

Rooker Report

February 1997

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HAPPY BIRTHDAY TO US!

With this edition, the Rooker Report begins its fifth year as an uninterrupted monthly newsletter publication.

Over the past four years we have attempted to inform both the legal community and the general public of developments within the four areas of administrative functions performed by the circuit court clerk's office.

Although the newsletter is not offered through subscription, countertop display provides gratis access to all persons doing

WELCOME TO YEAR FIVE

business with circuit court, general sessions civil, probate court and traffic violations.

It was the diversity of the circuit clerk's responsibilities that prompted the newsletter's inception in 1993. Since that time, our goal has been -- and continues to be -- to promote a better understanding of how each department operates with special emphasis on the roles of people and technology involved. Happy reading!

NUMBERS UP FOR NEW JUDGESHIPS

◆ Second of Two Parts

Lawmakers at two levels are being asked to provide additional judgeships to help Davidson County's court systems keep pace with bulging caseloads and innovative approaches to civil dispute resolution.

During the coming months, the Metro Council must decide whether to expand the nine-division General Sessions court for the first time in a quarter of a century. And the current term of the Tennessee

General Assembly will vote on a similar request by the county's Circuit Court judges, who have gone even longer without expansion.

By design, the new judgeships (if approved) would become effective in 1998 to correspond with countywide judicial elections.

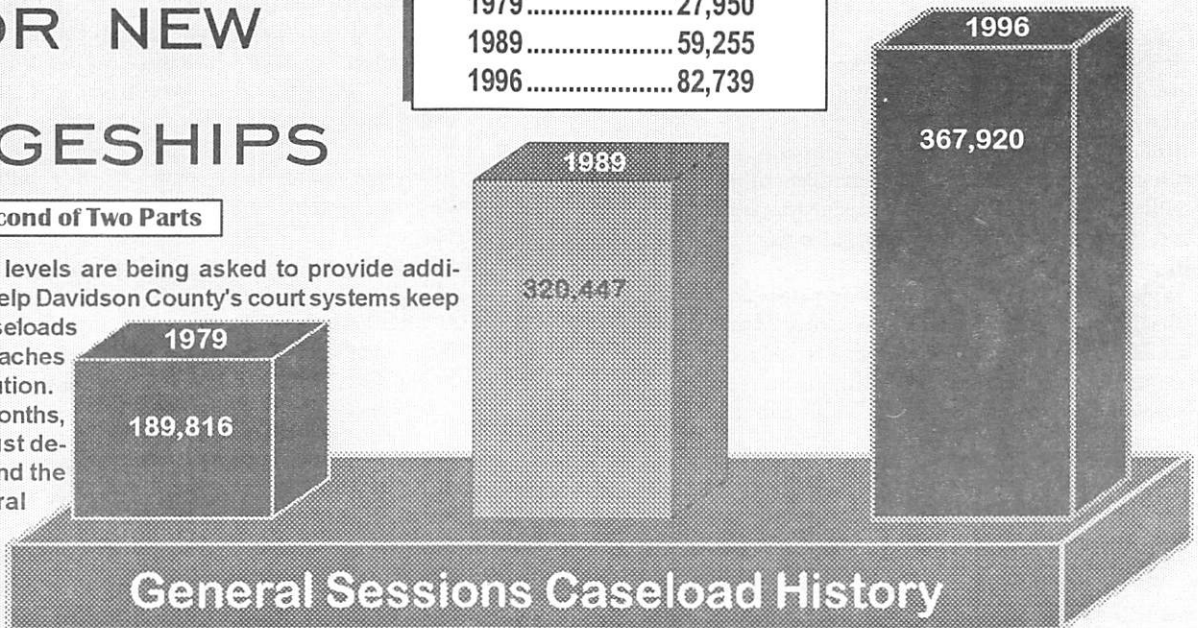
General Sessions judges are asking for two more courts to cope with continuously growing criminal dockets and to provide more courtroom space for greater case management efficiency and public convenience.

The Circuit Court request for one extra judgeship is predicated on the growing popularity of alternative dispute resolution programs that have expanded administrative responsibilities of current judges, who foresee greater strain as the new settlement mechanisms continue to snowball.

Traditionally, court expansion requests have received favorable reaction from lawmakers because of social impact. At some point, the majority of all citizens require the services of the courts at one level or another.

CRIMINAL CASE GROWTH

1979.....	27,950
1989.....	59,255
1996.....	82,739



From a financial standpoint, taxpayer investment appears negligible, compared with the windfall benefits each of the expansions could generate. Whether it be in the form of savings from fewer jury trials or swifter justice for the criminally abused, returns to the community are evident.

