

# Bar Briefs

## *Legislative Counsel Speaks at Lunch Meeting*

### **Bar Association Honors New Lifetime Members**

Members of the New Hanover County Bar Association enjoyed good food, pleasant company and a varied program at a luncheon meeting on May 2 in the Coastline Convention Center.

Four new Lifetime Members of the Bar Association were recognized by President William A. Raney.

They were David C. Barefoot (Wake Forest, '63), Helen K. Hinn (UNC, '83), Frances Y. Trask (UNC, '83) and Elizabeth A. Weis (Pittsburgh, '90).

The honor is accorded to lawyers who are 65, who have been practicing law for at least 30 years and who have practiced in New Hanover County for a substantial part of that time.

The guest speaker for the luncheon was Michelle Frazier, legislative counsel to the N.C. Bar Association.

During a typical legislative session, there are some 40 to 60 bills on the state Bar Association's legislative agenda, Ms. Frazier said.

Notable successes in recent sessions have been the enactment of prohibition of the death penalty for the mentally retarded and dedicated funding for Legal Services programs.

Also on the Bar Association's agenda was a bill to

abolish the torts of alienation of affection and criminal conversation, and a bill to allow District Attorneys more discretion in deciding whether to seek the death penalty.

A looming crisis in the General Assembly is funding for the state's judicial system, which is receiving ever smaller portions of the state budget. In the current year, only 2.6 percent of the budget was allocated to the judicial system.

## *Bar Social Set*

By MIRIAM MASON THOMPSON

Please join fellow members of the New Hanover County Bar Association for fun and fellowship at Level 5, 21 North Front Street (rooftop bar), on Thursday, June 19, from 5:30 p.m. to 7:30 p.m.

Beverages and light food will be served, compliments of your hard-earned Bar Association dues.

Come enjoy the beautiful scenery and the stimulating company of your fellow members.

Level 5 now has a tarp for the outside area, so plan to come rain or shine.

## **Trial Court Administrator**

### *Arbitration Program May Be Discontinued*

By DAVID MICHAEL

Here are several items of interest from the office of the Trial Court Administrator.

#### **Arbitration Program**

It appears that the Arbitration Program will be discontinued effective June 30.

The General Assembly failed to appropriate funds for either the arbitration coordinator or for the

arbitrator fees related to this program.

There is no final budget at this writing, so the program remains in limbo.

#### **Courthouse Construction**

Courthouse construction is coming to a close. New security and single-point-of-entry restrictions will soon become effective. This will increase courthouse safety for staff,

for the public and for attorneys.

#### **Judge Rotation**

Superior Court Judges rotating in for the six-month period starting July 7 are Judges Fullwood, Hockenbury, and Lanier.

#### **Schedule of Courts**

The schedule of courts for 2004 has been submitted to Raleigh. Civil court dates in 2004 are available on a first-come, first-served basis.

## Wilmington's Legal Legacy, III

**Walter Parker Stacy: Lawyer, Judge, and Chief Justice**

By John W. Smith

The last two editions of Bar Briefs discussed our first popularly elected Superior Court Judge, Daniel Russell (1845-1908), and the Wilmington Law School which operated from 1913 until 1941. This article will introduce Walter Parker Stacy, a star in the crown of Wilmington's legal legacy to our state.<sup>1</sup>

Judge Stacy was born on December 26, 1884, in Ansonville, which is located north of Wadesboro in Anson County. His father was a Methodist minister and he was the fifth of twelve children. His mother died when he was seven years old.<sup>2</sup> He enrolled at UNC in 1902, and, after a two-year hiatus during which he served as principal of Ingold school, he received his B.A. degree in 1908. While at Chapel Hill, he was a winning debater and was inducted into the Order of the Golden Fleece.<sup>3</sup>

He remained at the University and taught history while studying law and was admitted to the bar in 1909. After serving as principal of Murphy School in Raleigh, he moved to Wilmington in 1910.

Upon his arrival in Wilmington, he formed a firm with George Kenan in offices located in what was known as "The Southern Building" located in the 100 block of N. Front Street. Stacy and Kenan had been classmates at Chapel Hill. The partnership lasted from 1910 until 1916.

Stacy served as County Attorney beginning in 1914 and was elected to the N.C. House of Representatives in 1915. At that time, George Rountree Sr. announced his resignation from the Superior Court bench, and Governor Locke Craig appointed Stacy to fill Rountree's vacancy. Stacy assumed office on January 1, 1916.<sup>4</sup> At the time of his appointment, New Hanover County was in the Eighth Judicial District with Pender, Brunswick, and Columbus Counties.

On February 14, 1920, Judge Stacy resigned, effective March 1, and was succeeded by Judge Edward Henry Cranmer. Stacy resumed his practice with his former partner in the Southern Building. However, he quickly filed for a seat on the North Carolina Supreme Court, won the contested primary elections, and was elected in the November general elections of 1920.

