



## President's Column: *The Top Five Benefits of CABA Membership*

By Tiffany M. Graves<sup>1</sup>

I am honored to serve as President of the Capital Area Bar Association (CABA) this year. I have been a proud member of CABA's Board of Directors (Board) for the last six years. I started out as the President-Elect of the Jackson Young Lawyers Association (JYL). For those who may not know, the President and President-Elect of JYL serve on CABA's Board in an *ex-officio* capacity. We are pleased to have Alicia Hall (JYL President) and Andrew Harris (JYL President-Elect) on the Board this year. The long-standing partnership of our two organizations has been mutually-beneficial and crucial to CABA's success and sustainability.

I have a confession. It was not until I became involved in bar associations that I really began to enjoy the practice of law. As a non-Mississippian, I moved to Jackson only knowing a handful of people. I did not attend either of Mississippi's law schools, so I felt like I was at a disadvantage in many ways. When I became active in local and specialty bar associations, everything changed. I met a ton of outstanding lawyers who later became friends and confidants. I learned about different

areas of the law and developed leadership skills that continue to serve me well, personally and professionally. I also began to really appreciate the richness and diversity of our profession. I cherish those early bar association experiences and feel strongly that they have prepared me for where I am today, proudly leading the largest and most active local bar association in Mississippi.

While there are many reasons why lawyers join bar associations, I believe the following may be the "top five" benefits of bar membership. As I address all five, I will discuss what we have planned this year to make sure you are aware of the benefits of membership that may have made you renew your membership or join CABA this year.

### 1. You can network.

Our dependence on email, social media and similar technologies has drastically changed how often we engage with one another face-to-face. Despite the utility of these platforms,

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## Upcoming Events

### October 5

CABA Fall Social  
5:30-7:30pm • the Manship

### October 17

CABA Membership Meeting  
Noon • The Capital Club

### December 5

CABA Christmas Social  
5:30-7:30pm • Old Capitol Inn

# CABA Membership Luncheon Meeting

Tuesday October 17, 2017

Lunch at 11:30, Speaker at 12:00 • The Capital Club



Meet the Speaker  
Mary Anne Connell

Click for Speaker Bio

there is no substitute for personally getting to know your legal community and interacting with colleagues away from the computer screen. In addition to our membership meetings, CABA hosts several social events, including the recently-added “Bar Reviews,” to provide rich opportunities for networking and fellowship for our members. I am excited to share that we will partner with the Madison and Rankin County Bar Associations on two of our social events this year. We encourage you to attend these free, after-hours events to meet other lawyers and get your name and practice area circulating in the legal community.

## 2. You can learn/sharpen your skills.

The legal profession is constantly evolving, so it is imperative that we stay current on changes in the law and other shifts that could affect our practices. This year, three of our five membership meetings will offer opportunities for members to gain valuable, free CLE credit. In addition, we are offering three “Flash CLEs” in November, January and March at the Mississippi Bar Center. Members who attend these programs can receive one hour of free CLE credit and get even more chances to interact with other lawyers who share similar interests. We have other educational opportunities planned, too, so keep reading.

## 3. You can support your community.

As lawyers, we are fortunate to have gained a unique set of skills that can be extremely valuable to many community organizations and nonprofits. As the Executive Director of the Mississippi Access to Justice Commission, I

can assure you our legal nonprofits need lawyers to do pro bono work, serve on their boards, or otherwise contribute to their missions. Our Community Outreach & Pro Bono Committee is planning volunteer opportunities that will include assisting with food service at Stewpot Community Services and an expungement workshop and legal clinic in Jackson. We will continue to support the Mississippi Volunteer Lawyers Project with proceeds from our annual golf tournament. Finally, we will continue to put your membership dues to good use by honoring our longtime commitment of support to students at Mississippi College School of Law and the University of Mississippi School of Law through minority scholarship awards and by recognizing the students and teachers who participate in our annual essay contest.

## 4. You can get to know your local judges.

Effective lawyers know their judges and we have an outstanding roster of local, state and federal judges in the Metro Area. Lucky for us, our judges are known for their commitment to and visibility at CABA functions, including our membership meetings and socials. Our Bench-Bar Relations Committee is planning a special judges’ panel for our April membership meeting. We will formally recognize the contributions of judges to the profession at our year-end “Evening Honoring the Judiciary” event on May 17, 2018. Don’t miss these outstanding opportunities to interact with your local judges at CABA events this year.

## 5. You can experience collegiality.

Each bar association has its own culture, climate and personality. What I appreciate

most about CABA is the diversity of our membership. Whether you are in private practice, in house or a government attorney, there is a place for you in CABA. Our Board and Committees are working hard to think about programming this year that will be useful to *all* of our members, regardless of their practice areas. But we also want to be thoughtful about and responsive to the *specific* needs of some members. We created the Small Firm/Solo Practice Committee several years ago to provide support to attorneys with those type practices. That committee is planning a half-day, information-packed CLE event about the practicalities of establishing and maintaining a solo and small firm law practice. Our Women’s Initiatives Committee is planning another big panel event to address the issues that women lawyers face in the legal profession. Finally, our Diversity Committee is hard at work on developing programming that will promote the importance of diversity within the legal community.

This list could certainly go on, but I have taken up quite a bit of space already with this, my first, column. With at least two more to go, I will save some content for future issues. I will end by saying that I hope your participation in CABA allows you to experience a true sense of community and connection and support when you need it. Law practice can be extremely challenging and we have to find ways to support one another. I have been able to find support many times from my fellow CABA members and I hope you will, too. We are certainly stronger together.

If you have not renewed your membership, please do so today [here](#). You don’t want to miss out on all of the fun we will have this year! ➡

CABA Members: *Click Here to*  
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# WORDS OF WISDOM FOR PRACTICING LAW: *My Advice to New Lawyers*

By Terry Rushing

My daughter-in-law, Stevie, graduated from law school a few months ago. During the commencement speech, my mind began to wander (no offense, Attorney General Hood, my mind wanders whenever I sit longer than 90 seconds), and I wondered what I'd say to new law school graduates, in the unlikely event that I was ever called upon to give a commencement speech. It's unlikely, since I think I'm practically the only member of my graduating class who is not a judge, but I guess it could happen.

I rode that train of thought back to the mid-70's, when I started watching this strange, funny new program called *Saturday Night Live*. Yup, those were the early years, with Dan Ackroyd's Coneheads, John Belushi's Samurai Optometrist, Gilda Radner's Emily Litella, and Garrett Morris's hilarious sketch about spending his summer posing for the jockey statue. But one of my favorite recurring characters was Father Guido Sarducci, the editor of *The Vatican Enquirer*, played by comedian Don Novello.

Father Guido had an idea for a "Five Minute University." His premise was that, five years out of college, most of us remember just a few phrases and buzzwords from our courses. For the price of a mere twenty dollars (which included tuition, cap and gown rental, graduation picture, and snacks), Father Guido could teach you everything that the average person remembers from college after five years. (At the end of the routine, he announces that he's thinking about starting a law school next door, "You know, if you have another minute...")

