gov. Don Sundquist must pick one of them or ask for a new list of recommended candidates.

Local interest in the appellate vacancy apparently has waned with the selection commission's failure to endorse Criminal Court Judge Ann Lacy Johns, who had been mentioned as a potential contender.

Besides Judge Brown and Clement, other candidates for the Probate Court judgeship include Robert R. Galbreath, assistant general counsel for the Tennessee Department of Health; Richard E. Norman Jr., an attorney specializing in wills, estates, business and domestic matters; Thomas E. Nelson, who ran unsuccessfully for a Criminal Court judgeship and practices criminal and domestic law; and Jeffrey Mobley, a lawyer who also handles wills, estates, business and divorce cases.

Retired Circuit Court Judge Fred Kelly of Gallatin continues to preside over Probate Court pending the appointment process. Kelly's services were requested by the state supreme court.

**CIRCUIT COURT JUDGE BARBARA HAYNES** has put out a call for volunteers to serve as guardians for estates of ward (Guardian Ad Litem) in many of the cases under probate jurisdiction.

Haynes, presiding judge over the state's trial courts, said attorneys interested in the appointments should either "call or write" her office to be placed on a list for consideration.

Haynes also expressed disappointment over a delay in the release of a two-year study by a statewide commission on court reform. "We expected the report to come out in November," she said, "but now we understand it won't be released until sometime in January."

The study, commissioned by the Tennessee Supreme Court, will critique the status of the state's judiciary and propose what is expected to be dramatic changes for the future.

Meantime, Haynes has released the following list of standing committees to oversee business of the state trial courts during the current fiscal year.

### State Trial Court Standing Committees

#### BUDGET

- \*Thomas Brothers..... Circuit
- Hamilton Gayden..... Circuit
- Ellen Lyle..... Chancery
- Seth Norman..... Criminal

#### CIVIL MOTION PRACTICE

- \*Walter Kurtz..... Circuit
- Robert Brandt..... Chancery
- Irvin Kilcrease..... Chancery
- Ellen Lyle..... Chancery

#### DOMESTIC RELATIONS

- \*Muriel Robinson..... Circuit
- Marietta Shipley..... Circuit

#### Case Assignment/Judicial Resources

- \*Walter Kurtz..... Circuit
- Robert Brandt..... Chancery
- Marietta Shipley..... Circuit
- Thomas Shriver..... Criminal
- J. Randall Wyatt..... Criminal

#### JURY IMPROVEMENT

- \*Barbara Haynes..... Circuit
- Thomas Brothers..... Circuit
- Irvin Kilcrease..... Chancery
- J. Randall Wyatt..... Criminal

#### LONG-RANGE SPACE PLANNING

- \*Thomas Brothers..... Circuit
- Robert Brandt..... Chancery
- Seth Norman..... Criminal
- Muriel Robinson..... Circuit

#### JUDICIAL INFORMATION SERVICES

- \*Ann Lacy Johns..... Criminal
- Robert Brandt..... Chancery
- Thomas Brothers..... Circuit

#### EXECUTIVE COMMITTEE

- Robert Brandt..... Chancery
- Walter Kurtz..... Circuit
- Muriel Robinson..... Circuit
- J. Randall Wyatt..... Criminal

#### MENTAL HEALTH ASSIGNMENTS

- Hamilton Gayden..... Circuit
- \*Committee Chair

## Busy Rooker Takes on State Clerk Role

As circuit court clerk, Richard Rooker's work day begins with the crow of the rooster and continues well past the ringing of the dinner bell.

He doesn't mind the demanding schedule; his father did it before him and the routine became ingrained in him as a matter of hero emulation.

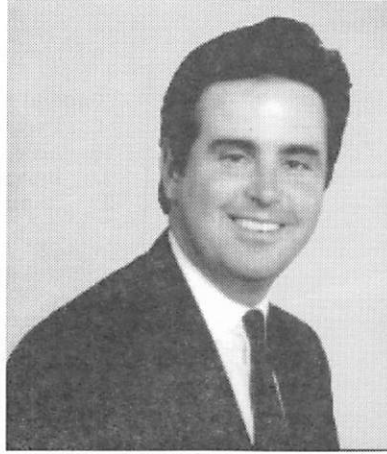
Richard Rooker knew what he was letting himself in for when he sought and successfully won the right to fill his late dad's shoes. And he has taken to the job like a duck takes to water.

Whether it's responding to requests from the 16 judges he serves, attempting to resolve case-related procedural problems, or returning a credenza-filled list of daily phone calls, Rooker continues to enjoy the experience after three years at the helm.

He is ultimately responsible for a diverse clerical operation that last year collected and distributed almost \$46 million from matters ranging from traffic fines to child support and condemnations to civil torts.

One would think that such a monumental task would sap the desire to take on other responsibilities. But Rooker has defied that assumption by maintaining an active role in civic organizations, political functions and high school sports.

At the youthful age of 33, Rooker communicates well with youngsters and seldom turns down an opportunity to speak before youth groups, which he sees as the backbone of the future.