While serving on the Supreme Court, he received an honorary LL.D. degree from UNC, and was offered the deanship of the Law School by the Board of Trustees in 1923, an offer which he declined.<sup>5</sup>

On March 16, 1925, Chief Justice W. A. Hoke resigned and Governor Angus McLean appointed Stacy to complete Hoke's unexpired term. Through the next four statewide elections, he was reelected without opposition. He held the office of Chief Justice for 26 years. It was reported following his death that he was both the youngest chief

justice ever elected and the longest-serving chief justice in the history of the state.

During his tenure, Chief Justice Stacy served as the first Chairman of the North Carolina Board of Law Examiners following the creation of that board by the legislature in 1933. He was appointed by Presidents Coolidge, Hoover, Roosevelt, and Truman to a number of national boards and panels to help resolve railroad labor disputes. He wrote over 1,500 opinions reported in fifty-four volumes of the Supreme Court Reports.

Among the cases he heard were cases presented and argued by many illustrious Wilmington lawyers, including his predecessor on the Superior Court bench, George Rountree Sr., and one of his successors on the bench, John J. Burney Sr. The language of some of his decisions is eloquent. His decision in the celebrated murder trial of Ves Wingler in Wilkes County was often quoted. In it, he departs from the brevity for which he was famous, and writes:

*"This is a remarkable case in many respects. Its opening scene is one of romance; it then moves on from suggested intrigue to ultimate tragedy. So far as our records disclose, it is without a parallel in the judicial history of the State. It seems to stand alone and apparently is sui generis.*

*"Three decades ago, Ves Wingler, with axe in hand, cut from the virgin forests of Wilkes County the logs and the timbers with which he built upon the mountain side a crude and humble hut for himself and Candace Wingler, his wife. Here this couple started life together in a*



Chief Justice  
Walter Parker Stacy

*rough, rugged, mountain home--a log cabin, in fact--but to the deceased it was at least a stable and a manger. The only means of getting in and out of this country at that time was by a wagon road and by walkways which led across ridges and hollows and creeks. In winter there was a scene of leafless branches, snow-covered peaks, and frozen brooks; and that was poverty. But the defendant and his wife were not daunted by the dangers of the inaccessible hills, nor by the frightful stories of the mountain coves. They started life with high hopes and with a faith that knew no fears, waiting and praying for the dawn of a better day.*

"It matters not on what plane of life one labors, nor how large or small the number of his acquaintances, the man who toils and yet knows that in the circle of his influence there is at least one life in which there is sunshine where but for him there would have been shadow; that there is at least one home in which there is cheer where but for him there would have been gloom; that there is at least one heart in which there is hope where but for him there would have been despair, that man carries with him as he goes one of the richest treasures on this earth. This was the goal for which Ves Wingler was striving thirty years ago. But, alas, another story is told. He soon grew weary of his wife, and for some reason, not clearly disclosed by the record, he took her life in a cruel and heartless manner. Evidence of the crime was concealed at the time; he married again, raised another family, and, after the lapse of twenty-nine years was arrested, tried, convicted, and sentenced to the State's Prison. Though justice sometimes treads with leaden feet, if need be, she strikes with an iron hand. Verily, the wages of sin is death, and sin pays its wages.

"The supreme tragedy of life is the immolation of woman. With a heavy hand, nature exacts from her a high tax of blood and tears. The age of knighthood has passed and is gone, but let us hope that the spirit of chivalry may never die. No civilization can last where women are permitted to be butchered like sheep in the shambles. Surely there is no pleasure to be derived from the punishment of the wicked, but it would seem that this defendant ought to welcome an opportunity to expiate his crime and to make some atonement for it. No doubt, in his own conscience, he has already suffered the agony of remorse. How, through the many years, has it been possible for him to banish from his mind the vision of the woman who, in the days of her youth, put her hand in his, with a promise to forsake all others and to follow him? At the altar she vowed, in substance, that "whither thou goest, I will go; and where thou lodgest, I will lodge; thy people shall be my people, and thy God my God." Can the defendant ever forget that momentous hour when this woman, with heroic courage, took immortality by the hand and went down into the valley of the shadow of death that his child might live? And then, can he for a moment cease to hear her screams of terror as she fled from his murderous hand?