With that in mind, I toyed with the idea of a five minute commencement address, delivering the buzzwords and phrases that would turn a recent law school graduate into

a successful lawyer. Unfortunately, I don't think it can be done in five minutes, but, in ten minutes, fifteen at most, I think I can get it done, to wit:

Congratulations. You have achieved a major milestone in your life, and you have every reason to be proud. Some of you will go on from here (assuming you pass the bar exam) to private practice; some of you will go to work for private businesses; some of you will become government lawyers; some will become teachers; some of you will go into a field unrelated to law; and many of you don't know exactly where you're going or what you'll become. For those of you who will be functioning as lawyers, in private practice, industry, or government, I'd like to give you some short pieces of advice:

## Avoid Arrogance.

Your class is most likely about evenly divided between people who think they already know everything they need to know to become a legal superstar, and people who are scared out of their minds that they are about to be let loose on the world knowing nothing. To the first group: I don't know who is the smartest person to ever graduate from law school—there are many likely candidates—but I'm pretty confident that person is not in this room. Get over yourselves. The legal world is full of ex law review editors, ex moot court chairmen, and ex Am Jur recipients. No matter what you did in law school, you're never going to be the smartest person in class again. Learn humility. Learn what you don't know. To the second group: You're much smarter than the first group, because you know what you don't know. You're uninformed, but not dangerous. Law school was never intended to teach you everything, but to teach you to think like a

lawyer, ask the right questions, and find the law when you need it. You're going to be fine. And that leads to the next advice:

## Ask Questions.

Older lawyers are thrilled to be asked for advice, as long as you're not using us as a substitute for easy research. If you can find it in the rulebook or on the computer in two minutes, don't ask. Otherwise, we're glad to help.

## Be Accountable.

Everyone reports to someone. Associates report to partners; junior partners report to senior partners; senior partners report to clients; government lawyers report to judges or agency heads; corporate lawyers report to the CEO; and the CEO reports to the shareholders. Be sure that the person to whom you report has a general idea of what you're up to and approves of it. And here's a tip: Whenever you have to report a problem to your boss, *you* become the problem, even if you're not the one at fault. Think about it: she didn't have a problem until you walked through her door. So never go in with just the problem. Go in with the problem *and your solution*. Suddenly, you're not the *problem*, you're the *problem-solver*.

## Be Kind.

Everyone deserves dignity and respect. You should treat the building custodian just like you treat a senior partner or a judge. You should do it because it's the right thing to do; if that's not enough, do it because it could help you in the long run. The day that you spill coffee all over your desk, the most important person in your life becomes the one who knows where the extra rolls of paper towels are stored. That's

*Continued on page 4...*

not likely to be a senior partner. And I've never seen a judge jumpstart someone else's dead battery. Professor and author Kalu Ndukwe Kalu wrote, "The things you do for yourself are gone when you are gone, but the things you do for others remain as your legacy." At the end of your life, you will regret hundreds of incidents where you were unkind; you will have few, if any, regrets about the times you were nice to someone.

### Opposing Counsel Are People, Too.

We have a relatively small bar in Mississippi, and I've heard many attorneys from larger cities express envy at our informality and trust in one another. You will hear over and over, from judges, other practitioners, and bar officials that civility and professionalism go hand in hand. Let me put it in more practical terms. IT'S.A.SMALL.BAR. The next time you elect the nuclear option for dealing with the lawyer on the other side, don't be surprised to find yourself, at a later date, sitting next to him at a PTA or Bar meeting, or worse—in front of him at church.

### Respect Your Clients.

For us, another case is another case. But think about the non-lawyer members of your family. How many of them have ever been

involved in a lawsuit as a party or as a witness? Hardly any, right? For a layperson, a lawsuit or an appearance in court is a big, hairy deal. Be compassionate to these people—they're nervous; they're scared; they're bewildered. Treat every case like it's the most important one you've ever had. Back in chambers, or later at the gym, you can joke with the other lawyer and the judge. But a cavalier approach in front of your client—whether in a meeting, a deposition, or a hearing—is the functional equivalent of wearing cut-offs to your grandmother's funeral. Don't do it. On the other hand,

### Set Boundaries.

You'll find out early on that people in general, and clients in particular, want you to shoulder the responsibility for resolving their problems. That's not necessarily your job. Your job is to give your clients legal advice and assistance, to the best of your ability, but their problems are... well, *their problems*. Sometimes, the legal assistance you give them can fix what's wrong; sometimes it can't. If you can't, under the law, make their issues disappear, you have to give them back. That epiphany came in the middle of a sleepless night, when I realized that, in one of the very few divorce cases I took, my client didn't want a divorce; she wanted body parts. She got the divorce, but I couldn't give her what she wanted. As she marched out of the

courtroom disappointed, I realized that she had to resolve that issue on her own.

### Keep in Touch.

The most common complaint clients have about their lawyers is that they never hear from them. Really? In the age of Instagram, people don't communicate? *Always* respond to phone calls, emails, letters, texts or inquiries that come in any other form from your clients. Unless you've assured your client that his case is a slam dunk (*please* tell me you didn't do that), he's prepared for the fact that there may be bad news as well as good. Bad news isn't going to get any more palatable by your sitting on it. In fact, develop a routine of sending regular updates to your clients, even if it's just to say that nothing has happened. When you start ignoring your clients, you're one step closer to bar discipline.

### Find Your Spiritual Core.

You may belong to a traditional Christian faith, a non-traditional Christian faith, a non-Christian faith, or have no faith practice at all. No matter. A distinct moral code goes a long way toward keeping our bar licenses intact and us out of the federal pen. It doesn't matter whether your code comes from Catholicism, Islam, Taoism, Buddhism, or humanist philosophy, find one and incorporate it into your life.

### Admit Mistakes.

It is almost always easier to fix something that was done wrong than it is to fix something that was not done at all. When in doubt, do the best job you can, file something, and hope that you can amend it later. It's also almost always easier to fix something immediately than it is to delay. Some problems may ultimately disappear, but don't count on yours being one of those. Own up to your mistakes; we've all made them. If you're like me, some of your best war stories will come from the abysmally stupid things you've done: painful at the time, but funny later. As the Greek poet Aeschylus wrote, "He who learns must suffer." You will not only survive your mistakes, you will learn from them.

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### 2017 HOLIDAYS

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**Control Yourself.**

Men—get that testosterone under control. It’s not about you; it’s about your client. Turning over a table during a mediation might say a lot about your vaunted temper, as well as your strength-training regimen, but it will not advance your client’s cause. Histrionics, screaming matches, and temper tantrums have no place in legal practice. Women—get that estrogen under control. I don’t care how cute you are, six-inch stilettos are not appropriate court attire; neither is a skirt one-and-a-half sizes too small. You want to come into court looking like you’ve got a firm grasp on the *law*, not a pole.

**Celebrate.**

Graduating from law school is a huge accomplishment, and you deserve a huge celebration. But take a designated driver with you; a DUI, or worse, is not a great beginning to your legal career. Let’s have a great time tonight and let’s get everyone home safely. Congratulations, and thanks for asking me to share your day.

So that’s it; I’ve timed it, and it takes about thirteen minutes, which should make it very popular to those who value brevity in presentations. This speech is available, by the way, for use by other commencement speakers, for the incredible bargain price of twenty dollars. And I’ll throw in the snacks. 🍴



# CABA August Membership Meeting

Rick Courtney, who directs the Courtney Elder Law Associates planning group of Frascogna Courtney, PLLC, was CABA’s featured speaker at our August membership meeting and CLE. Rick provided a valuable and comprehensive presentation to our members on life, health care and financial planning.

Shown in photo (from left to right), Tiffany Grove, Rick Courtney, and Tiffany M. Graves.

# Doris Henderson Causey:

## *Native Mississippian Takes Reins of Virginia Bar*

By Deirdre Norman

**Editor's Note: Reprinted with permission of the Virginia Lawyer**

Doris Henderson Causey, the new president of the Virginia State Bar, has the warm smile and the easy way of an old friend. When asked what people would be most surprised to know about her, she breaks into a football cheer and volunteers laughingly:

"That I was a cheerleader in high school up on top of the pyramid. I was tiny back then. And that I was a band goober in high school and college. I played the saxophone for the Ole Miss band and I played 'Dixie' at football games." She says that she and her husband, who met while they were students at Ole Miss, are still "huge Rebels fans," and it is easy to imagine her making many a friend at a tailgate party.