Judge Leon Ruben, spearheading the General Sessions crusade, estimates an annual expenditure of \$650,000 for court personnel salaries, but admits other undetermined costs will be necessary to cover increased expenses for associated agencies involved in the daily operations of the courts.

The same type of expenses would apply proportionately to the circuit court expansion, according to Circuit Court Judge Hamilton Gayden, who said no final decision had been made as to how much additional space would be required to accommodate another judge.

On the other hand, additional space is a prerequisite for the sessions courts, with or without expansion approval. Currently, there are only seven courtrooms for the nine judges, who travel

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(From Page 1)

THE CASE FOR MORE JUDGES

between three different buildings to tend to their assigned dockets. And because each docket continues to grow, some of the existing courtrooms are not large enough to accommodate the number of litigants. That is especially true on the third floor of the courthouse where criminal dockets have grown so large in number that fire code violations occur almost daily by over-occupancy in each of the two courtrooms.

A remedial plan proposed by the Department of General Services would convert the second floor of the Stahlman Building to a total judicial venue, including modular spacing to accommodate up to three courtrooms. Additionally, there would be permanent office spaces for two judges and their staffs, plus related agencies. Court Administrator Warner Hassell already has relocated his permanent office there.

The proposed floor plan is designed to primarily accommodate criminal cases, which constitute a lion's share of the total sessions caseload and which represent the thrust of the court expansion request.

Since 1979, when the courts initiated a statistical breakdown of cases by type, criminal dockets have grown by 196 percent, maintaining an annual average growth rate trend of 12 percent. In contrast, civil case dockets have increased by only 2 percent a year, state and local traffic by 6 percent and judicial committals by 3 percent. Only in the category of environmental and Metro codes citations has there been a slight (2 percent) downward turn.

In 1979, each of the nine judges presided over 21,091 cases for the entire year. Last year, the same number of judges disposed of 367,920 cases -- an average of 40,880 cases per judge.

Under the current work rotation system, each judge is allowed five weeks of non-courtroom duties and the equivalent of one week to attend judicial conferences. They would sacrifice about a week of their non-courtroom time in exchange for smaller shares of the workload if two more judgeships are approved.

While the expansion vote is awaited, judges are continuing to seek more effective procedural methods in a variety of areas. For example, a new screening process under consideration would reduce the number of spurious requests for misdemeanor warrants by requiring proof of merit by complaining parties. Judges estimate that almost 50 percent of all such warrants issued under current rules are never acted upon by "victims."

Ideally, each warrant request would be investigated by an appointed representative of the district attorney general's office to determine what action is merited, said Judge Mike Mondelli, who envisions limiting such warrant requests to specific hours five days a week.

"As it stands right now," said Mondelli, "no investigation is made and warrants are issued based purely on a person's word. We need a new policy that will provide a follow-up before a warrant is issued."

Another area of dissatisfaction among judges is the manner of traffic violation dispositions. Most judges contend that far too many traffic offenders are making court appearances unnecessarily and that a more convenient method is needed to accommodate those who merely wish to pay their fines.

Mondelli is one of those favoring change. "Nobody should have to come to court on a traffic ticket unless he or she wants to contest the charges," the judge said. "Otherwise, they should be able to simply mail in the fine or request traffic school, which is the exact sequence of events that take place when they come to court."

Presently, printed envelopes are furnished to persons receiving certain minor non-moving citations. The charges are nullified if the offender mails in proof of compliance and a \$9 service fee.

While there is no mail-in system for more serious offenses, the idea has been explored with an eye toward reducing court appearance dockets. Thus far, however, the complexities of ticket design and clerical adaptation have cooled enthusiasm for the plan.

An area of more personal concern to the judges is the practice of appointing qualified replacements during their absence. It is commonly known as

the "special judge" issue and has been a stigma for as long as memory serves. But resolution now appears to be on the horizon with the forthcoming introduction of legislation easing certain limitations now in effect.

Ruben said a bill will be introduced in the current session of the state legislature that will allow General Sessions judges to interchange between counties, a practice now prohibited by state election laws. The new law, if passed, will be compatible to recently adopted guidelines establishing a pecking order for choosing substitute judges.

The selection process will require a first effort be made to locate another judge -- either active or retired -- from within the same county as the absent judge. If there is not a judge available, a judge from another county can then be requested. Only when those two steps fail can a private attorney be approved to sit.

Unlike General Sessions courts, which are funded by local tax dollars, the Circuit courts are under the umbrella of the state and, as non-revenue-producing entities, must justify their operating costs without benefit of high monetary return. For that reason, expansion requests from individual judicial districts are carefully weighed against the potential benefits to a particular legal community.

