

## New Hanover County Bar Association

# Bar Briefs

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## Bar Association to Embark on New Year With Evening Cruise on Riverboat Henrietta

The Annual Meeting of the New Hanover Bar Association will be held somewhere on the Cape Fear River this year.

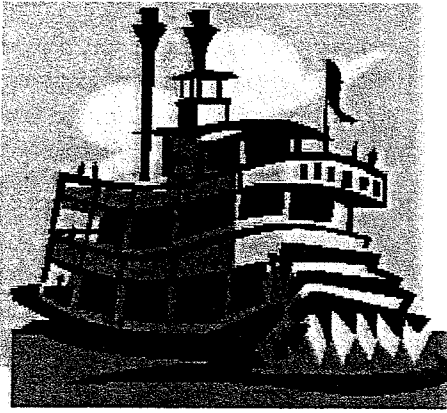
The Bar Association has booked the Riverboat Henrietta III for an evening cruise on Thursday, October 9. The cruise will also serve as the Association's Annual Meeting.

This event will replace the family picnic, which has been poorly attended for the past several years. Spouses and significant others will be welcome as guests, but no children, please.

On the Annual Meeting agenda are the election of officers for 2003-04 and the election of three new members to the Board of Directors.

Nominees for officers include Jenna Butler for president and John W. Smith for vice president. Nominees for three seats on the Board of Directors are Robert James, Bruce Mason, Ruchadina Waddell and Delores Williams.

The cruise will last from 6 p.m. until 8 p.m. Boarding will begin at 5:30 p.m., at the Henrietta dock on Water Street



at Dock Street.

On-street metered parking and paid parking at Second and Market are the best parking options.

Limited paid parking is available at the small lot at Water and Dock Streets.

The cruise will include hors d'oeuvres, and limited adult beverages and soft drinks. Additional beverages will be available at a cash bar. The cruise will proceed up one of the branches of the Cape Fear to the relative wilderness lying just minutes from downtown Wilmington.

The Henrietta has significant enclosed areas, so the cruise will proceed rain or shine. (The cruise will probably be cancelled if hurricane warnings have been posted).

This is a good opportunity to enjoy the benefits of Bar Association membership and to do so without intrusion on valuable weekend time.

Reservations are requested for planning purposes. Please contact Joyce Neal at 762-7475 on or before October 1 at 5 p.m. for reservations.

## *New Hanover Bar Association News, Announcements*

### **YLD Officers elected**

The Young Lawyers Division of the New Hanover County Bar Association elected new officers in August.

They are Robert B. Jones, president; Christopher Behm, vice president; and Hal Kitchen, secretary-treasurer.

### **YLD to 'Bridge the Gap'**

The New Hanover County Bar Association Young Lawyers Division will host its second annual "Bridge-the-Gap" program on Friday, September 26, at 1:30 p.m.

This program is for new lawyers in the area to meet judicial and administrative officials and to tour the newly renovated courthouse.

The program will be held in the County Commissioners' Chambers of the old New Hanover County Courthouse at Third and Princess Streets in downtown Wilmington.

Food and refreshments will be provided by Chicago Title Insurance Company.

All interested lawyers are invited to attend.

### **New Lawyers Welcomed**

Edwin J. (Ed) Tisdale has opened a solo general practice at 206 North Fourth Street, Suite 12. He moved here from Charlottesville, Virginia, after nearly 11 years with LexisNexis/The Michie Co. He is a 1991 graduate of the UNC-Chapel Hill School of Law. He may be reached at 343-4992 or [edtisdale@yahoo.com](mailto:edtisdale@yahoo.com).

Benton L. Toups has joined the litigation section of Ward and Smith, P.A.

### **Holiday Party Date Set**

Bar Association members should mark December 13 on their calendars. This is the date scheduled for the annual Holiday Party.

It will be at the City Club again this year.

## Wilmington's Legal Legacy

*New Hanover County Superior Court Judges 1868-1913*

By John W. Smith

When Judge Fullwood recently decided to hang the portraits of our past Superior Court Judges in the new Superior Courtroom, I was asked if I had a list of all of the judges who had served from Wilmington. While I knew all of the judges since George Rountree, I did not know who all of his predecessors were. To my surprise, I could find no listing anywhere, and because of the changes in the counties within the district over the years, it is no easy task putting a list together.<sup>1</sup> However, this is information which needs to be kept by the Bar Association.