Doris Henderson Causey at the Central Virginia Legal Aid Society office.

In the bustling legal aid office she manages in Richmond, Causey pauses to gently admonish an elderly gentleman waiting with divorce paperwork to "stop getting married,

or at least wait until you are divorced," and as he laughs she points to her executive secretary and says, "You should actually be interviewing her. She is the one who makes it happen around here."

Located on a rapidly gentrifying section of Broad Street in downtown Richmond, the Central Virginia Legal Aid office shares a glass-windowed storefront with a beauty business called Glam Squad. On one side, young women sit in white leather chairs getting their hair and makeup done for photo sessions for the big day. On the other side, Causey sits to be interviewed in a makeshift space freshly painted after a recent blaze caused when an upstairs resident threw water on a grease fire.

Causey apologizes for the paint smell and settles into a chair right in the store-front window that allows her to smile and wave at the passersby. Across the street, construction workers prepare the site where a statue of Maggie L. Walker, an African American teacher and the first woman ever to charter a bank in the United States, will soon be placed.

On June 16, Causey was inducted as the Virginia State Bar's 79th president, making her both the bar's first African American president and the first president to come from Virginia's Legal Aid community. "A girl in Mississippi doesn't grow up thinking 'I'm going to be president of the Virginia bar some-day,'" says Causey. "I see this moment not only as an honor, but as a privilege."

In her office, Causey displays a framed collage she made in third grade of herself as a lawyer when her class was asked to create what they wanted to be when they grew up. Causey says she knew she wanted to be a lawyer mostly because of the powerful influence famed civil rights lawyer Alvin O. Chambliss Jr. had on her family. Causey, the youngest of six children, grew up in Oxford, Mississippi, home of William Faulkner and the University of Mississippi —where Causey's mother was a professor of education, and her father taught

shop at Oxford High School. Chambliss, often described as "the last original civil rights attorney in America," was a close friend of her parents who often came to dinner and expounded on his latest causes.

"He was always suing someone trying to make things fair in Mississippi," says Causey. "He was trying to make sure that schools had black athletes, black cheerleaders, that



Doris Henderson Causey with her husband, Tracy Causey, and their children: Caleb, Jillian, and Joshua.

everyone had the same equipment and the same chance to do things. Sometimes he was even suing my mother in her capacity on the Oxford City school board."

Chambliss is best known for his 30-year role in *Ayers v. Barbours*, which sought to redress Mississippi's legacy of underfunding historically black universities. He instilled in Causey not only an interest in justice and the law, but also an appreciation for legal aid. "I saw Chambliss, Buck Buchanan, and Ava Jackson in small town Mississippi working to help people, to change people's lives," she says. Chambliss' wife, Josephine, also shaped Causey. She was Causey's 7th grade math teacher, and it was her influence and excellent math skills that led Causey to graduate from Ole Miss with a double major in political science and mathematics and a desire to teach math. Causey went on to get her master's degree in education and began a career as an educator. "Teaching was and is my first love," says Causey. Speaking of her mother and Josephine

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Chambliss and their role in molding her goals and ambitions Causey says, “There’s the old saying that ‘Behind every great man is a great woman.’ I’ve often found it to be that behind every great woman achieving her goals there are greater women who inspired them.”

Causey’s mother’s family still owns land in DeKalb, Mississippi, where they started as sharecroppers and ended up owning 340 acres of farmland. According to Causey, who still visits Mississippi every summer, “We call it the country out there. The directions to my grandparents’ house start with, “You turn past the store...” because there really is no other way to describe it.” After teaching high school and marrying her college sweetheart, Tracy Lee Causey, Doris eventually moved to Texas to fulfill her childhood dream of becoming a lawyer and attended Texas Southern University’s Thurgood Marshall School of Law, so that she could be closer to her sister, who was going through her medical residency at Baylor University and her brother who worked in Houston. Ironically, Alvin Chambliss would end up being her law professor there.

Causey made her way to Richmond fifteen years ago via her husband’s career as CEO of the Capital Area Health Network, a group of medical and dental organizations who provide care for low-income and uninsured residents. She and Tracy, who began his career in the Air Force, have three children, Caleb,



Causey created this collage in third grade showing herself as a lawyer.

15, who loves baseball; Jillian, 10, who has a form of epilepsy called Dravet Syndrome yet remains active in sports; and Joshua, 9, who loves gadgets and movies.

Causey and her husband relocated to Virginia before she ever had a chance to practice in Texas, and she found her-self in a new

city with a new profession and like many new lawyers had to figure out where to connect.

After passing the Virginia bar, Causey says she looked for her place in the Richmond legal community and found it at the CVLAS. The CVLAS was my Richmond family. I worked down the street at Robert Walker & Associates and I walked there to volunteer daily. Hon. Marilynn Goss introduced me to the ODBA and they became my family too. The first Annual meeting I went to; there’s Governor Wilder and Elaine Jones and Federal Judges, state supreme court judges, etc. I was awed and I was floored.”

Though she was president of her high school student body and her law school class, and was on the student government at Ole Miss, Causey never had a defined goal to get involved in the bar. Curtis Hairston always said, ‘You need to get involved,’ she recalls. “One day a card came in the mail looking for people to run for bar council, so I did. I was the only woman to get elected, and (VSB executive director) Karen Gould asked me to come meet her. I looked up at all the past presidents of the bar and I saw there were no black presidents, and maybe that’s where it started.”

Of her hopes for the coming year, Causey says, “I want people to see that you too can be a bar leader. I bring a different voice. I bring a different perspective. I will see places where there needs to be some diversity. Some people will say this does not matter, but to people of my race it does. You want to be included. You want to have your say.” Causey refers to her past as a means of explaining the journey that took her from private practice to legal aid. When she graduated from law school she recalls, “My mama said, ‘You going to work in legal aid?’ and I said, ‘No, I want to make some money!’” she finishes with a laugh. But she had grown up watching US Attorneys Calvin “Buck” Buchanan and Ava N. Jackson do considerable good for others with their law degrees. “In small town Mississippi, we saw these lawyers using legal aid to do great things for good people. I started volunteering here at Central Virginia Legal Aid, and it eventually became my profession.” Causey draws the connection between the legal aid community and the bar by saying, “I’m not going to win every case. But I am going to tell someone’s story. There are people being charged \$3,000 in rent and deposits who find

## DORIS ELCENIA HENDERSON CAUSEY

Central Virginia Legal Aid Society

### Virginia State Bar:

Executive Committee  
Council  
Budget and Finance Committee  
Better Annual Meeting Committee  
Bench-Bar Relations Committee  
Clients’ Protection Fund  
Study Committee on the Future of Law

### Other Affiliations:

City of Richmond Bar Association  
Old Dominion Bar Association  
Virginia Bar Foundation Fellow  
ABA Fellow  
ABA House of Delegates

### Education:

University of Mississippi,  
B.S. Mathematics  
and Political Science  
Tennessee State  
University, Masters  
of Education  
Texas Southern University, J.D.

### Family:

Doris and Tracy Causey are the parents of three children: Caleb, Jillian, and Joshua

themselves with rats and filth, and that’s not right. You have to go and argue what’s right, and the bar must argue for what’s right as well. You have to address what’s right.”

“I like that I am the first African American to have this role, the first African American woman, and also that I am the first legal aid lawyer,” Causey says of her historic bar first. “We have seen so many big lawyers have this role—it’s important to show that legal aid lawyers can do it too.”

When asked how she feels about her upcoming year and the role she will forever hold in bar history she says, “I think of myself in this role as: It’s time. I am leading a historic bar where there are lots of traditions, and I am glad I did it. I’m glad I put my name in the hat.” 🍷

# YEP. I WAS THERE.

By Will Manuel



When I agreed to volunteer as an Assistant Scoutmaster for Contingent Troop 4109 of the Andrew Jackson Council, I really had no idea what I was in for. I like attending the weekend and summer

campouts with my son and I figured this would be just that, but on a bigger scale. Boy, was it.