**RICHARD R. ROOKER**  
...president of state clerks

Despite all of the aforementioned activities, Rooker now finds himself with yet another assignment. He was installed last month as president of the Tennessee Court Clerks Association, a statewide consortium of elected judicial officers, 220 strong. As such, he will coordinate all the organization's business activities for the coming year and preside over thrice-a-year meetings across the state.

His approach to the job is positive.

"I don't view my position with the association as merely a resume item," he said. "The clerks have a significant role in the inner workings of the state's judicial system and it is essential that they remain cohesive. As president, it is incumbent upon me to keep the clerks informed of new laws and rules that might affect their operations. That is a charge I take very seriously."

Rooker is the second Nashvillian to head up the state clerk group in the past three years. Juvenile Court Clerk Kenny Norman held the position two years ago. Rooker replaces Criminal Court Clerk Martha Phillips of Knox County as president. The top spot next year will go to

Circuit Court Clerk Janice Jones of Gibson County.

While the clerks' association is an entity within itself, most members also belong to the larger County Officials Association of Tennessee (C.O.A.T.). Consequently, installation of officers for the clerks' association is held during the annual C.O.A.T. convention, which was hosted by the city of Knoxville this year.

## Two Department Staffs Cited for Job Excellence

Two departments under Circuit Court Clerk Richard Rooker have been recognized for outstanding job performances.

The child support division received a plaque from Maximus of Davidson County, citing the staff for its "outstanding contribution in child support collections."

And the Nashville Bar Association adopted a resolution endorsing the "effective" and "efficient" operations of the probate court clerk's office at a time when Probate Court itself is "under intense scrutiny and considerable criticism."

The latter endorsement was unanimously recommended by the bar association's Probate Court Committee, which asked that the resolution be circulated among members of the Metro Council.

"The one issue on which all committee members agreed was that the probate court clerk's office, staffed with competent and cooperative personnel, is operating extremely effectively and efficiently," the bar panel wrote in support of the resolution.

Rooker said he was "extremely proud" of personnel in both departments and "flattered that the jobs they do every day are deserving of such rave critique from two distinguished service clients."

Maximus is a private corporation under contract to bring dead-beat parents into compliance with child support directives issued by the courts. The company each year recognizes departments within government that are most cooperative in that effort.

The probate court committee serves as a watchdog entity of the bar association and, as such, reports on total operations of that court and its associated services.

## *A Special Lady Gets Special Day in Court*

Only a handful of persons showed up to contest traffic charges in General Sessions Court last Oct. 18.

Too bad. The special event that took place that day was well worth the price of tickets.

That was the day when Pamela Inman was made an honorary court officer in recognition of her outstanding Special Olympics contributions to both the city and state.

It was a day when General Sessions Judge Casey Moreland approved and participated in a volley of frivolity with a young lady whose radiant smile and winning personality have made her "special" in and out of the Olympics.

The photograph on our front page -- courtesy of L. E. Johnson of the Metro Identification Department -- portrays the smile that has warmed the hearts of those who have shared moments of her life. Look closely and you can see the mischief of a child shining through the glow.

"She gave me her autograph, and she signed it to 'Forrest Grump' from 'Vandy Pam'," chuckled court officer Forrest Garrett. "That gal's a real cutup," added fellow court officer Ronnie Crow.

The references are obvious, especially the moniker she placed on her own name. She just might be Vanderbilt's number one fan. And why shouldn't she be? The school has enabled her to play out an important chapter of her life.

It was at Vanderbilt that Pamela displayed the gymnastic and swimming talents that earned her the title of "Special Olympics Athlete of the Year." And it was that accomplishment that inspired Judge Moreland to issue a genuine court order declaring the 21-year-old Metro homebound student "a winner in every respect."

In appreciation for having her special day in court, Pamela presented Moreland with a University of Tennessee emblem, commemorative of his alma mater.

# \$ DATA BANK

Statistics compiled for the month of October

**Case Information**

**Circuit Court**

New Civil Cases Filed .....	388
Civil Cases Concluded .....	313
New Divorce Cases Filed .....	310
Divorce Cases Closed .....	253

**General Sessions Civil**

New Cases Filed .....	3,016
Executions Issued .....	2,540
Judgments Collected .....	\$561,751
Orders of Protection Petitions .....	196

**Probate Court**

New Cases Filed .....	157
Cases Closed .....	117
Cases Retired .....	0

**Traffic Violations**

Moving Citations .....	18,242
Parking Violations .....	7,999
Total Fines Collected .....	\$294,334
Nullifications .....	1,677
Nullification Fees Collected .....	\$15,093

**Circuit Court Jury Trial Verdicts**

Week of October 2

Case	Type	Court	Verdict
93C-1235	Product Liability	1st	Defendant
94C-2614	Auto Accident	5th (P)	\$24,000
95C-904	Slip/Fall	6th	*Defendant

Week of October 9

Case	Type	Court	Verdict
94C-825	Auto Accident	2nd (P)	\$35,626

\*Directed Verdict.

