



Court Historical Society NEWSLETTER



Eastern District of Tennessee

MARCH 2006

Into the Fields

A procedure that hasn't been used by this court in 16 years called for court emissaries to go into the countryside to evaluate land condemned by the federal government.

Those doing the work were commissioners appointed by the court under Rule 71A(h) to review the land in question. They would drive to the county where the property was located and meet with the landowner and the lawyers for both sides.

All of them would then review the property in question, often walking a considerable distance across fields and pastures.

The three-member commission would then schedule a hearing, usually in Knoxville--the court division that most often used a land commission. Both sides would be present, and the commissioners would hear evidence, and at the conclusion, prepare a report for the court, recommending the amount of money that should be paid to the landowner. Copies of the report went to both sides.

The judge almost always adopted the findings. Either side could appeal to the district judge for a rehearing or to the U.S. Court of Appeals if they disagreed with the judge's ruling.

Knoxville lawyer **Kenneth M. Gresham, Jr.**, served as the chairman
continued on page 2

Acquisition of Posters

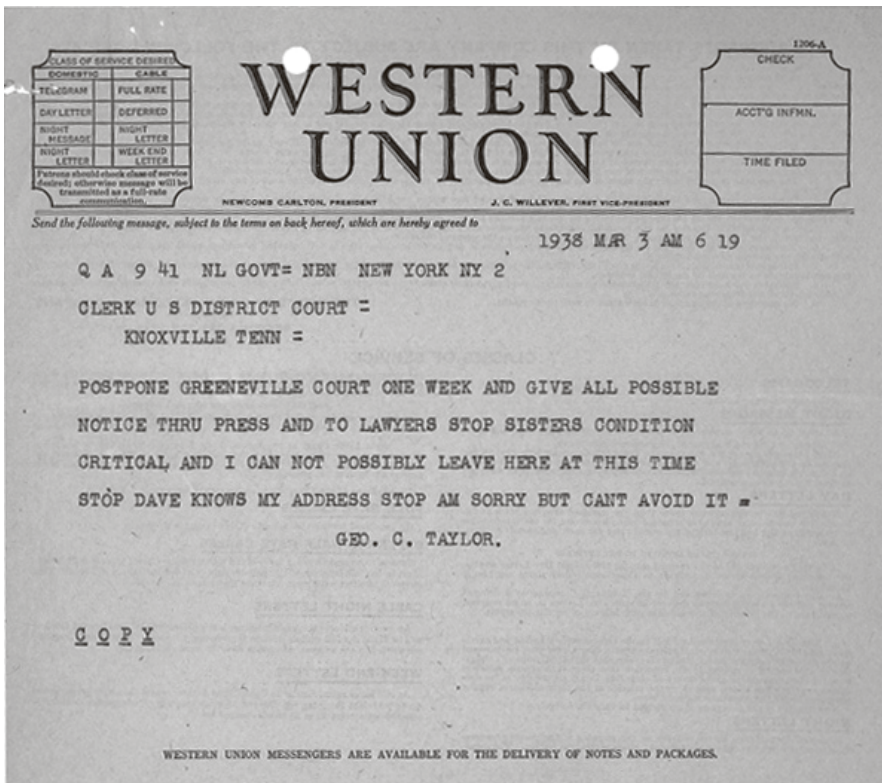
Through a special effort by your Historical Society executive director, we have been able to acquire several sets of large, color posters (2 feet by 3 feet) that were prepared in 1989 under auspices of the Judicial Conference of the United States commemorating the bicentennial of the Judiciary Act of 1789.

We remembered the posters and wondered if any remained, thinking they would make good historical displays in our district.

A representative of the National Archives and Records Administration in College Park, Maryland, said the remaining few posters were stored away in that office and that we were welcome to them. We have two sets of the posters already on display, one in the Greeneville courthouse and another in the Chattanooga courthouse. We plan to prepare others for display in the Knoxville and Winchester courthouses.

Titled "And Justice for All," the posters summarize specific cases reflecting federal court jurisdiction over the years. Each poster is illustrated by reproductions of exhibits that were used in the cases. The posters cover pollution, trademark, antitrust, bankruptcy, labor, segregation, treason, and naturalization, and

continued on page 2



A Rare Sight Today

This is a telegram sent by **U.S. District Judge George C. Taylor** in 1938, directing the court clerk to postpone court. The telegram was among old papers on file in the clerk's office in Greeneville and was reproduced by the Court Historical Society and placed on display in the James H. Quillen U.S. Courthouse last year. The telegram becomes even more significant today since Western Union announced in January that it would no longer offer its telegram service. This telegram was sent during the period when telegrams reached their peak popularity--in the 1920s and 1930s--when it was cheaper to send a telegram than it was to place a long-distance telephone call. To illustrate the diminishing use of telegrams over the years, a 51-year-old government official said recently, when Western Union's decision was being discussed, "I'm 51 years old and I've never seen a telegram." ■

Into the Fields *continued from page 1*

of the commission that in 1990 last functioned for the court. Each commission consisted of a lawyer chairman, who ruled on the legal issues, and two others who were not lawyers but individuals who had knowledge of land values, usually a real estate agent, an industrialist or businessman, and in one instance, a retired utility chief.