Some years ago, Croquette Hewlett, Addison Hewlett's wife, tried to put together a comprehensive listing of all of the attorneys who had ever practiced law in Wilmington. Her book<sup>2</sup> is a valuable resource in trying to reconstruct the list of judges, but following the Civil War, a number of the judges for our district came from surrounding counties and are not listed in her book.

At the portrait dedication held on February 10, 2003, a pamphlet was produced which lists the judges since Judge Rountree. I thought it would be useful to provide to all of the members of the bar a listing of all of the judges from at least the time we began selecting our judges by popular election until Judge Rountree began serving. This article will memorialize those who held the office from the election of Judge Russell in 1868 until Judge Rountree began serving in 1913.

In the first article in this series, we included a comprehensive biography of the first popularly elected Superior Court Judge from Wilmington, **Daniel Lindsey Russell**, who went on to become Governor of the State of North Carolina. He served as judge from 1868 until 1875.

In a hotly contested election of 1874, Judge **Almand Alexander McKoy**<sup>3</sup> from Clinton, in Sampson County, defeated Judge Russell and in 1875 became our second popularly elected Superior Court Judge. At the time of his election, New Hanover was contiguous with Sampson County. Pender County was created out of New Hanover the following year. His grandfather was Almand Hall, a Wilmington newspaperman and printer.<sup>4</sup> Judge McKoy attended U.N.C. from 1846-'47. He was a Colonel in the Confederate Army during the Civil War and could not hold office until he received a pardon from Andrew Johnson on September 26, 1865. He was a delegate to the

Almand A. McKoy<sup>3</sup>

abortive Constitutional Convention of 1865, which adopted several constitutional amendments in an unsuccessful attempt to be restored to the Union.<sup>5</sup> He did not attend the subsequent 1868 Convention which adopted a new constitution that endured until the adoption of our current constitution in 1971. Sampson County was originally included in the Fourth District with Wilmington in the Constitution of 1868, but had been immediately moved to the adjacent Fifth District. By 1874, the post-reconstruction legislature restored Sampson to Wilmington's district and added the more conservative counties of Onslow and Carteret from the Third District in an attempt to unseat Judge Russell.<sup>6</sup> McKoy won by a wide margin after campaigning on his Confederate war record.<sup>7</sup> When he first began serving, New Hanover was in the Fourth District. During the middle of his tenure, New Hanover became part of the Third District (1879-83). And towards the end of his term, New Hanover became part of the Sixth District.<sup>8</sup> He served as a Superior Court Judge until his death on November 11, 1885.<sup>9</sup> His son, Thomas Hall McKoy, began practicing law in 1879 with two McKoy cousins as "The McKoys" in Wilmington.

Following the death of Judge McKoy, **Edward T. Boykin** was appointed as his successor by Governor Scales on November 25, 1885. He was born near Clinton on December 28, 1854. He graduated from Trinity College with honors in 1854. He studied law with Smith & Strong in Raleigh and was admitted to the Bar in 1876. He served as a Representative to the N.C. House from Sampson County in 1881 and in the N.C. Senate in 1883 and 1885. He resigned from the court on January 1, 1897, and died the following year.<sup>10</sup>

**Oliver H. Allen** was from Kinston in Lenoir County, and served as a Superior Court Judge from January 1, 1897,<sup>11</sup> until 1922. He graduated from Trinity College in 1871.<sup>12</sup> He began serving in what was designated as the Sixth District which consisted of New Hanover, Sampson, Duplin, Greene, Pender, Carteret, Jones, Onslow, and Lenoir Counties. In 1901, it appears that Judge Allen's district was denominated the Fifth District, but still included New Hanover County. Around 1913, the districts were reorganized. Judge Allen remained in the Sixth District, and **George Rountree Sr.** became Superior Court Judge in a new Eighth District consisting of New Hanover, Brunswick, Columbus, and Pender.<sup>13</sup> Judge Allen continued serving as a judge of his separate Sixth district until he was succeeded in 1922 by Henry A. Grady of Clinton. Judge Allen brings us up to

the appointment of Judge Rountree in 1913 when New Hanover was transferred out of Judge Allen's district.

