

# Tennessee Bar Journal

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**JOHN WATERS**  
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# JOHN WATERS, SEVIERVILLE

*"If the Tennessee Bar Association doesn't  
Speak for the lawyers in Tennessee then there's  
no one that does."*

by  
Gary N. Hunt, Editor

Earlier in the summer I did a little tour of parts of East Tennessee to meet with lawyers concerning some bar association matters. One of the places I visited was Sevierville, a lovely little town located in a wide valley along the foothills of the Great Smoky Mountains. Residents are friendly, cordial, and not very shy. They tend to tell you what they think.

I sat under a tent in the town square beside the courthouse and talked with John Fox, a reporter for the *Sevier County News Record*. We sat on metal cardtable chairs and before us—on a table—was a model of what downtown Sevierville may someday look like.

"We would like to reconstruct the downtown area like it was in the 1920's," Fox said. He held a pipe in his hand as we talked and occasionally he would try to puff on it but it would be out, so he would tap the tobacco down in the bowl of his pipe with his thumb, relight it—and let it go out again. He briefly pointed at a four-lane highway a block behind the courthouse. "Fifteen thousand cars go by us on that road every day," he said.

"Tourists?" I asked.

He nodded. "Mostly. We'd like to attract more people to the downtown area. We take a lot of pride in it."

One of the landmarks those of Sevier County took a lot of pride in is no longer there. As we sat on the lawn of the courthouse, Fox pointed across the street to a new brick building which supplies farmers and others with seed, feed, chickens, straw, flour and a thousand other products.

Temple Milling Company was having their Going Into the 50th Year celebration that day and people would be coming in from the fields and the hills all



day long to congratulate the Temples on their fine new building and to buy a few things and participate in the drawing for Effie's White Cake and various merchandise. And those who bought would collect a few free items, like a Purina pocketknife or a free box of cat litter deodorant.

"When the Temple mill burned in 1980 this town lost a landmark that will never be replaced," Fox told me and I could see a sense of loss in his eyes as he told me of the huge wooden structure which stood across from the courthouse for 64 years. They made flour there and sold seed and feed and in the fall the town square would fill up with people on the days they gave the hogs away. It was a drawing, you see, the Temple family's way of thanking their customers for doing business with them.

"The night it burned every fire company for miles around were here but all they could do was keep the rest of the

town from burning. And that was quite a job."

Actually, I had heard the story the night before from one of the principals of the Temple company—Patsy Waters. We stood on the patio of her ridgetop home about a mile from downtown Sevierville. The home is a long, low home snuggled into the top of a high ridge above the river. I could easily see the courthouse in the valley below as she told me about seeing the flames of the fire and rushing down to the Mill to try and save what could be saved—which included the Temple home where her mother still lives, located just across an alley behind the huge wooden mill.

Patsy and her brother, Jimmie, and her sisters—Frankie Cutshaw and Mary Joyce Hughes owned the mill, and now the new place. And they all work there. On the day of the grand opening, Patsy's mother, Effie Temple, sat in a chair and greeted her friends and lifelong customers. Although the fire was three years ago, they never lost a day's work and ran their business out of a small office and a warehouse that did not burn along with the other warehouses.

But I didn't go to Sevierville to see the architectural model, or to learn how many cars pass by the downtown area everyday. And I didn't go there to learn about the fire at the mill. I went there to talk to Patsy's husband—John B. Waters, President of the Tennessee Bar Association. I wanted to learn more about John because it's always nice to know the boss, and I also wanted to write an article so members of the TBA might know more about their president, his thoughts about lawyering and his thoughts about the legal profession.

John was born and raised in Sevier County, went into the Navy, and then came back and with his family, John III and Cyndy B., “went down” to Knoxville to attend the University of Tennessee School of Law. According to John, his father was a businessman—“more of a horse trader and dealer in real estate than anything.” His grandfather was a lawyer. He has seen Sevierville change from a rural farming community that flooded each spring to a community where people come from all over the world to view the splendid geography of Sevier County and the Great Smoky Mountains and a community increasingly attracting new residents who come there from all over the country to retire. The population has almost doubled in the last 10 years and Sevierville and Sevier County have become a prosperous community. He has been a part of that change and he has been a part of that prosperity.