The Boy Scouts of America have been having national gatherings since the 1930s. In fact, the first one scheduled in 1935 on the Mall in Washington, DC had to be cancelled due to a polio outbreak. They typically have been held every four years in varying locations. In 2013, the first Jamboree was held at the Summit Bechtel Family National Scout Reserve adjacent to West Virginia's New River Gorge National River area. This amazing facility was donated and constructed with the sole purpose of hosting Boy Scouts. That was where we headed in late July of this year.

For Jamborees, Scouts are arranged into Contingent Troops. This is a collection



of scouts and leaders from varying local troops in a local council. Our contingent troop was 4109 and had almost 40 scouts from Jackson, Clinton, Brandon, Madison, Natchez and Forest. Four adult leaders

were in charge of herding these crazy cats.

We literally were dropped off at a campsite with several huge boxes of camping equipment. There were 6 campsite areas—each one home to almost 7,000 scouts. That's right—OVER 42,000 CAMPERS. We slept in tents. Cooked on propane stoves. And took “ambient temperature” showers (interpreted—NO HEAT). It was amazing to see how organized everything was. Everyone got fed. The shower houses were cleaned (also by the boys).

Every day, we got up around 6 am. The boys cooked breakfast. And then they were off on their own to engage in a wide variety of activities. During my 10 days there, I got to: hike to the top of a mountain, watch my son skateboard in the largest skate park in



North America, shoot skeet and rifles off of a mountain ridge, SCUBA dive (yes—with a tank and everything in a giant pool), hear two gold album rock bands play, and see a Coast Guard marine rescue operation. I also saw the medical helicopter take off and land about 4 times a day from the med center that was behind our campsite. Active boys result in

lots of fractures, heat stroke, cuts and various injuries. Thankfully, the most our Troop saw was a chronic bloody nose.

The boys also were required to do one day of service. We bussed to a troubled high school in Charleston where the troop did plenty of painting and other general maintenance. The principal was astounded at their cheerfulness and willingness to work. It made this lawyer



feel good to actually work on something that shows immediate results.

And yes—we were visited by the President. Politics aside (and I could give you an earful), it was a big thrill for the scouts to see a seated President and several cabinet members live. It did take us almost 4 hours in line to get through the metal detectors, but I think I can accurately say that they were all part of some sort of historical moment.

After a 13 hour bus ride back to Jackson and several consecutive hot showers, I reflected on the trip. It was encouraging to see so many scouts and volunteers all come together from around the country and the world to enjoy being outside and being active. My son had a blast and got to experience some things that I would have killed to do at 13. It also reminded me that as a lawyer, we often come up with

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excuses as to why we can't volunteer with our kids and our community. I had numerous colleagues tell me that I was crazy to take two weeks off completely. I'm sure my firm didn't dig it either. But in the end, I suspect that I will look back on that time as a much fonder memory than billing hours and taking summer depositions. We all need to remind ourselves that the legal world can survive without us—even for two weeks. 🍀



Contingent Troop 4109

# CABA June Membership Meeting

At our June membership meeting, CABA continued our tradition of hosting the new President of the Mississippi Bar Association. Rick Barry spoke to a packed house.

We also presented proceeds from the CABA golf tournament to MVLP.

Finally, CABA's Law-Related Education Committee announced the winner of CABA's 2017 Essay Contest. The overall winner was Meagan Gautier, daughter of Gingi Gautier, an attorney at Wise Carter, and Chuck Gautier, an alderman in Ridgeland. She read her essay at the meeting.

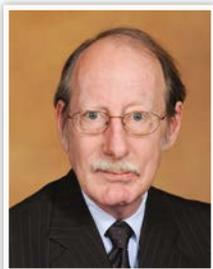


# » On Computing

Focused on the Contemporary Lawyer



## Apps to Consider for Fall...



By Joel Howell

Here are a few apps which may help you ease out of summer and into the fall season.

**Slack** (Android and Apple) is an app like WhatsApp, which allows real time messaging and archiving, but you can also use it on a computer as well as your phone. Its best use is probably in a workplace among peers.

**FitStar** ([FitStar.com](http://FitStar.com)). While trying to get the body of your dreams try this app. After each workout, you can input what you did. The app will then give you advice on how to improve your workout.

**Hinge** app ([Hinge.com](http://Hinge.com)), a free app, this is a dating app that works differently than the other common apps like Tinder. A hinge connects your Facebook to find mutual connections and friends of friends. Now, you can meet someone you might actually want to talk to.

The free app, **Cool Cousin** (Apple Store), will let you connect to individuals who are also new to whatever town you are in. Instead of reading reviews you can now see the town with others just like you.

**Airbnb** (Apple and Android store). Instead of staying in a cheap hotel or in hostels, you can live in a house rented out by the owners. Now you get the all the amenities and the comfort of a home.

The free **Shazam** (Apple and Android store) app helps you find the songs that you can never find the name for. If you hear a song, you can pull up the app. It will then record the song and find the title and performer.

**Soundcloud** (Android and Apple store) is a new music app for your phone. However, instead of going through a record company, anyone can upload their music — giving you the opportunity to hear new songs.

**New York Subway** (Android and Apple). Before you take a trip to New York this summer, download this app! It will help you navigate the streets and subways of the Big Apple.

**World Lens** (Android and Apple) can help you when traveling abroad. If you are in Mexico and can't read the menu or street signs, you can use this app to translate it in real time.

Fall is coming, and summer is ending. **Mint** (Apple and Android) will help you save money for your next vacation. After connecting the app securely to your bank account it will keep you up to date on bills, what you are spending, and create a budget based on your spending habits. There is also a second part that will take your small change and cumulate a total of your savings without you even noticing.

**Spotify** (Apple and Android) is the perfect app for your football parties and backyard barbecues. It's a free music app that allows you to listen to any song. If you don't pay for premium you will have to suffer through an ad or two, but overall the music to ad ratio is top notch.

The proliferation of the number of accounts needing passwords, all of which should be different, mandates the need for a good password manager. The basic version of **Lastpass** (Apple, Android, and Computer) is free and robust. Lastpass will help manage all your usernames and passwords and it can even help create strong randomized passwords for the sites you frequent.

Email is still a primary mode of communication in the workplace. If someone you know has ever denied getting an email you sent and you feel suspicious of them this app might be for you. **Mailtracker** (Apple) will tell you if the individual you sent the email to has opened your email and the date and time of when they read it.

With all the apps your phone can have, it can also be distracting when you need to get work done. The Android app **Focuslock** will take the apps you choose and lock them for a certain amount of time. Until the timer is up, you won't be able to open the distracting app.

With everyone's busy schedules, it can be hard to find friends to workout with. **Bvddy** (Apple and Android) is trying to change this. This app connects you to other individuals with the same time schedule as you. Not only can you make new friends, but you can also break a sweat while doing it!

Did your electronics survive this summer's pool parties and beach trips? If not, you've learned the hard way that there is always the high risk of water damage to the many electronics that we can't live without. The new iPhone and Apple Watch Series 2 are now water resistant. Don't be worried about spilling water or dropping your device. It will still be fine and protected, no matter how you spend your free time.

Outside of helpful apps, we all need to be more cognizant of security. On your personal laptop or PC, you should on a periodic basis run an external virus scan. I recommend **ESet** and **HouseCall** by Trendmicro. In addition, you should go to Dan Gibson's Spin Right website ([grc.com](http://grc.com)), Shields Up! and study on and run the test shown there. 🚀



Questions or comments?