In addition to this regular succession of Superior Court Judges, there were legislatively created special courts presided over by judges who

were also considered to be Superior Court Judges. One of those courts was called the *Criminal Circuit Court*. **Oliver Pendleton Meares** was born February 28, 1828. He graduated from U.N.C. in 1848, and was admitted to the Bar in 1850. He served over the Criminal Courts in Wilmington and is listed in the Supreme Court Reports as a Judge of the *Criminal Circuit Court for the Eastern District* in 1879. It appears that he presided over the criminal courts intermittently between 1867 and 1897.<sup>14</sup> He died in Wilmington Nov. 21, 1906.

Another of those special judges was **Egbert Kedar Bryan** who was appointed *Criminal Circuit Court Judge for the Eastern District* in 1901.<sup>15</sup> He was born August 23, 1870, in Kenansville, was educated at U.N.C., studied law with Frank Thompson in Jacksonville, and was admitted to the bar in 1891. While studying law, he served as a deputy sheriff in Onslow County. He began practicing law in Wilmington with Daniel Russell in 1892, and then with A.G. Ricaud when Russell became governor. Judge Bryan apparently held only two sessions of Criminal Court in Wilmington in 1901, the last being on July 2. After that session, his Criminal Circuit Court was abolished and its jurisdiction was transferred to the Superior Court.<sup>16</sup> In 1943, he was elected president of the New Hanover County Bar Association. Judge Bryan died on March 4, 1945, in Wilmington.<sup>17</sup>

#### Notes

<sup>1</sup> The formation and rearranging of the judicial districts over the years is a subject worthy of a future article. New Hanover has been in Districts 3, 4, 5, 6, 7 (by drafting error in 1913 c.196), and 8; and has been combined with 16 counties since 1868.

<sup>2</sup> Croquette Hewlett & Leora McEachern, *Attorneys of New Hanover County, 1724-1978*, Wilmington, NC, 1979.

<sup>3</sup> His name is variously spelled, with some of the N.C. Reports and relatives using "McKay;" his family biographer using "Almand;" and most state records and appellate reports using "Allmand." See Henry Bacon McKoy, *The McKoy Family of North Carolina*, Greenville, S.C. (1955). McKoy's photo is from that volume.

<sup>4</sup> *Dictionary of North Carolina Biography*, Wm.S.Powell, ed.; UNC Press, 1991.

<sup>5</sup> He was one of nine members who voted against the repeal of the act of secession. See 184 NC Reports 798 (Strong, appendix).

<sup>6</sup> Russell had run as a Republican. All of his successors were Democrats. In an effort to retain his seat, Russell saw the shift in

#### Resident Superior Court Judges From 1868-1920

*With the dates they began serving*

Daniel L. Russell	1868
Almand A. McKoy	1875
Edward T. Boykin	1885
Oliver H. Allen	1897
George Rountree	1913
Walter Parker Stacy	1915

#### Criminal Circuit Judges

Oliver Pendleton Meares	1879
Egbert Kedar Bryan	1901

politics and became an Independent, and later a third party "Greenbacker" (in Congress) and then a Fusionist-Republican (as Governor). The creation of Pender and the transfer of the other counties into his district were all a part of the struggle to balkanize Wilmington and New Hanover, which remained largely Republican, and to reduce its voting strength in the legislature. The move was eventually successful. Wilmington did not produce another local Superior Court Judge until the appointment of Rountree in 1913, and even he, although practicing law in Wilmington, had been born and started practicing in Kinston. See 1873 Session Laws c. 50; and William McKee Evans, *Ballots and Fence Rails*, U.Ga. Press (1995), pp.30, 38, 167-171.

<sup>7</sup> The *Star News* reported on one of his Wilmington campaign appearances at which he spoke "eloquently" about the sacrifices of Confederate war veterans. He campaigned against Russell and the Reconstructionists.

<sup>8</sup> Eure & Cheney *North Carolina Government 1585-1974*, N.C. (1975) p. 586 ff. See p. iv of volumes 72 & 92 of the N.C. Reports

<sup>9</sup> McKoy, *op. cit.*, p.116, quotes the 11/12/1885 *Wilm. Star* obituary: "As a jurist he will not rank with the great legal lights of our State. But a more merciful, a better meaning Judge never sat upon the Bench.... Judge McKoy had fewer decisions reversed by the Supreme Court than any Judge who has ever been in our state." A quick count of the appellate reports shows he was upheld 125 times, reversed 66 times, and had judgments modified 5 times.