It quickly became evident to me after talking with some of John’s neighbors, after talking with his wife, after visiting the two horses he keeps in a field on the bottomlands down the ridge below his house, after looking at his law office, and after walking around the streets of his hometown that Sevierville and Sevier County are very much a part of John Waters. I realized one cannot adequately understand John Waters without realizing just how much Sevierville and Sevier County are a part of his character.

In my interview with him, I asked him why he wanted to become a lawyer:

“I grew up in this little town of Sevierville,” he told me “and at the time I grew up my grandfather was the dominating figure in the family. He was my mother’s father and I admired him very much. He was a very strong individual who had served a term as Judge and was known and called Judge Paine (A.M. Paine—Ambrose Miller Paine). He was a very brilliant man. My mother, like most people, taught me to respect him.

“He had a very humble beginning as he had come across the mountain from North Carolina along with his father right after the Civil War with no education and he had to work very hard to get an education, which was difficult in this section of the country at that time.



John and Patsy Waters

“I remember him telling me that he was 21 years old before he knew that there was such a thing as a fraction. He didn’t realize there was anything smaller than *one*.

“That impressed me just how difficult it was to learn and to get an education. He came into Sevierville from up on the mountains where his family settled and he read law in an older lawyer’s office here and he passed the bar and got his license. Then he practiced law. He had a family by then, but he told me that he didn’t feel like he knew enough; that he didn’t have enough education, so he went to the University of Tennessee and graduated from law school in 1898 after he actually had a license to practice for six years.

“It impressed me that he was that interested in learning and it taught me the need of an education.”

John’s father was a businessman who became a business partner with his father-in-law, Judge Paine. John’s father was a Republican and Judge Paine was a Democrat, “So I grew up

hearing them argue politics,” John said.

“Those were the two strong influences in my life as a young man, so I decided I wanted to be a lawyer.”

However, when he received his undergraduate degree at the University of Tennessee, he was “kind of tired of going to school, really, like a lot of people.”

The Korean War had started, so he went into the Navy and graduated from Naval OCS and became an officer and served on a destroyer in the Atlantic. But the urge to become a lawyer remained with him even after he returned to Sevierville. Eventually, he went to law school at the University of Tennessee.

After law school, he joined with Pete Hailey, his brother-in-law, and began practicing law. That was in 1961. “It was a good time to start practicing law,” John said. “There was a lot of legal work to do and I feel like I was very fortunate, more fortunate than the young lawyers today.”

I asked him about his practice then

and John smiled. "Well, back when I first started practicing law, it was a little different situation than it is now. Say a serious crime was committed in a community. You had families involved. Families, of course, took sides. It was obviously not unusual to be employed to represent the defendant. But it was also not unusual back then that the other side would come in to employ another lawyer to assist in the prosecution."

He explained that the District Attorney General was from another county and the families were concerned he wouldn't have enough time to devote to the one case they were interested in. These attorneys were called "Special Prosecutors."

"So back then you got to see both sides of the criminal cases. I've defended some pretty big ones and prosecuted some pretty big ones.

"Often what we'd do if we were defending a big murder case is we'd go down to Knoxville and get Ray Jenkins to associate with us and he became the chief counsel and we just helped out. Ray was one of the great criminal lawyers of this area of East Tennessee. He's now dead. He was counsel in the famous Army-McCarthy hearings and got a lot of publicity in the early 50's and he was a brilliant criminal lawyer. He tried hundreds and hundreds of murder cases all over East Tennessee.

"One of the great experiences as a young lawyer was just to be associated with him and do his leg work and watch how he prepared for his case and how he interviewed his witnesses and how he worked and then how he tried it."

I asked him about the lawyers of today, how they got that experience?

"I suppose it's like this morning, for instance," he said. "I spent part of the day with an associate in my firm. I have a rather important case that's going to be tried the latter part of next month. He graduated about a month ago from UT Law School and we hired him. I told him a few weeks ago, 'I want you to help me with this case.' He's gone over the file and everything. So he came into my office this morning and we spent about an hour where he was telling me what he remembered from the file and some of his ideas and I was telling him what my

ideas were and how we would put together our defense—our client has been sued in this—how we would go about defending it. I hope that I can be kind enough to let him do part of it to learn and not just monopolize the whole thing like some lawyers tend to do sometimes."

