

# HISTORIA JURIS



Newsletter of the  
**Florida Supreme Court Historical Society**

December 2005

Tallahassee, Florida

## 2005-06 officers, trustees

### **Howard Coker leads Society**

Howard C. Coker was elected president of the Florida Supreme Historical Society at the organization's 23 annual meeting in Orlando in June. Coker, who previously served as president of both The Florida Bar and the Academy of Florida Trial Lawyers, heads the Jacksonville law firm Coker, Myers, Schickel, Sorenson & Green. He previously served as the Society's first vice president and succeeds John A. DeVault, III, also of Jacksonville.

Herman Russomanno of Miami and Rutledge (Rut) Liles of Jacksonville were elected first and second vice presidents, respectively. Linda Wells and Ruth McDonald, both of Tallahassee, were reelected secretary and treasurer, respectively.

In addition to the officers, others named to the Society's Executive Committee were Tom Cardwell, Orlando; DeVault; Dexter Douglass, Tallahassee; Bob Ervin, Tallahassee; Ben Hill, Tampa; Mark Hulsey, Jacksonville; Carl Pennington, Tallahassee; Russell Troutman, Winter Park; and Bill Wagner, Tampa.

New members elected to the Society Board of Trustees were Dean Robert Jerry, of the University of Florida's Levin College of Law in Gainesville, and Dr. Charlotte Maguire of Tallahassee, who fills the unexpired term of the late Marilyn Overton. In addition to Executive Committee members, there are a total of 41 elected Trustees who serve staggered three-year terms.

## Volume II coming soon

### **Early Raves for New Book**

The second volume detailing the history of the Florida Supreme Court is scheduled for release in 2006 and is expected to generate even wider acclaim than Volume I, published in 1998.

Co-authored by Walter W. Manley, II, and Canter Brown, Jr., Volume II will cover the Court's history from 1918 to 1972. The book is being published by the University Press of Florida, which also published the first book, *The Supreme Court of Florida and Its Predecessor Courts, 1821-1917*.

Designated manuscript reviewers for the University Press have given the book exceptionally high marks. One wrote: "(This) work reminds one of William Manchester's *The Glory and the Dream: A Narrative History of America, 1932-1972* and shares with it a highly readable, fast-moving 'snapshot' view of events that contributed to the Florida Supreme Court's evolution."

Another said: "In this first-rate narrative history Manley and Brown peel back the curtain of this understudied and oblique, yet extremely important, institution. Not simply a recitation of court cases and opinions, this book is free of legal jargon; this is living, breathing history that will inform as well as satisfy."

And finally: "Bravo! Manley and Brown's new volume does its predecessor proud. With it, we now have a highly readable account of the first 150 years of the Florida Supreme Court."

Advance orders for the new book at a special pre-publication price will be announced within the next few months.

## Rogers to be honored

### **Annual Dinner set for Feb. 16**

The annual dinner of the Florida Supreme Court Historical Society has been set for Thurs., Feb. 16, 2006, at the University Center Club in Tallahassee. "Judging from the tremendous response to the 2005 event, when former governor Reubin Askew was the speaker, we expect a big turnout," said event co-chair Dexter Douglass. "Soon we will announce our 2006 dinner speaker and that should generate great interest," he added.

Special guest for the occasion will be long-time Florida Congressman Paul Rogers from West Palm Beach, who spent 24 years in the U. S. House of Representatives where he was instrumental in the passage of major legislation in the fields of healthcare and the environment. The Society will honor Rogers not only for his accomplishments while serving in Congress, but also his outstanding career as a practicing attorney and his steadfast advocacy of a balance of power among the three branches of government. Rogers now practices law in the D.C. office of Hogan & Hartson.

Invitations soon will be mailed to Society members, Florida Supreme Court Justices and members of the Board of Governors of The Florida Bar. Practitioners in areas of the law impacted by legislation authored by Congressman Rogers also will be invited.

The dinner and preceding reception will take place in the University Center Club ballroom on the FSU campus.



**Paul G. Rogers**



Dean **Robert Jerry** (right) was among the speakers at the Sept. 9 dedication of the new Stephen C. O'Connell Reading Room at the University of Florida's Levin College of Law. Others pictured above at the head table included **Cindy O'Connell** (left), widow of the late Justice O'Connell, UF President Dr. **Bernie Machen** and **Mrs. Machen**. The Society helped provide the portraits and oral history videos of UF law graduates who later served on the Florida Supreme Court, which are displayed in the Reading Room.

# PRESIDENT'S PERSPECTIVE

The Florida judiciary has a rich and colorful history. Preserving that history is the first component in the Society's two-fold reason for existence. Historical preservation is a duty we take very seriously. What better way to do this than in the forthcoming release of our second hardcover book chronicling the history of the Florida Supreme Court from 1918-1972.