Drop me an email: [jwh3@mindspring.com](mailto:jwh3@mindspring.com)

# CABA'S 2017 ESSAY CONTEST

Each year the Law Related Education Committee hosts CABA's Essay Contest for 7th & 8th graders in the Jackson area. This year committee members started in the fall to canvas schools and contact teachers about incorporating the essay into their curriculum. Their efforts paid off! Over 170 essays were submitted by student authors from five different schools in the Jackson area. The 2016-2017 Law Related Education Committee members include Dean Jim Rosenblatt (Chair), Christina Seanor (Chair), Cydney Archie, Mary Lib Baxter, Tamekia Goliday, Chad Russell, Katharine Surkin, Emilie Witehead and Rhonda Cooper. Authors of the top essay from each school received a cash prize of \$100. The Overall Winner, selected out of all of the essays submitted, received a cash prize of \$150. The teacher with the most students to submit essays in the contest won a \$100 gift card for classroom supplies.

Teacher Winner.....	Mrs. Amy Ward, Jackson Academy
Germantown Middle School Winner .....	Logan Nowell
Hartfield Academy Winner .....	Landon Lewis
Madison Middle School Winner .....	Jake Norris
Northwest Rankin Middle School Winner .....	Emily Rutland
Overall Winner & Jackson Academy Winner .....	Meagan Gautier

## Winning Essay

Should school officials have unlimited authority to inspect student lockers and student backpacks while on school grounds or do students have an absolute right of privacy in those two items/spaces?

By Meagan Gautier

The Fourteenth Amendment of the United States Constitution protects our right of privacy as to our personal belongings. While the Fourteenth Amendment clearly applies to protect my right of privacy as to my personal backpack, it is unclear if it also applies to my school locker. Even though my own books, clothing, and other things that I own are kept in my school locker, the school's rights should be greater than my right of privacy when it comes to protecting the students. The following sets forth the basis for my position that my right of privacy is limited on school grounds.

Although a backpack and items within the

backpack, such as textbooks, folders, notebooks, cell phones and money, are the personal items of the student, a school should have a good reason before searching a person's backpack. For instance, if a teacher or school dean is suspicious that a student has a weapon or something else that could be harmful to other students in his backpack, the student should lose the right of privacy. If a student is known to have a prior history of drug use, then his or her backpack should most definitely be searched regardless of any right of privacy claimed by the student. The school's interest in protecting its students from harmful weapons and drugs outweighs the student's right to privacy.

School lockers are the school's property which

means we really have no right to expect any privacy when we put something inside our lockers. A school should be able to open up a student's locker and look through it at any given time. A student's personal things within his or her school locker, such as purses and athletic bags, could have things inside of them like knives, guns, drugs, and other harmful items. Additionally, students may leave old food in their lockers which would attract mice and bugs. So this is not only a safety concern but also a health concern for the school. The school owns the locker; so therefore, the school must have the right to search it at any time regardless of a student's claim of privacy.

Schools should be able to look through backpacks and lockers at any given time if there is probable cause to believe that a student may possess drugs or weapons. Additionally, if a student kept old food in his or her locker, it could create a health risk. Therefore, schools should be able to access lockers and backpacks without regard to a student's right of privacy. 🍌

# WHAT A BILL OF COMPLAINT! WHAT COMMON NUISANCES! EIGHTY YEARS AGO!<sup>1</sup>

If when you say whiskey you mean the devil's brew, the poison scourge, the bloody monster, that defiles innocence, dethrones reason, destroys the home... , takes bread from the mouths of little children,... then I am certainly against it,  
But,

If when you say whisky you mean the oil of conversation, the philosophic wine, the ale that is consumed with good fellows get together, that puts a song in their hearts and laughter on their' lips,... then I am certainly for it.

—Noah S. “Soggy” Sweat, Jr.<sup>2</sup>

By James L. Robertson



## Introduction

It's been eighty years now. The panic of 1937 in the East Jackson area of Mississippi was rather different from the Panic of 1837 that had been inaugurated by Andy Jackson with his Specie Circular,<sup>3</sup> issued only a few months before poor

Martin Van Buren was elected to inherit the nation's financial contretemps.

Sam E. Seaneys was riding high in Rankin County, king pin of a family prominent in vice, liquor and gambling. On the other hand, in 1937 alone, District Attorney—and future circuit judge and longtime state supreme court justice—Percy Mercer Lee filed at least seven bills of complaint<sup>4</sup> charging one or more of the Seaneys with maintaining nuisances involving liquor, gambling and other real or imagined sins.

These “bills” demanded court issued

injunctions that in practical effect—and if enforced—could have shut the Seaneys down. D. A. Lee was proceeding under a statute that said the district attorney could go into chancery court and on proper proof obtain an order the effect of which supposedly was to “abate” a “common nuisance.”<sup>5</sup>

A more complete 1937 inventory of Gold Coast entrepreneurs and other proprietors, nocturnally operating variety and otherwise, also included Pat Hudson, believed to have been the first to see “gold” in the area,<sup>6</sup> Sam and the Seaneys family, Guysell McPhail<sup>7</sup> who became the lead raidee and defendant in a most important judicial contribution to Gold Coast lore, N. E. Muse, Ed Garrett, Lee Graves, Joe Catchings and his Rocket Lounge, and also the Green Frog and the Wild Owl which may or may not have been the enterprise called the Owl's Nest in the June 1937 lists compiled by the National Guard.

To say that over the era there may have

1. This article is a couple of excerpts from the author's work, tentatively named Constitutional Encounters in Mississippi History, publication pending, University Press of Mississippi. The “Encounters” will include ten chapters, beginning with the full story of an early freedom-by-residence slavery case, centered around *Harry and Others v. Decker & Hopkins*, Walker (1 Miss.) 36, 42-43, 1818 WL 1235 (1818), and the advent of judicial review in Mississippi told in *Runnels v. State*, Walker (1 Miss.) 146, 1823 WL 543 (1823), and in *Cochrane & Murdock v. Kitchens* (1823-1825) as told by James Daniel Lynch, *The Bench and Bar of Mississippi* 92-97 (1880), and by Prof. John Ray Skates, *A History of the Mississippi Supreme Court, 1817-1948*, pages 6-9 (1973), and others. See also, *Judicial Review Comes to Mississippi and Stays*, <http://caba.ms/articles/features/judicial-review-comes-to-ms.html>, posted December 2015. The Encounters will hop and skip across the calendar and Mississippi's constitutions and include two Encounters from the first term of Gov. Hugh L. White, one arising from the Balance Agriculture with Industry (BAWI

Program and the great case of *Albritton v. City of Winona*, 181 Miss. 75, 178 So. 799 (1938), and a second, the “Governor and the Gold Coast” and the great case of *State v. McPhail*, 182 Miss. 360, 180 So. 387 (1938). What follows here is taken from a much more complete and colorful version of “Governor and the Gold Coast.”  
2. I am not aware that there is an official citation for the late legislator, jurist, law professor Soggy Sweat's complete Whiskey Speech, the original 1952 version. I quoted it in full in 1986 in *City of Clinton v. Smith*, 493 So.2d 331, 336 fn. 13 (Miss. 1986), and accompanying text. See more recently Janice Branch Tracy, *MISSISSIPPI MOONSHINE POLITICS; HOW BOOTLEGGERS & THE LAW KEPT A DRY STATE SOAKED*, Appendix V, pages 173-174 (2015). Former Mississippi legislator turned author John Grisham reads it via You Tube at <https://www.youtube.com/watch?v=qPzUcJcgXUA>. See also, “Noah S. Sweat-Wikipedia,” [https://en.wikipedia.org/wiki/Noah\\_S.\\_Sweat](https://en.wikipedia.org/wiki/Noah_S._Sweat).  
3. See Presidential Executive Order directing that after August 15, 1836, the federal government would

accept only specie—hard currency, primarily gold or silver—in exchange for public lands. [https://en.wikipedia.org/wiki/Specie\\_Circular](https://en.wikipedia.org/wiki/Specie_Circular).  
4. See civil Bills of Complaint to Abate a Common Nuisance shown on the docket and in the records of the Chancery Court of Rankin County for the year 1937 naming one or more Seaneys as defendants and bearing docket numbers 4025, 4112, 4113, 4138, 4182, 4199, 4209.  
5. See Miss. Laws, ch. 189 (1918), then codified as Miss. Code §2007 (1930).  
6. Pat Hudson was recognized for his foresight only a few years after the fact by Craddock Goins in his article *Hooch and Homicide in Mississippi*, *THE AMERICAN MERCURY*, Vol. XLVIII; page 183 (October 1939). On June 2, 1937, Hudson had been recognized for his activity in a Bill of Complaint to Abate a Common Nuisance filed by the district attorney in the Chancery Court of Rankin County, Case No. 4136.  
7. Findagrave Memorial #86036804, [findagrave.com](http://findagrave.com).