## Employees Increase Charity Donations

Employees of the four departments under Circuit Court Clerk Richard Rooker contributed a grand total of \$3,721 to the Metro Employee Consolidated Charity Campaign this year. That represented a slight increase over last year's \$3,639 gift.

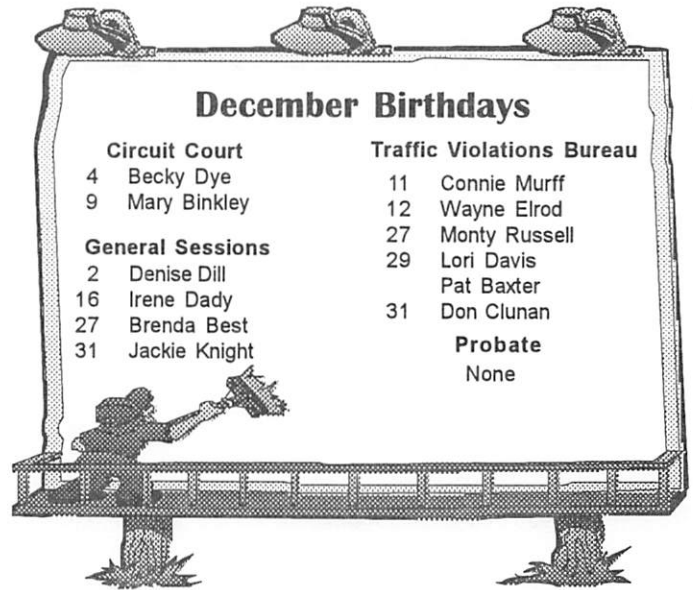
In addition to the MECCC campaign, workers traditionally respond to other charity requests, including the Second Harvest Food for Families crusade, March of Dimes and various Christmas projects for needy people.

## Rooker Report

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Established by George L. Rooker (1929-1993),  
(Circuit Court Clerk, 1968-1993)

Richard R. Rooker ..... Circuit Court Clerk  
Gene Baker ..... Editor



## December Birthdays

**Circuit Court**

- 4 Becky Dye
- 9 Mary Binkley

**General Sessions**

- 2 Denise Dill
- 16 Irene Dady
- 27 Brenda Best
- 31 Jackie Knight

**Traffic Violations Bureau**

- 11 Connie Murff
- 12 Wayne Elrod
- 27 Monty Russell
- 29 Lori Davis
- Pat Baxter
- 31 Don Clunan

**Probate**  
None

## Cheers...

After our story last month on three of our traffic warrant officers being high school sports officials, General Sessions Judge **Casey Moreland** dropped by to let us know that he, too, was a wearer of the zebra stripes. We already knew that, your honor. We just didn't want there to be too many players on the field...While we're on the subject of players, an important member of Metro's Central Printing team has retired her uniform. **Willie M. Canady**, longtime captain of the Peabody Street printing squadron, said goodbye to her teammates at an Oct. 20 luncheon at the shop. On hand for the fried chicken farewell party was her boss, director of Metro's General Services **Sam McPherson**, along with a number of other department supervisors who had nice things to say about Willie's career in government. And since Ms. Canady made sure our **Rooker Report** got the attention it deserved for almost three years, we add our congratulations for a job well done...That same message goes out to two of our own employees who experienced the miracle of birth earlier this month. Both are deputies in our circuit court clerk's office. For **Ronnell Griffin** and husband **Adrian**, it was a first when son **Adrian Devohn Griffin** made his appearance, weighing in at 7-pounds, 15.5 ounces and measuring 20.25 in length...That event occurred only a few days after **Bill Riggs** and wife **Angie** became parents for the second time. Son **Jackson** tilted the scales at 7.5 pounds, stretched over a 21-inch frame. He will make a neat playmate for brother **Jonathan**...Those of you who have missed the pitter-patter of **Dot Patton's** fast-moving feet clicking along the tiled flooring of the Ben West Building will be happy to know that rehearsals are again underway. The feisty General Sessions secretary is easing back into her job following foot surgery, sporting a soft cast that prevents her normal sandpiper pace. "I just can't get used to moving so slow," she tells coworkers. We have no doubt that this is only a temporary condition...Finally, in honor of the season, we turn to our Cajun in residence **Ed Chauvin** for a refresher course on preparing "fried turkey," a delicacy in the Louisiana Bayou country. You'll need one whole turkey, salt, pepper, Creole seasoning and three gallons of peanut oil. Thaw and dry the turkey well before coating it in abundant amounts of the aforementioned spices. Then place the bird inside a large pot of peanut oil that has been preheated to 375 degrees over a propane gas burner. Cook for about four minutes per pound. When the turkey rises to the top of the pot, turn it until completely cooked. Be sure not to puncture turkey with a fork. This will cause it to lose moisture. When the bird is properly prepared, it will be moist on the inside and crusty on the outside, says the Traffic Bureau's chief clerk. In Louisiana, they serve it with dirty rice. But cornbread dressing may be more suited to your taste.