"There is no error appearing on the record, except the great error of the defendant in murdering his wife; but this is a mistake which is beyond our province or power to correct. ... The trial and judgment of the Superior Court will be upheld."<sup>6</sup>

And in another case, he wrote:

"That the result is disastrous to the defendant, we are fully aware. His personal plea in behalf of himself and those dependent upon him, while unusual, was not without its sympathetic appeal. Blasted hopes and shattered dreams are always heartrending. The ministry of suffering is not

easily understood; it is difficult to comprehend. Each individual and each family has about as much sorrow as it can bear. Consequently, the administration of the criminal law is freighted with many unpleasant tasks. But wrong is never right, and with a record free from reversible error, our one duty is to affirm."<sup>7</sup>

Justice Stacy also had a sense of humor which caught the attention of The Honorable Sam Ervin. Ervin recounted the story of Cherokee County lawyer Marshall Bell who had discovered that the church he represented had received a deed from a benefactor. Instead of properly naming the church as the grantee, the grantor had made the deed to "God Almighty, his heirs and assigns in fee simple." When the lawyer asked Stacy his opinion about how to clear the cloud on the title, Stacy is reported as answering "...with a grin on his face and a twinkle in his eye..., 'Brother Bell, you have a simple legal remedy for your problem. All you have to do is bring a suit against God Almighty in the Superior Court of Cherokee County to quiet title to the lot, show by affidavit to the satisfaction of the court that God can not be found in Cherokee County, and serve him with summons by publication.'"<sup>8</sup>

Justice Stacy married Maude deGann Graff in 1929. She died in 1933. They had no children. Following his death on September 13, 1951, a portrait was dedicated in the Supreme Court chambers by his family. Lengthy and laudatory remarks were recorded by the Honorable Fred Helms, by Justice Denny, by the Supreme Court Marshall and Librarian, and by Chief Justice Devin. The eulogies conclude with this summary:

"His life was a calculated sacrifice to a noble end deemed worthy. Within the ambit of the law he found the opportunity to burgeon out to the fullest those rare talents which were his. Much of the warp and woof, which is the tapestry of North Carolina law, is his handiwork."<sup>9</sup>

<sup>1</sup> Principal Sources: Crockette Hewlett & Leora McEachern, *Attorneys of New Hanover County 1724-1978*, Wilmington (1979), p.176; Family notes; and *Presentation of Stacy Portrait* in 238 N.C. Reports (Strong) appendix, p 748.

<sup>2</sup> His parents were Rev. Lucius Edney Stacy and Rosa Johnson.

<sup>3</sup> From UNC Website: "Founded in 1903, ...Considered the highest honorary at the University of North Carolina at Chapel Hill, the Golden Fleece selects its members based upon service to the University as reflected in scholarship, motivation, creativity, loyalty, and leadership in academic and extracurricular pursuits."

<sup>4</sup> It was reported at the time of his appointment that he was the "youngest Superior Court Judge in the annals of the state" at the age of "30 yrs., 11 mos., and 4 days." However, it appears that Judge Daniel Russell was 22 years old when elected from New Hanover County in 1868.

<sup>5</sup> Louis R. Wilson, *The University of North Carolina. 1900-1930*, UNC Press (1957) p. 552.

<sup>6</sup> *State v. Wingler*, 184 NC 747 (1922).

<sup>7</sup> *State v. Pace*, 210 NC 255 (1936)

<sup>8</sup> Sam Ervin, *Humor of a County Lawyer*, UNC (1983), p.10.

<sup>9</sup> Remarks of Dillard S. Gardner, Atty., 238 N.C. (Strong) 766. ("Warp and woof" are terms for weaving fabric on a loom.)

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## End May Be in Sight for Courthouse Renovation

The renovation and expansion of the New Hanover County Courthouse will, definitely will, be completed in the foreseeable future, according to Brenda A. Tucker, Clerk of Superior Court.

"Please be patient with us. The end is in sight," Ms. Tucker has said.

Attention is now being focused on the Civil Division of the Clerk's office, which is to be greatly expanded.

On June 26 and 27, most of the Civil Division computers, which are temporarily in the space on the Third Street side of the civil file vault, will be taken out of service so that they can be moved to an enlarged space on the Fourth Street side of the vault.

One or two of the Civil Division computers will

remain in service during this time, along with two cash registers for regular business transactions.

From about June 30 until July 3, partitions in the Civil Division will be taken down and reconfigured.

Then, on July 7, the computers will be reinstalled and brought back on line.

The Civil Division will not be closed during any of these times.

"Assistance may be a little harried, but regular business will be conducted," Ms. Tucker said.

The courthouse snack bar is scheduled to re-open in mid-July.

Sessions in Courtroom 317 are expected to resume on Monday, July 7.

## Bar Association Members Assist with Teen Project

New Hanover County Bar Association members participated as mentors and presenters to middle school students in the law-related education portion of the UNCW-Teen Leadership Experience on

Law Day, May 1.

More than 30 lawyers volunteered, according to coordinator Dolores Williams, an attorney for the City of Wilmington.

The program, which seeks to reduce violence by training young people in law, leadership and conflict resolution, reached more than 850 students in New Hanover County, Ms. Williams said.