But what about those who are unable to find employment in the traditional manner with a firm?

"They learn the hard way," John said. "And there are so many more of them than when I began and I'm afraid some of them are going to make some serious mistakes because it's not easy to get good guidance without being associated with the experience of older lawyers in firms.

"But it's not all dismal. Lawyers are willing to help, and judges too. Some of the most valuable help I had sometimes when I started was the lawyer on the other side. They all knew I was young and inexperienced and if there was something they could help me with that wasn't a detriment to their client, they'd help me learn my way. Lawyers just do that."

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Nevertheless, according to John, "I think this is an example of where the organized bar has to do some serious thinking. We have to address this problem because an individual lawyer can help some, but that's not enough. We've got to find a way to impress upon these more experienced lawyers—we've got to say, 'hey, look, you've got to look after these guys down the street from you. You've got to help lawyers who are struggling along'."

He mentioned that when he began practicing law in 1961 Sevier County had 10 lawyers. Now there are 38.

I asked him why lawyers feel they

should give back to the well from which they drew water.

"I'm not sure, I feel the same way about one's community. I feel that if I'm going to live in this community that I should try to help this community. If I think enough of it to live in it, I ought to try and help and solve its problems I ought to try and help make it a better place for people who come after me, or I ought to move somewhere else. But if I'm going to live here, this is my community.

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*"Hey, look, you've got to look after these guys down the street from you. You've got to help lawyers who are struggling along."*

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"I don't know, it's just a sense of belonging, I think. It would seem almost unbelievable to me that if you felt so strongly about a trade or a profession that you wanted to devote your life to it that you wouldn't want to contribute to it and make it better.

"When I went into practice my brother-in-law was my senior partner, still is, but he encouraged me to get involved with the bar. He believed I should do my part in the bar and realized it was going to take time out of the office and cost us money because the firm would pay my expenses.

"He knew that's part of it. He said there's no problem in doing that and we have tried always to contribute with time and expenses. And, of course, otherwise I couldn't have done bar work because there's no way anybody can get involved in the organized bar in this day and time unless he has people who are willing to help him or her. It's just too time consuming."

Then I asked him about bar associations—is the voluntary work and time spent worth it? Do lawyers who join get their money's worth out of the dues they pay?

"The thing that lawyers have to recognize," he said, "is that if the Ten-

nessee Bar Association doesn't speak for the lawyers in Tennessee then there's no one that does. You can't let Joe or George do it. No individual can. It has to be done through the organized bar. If you want to belong you pay your dues and enjoy the benefits of membership and assume some responsibilities of membership. But, in theory, collectively we do what we can't do individually. And there's a lot we can't do individually that we can do collectively. In medical science and space technology and numerous other areas of society there are organized, funded ways that those progress. The legal profession really only has the bar association to keep it up to date, to keep it progressing, to keep it meeting the needs of the people."

I asked John how he felt about public perceptions of lawyers and the legal profession and he told me that since he had been practicing law he had been concerned that lawyers are misunderstood, that their role in society was misunderstood.

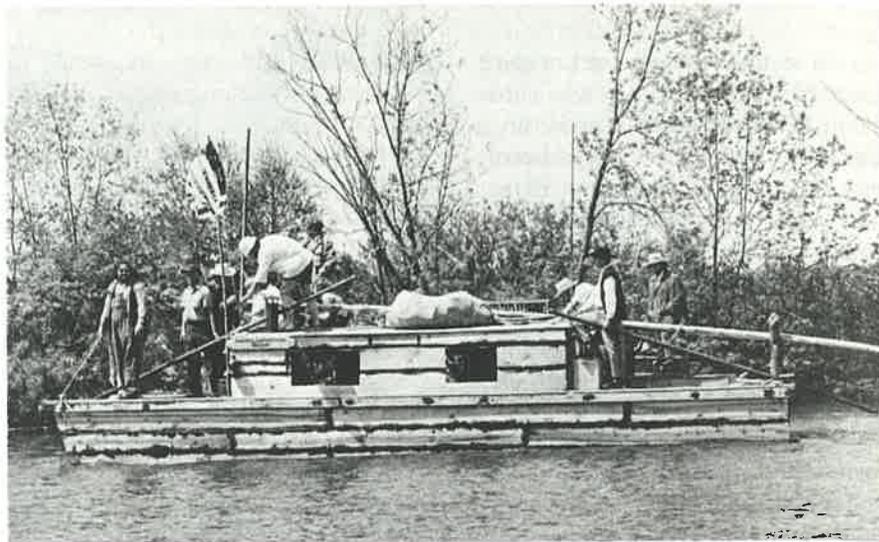
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*"The thing that lawyers have to recognize is that if the Tennessee Bar Association doesn't speak for the lawyers in Tennessee then there's no one that does."*