**Howard Coker**  
Society President

But the second part of our mission is every bit as important -- educating the public about the critically important role the courts play in our system of government in assuring citizens the rights and freedoms guaranteed them by the constitution. I believe we, as individual members of the Society, have a personal responsibility in this *educational dimension* of our charter.

We look around us in today's world and see many people, including many in key leadership positions, who don't seem to understand -- nor care about -- the role of the courts. They seem to have forgotten the lessons of history, the remarkable wisdom shown by our founding fathers who recognized the critical importance of the principle of a *balance of power* among the three branches of government. They appear to attach little value to the system of *checks and balances* that has enabled the three branches to work together to produce a system of governance that is a model for the free world.

All too often we observe that leaders in the executive and/or legislative branches seek to circumvent the judiciary in order to achieve their goals. Such contemporary "wisdom" strikes a sharp contrast with that displayed by our forefathers when they assigned to the courts a critically important role in America's time-tested system of government.

So as the Society moves forward with its activities and programs, I hope we all remember -- and are zealous about -- our *educational responsibility*. I hope we help others remember what we studied in 10<sup>th</sup> grade civics class -- that a strong, independent judiciary is equally important as the other two branches in preserving our cherished American way of life.

## Walter Manley Named Life Trustee

Professor Walter W. Manley, II, project coordinator and co-author of the first and second volumes of the history of the Florida Supreme Court, has been elected an honorary life trustee of the Florida Supreme Court Historical Society. In taking the action, the Society's Board of Trustees cited Manley's tireless efforts on the widely acclaimed Volume I, *The Supreme Court of Florida and Its Predecessor Courts, 1821-1917*, as well as his work leading up to the forthcoming publication of Volume II.

A resident of Tallahassee, Manley is a licensed attorney, an author and an educator.

## SPECIAL GIFTS

# Memorials, Grants Boost Society Budget

The Florida Supreme Court Historical Society traditionally has depended on contributions and dues payments to fund its operation. Like many other non-profits, the Society is accustomed to a lean operating budget. Special gifts often have been a life-saver in covering expenses.

Memorial contributions occasionally are received honoring the memory of a judge or a Society member. When memorial gifts come in, usually it's just a handful of contributions at the most. But that was not the case after former Society trustee Marilyn Overton passed away in June of this year. As a result of her family's suggestion that friends consider a memorial gift to the Society, 33 separate contributions have been received totaling almost \$3,000.

The organization is grateful not only for Marilyn's years of dedicated service, but also to former Justice Ben Overton and the family for remembering the Florida Supreme Court Historical Society in this special way.

An organization that has been extremely generous to the Society and has helped fund many worthwhile causes throughout the state is The Florida Bar Foundation. The Foundation recently awarded the Society a \$50,000 "Administration of Justice" grant to help underwrite the costs associated with the research, writing and publication of Volume II of the history of the Florida Supreme Court. Previously the Foundation helped fund the cost of publishing Volume I.

In addition, the Foundation awarded a \$20,000 grant to assist the Society in covering its 2005-2006 operating expenses.

Another recent gift that will provide a big lift to the Society treasury was a \$10,000 contribution from the Young Lawyers Division of The Florida Bar.

The impact of these gifts on the Society's financial health is extremely significant and they are very much appreciated.

## Florida Supreme Court Historical Society

A 501 (c) (3) non-profit organization

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**Honorary Chair:** Chief Justice Barbara J. Pariente

**Court Liaison:** Justice R. Fred Lewis

### Executive Committee

|   |                         |
|---|-------------------------|
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| Herman J. Russomanno, <i>first vice president</i> | Robert M. Ervin         |
| Rutledge R. Liles, <i>second vice president</i>   | Benjamin H. Hill, III   |
| Linda F. Wells, <i>secretary</i>                  | Mark Hulsey             |
| Ruth McDonald, <i>treasurer</i>                   | Carl R. Pennington, Jr. |
| J. Thomas Cardwell                                | Russell Troutman        |
| John A. DeVault, III                              | Bill Wagner             |

### Trustees

|                               |                             |                       |
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**Executive Director:** Park Trammell

# Under the Dome

**Chief Justice  
Barbara J. Pariente,  
Florida Supreme Court**



The rule of law is the bedrock of our civilization and our country. It reveals a fundamental belief in the intrinsic importance of the individual person and the tremendous value our system of justice places on fairness. Much rests on the rule of law, yet history is replete with examples of people in authority who took action to subvert it. By the same token, sometimes individuals have the power to fortify it and they use that power to help us all.

Among those individuals are jurists like the late Justices Richard W. Ervin and Raymond Ehrlich, who lived lives and built careers that truly strengthened the rule of law in our state.