Continued on page 12...

been close to fifty “places of business” packed into the Casey’s Lane and Fannin Road corner of the county only partially sets the stage. The ambiance of the Gold Coast was as important as raw numbers. People are still compiling lists of those that operated and were a source of such shady vibrance ‘cross the river from Jackson.

In 1937 the Stamps brothers—Charlie, Clift and Bill—opened a hotel, including a club and restaurant, catering to African American patrons from throughout the South. The hotel’s large dance floor and the Rankin Auditorium were attractive features not offered in other Gold Coast venues.<sup>8</sup> An aspect of flourishing Gold Coast entertainment that at times created more controversy than free flowing whiskey and gambling was its failure to observe then prevalent racial separation mores.

Today, hie thee to the WLBT Television premises—SE corner of South Jefferson St. and Silas Brown St., thence easterly across the new Woodrow Wilson Bridge, thence easterly to Highway 468 West, thence northerly. The double sided Blues Trail marker<sup>9</sup> just off the public parking area on the east side of Crystal Lake is helpful but incomplete. One problem is that the venues were fluid, they came and they went. Others never had a formal name, much less neon lights out front that folk would remember.

### The Gold Coast Wars Circa 1937

Governor Hugh L. White had taken office in January of 1936 for the first of his two terms. Personally and politically he was pro-“dry.” In time the new Governor acceded to a plea from Rankin County residents to visit their westerly environs and see for himself the extent of illegal liquor and gambling operations.

On December 6, 1936, White made his move. He marshaled the National Guard. In relevant part, White’s executive order provided

In view of the conditions existing in East Jackson, Rankin County, Mississippi, I... do hereby order the Adjutant General of Mississippi to order out such part of the Mississippi National Guard as he may deem necessary for the purpose of assisting in enforcing the criminal laws of the State of Mississippi in the county aforesaid. The number of troops used and the amount of expenditures shall be held to a minimum, compatible with the mission to be performed. The senior officer will be in direct command of the troops ordered out, and will use such force of arms as may be necessary in his opinion to accomplish the mission of the troops... The officers and men ordered out will remain on duty until relieved by order from the Adjutant General of Mississippi.<sup>10</sup>

The yield of this effort was enough to pass the buck back to D. A. Lee. Again and again. At seemingly regular intervals, and following each raid, Lee began filing not-civil chancery court bills of complaint to abate common nuisances. This less than garden variety prosecutorial process is worthy of note.

At least since 1918, when Mississippi became the first state to ratify the Eighteenth Amendment, state law has authorized proceedings for the abatement of common nuisances,<sup>11</sup> not necessarily among “the criminal laws of the State of Mississippi,” at least in the formal sense. By legislative command, intoxicating liquor was one core element of such a nuisance. Gambling was another.

The law specified particular venues where common nuisances were likely to be practiced, viz., “[a]ny club, vessel or boat, place or room where liquors are found, kept or possessed.” Also swept up in the cumbersome and legalistic text was “any person with intoxicating liquor in their possession or under their control.” All in all, the simultaneous and continued existence

of such facts and circumstances “in this state shall be deemed to be a common nuisance.”

### That Damnable Bill of Complaint

By the time the calendar turned to 1937, so many common nuisances across the state had been found in need of abatement—and so frequently—that the prosecuting attorneys developed a two page, small print, legal sized paper, fill-in-the-blanks, one-size-fits-all form that enjoyed the generic title of “Bill of Complaint”.<sup>12</sup>

Whether this form Bill of Complaint originated on the Gold Coast or the Gulf Coast is not known. It was surely one of the two.

After completing the names of parties, jurisdiction and venue, the boilerplate wording took over. The formal charge began, “That defendants, in flagrant disregard and open defiance of the statutes of Mississippi...” One would have thought that more than enough wording to leave no doubt that illegal possession of “intoxicating and spirituous liquors” was being charged. Nothing in the statute said more was needed.

The judge would issue the injunction, if, of course, the State proved its case. Gilding the lily, however, the form’s draftsmen added “and in detriment to the welfare, morals and well-being of the citizens of Mississippi...”

Normally, a plaintiff is expected to prove the truth of the facts he alleges. In Mississippi in the late 1930s—and for many years thereafter—many would have thought no proof needed regarding the morals or social utility of booze. The good church goer teetotalers certainly required no such proof.

And so one can image a devilish defense lawyer challenging the State to prove in the conventional way what it had alleged, that the particulars of possessing whiskey were “detriment[al...] to the welfare, morals and well-being of the citizens of Mississippi.” And

8. Janice Branch Tracy, MISSISSIPPI MOONSHINE POLITICS; HOW BOOTLEGGERS & THE LAW KEPT A DRY STATE SOAKED, page 99 (2015).

9. See Mississippi Blues Trail, Gold Coast-Jackson, <http://msbuestrail.org/blues-trail-markers/goldcoast>.

10. See *State v. McPhail*, 182 Miss. 360, 182 So. 387,

389 (1938).

11. Miss. Laws, ch. 189 (1918), codified as Miss. Code §2007 (1930).

12. Many well used exemplars of this form Bill of Complaint are gathering dust while in storage in the basement of the Rankin County Chancery

Court building. See, e.g., Bill of Complaint in “State of Mississippi and County of Rankin, Ex Rel. Percy M. Lee, District Attorney, Complainant, vs. A. A. Seaney, Frank Seaney, and Lee Jones, Defendants, Chancery Court Docket No. 4182, dated September 27, 1937.

*Continued on page 13...*

after the D. A. had made his speech sufficient until the next election, then moving the chancery judge to dismiss for failure to prove an essential element of the charge it had brought.

Of course, the legalistic answer from a good D. A. would have been that the law does not require that such a detrimental effect be established, and he would have been correct. Clever counsel for the defense would retort, “of course proof of this detrimental effect on morals is essential and must be shown, else the learned D. A. would never have included this claim in his boilerplate form in the first place.”

### More Devilish Lawyer Fun

The same fun could have been had with the next clause in the printed form. The defendants “have on numerous occasions—fill in the dates—illegally kept and possessed large quantities of intoxicating and spirituous liquors in and on the premises hereinafter described.” Again, nothing in Section 2007—the applicable code section in the 1930s, Section 99–27-23 today—required anything beyond a simple showing of “possession” of “intoxicating liquor.”

Many more lines of legalese followed with a blank then left for the premises to be described, almost as though lands were being conveyed.

Then it got better. This (in)famous form charged that the defendants have—of all things—“kept the same [intoxicating and spirituous liquors] in open view and have allowed the general public to have free access to said premises.”

Then—horror upon horrors—the form bill of complaint to abate common nuisances alleged that “the general public had congregated

there and purchased from the defendants and drunk on said premises large quantities of intoxicating and spirituous liquors.”