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"Lawyers are such an important part of the community," he said. "I can't imagine what it would be like to live in a community without lawyers. A lot of people, I know, think that would be great, but I can't imagine what it would be like to live in a place where you didn't have a lawyer. It's very important that no matter what you do or no matter what you're charged with or what mistake you made, whatever crime you commit or problem you get into dealing with your business or profession, or just in general living that you can go hire a

*(Continued on page 7)*



**In 1976 Commodore Waters led a flatboat expedition through inland waterways from Sevierville to New Orleans. The elevation dropped 900 feet in the process. The 10 x 30 foot *Smoky Mountain Queen* took 35 days to journey the 1,600 miles. Because the rivers have changed substantially in the past 200 years (river locks, you know, and areas of little or no current), she was powered by two 55 horsepower Johnson Outboards, although in appearance she was an old flatboat.**

John Waters has accomplished a number of things in his life—from 1969 to 1971 he was Federal Co-chairman of the Appalachian Regional Commission, a federation of 13 Appalachian states involved in economic development programs; he has served on the Tennessee Industrial and Agricultural Commission and the Hearing Committee of the Disciplinary Board of the Tennessee Supreme Court. But perhaps the accomplishment he is most proud of is being named "Commodore of the Smoky Mountain Queen."

During the nation's Bicentennial in 1976 he initiated a Sevier County project that led to the community building a flatboat and then taking the boat through the inland waterways of the Little Pigeon, French Broad, Tennessee, Ohio and Mississippi Rivers to New Orleans. In the old days these were the routes of commerce that Sevier County farmers used to take their hogs, whiskey, corn, chickens and other goods to market.

"We began out here on the fairgrounds and we started to build a boat," Waters said. "None of us had ever built a flatboat, of course, and we didn't know where to start. But we had some pretty good carpenters and a lot of people who were willing

to work. Fortunately, it seemed like anytime we needed somebody for something special that someone with the talent to do the work showed up."

They called the flatboat the *Smoky Mountain Queen* and launched it in the Little Pidgeon River just below Sevierville. They divided crews which relieved other crewmembers at various points along their journey. Along their route—some 1,600 miles by water—their arrival at numerous riverfront towns was the subject of celebration. Waters helped coordinate these celebrations with other communities with Bicentennial Committees and when the *Queen* docked in New Orleans 35 days after she began her journey they were greeted by a large brass band and the Mayor of New Orleans and his wife. There were also some 100 people from Sevier County who had traveled there just for the occasion.

The local newspaper plotted their location on a map as they traveled and the radio station had reports of their activities. "Everybody around here just got caught up in the act," according to Waters. "We had a ball doing it. It was a fantasy, really, but it was fun."

person that's skilled and trained to stand up for you and see that you're protected, can see that you're not abused by the system, and that you have due process. It's important that there's a procedure that's prescribed. Before they can fine you or give money damages against you, before they take your money or property, send you to the penitentiary or anything that you can have somebody that's on your side and that person is skilled and trained and has a duty to represent you.

"I feel pretty strongly about the law and I'm proud to be a part of it. It disturbs me that people don't understand the law anymore as much as they used to. I remember when I was a child when there was an important case going on in the courthouse—whether it was civil or criminal—people from all over the county came in. They sat in the courtroom. They stood outside the courthouse on the lawn. They argued the merits of the case, they discussed what the witnesses were going to say or

what they did say. They listened. And they learned. And they, I think, knew more about procedure in the law than people do today. I think we've lost some of that. Now, I'll admit a lot of the reason they did that was for the entertainment. They came to be entertained, and they were entertained. Today they've got television and they've got their automobiles, their boats on the lake and they hike in the mountains, and they've got other forms of entertainment. Now, its not as attractive, maybe.