The Supreme Court paused to honor the legacies of these two outstanding Justices following their deaths in recent months. All of us are inspired by the great intellect and integrity of their careers – and by the sheer stamina they showed for several decades of the 20th Century in preserving the rule of law. Both justices also were remarkable for still one more thing. They were warm, gracious, down-to-earth men. At the Court's memorial services honoring them, it was simply a delight to hear the stories people told.

Justice Ervin, who died in August 2004 at the age of 99, was a justice from 1964 to 1975. In little more than a decade, he authored more than 600 opinions. A third of them were dissents, earning him the nickname the "The Great Dissenter."

Although the Court strives for unanimity, dissents can serve to focus appellate decision-making and sharpen majority opinions. Sometimes they become the majority, either in the process of reaching a decision or later. Dissents, of course, can also be a mark of moral courage. Justice Ervin's dissents fell in both categories.

These opinions live on – as do other accomplishments Justice Ervin achieved before joining the Supreme Court. His career in state government included serving as counsel to executive agencies as well as serving as Florida's attorney general, a position he held when the U.S. Supreme Court ruled that separate is not equal in *Brown v. Board of Education*. In that role, his voice of courage and reason helped our state avoid much of the turmoil that plagued other southern states during the civil rights era.

Justice Ehrlich, who died in July 2005 at age 87, came to the court in 1981 after a long and distinguished career in private practice as a civil trial attorney. He retired from the bench in 1991.

Before joining the court, Justice Ehrlich earned the reputation as a "lawyer's lawyer." On the Court, he soon earned a reputation as a lawyer's judge. He was among the strictest of the justices when it came to attorney discipline cases but he also strove to make attorneys who appeared before the Court feel comfortable and at ease. He believed attorneys and justices were working together toward the common goal of justice.

His passion never dimmed. "The Bill of Rights wouldn't be worth a hoot if it weren't for lawyers representing people who were charged with violation of the law," Justice Ehrlich said in a 1999 interview. "Lawyers are what make the system work. The Bill of Rights, which means so much to all of us, wouldn't be worth the paper it's written on except for a vigilant and strong Bar."

Two great men have passed from us and into the history that binds together all who have labored here at the Supreme Court of Florida. We pause to honor them.

## Former Law Clerks:

# Remembering the Justices

By David Kerns

Until 1953 the justices of the Florida Supreme Court had assistance only from two interns, the honor graduates of the law schools of the University of Florida and the University of Miami, each for a one-year term. (Although on at least one occasion, the Court called on the Tallahassee Bar to advise it on a legal point.)

In 1953 the Court persuaded the legislature to appropriate funds for an aide or clerk for each of the justices. Pursuant to this authority, the Court adopted a rule authorizing each justice to employ an attorney to assist him in the performance of his judicial duties, preferably a person admitted to the practice of law for at least five years. Pay was set at \$500 per month. Appointees included A. Obie Stewart (by Justice Terrell), Thomas Carroll (by Justice Thomas), David Kerns (by Justice Mathews), William Dreisbaugh (by Justice Hobson), and Sam Broadnax (by Justice Drew). Rebecca Hawkins (who had been an attorney in Justice Roberts' private office before he was appointed) and Winifred Wentworth (then with Chief Justice Sebring) remained as aides, having previously worked as attorneys but paid as secretaries.

Several of these aides are still active and gladly submitted a recollection of life at the Court in those days.

Lynn and Tom Carroll recalled an incident when Justice and Mrs. Thomas were attending a Florida Bar meeting in south Florida and decided to go directly to a national legal meeting in the North. The justice called his secretary, Madeline Roland, and instructed her to go to their house and pack certain clothing, which she did. It was then Tom's task to take the packed suitcase to Thomasville, GA, in the middle of the night and deliver it to the Thomases when their train stopped there for a few minutes in the pre-dawn hours. He successfully completed the rendezvous.

Lucie Ann and Obie Stewart remembered Mrs. Terrell's efforts to see that Justice Terrell always ate a healthful diet. Her favorite was "Tiger Milk," a concoction of orange juice, egg and other ingredients specified in one of Adele Davis' diet books. Once, when the Court was wrestling with some thorny problem, Mrs. Terrell enthusiastically delivered to the conference room a glass of Tiger Milk for each of the justices, telling them how it would greatly expedite their deliberations. There being no polite avoidance, each partook. But, alas, at least one of them, Justice Thornal, became ill and had to be excused for the rest of the day.

Jeannette Gramling, Justice Mathews' secretary, told Preston DeMilly, later Justice O'Connell's aide, about the time Justice Thomas went fishing by himself. Some strangers came by and asked where they could find someone to pole their boat while they fished. The justice said he'd be glad to do it – and he did. When they finished, they asked if he could recommend someone to help them the next day and asked if he regularly worked there helping people fish. Imagine their consternation when he replied, "No, I'm a justice of the Supreme Court of Florida."