The name of each person believed in need of abatement was then typed into a blank space after which each was formally charged by form, *viz.*, their actions “constitute an insult to the law, order and morals of Mississippi and if allowed to continue will weaken respect for law, order and morals, encourage violations of law, tend to promote breaches of peace and be detrimental to the general welfare of the public.”

And all of this takes up just part of the first page of this fine boilerplate form.

### 1937 was a busy year for D. A. Percy M. Lee

On March 31, 1937, District Attorney Lee filed in the Chancery Court of Rankin County thirteen such bills of complaint to abate common nuisances, the yield of a raid of Gold Coast night spots.<sup>13</sup> Thirty or more defendants are named in these complaints including members of the Seaneys clan who are named twice.<sup>14</sup>

Another raid a couple of months later led to fifteen new common nuisance bills of complaint being filed June 2, 1937.<sup>15</sup> Among the more than thirty new defendants were Pat Hudson,<sup>16</sup> the colorful “Doc” Steed and his wife,<sup>17</sup> and, of course, Sam Seaney.<sup>18</sup> A late September raid produced fewer bills of complaint—only nine.<sup>19</sup> A. A. Seaney and son Frank were among the guests of honor in bills filed on September 28, 1937.<sup>20</sup>

Two months later came yet another raid, and another nine nuisances that needed

abating.<sup>21</sup> “Historical documents indicate that Governor White alone ordered over a dozen raids on Gold Coast establishments between 1937 and 1939.”<sup>22</sup> Sam Seaney maintained his good reputation.<sup>23</sup>

### The Genesis of the Great Case

In late 1937, Major T. B. Birdsong led some sixty-eight armed national guardsmen as they invaded the Gold Coast. Large quantities of bonded though illegal liquors were seized. Gambling equipment and paraphernalia were destroyed. Many arrests followed. The next morning found a number of familiar nightclubs and other facilities padlocked.<sup>24</sup> One of the November 1937 defendants was Guysell McPhail, sued along with his brother Stanley McPhail.<sup>25</sup>

In the late Fall of 1937, McPhail came before Chancery Judge A. B. Amis of Meridian.

A respected legal and judicial practitioner, Amis had published *DIVORCE AND SEPARATION IN MISSISSIPPI* in 1934, reflecting scholarly and practical insights in a field at the heart of chancery court jurisdiction and practice.

Perhaps Judge Amis was not as caught up in local passions of the times, because as the crow flies the Gold Coast was about as far away from his home court in Meridian as one could get and still be in that chancery district as it was then configured.

On December 11, 1937, Judge Amis sent the State packing on its case against McPhail, on grounds that Governor White’s use of guardsmen as auxiliary local police officers exceeded his authority.<sup>26</sup> In his ruling Judge Amis made clear his view of the “strictly limited” authority of the Governor regarding

13. These are cases Nos. 4107 through 4119 on the docket of the Chancery Court of Rankin County, Mississippi, kept in the office of the Chancery Clerk in Brandon, Mississippi.

14. Case Nos. 4112 and 4113 are each styled “The State of Mississippi, etc., vs. A. A. Seaney and others.”

15. These are cases Nos. 4129 through 4143 on the docket of the Chancery Court of Rankin County, Mississippi, kept in the office of the Chancery Clerk in Brandon, Mississippi.

16. Case No. 4136 is styled “The State of Mississippi, etc., vs. Pat Hudson, et al.”

17. Case No. 4139 is styled “The State of Mississippi, etc., vs. Annie Steed and “Doc” Steed.”

18. Case No. 4138 is styled “The State of Mississippi, etc., vs. S. A. Seaney, et al.”

19. These are cases Nos. 4178 through 4186 on the docket of the Chancery Court of Rankin County, Mississippi, kept in the office of the Chancery Clerk in Brandon, Mississippi.

20. Case No. 4182 is styled “The State of Mississippi, etc., vs. A. A. Seaney, et al.”

21. These are cases Nos. 4198 through 4205 on the docket of the Chancery Court of Rankin County, Mississippi, kept in the office of the Chancery Clerk in Brandon, Mississippi.

22. Janice Branch Tracy, *MISSISSIPPI MOONSHINE POLITICS; HOW BOOTLEGGERS & THE LAW*

KEPT A DRY STATE SOAKED, page 98 (2015).

23. Case No. 4199 is styled “The State of Mississippi, etc., vs. “Bazooka” Sam A. Seaney, et al.”

24. A few years later Craddock Goins provided a journalist’s version of this story in, *Hooch and Homicide in Mississippi*, *THE AMERICAN MERCURY*, Vol. XLVIII;183-184 (October 1939)

25. Case No. 4203 is styled “The State of Mississippi, etc., vs. Guysell McPhail and Stanley McPhail.”

26. Craddock Goins took note of Judge Amis’ role in the story in, *Hooch and Homicide in Mississippi*, *THE AMERICAN MERCURY*, Vol. XLVIII; page 185 (October 1939).

*Continued on page 14...*

the National Guard, adding that what Hugh White had done “strikes at the very foundation of our republican form of government.”<sup>27</sup> The reference, of course, is to the guarantee in the Constitution of the United States, Art. IV, § 4, that each state shall enjoy “a republican form of government.”

The State appealed. It assigned as error and charged that it had indeed produced enough evidence at trial to show a common nuisance under Section 2007, which presumably the State could not do without the physical evidence the National Guard seized when it raided McPhail’s premises. More than that, there was a complete breakdown in law and order on the Gold Coast.

But while all of this was pending, the Legislature came to town, to Jackson that is, ‘Cross the River a few miles to the west. Always an adventure, then as now.

### Why not conventional Indictments and Jury Trials?

There is little evidence elucidating how this nuisance abatement strategy came to be regarded, and, for that matter, what the public thought of the role the National Guard was playing, and what the costs might have been.

Arguably, common nuisance proceedings in chancery were more efficient than individualized criminal grand juries, indictments and prosecutions, and where those accused would have more extensive rights. No multi-party indictments in those days.

Moreover, there was no presumption of innocence in chancery. Proof of guilt beyond a reasonable doubt was not required. Juries may or may not have been reluctant to convict. Put otherwise, a juror or two who was not prepared to deny all access to booze may have presented the district attorney with a serious practical obstacle.

Without serious doubt, Judge Amis’ ruling in the McPhail case—whatever else it may have said—raised questions about the common nuisance in chancery strategy and its viability going forward.

## MISSISSIPPI COLLEGE LAW LIBRARY HOURS

### FALL 2017

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Monday—Thursday	7:00 am—midnight
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Saturday	9:00 am—7:00 pm
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### EXCEPTIONS

**FALL BREAK: October 12—October 15**

Thursday—Friday (Oct 12—Oct 13)	7:00 am—5:00 pm
Saturday (Oct 14)	9:00 am—5:00 pm
Sunday (Oct 15)	noon—midnight

**THANKSGIVING: November 17—November 26**

Friday (Nov 17)	7:00 am—5:00 pm
Sunday & Saturday (Nov 18 & Nov 19)	CLOSED
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Wednesday—Sunday (Nov 22—Nov 26)	CLOSED

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Friday	7:00 am—5:00 pm
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**Final Exam Hours to be posted at a later date.**

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What we do know is that once—in January of 1938—the lawmakers had settled into their respective houses in the state capitol, they swung into action. Gov. White—fresh from his special session victory for his Balance Agriculture with Industry program<sup>28</sup>—was feeling his oats.