"But I remember when I was a child you could take a fairly uneducated farmer that lived out in Sevier County and he pretty well knew the law and he knew if he had a boundryline dispute with his neighbor what was going to happen. He knew how it went to court and how it would be decided. He knew some of the basic rules of evidence. He knew some of the basic procedures; he maybe even knew some of the land law. If he didn't, he knew a certain lawyer in

town that he felt confident in that he could go and employ and he'd be on his side and he'd fight his case. I think that's an important part of this society and I don't want to see it lost."

I remembered asking John back sometime ago what kind of practice he had. And I remembered him saying that he did a lot of probate work, so I asked him if he considered himself a specialist.

"I would like not to consider myself a specialist, even though I dare say if you go around and ask other lawyers in town and other citizens some would say that I am probably known better in certain areas—I do a lot of probate work—wills and administration and trust and corporate work. I really would rather be known as just a good lawyer. I would like to think that by reputation, heresay, or whatever, that if someone were to think that if they had a problem, somebody was infringing on their rights, somebody was doing them an injustice, that they would come to me as a

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lawyer. I'd rather be known like that, but I don't think I am."

Then we talked about Tennessee attorneys and their feeling about whether or not they think of themselves as specialists.

"Most of us realize that we have to have specialization. The laws are just so complex and the fields just so varied that most of us realize now that you can't be competent in as many fields even as you could when I started the practice in 1961. You just can't expect that one person can be so expert in so many areas.

"The public has such an increased burden now in finding out who can handle their particular problem and that's too bad. But that's just the facts of life.

"There's always been criminal lawyers and there's been civil lawyers. There was when I started practice, so specialization isn't new. But today, I don't even know how many areas of practice there are, but probably 40 or 50, and if a lawyer keeps up well with one of these specialties he's probably doing a pretty good job."

I asked him what impact that specialization has upon the citizens of Tennessee and whether specialization will help or hinder access to quality legal services?

"I think that's the question," he said, "and I'm not sure. Communications, of course, is so much better, so that it's possible for lawyer A in a community to be known as a good plaintiff's lawyer—the type of lawyer you need to employ if you go out and have an automobile accident. Lawyer B is perhaps more experienced in domestic relations, family law; lawyer C solves banking or corporate problems. That does put a greater burden on the public. But I think there's a negative part of it too. Perhaps it's that individual feeling. Take my grandfather, for instance. There were certain people who felt that Judge Paine was their lawyer. They didn't care what the problem was, they were going to go see him and they expected him to handle it. They expected him to handle it well; they expected him to charge them a reasonable fee. Well, life's just too complex. It just doesn't work that way now. It's too bad."

"You mentioned legal fees," I said, "Do you think they are where they should be or too high, or too low?"

"I think we've brought a lot of criticism about legal fees on ourselves in the legal profession. We've obviously been criticized and some of it is justified. Some lawyer fees are simply too high. I don't think there's any question about it. Some contingency fees are too high. I've known cases where a lawyer has taken a contingency fee for a situation where he wrote a couple of letters, went to a few conferences and got several thousand dollars for doing that as a result of what happened. There's no way to really justify that except that we, as lawyers, have to justify it because there are an equal number of cases where we don't get anything. But the public doesn't really understand that.

"And, unfortunately, there's a lot of lawyer fees that are too low. So we don't have a good balance.

"There are inequities in legal fees. It depends on how you look at it. When I started practicing law, sometimes we would—what we called, hit a good lick. If we had a good case and we did a reasonable amount of work we made a good fee. Then we would have three or four matters that we didn't do well on, but we balanced out. But between those two clients there's no balance. One of them paid high and one of them paid nothing, or low."

When I left Sevierville and drove back toward Knoxville for another meeting, I thought about John Waters and I thought about the Tennessee Bar Association. John is a very candid man with a great sense of humor. At the annual convention he gave an appropriately light talk and declared his goals this year were to make every lawyer in Tennessee, "Rich, slim and sexy." But he is also a man very concerned about his fellow lawyers in Tennessee—their future; our future. He is deeply seated in the traditions of his community, but he also likes the progress he has seen in Sevier County in the last decade. He is a man who enjoys looking back, a man cognizant of what is around him, and a person capable of looking ahead.

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