In describing the commissioners' work, Mr. Gresham recalled that often "we would have to walk a good distance to the property. We had to get a fair understanding of what the property looked like, how it laid, and see what effect the taking of the land was going to have."

"Our job was to arrive at the value of the land taken and the incidental damages to the remainder of the property," he said.

When asked if any of the property owners were belligerent, Mr. Gresham said, "Oh yes, the biggest number of them were; that's the reason they hadn't settled the case before it got to us. Of course, they weren't belligerent toward the commissioners. We tried to be fair with everybody and give everyone a chance to be heard."

Sometimes, though, the setting was quite friendly, he said. "On occasion, when we would get to the property owner's house and before we went out into the field, he would have sausage and biscuits for the whole crowd. Of course, that didn't influence our decision, as the commission report included detailed reference to the evidence heard on which our decision was based."

"Often, we would be out in a rural area, and we would all--the property owner, the attorneys, and the commissioners--gather at a restaurant or cafeteria and eat lunch. Everyone paid for his own lunch," Mr. Gresham said.

Most of the cases handled by the commissioners involved land that the Tennessee Valley Authority condemned for rights-of-way for transmission lines or other projects, but there were other properties, such as those that Knoxville's John Duncan Federal Building stands on and the land condemned for the construction of the twin tunnels at Cumberland Gap, which, in 1990, was the last case to be heard by a commission.

Not a great number of federal courts across the country use land commissions today for determining the value of land taken by the government. Under the provisions of Rule 71A(h), a landowner can ask to have a jury hear his case, and the judge may grant the request or hear the case without a jury, or the judge can refer the case to a commission. Often, however, the cases have settled before trial. ■

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

Don K. Ferguson
Executive Director and Newsletter Editor
Howard H. Baker Jr. U.S. Courthouse • 800 Market Street, Suite 130
Knoxville, Tennessee 37902
865/545-4234, Ext. 222 • Don_Ferguson@tned.uscourts.gov

Acquisition of Posters *continued from page 1*

one summarizes the legislation that created the judiciary and depicts copies of the original act.

The earliest case profiled deals with pollution and dates to 1884, proving that pollution, while a lively subject today, was also a concern in earlier years. That case is detailed below. The other posters will be profiled in subsequent issues of this newsletter.

* * * * *

**Edwards Woodruff v North Bloomfield Gravel Mining Co.
1884, U.S. Circuit Court for the District of California**

Miners lured to the California gold rush of 1849 sought their fortunes at the expense of the environment. In a landmark case in 1884, a federal judge decided that the environmental cost was too high. After panning for gold in streams was no longer profitable, hydraulic mining came into being, a process whereby huge streams of water under tremendous pressure were aimed at the mountainsides, dislodging gold-bearing gravel.

Hillsides were washed away and the waterways filled with tons of sand, gravel, and other mining debris. Devastating floods occurred. Because the mining was taking place on federal land and waste was being dumped into navigable waterways protected by federal law, a landowner, Edwards Woodruff, whose property had been damaged, brought a suit in federal court.

The court found the effect of hydraulic mining to be a "public nuisance" and granted an injunction prohibiting North Bloomfield Gravel Mining Co. and others from dumping mining waste into the Yuba River and its branches. "The injunction represented a major victory for agriculture and the environment," the poster summary says. ■

TV Appearance

Our Historical Society has been invited to tell the story of its formation and its accomplishments in a closed-circuit television segment to be presented by the Federal Judicial Center to the entire federal court system. The videotaping will take place in late April.

The Court Historical Society for the Eastern District of Tennessee is the only district court to be invited to participate in the program. We are one of only about a dozen district courts in the country that have history programs in full swing. There are, however, several at the circuit level.

The FJC wants to use our Society to show other courts how a society is formed and how historical memorabilia is collected, preserved, and exhibited. A big part of the taping will take place in the History Suite on the first floor of the Howard H. Baker Jr. U.S. Courthouse in Knoxville.

While in the district, the FJC will also videotape a segment on the court's telephone interpreting operation, the program by which language interpreting is done by staff interpreters in other courts by way of a telephone connection with the Eastern District of Tennessee courts, a program that saves a considerable amount of money by avoiding the necessity of having court-certified interpreters travel to East Tennessee. ■