White excoriated the prevalence of “gambling devices,” particularly the “illegal operation and crooked construction of these

slot machines, so called one-armed bandits,” noting that in some communities

“they are operated on the morals of young people, even very small children being robbed and corrupted thereby. No gunman with his pistol pressed against the vitals of his intended victim is more certain of his booty than are these mechanical highwaymen that mercilessly extract

27. Temporary citation is to Janice Branch Tracy, MISSISSIPPI MOONSHINE POLITICS; HOW

BOOTLEGGERS & THE LAW KEPT A DRY STATE SOAKED, pages 96-97 (2015).

28. See *Albritton v. City of Winona*, 181 Miss. 75, 178 So. 799 (1938).

*Continued on page 15...*

from their victims money that in many instances should go to pay honest debts or to buy food and clothing for needy children.<sup>29</sup>

Representatives Gerald Chatham and N. A. Spencer, both of DeSoto County, introduced a series of bills aimed at strengthening the prosecution's hand in proceedings for abatement of common nuisances. On February 7, 1938, Chatham and Spencer moved to up the ante for those practicing the gambling or liquor trades. A prospective sanction would be an enhanced deterrent.

Upon a judicial finding for the prosecution, the common nuisance practitioner "may be required by the court to enter into a good and sufficient bond in such amount as may be deemed proper by the court to be conditioned that he or they would not commit a similar offense for the next two years."

Adding teeth to the bonding authority, the failure to make such a bond would be a contempt of court by reason of which the nuisance operator would be placed behind bars in the county jail until some of his associates came to the rescue and provided the bond, which, of course, would create an inference that such friends or relations might themselves be in the common nuisance business.

House Bill No. 497 then tacked this sledgehammer on to the state's anti-gambling laws. House Bill No. 498 would so amend the laws condemning intoxicating liquors.<sup>30</sup>

On February 10, committee chairman T. N. Gore of Quitman County quickly called up both bills and each was passed unanimously by the House of Representatives.<sup>31</sup> The Senate soon followed suit.

On February 21, and on motion by Senator Walter W. Capers of Jackson in Hinds County, the rules were suspended and H. B. 497 concerning the common nuisance of gambling passed 35 to 4 with 10 senators

absent or not voting. In short order, Senator Capers also brought up H. B. 498 which concerning liquor prohibition and it passed 36 to 5, with 8 senators abstaining or not voting.<sup>32</sup> On February 23, 1938, White signed both bills into law.<sup>33</sup>

A bit of perspective may be needed here. Practically every article or other publication concerning the Gold Coast in its heyday mentions that legislators were among its patrons, in addition to many of the more prominent citizens of Jackson.

In October of 1939, one time Jackson journalist Craddock Goins reported "It is generally understood that several legislators are financially interested in Gold Coast gambling joints; certainly many are frequent patrons."<sup>34</sup>

### The Aftermath, for the Moment and for All Time

*State v. McPhail*, 182 Miss. 360, 180 So. 387 (1938) is a great case. Almost every paragraph is worthy of careful study and thoughtful reflection. A fine legal essay. But three cases cited—only one from Mississippi—more for their prose than points of law.

Meaning and understanding are afforded the Governor's constitutional charge that he see that the laws be faithfully executed.<sup>35</sup> And the limits of that power.

How many readers—without being told—reach that famous "but whenever" clause about halfway through the third paragraph from the end,<sup>36</sup> and realize that the rest of the opinion is straight out of Magna Carta?

Is Justice Virgil A. Griffith proceeding with malice aforethought? Or was it just chance—fortuity—that Griffith's thinking in 1938 was so close to the core of the still extant remains of what was said at Runnymede in June of 1215?

All that need be said for the moment is that the Supreme Court reversed and remanded

the matter for trial in the chancery court on the Bill of Complaint to Abate a Nuisance said to be being practiced by Guysell McPhail.

But nothing happened. For almost a year, no docket entries.

On March 22, 1939, Chancellor Amis entered an intriguing order. Its heading itemizes fifty pending cases brought by the district attorney against well over a hundred Gold Coast operatives to abate fifty common nuisances said to be being jointly or severally practiced. Most of the cases had been filed between late March and late November of 1937.

Spell out the names of the "et als" in the case styles and you have a roll call of just about everyone doing business on the Gold Coast in 1937, and the trade names of most. Of course, some like the Seaneys make multiple appearances.

In this omnibus order, Judge Amis found

that no action has been taken in any of the above entitled causes during the last two terms of court and that neither the complainant nor the defendants have appeared during this term to either prosecute or defend these causes.

By this time Percy M. Lee had moved on to the office of circuit judge.

Tom Barnett of Carthage had become the new district attorney and had fresher fish to fry. Regular National Guard raids in the early weeks of 1939 had afforded Barnett more than enough new cases to prosecute. The usual suspects had been rounded up anew. In consequence Judge Amis ordered

"that all of said causes be and the same hereby are passed to the files of this court and that no further action be taken thereon until and unless some person interested therein shall appear and move the court to restore the same... for action thereon."<sup>37</sup>

29. Senate Journal, pages 26-27 (Reg. Sess. 1938); House Journal, pages 21-22 (Reg. Sess. 1938).

30. House Journal, page 402 (Reg. Sess. 1938).

31. House Journal, pages 441-442 (Reg. Sess. 1938).

32. Senate Journal, pages 307-308 (Reg. Sess. 1938).

33. See Miss. Laws, ch. 341 (1938), codified today as Miss. Code §§ 95-3-25 (with subsequent amendments) and 99-27-23.

34. Craddock Goins, *Hooch and Homicide in Mississippi*, THE AMERICAN MERCURY, Vol. XLVIII; page 183 (October 1939). See also, Bill Minor, "New liquor bill revives memory of Rankin bootle," Daily Journal (Tupelo, Mississippi), posted March 9, 2000, (Gold Coast establishments served "a ready made clientele of fun starved folks out of the capital city, including state lawmakers." <http://djournal.com/news/hedbill-minor-new-liquor-bill-revives-memory-of-rankin-bootle>

35. Miss. Const., art. V, § 123.

36. *McPhail*, 180 So. at 391.

37. Order entered March 22, 1939, found in Minute Book 11, pages 124-127 in the records of the Chancery Court of Rankin County kept in the office of the Chancery Clerk.

*Continued on page 16...*

One of the cases passed to the files was No. 4203, State vs. Guysell McPhail on remand from the Supreme Court of Mississippi by virtue of its decision of April 1938. It does not appear than any of these fifty cases was ever restored to the court's active docket for any action thereon.

### A Postscript, Eighty Years Later

In the late 1930s, legislators proved quite creative when it came to dealing with sin

on the Gold Coast. We saw above how they augmented the common nuisance statutes to authorize a form of no-more-sin bonds, backed by the threat of jail time if an acceptable bond was not filed.<sup>38</sup>

The ingenious legislation so prominent eighty years ago remains in place, requiring of those found to have maintained one of those dreaded common nuisances—illegal liquor trafficking or illegal gambling—that they post a bond to assure that they will sin no more, at least not for two years.<sup>39</sup>

Liquor is now legal, and so is gambling,

though both are well regulated. But for those who might contemplate creating other nuisances—of one or both of the big two, without a license—you can never be sure when old law might fit the fancy of latter day judges. With a few amendments, Sections 95–3–25 and 99–27–23 are still on the books.

Justice Virgil Griffith's articulation of Mississippi's constitutional adoption of the core of Magna Carta remains unexcelled. But how well do we practice what the great teacher taught? ➡

38. See Miss. Laws, ch. 341 (1938), codified today as Miss. Code §§ 95-3-25 (with subsequent amendments)

and 99-27-23.  
39. House Journal, page 402 (Reg. Sess. 1938).

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## Newsletter Dedication

This issue is dedicated to longtime newsletter committee member **Marlane Chill Dove**, our beautiful colleague and friend, who passed away in July. Her most recent article, *The Road Lawyer in Italy*, appeared in the July/August 2016 issue.



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