Before his untimely death in 1995, the late Judge Jim Everett successfully promoted the reclassification of the Probate Court he served to give it equal jurisdiction with the Circuit courts, beginning in 1998. When the change takes effect, the court's operating budget will become the responsibility of the state rather than Metro -- a factor that favors the General Sessions expansion request but which conceivably could be a liability to the Circuit plan.

However, the six circuit courts will realize little, if any, real benefit from the probate status change. Because of its obligation to its own bulging probate and DUI dockets, the probate court can offer little contribution to the workload of its counterparts, judges contend.

Presiding Judge Hamilton Gayden emphasizes that the term "workload" is not necessarily synonymous with the number of cases to be reconciled by the courts. The "new age" approach to dispute resolution, while gaining in popularity and more effective conclusions, has created greater administrative responsibilities for judicial staffs, thereby absorbing resources previously devoted to more standard trial methods.

But the exchange is producing more predictable results in shorter periods of time and at less cost and inconvenience to taxpayers, Gayden stresses.

The concept has met with such success that the Tennessee Supreme Court has embraced it and established procedural guidelines for its application. Rule 31 sets the ground rules for all phases of alternative dispute resolution, from pretrial settlement conferences to case evaluation, arbitration and mediation.

During the past 12 months, Gayden notes, the county's civil courts conducted approximately 390 settlement conferences with a 73 percent success rate, poignantly reflecting the future of the concept.

See illustration, Page 3

In an effort to keep pace with the growing demand, circuit judges set aside one week each month on an alternating basis to handle nothing but settlement requests. Because of her proven track record, Judge Barbara Haynes serves as the chief settlement judge.

"The demand for settlement conferences and the specific demand for Judge Haynes has now surpassed our capabilities," Gayden notes, adding that "litigants can now secure a trial date before a settlement date."

With other phases ready to be added to the program, such as the incorporation of authorized mediation outside the courts, symptoms of growing pains are intensifying at a rapid clip. But judges feel that an additional judgeship would be an effective medication.

Ideally, an extra judge would enable the permanent assignment of one judge -- probably Haynes -- to exclusive dispute resolution duties, thereby freeing up the other judges to conduct other pressing court business.

Appeals Procedure Rule Now 'Strictly Enforced'

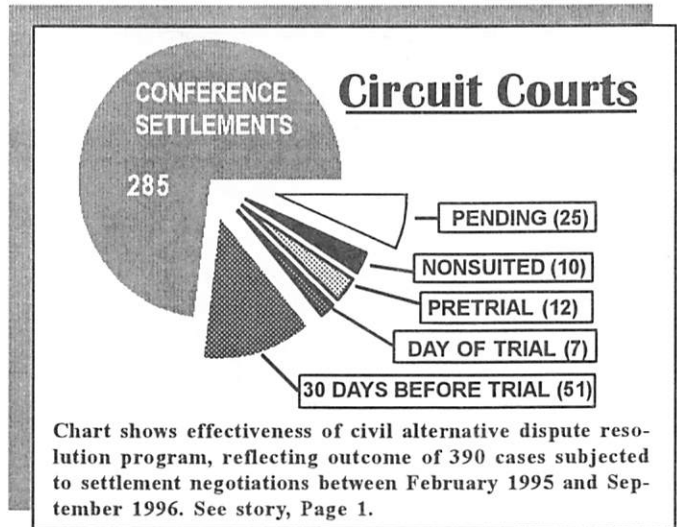
Attention attorneys!

If you file a motion to set a General Sessions appeal for hearing in Circuit Court, you have 45 days to file a signed "order to set" or the suit will be dismissed at your client's expense.

Circuit judges say they no longer will ignore the 45-day deadline adopted by the courts two years ago as an amendment to Local Rule 19.

The rule states, in part, that sessions appeal cases "shall be set for trial within forty-five (45) days. If the case is not set within forty-five (45) days, an order will be entered making the judgment of the General Sessions Court the judgment of the Circuit Court with costs taxed to the appellant."

There have been no changes to the rule, but judges have been lenient in their enforcement. Now, however, strict adherence is being required without exception, according to presiding judge Hamilton Gayden, who clarified the courts' position in a recent memorandum.



etc. ROBINSON'S INTERVIEW TAKEN BY STORM

When an NBC News television crew came to Nashville last month for a story on domestic violence, General Sessions Judge Gale Robinson was happy to oblige a request for an interview on the subject.

Donning black robe and assuming a judicially proper posture inside a courtroom adjacent to his office, the cooperative Robinson devoted a lengthy period of time to fielding questions from reporter Kenley Jones while cameras grinded away.