<sup>10</sup> *The Heritage of Sampson County*, p.54 f.; and Bill Reaves Files (1992) in the New Hanover Public Library: citing the *Wilmington Star* of 11/25/1885 & 11/27/85; and *Raleigh Chronicle* of 8/3/1890. Boykin was married twice, first to Keturah G. Bizzell who died in 1885 and then to Ada Rogers. An entry in *The Heritage of Sampson County* reports: "Died 1898 while addressing a 'Red Shirt' meeting, and was buried at Concord, N.C." The "Red Shirts" was a paramilitary white supremacist organization active in the Wilmington area. They played an active role in the elections of 1900. In the 1898 elections, Gov. Russell had issued a proclamation enjoining activity by these "armed men, using threat, intimidation, ...and actual violence." See Jeffery Crow & R.Durden *Maverick Republican in the Old North State: Daniel Russell*. (LSU.Press, 1977),p.128-36,151 ff.

<sup>11</sup> He was appointed by Governor Carr on Dec. 10, 1896.

<sup>12</sup> See East Carolina University Library, Wm. Carlyle Hatcher Collection, MSS. # 79, Oliver H. Allen Papers; and Lewis Publishing Co., *History of North Carolina* Vol. VI, p. 139. O.H. Allen was the brother of William Allen who was also a Superior Court Judge and later a N.C. Supreme Court Justice.

<sup>13</sup> 1913 S.L. c. 63.; 1913 S.L. c.196 (drafting error omits eighth district); 1905 S.L. c.373; 1903 S.L. c.533; 1901 S.L. c.28; 120 NC Reports, Preface, Session schedule (1896).

<sup>14</sup> See Hewlett, *op. cit.*, p. 104; and 93 NC iii.

<sup>15</sup> There is an entry in *History of North Carolina, Family and Personal History*, Lewis Historical Publications (1956), which reads as follows: "He was appointed to the bench of the Superior Court of the Eastern District of NC in 1901, the appointment being made by Governor Aycock to fill out the unexpired term of Judge Moore. When the Hon. Irwin Moore was the mayor of Wilmington, Judge Bryan served as city attorney." The Judge Moore referred to in this quote apparently refers to Judge Augustus M. Moore of Greenville who was a Criminal Circuit Court Judge of the Eastern District.

<sup>16</sup> *Wilmington Morning Star*, 3/10 & 3/17/1901.

<sup>17</sup> Obituary, *Wilmington Morning Star*, 3/5/1945.

**New Hanover County Bar Association**  
**Post Office Drawer 2180**  
**Wilmington, North Carolina 28402-2180**

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**John Collins**

**R. Russell Davis**

*Newsletter culpability:* **John Burns**

Phone: 343-8776/Fax: 343-8832

Net: [Barbriefs@aol.com](mailto:Barbriefs@aol.com)

## *President's Message*

# Bar Association Progress Seen in 2002-03

By **WILLIAM A. RANEY**

This will be my last message to you as President. It is appropriate to reflect on the organization at this point by taking a look at where we have been and where we appear to be headed.

My first message as President expressed my observation that our organization had grown from a small group of like-minded general practitioners to a very large and diverse group with a growing trend toward specialization.

I suggested then that we consider a more structured organization and that we consider the possibility of sub-organizations relating to areas of practice.

Not unexpectedly, there was not a great surge of volunteers with time and energy to organize "sections" of the local Bar. However, we have made some progress at the Board of Directors level in structuring the Board into committees with specific functions.

One next logical step in the process is to have Board members who chair the committees recruit volunteers outside the Board. This will help identify capable and interested members of the Association for leadership roles.

We have been fortunate to have willing volunteers such as Dolores Williams who have incorporated existing law-related programs involving volunteer lawyers into an official function of the Bar Association. More of these opportunities

are bound to exist. We have always been more of a professional trade organization and social club than a public service organization, but there is no reason why we cannot perform all of these functions well.

We still seem to have difficulty using Bar Briefs to get useful information out to our membership. Our editor needs copy. Send him your professional and personal news of interest. Births, marriages and changes of location or affiliation are all fair game. Send news to [barbriefs@aol.com](mailto:barbriefs@aol.com).

Thank you for your support for the last year. I leave you in good and capable hands.

## Register of Deeds Update

The new permanent address and location for the New Hanover County Register of Deeds Real Estate Section is 216 North Second Street, Wilmington, NC 28401.

Beginning September 9, New Hanover County will be the first county in North Carolina to go live with the Hart AiIndexing System. With this system, the goal is to have the permanent indexing of records available to the public within 3-4 days.

Vital Records will go live with the Vital Records System of Anthem the first week of September.