David Kerns, Justice Thornal's aide after Justice Mathews died, described the close friendship that developed between Justice Thornal and Kerns' two young sons. Before his family moved up from Orlando, Justice Thornal was often invited to the Kerns home for the evening meal. Justice Thornal expressed sincere interest in the boys' activities. They took him into the deepest recesses of their secret hideouts and he gamely followed – under the house or wherever. The younger boy, in appreciation, named his pet dogs: "Judge Thornal," "Judge Thornal II," "Judge Thornal III," etc.

The informality of their friendship carried over into the Court. One time the youngster ran ahead of his mother when they were approaching the office and, seeing Justice Thornal engaged in a weighty conversation with Justice Drew, slipped up behind Thornal's chair and shouted "Boo!" The justice turned to him with a warm greeting, as though they were on the playground. Another time the justice joined the boy in flying paper airplanes over the railing on the second floor of the rotunda, all in mutual good fun.

# Oral Histories available on DVD

The Society's oral history programs conducted over the past 20 years are now available on DVD.

Ranging from the 1975 event honoring former Senator and Congressman Claude Pepper to the 2003 program celebrating the career of Justice Leander Shaw, the original oral history videos have been digitized to help assure their preservation. The DVDs can be ordered from the Society at a price of \$15.00 each, plus sales tax and shipping. The oral history programs include:

1. Senator Claude D. Pepper, *May 15, 1985*
2. Justice Richard W. Ervin, *Oct. 24, 1985*
3. Justice B. K. Roberts, *Oct. 30, 1986*
4. Justice Alto Adams, *May 19, 1987*
5. Justice Stephen C. O'Connell, *Nov. 12, 1987*
6. Justice Arthur J. England, Jr., *Mar. 11, 1988*
7. Justice Campbell Thornal, *Dec. 2, 1988*
8. Justice James C. Adkins, *Oct. 27, 1989*
9. Justice Joseph W. Hatchett, *May 2, 1990*
10. Justices H. L. "Tom" Sebring & E. Harris Drew, *Nov. 2, 1990*
11. Justice Raymond Ehrlich, *May 31, 1991*
12. Justice James E. Alderman, *May 29, 1992*
13. Justice Joseph A. Boyd, Jr., *Apr. 23, 1993*
14. Justice Parker Lee McDonald, *Sept. 30, 1994*
15. Justice Rosemary Barkett, *Apr. 19, 1996*
16. Justice Stephen H. Grimes, *Apr. 24, 1998*
17. Justice Ben F. Overton, *May 28, 1999*
18. Justice Gerald Kogan, *Mar. 31, 2000*
19. Justice Major B. Harding, *Feb. 20, 2003*
20. Justice Leander J. Shaw, Jr., *May 30, 2003*.

## NEW SOCIETY MEMBERS

The Florida Supreme Court Historical Society is pleased to welcome the following new members:

- |   |  |
|---|--|
| James T. Bailey, <i>Jacksonville</i>    | Michael P. Milton, <i>Jacksonville</i> |
| Nicholas C. Charek, <i>Jacksonville</i> | Sean L. Mulhall, <i>Jacksonville</i>   |
| James L. D'Andrea, <i>Jacksonville</i>  | Robert L. Teitler, <i>Weston</i>       |
| William H. Davis, <i>Tallahassee</i>    | Ruth G. Thompson, <i>Jacksonville</i>  |
| C. Ryan Eslinger, <i>Jacksonville</i>   | Joshua A. Whitman, <i>Jacksonville</i> |
| Eric L. Leach, <i>Jacksonville</i>      |  |

*Please check mailing panel below.  
Does your name have an asterisk?*

Perhaps you still haven't paid Society dues for 2005. If so, we don't want to lose you as a member. If an asterisk (\*) appears beside your name imprint in the mailing panel at the bottom of this page, our records indicate that **you have not paid 2005 dues**.

**Dues payments and contributions to the Society are fully tax deductible.** The Membership Application form below contains information on submitting payments.

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### MEMBERSHIP APPLICATION

#### Florida Supreme Court Historical Society

Please print:

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

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**Annual Membership:**

- ' Student, \$25
- ' Individual, \$100
- ' Contributing, \$500
- ' Patron, \$1,000

**Life Membership:**

- ' Benefactor, \$5,000 within 5 years

**Payment by:** ' check; ' Visa; ' MasterCard

Credit card no. \_\_\_\_\_

Expiration: month \_\_\_\_\_, year \_\_\_\_\_

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Please mail completed form and check (payable to Florida Supreme Court Historical Society) or credit card information to:

Florida Supreme Court Historical Society  
P. O. Box 11344, Tallahassee, FL 32302-3344

**OR FAX completed form to: (850) 222-3703**

Dues and contributions are deductible to the extent allowed by law.  
100% of each contribution is received by this organization. SC-09634

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