Finally emerging from the courtroom, Robinson was greeted by a number of associates who had curiously gathered in a hallway after peeping at the proceedings through small panes of the courtroom door.

"I'm going to be on NBC News," announced the obviously proud judge, not immediately divulging the basis for the interview. "You can watch it on the evening news on January 25," he advised the inquisitive group, then explaining that he had discussed the judicial role in the war on domestic violence.

The small gallery disassembled, each making mental notes to catch the telecast, which was slated for a week or so later.

But, alas, the interview was never shown.

The series of deadly tornadoes that did massive destruction in Middle Tennessee that week was deemed to be more important by the network.

A major portion of the domestic violence story was aired on the network's morning newscast the following Monday, emphasizing Nashville's effectiveness in dealing with the social disease. But those who had anxiously awaited Robinson's interview were disappointed.

So, as a consolation, we offer this depiction of how the judge *would* have looked.



Speaking of television, Circuit Judge Barbara Haynes guested on Channel 4's A. M. Nashville twice following the O. J. Simpson civil trial, offering analyses of the jury verdict and answering questions from viewer call-ins.

Of the \$25 million punitive damages awarded to the families of the two victims, Judge Haynes opined that the seemingly large amount was perhaps fitting for California, but undoubtedly would have been considerably less had the trial been held in Tennessee.

"We're much more conservative here," she surmised, "and we should be."



CIRCUIT'S HAYNES
...sizes up O.J. verdict

Upon returning from a national judicial conference in Key West last month, General Sessions Judge Sue McKnight Evans expressed excitement over the knowledge she acquired on the trip.

"It was a very eye-opening experience," she said, making special reference to the issue of sexual harassment. "Most of it doesn't apply here," she added, "but it sure was shocking to learn some of the things that are going on in other parts of the country."

Justice Information Systems, the agency working to link the county's justice community through computer technology, has promoted two employees who helped originate the JIS OnLine newsletter.

Director Dick Ashby said editor Terri Sullivan and page designer Lee Robinson have been elevated to other key positions within the agency.

Christy Coleman has been named to replace Sullivan as editor and Mircille Scoggins has filled Robinson's job as page designer.

Nashville attorney Knox Walkup beat out an impressive slate of candidates to become state attorney general, replacing Charles Burson.

Burson turned over the reins on Valentine Day.

Walkup should feel comfortable in his new role. He served as chief deputy attorney general from 1985-89 and was solicitor general from 1989-93, credentials that helped sway his selection over 10 other candidates for the prestigious post.

Walkup was graduated from Harvard Law School in 1972, followed by a partnership in the law firm of Gullett, Sanford, Robinson and Martin.



KNOX WALKUP
...attorney general

In his new post, Walkup will earn \$104,676 per year. His duties will include representing the state in civil litigation, prosecuting criminal cases in the appellate courts and providing legal advice to state agencies and the state legislature.

Among other applicants for the post were Margaret Behm, William Hubbard, and Susan Short Jones, all of Nashville.



DATA BANK

Statistics compiled for the month of January

Case Information

Circuit Court

New Civil Cases Filed.....	295
Civil Cases Concluded.....	441
New Divorce Cases Filed.....	303
Divorce Cases Concluded.....	315

General Sessions Civil

New Cases Filed.....	3,499
Executions Issued.....	3,121
Judgments Collected.....	\$514,270
Orders of Protection Petitions.....	163

Probate Court

New Cases Filed.....	174
Cases Closed.....	112

Traffic Violations

Moving Citations.....	20,780
Parking Violations.....	10,703
Total Fines Collected.....	\$297,877
Nullifications.....	2,207
Nullification Fees Collected.....	\$19,863

Circuit Court Jury Trial Verdicts

Week of January 6

Case	Type	Court		Verdict
94C-4029	Auto Accident	2nd	(P)	\$404,882
95C-2427	Auto Accident	5th		Defendant
93C-2313	Auto Accident	1st	(P)	\$50,000
94C-3427	Med. Malpractice	6th		Hung Jury
94C-3194	Dog Bite	1st		Defendant
96C-136	Contract	5th	(P)	\$19,380
96C-1295	Contract (GSA)	1st	(P)	\$850

Week of January 13

Case	Type	Court		Verdict
95C-961	Auto Accident	5th	(P)	\$302,000
94C-217	Auto Accident	2nd	(P)	\$47,000

Walk on Wild Side With Laarz

Virginia Laarz has put on her walking shoes again and is looking for others to do the same for the upcoming Walk on the Wild Side charity walkathon.

The deputy circuit court clerk is hoping to match her efforts of last October when she amassed the highest individual amount of pledges (\$1,240) for the Walktober Fest in Murfreesboro, an annual event that benefits the American Diabetes Association.

Walk on the Wild Side also is co-sponsored by the diabetes association, of which Laarz is a staunch supporter. Persons interested in participating in the March 22 walk or sponsoring someone else should contact her at 862-5181. The walk will begin at 9:30 a.m. at the Nashville Zoo -- rain or shine.

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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

March Birthdays

Traffic Violations Bureau

3 Nita Jones
12 Roy Bohannon

Probate

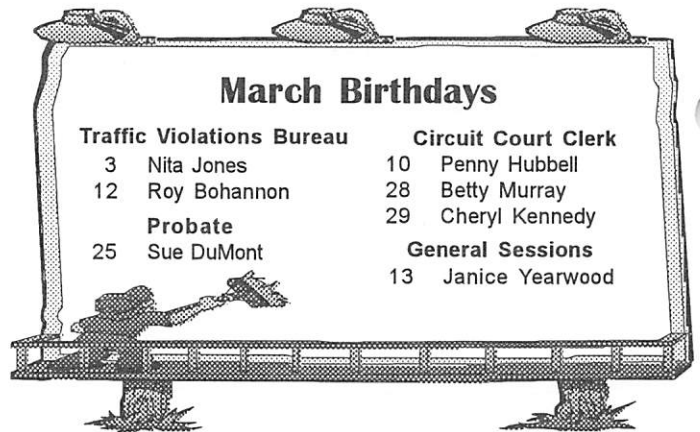
25 Sue DuMont

Circuit Court Clerk

10 Penny Hubbell
28 Betty Murray
29 Cheryl Kennedy

General Sessions

13 Janice Yearwood



Cheers...

Believe it or not, Green Bay Packer fans weren't the only ones celebrating on Super Bowl Sunday. In fact, the Packer victory over the Patriots was anticlimactic to the cheers being sounded at Baptist Hospital that day. While first-quarter action was just heating up in the Super Dome, roars were going up in the hospital's maternity ward as **Ruth Harton Binkley** crossed the goal line at 5:42 p.m. Quite a score for mom **Mary Binkley**, a deputy circuit court clerk, and husband **David**. Their little trophy was 18 3/4 inches tall and just missed weighing 7 pounds by half an ounce. Super!...Speaking of newborns: The reason for that permanent smile on the face of attorney **Blake Freeman** these days is a recent gift from the stork. Wife **Teresa** made the presentation on Jan. 16 at the Summit Medical Center. **Mikaela Nicole Freeman**, the couple's first child, weighed 7 pounds, 7 ounces and measured 20 inches from head to toe...Meanwhile, **Anna Williams** has returned to her job with the Traffic Violations Bureau following maternity leave. You might recall that Anna's son **Justin Clay Williams** arrived on her birthday last Dec. 1...The long careers of two dedicated public servants came to an official close last month when Metro Postal Service employees **Marvin Campbell** and **Billy Chunn** were toasted at a joint retirement party in the mailroom that was their second home for so many years. Campbell chalked up 39 years and Chunn 21 1/2 years in servicing the courthouse and other downtown government offices. **Mayor Phil Bredesen** acknowledged the pair's longevity with certificates and autographed photographs...Also retiring -- this month -- is police **Lt. James Avril**, head of the department's Youth Guidance Services division. Co-workers, friends and associates saluted Avril's 28-year police career at a retirement party at department headquarters.

...Tears

Tragedy struck twice during the past month for General Sessions Judge **William Faimon** and his family. Following the Jan. 16 death of attorney **Charles Frazier**, the judge's former law partner, Faimon's wife **Peggy** received word that her mother, **Mrs. Dennis Summers**, had passed away. Mrs. Summers was the widow of the late General Sessions judge. We extend our deepest sympathy to the Faimons and to the families of the following people who also left us:

Attorney **Reber Boulton**, 89, retired senior partner in the law firm of **Boulton Cummings Connors & Berry** and one of the community's most active barristers of all time.

Attorney **J. Ross Cheshire Jr.**, 83, who practiced law for half a century before his retirement in the 1980s. He was the father of **James R. Cheshire III**, also an attorney.

Attorney **Alan Campbell DeBusk**, 50, who passed away suddenly. Mrs. **Ona Ennis Eagan**, grandmother of Metro Clerk **Marilyn Swing**.

Mrs. **Sarah Ann High Bradshaw**, 95-year-old grandmother of Probate Clerk & Master **Bob Bradshaw**, died at her home in Hartsville.

Mrs. **Hettie Gregory**, 79, retired deputy criminal court clerk, passed away suddenly on Feb. 12