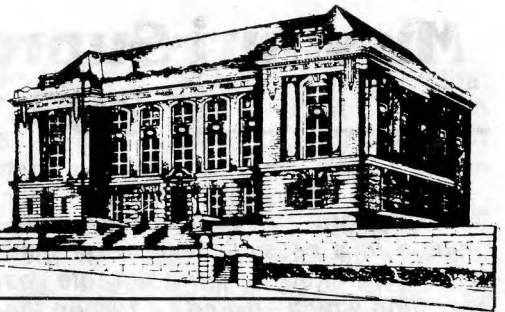


# The Missouri Supreme Court Historical Journal

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## Gift Honors Rush Limbaugh, Sr.

The lawyer sons and grandsons of one of Missouri's veterans of the Bar have made a \$1,000 contribution to the Missouri Supreme Court Historical Society to commemorate his 70th Anniversary as an attorney. Rush H. Limbaugh, Sr., scion of one of Southeast Missouri's distinguished legal families, this year celebrated his 95th birthday in October and completed his 70th year as a practicing attorney. In honor of the occasion, his two lawyer-sons, Judge Stephen N. Limbaugh and Rush H. Limbaugh, Jr., and his four lawyer-grandsons, John M. Limbaugh, Lt. Col. Daniel B. Limbaugh, Stephen N. Limbaugh, Jr., and David S. Limbaugh made the contribution to the Society in his name.

Mr. Limbaugh was born in Sedgewick, Mo. in 1891 and was admitted to the Missouri Bar in 1916. For the past three score and ten years, he has been engaged in the practice of law in Cape Girardeau, most of the time in partnership with his sons and grandsons.

He has been an active member of the organized bar for his entire career, having served as



president of the Cape Girardeau County Bar Association in 1930 and as president of The Missouri Bar in 1955-1956. He also served as a member of The Missouri Bar's Board of Governors from 1949 to 1957 and as a member of the American Bar Association House of Delegates from 1955 to 1959. In 1958 he was a special U.S. Department of State Representative to India. Mr. Limbaugh is also a member of the American College of Trial Attorneys and the American College of Probate Counsel.

The veteran attorney is still engaged in the active practice of law in the Cape Girardeau firm of Limbaugh, Limbaugh, Russell and Syler. However, he admits he's slowed down a bit recently. Instead of putting in his regular six full days at the office, he now leaves at noon on Saturday. Mr. Limbaugh still maintains his interest in bar activities, regularly attending meetings of The Missouri Bar and the American Bar Association as well as traveling to Europe to visit the Inns of Court in London.

## Historical Society Holds First Annual Meeting

The first annual meeting of the Missouri Supreme Court Historical Society was held April 25, 1986 in the en banc court room of the Missouri Supreme Court in Jefferson City.

Members of the Supreme Court convened in a special session to receive two gifts which were presented to the Court by the Society.

Society president James A. Finch, Jr. presented the first gift, a proof print of the painting by George Caleb Bingham entitled *MARTIAL LAW* but somewhat better known as *ORDER NO. 11*. The print was given by Mr. and Mrs. James S. Rollins, Columbia, in memory of his great-grandfather, James S. Rollins, the founder of Missouri University, and his father, Senator James S. Rollins II, both prominent Missouri attorneys.

President Finch read to the court a brief account of the historical events during the Civil War in Missouri which led to Bingham's painting



of the original picture. This framed, descriptive background material was written by Dr. Richard Brownlee, former head of the Missouri Historical Society. It will be hung next to the print as a way of providing the public with an explanation of the events depicted in the painting.

*(continued on page 13)*

# Missouri Supreme Court Commissioners 1883-1885 1911-1982

By Norwin D. Houser\*

*"Shakespeare three hundred years ago commented in a pessimistic vein on the 'law's delay' and mentioned the intolerable psychological condition which ensued by reason thereof, as one of the things which might cause one to seriously contemplate suicide."<sup>1</sup>*



hile it would hardly do to propose that the Supreme Court Commission was created to cut down on the suicide rate, it is true that it came into existence in order to fill a pressing need. The speedy, as well as the just, disposal of appeals from the lower courts to the Supreme Court has been a vital concern since the earliest days of statehood.

Before delineating that need, perhaps a definition of the term "commissioner" would be in order. A supreme Court commissioner was a special judicial officer, created by legislative enactment, appointed by the judges of the court on a bipartisan basis for a 4-year term, who sat on the bench with the judges in the hearing of arguments on appeal, and was assigned cases for the preparation of judicial opinions which, when approved and adopted by the judges, became the law of the land.

For nearly three quarters of a century commissioners wrote thousands and thousands of high quality, sound and scholarly opinions, and did so on time. Long-time Commissioner Paul W. Barrett, with that wry smile of his, characterized commissioners' opinions as "original, incomparable, creative masterpieces."

## The Need Develops

Under the provisions of the Constitution of 1820 the Supreme Court consisted of three judges. As the population grew and the state developed there was a continuing increase in litigation, with a consequent increase in the number of appeals to the Supreme Court. Sufficient personnel to keep abreast of the rising tide of appeals became a threatening problem in the middle of the nineteenth century, particularly after the Civil War. For five years, from 1865 to 1870, some relief was provided by a system of district courts of appeal, manned by circuit judges. Cases not finally disposed of in the district courts of appeal could be appealed to the Supreme Court. District courts of appeal were abolished by constitutional amendment in 1870. On May 5, 1875 a convention assembled for the writing of a new constitution for



Norwin D. Houser

the state. Seriously concerned about the congested condition of the Supreme Court docket, the St. Louis Bar Association urged the delegates to create a new court to expedite the disposition of cases on appeal. Responding to the need, the convention proposed and in the new Constitution of 1875 the people adopted a

provision increasing the number of judges of the Supreme Court from three to five, and establishing a three-judge intermediate appellate court called the St. Louis Court of Appeals, a court with limited appellate jurisdiction. This added five judges to the appellate establishment. In 1882 the people rejected a proposed constitutional amendment to increase the number of Supreme Court judges from five to six, and to divide the court into two divisions.<sup>2</sup>

## Legislative Concern



he number of appeals continued to increase until by 1883 the Supreme Court was several years behind in its work. In the report of a special committee appointed on January 19, 1883 by the Speaker of the House<sup>3</sup> it appeared that there were 1,404 undecided cases on the docket; that during the previous year the number of cases docketed exceeded the number disposed of by at least 150; that the increase in the business of the court was occurring at such a rapid rate that "at the end of the next decade, the docket will reach the enormous sum of 3,000 cases, and should all appeals be stopped at that time, it would take the court about eight years to reach the last case placed upon the docket." The report pointed out that much of the judges' time was taken in the hearing of extraordinary writs, motions and oral arguments; that the writing of opinions "requires an amount of labor not equalled by any other officer in the State, except perhaps the Judges of the St. Louis Court of Appeals." The committee recognized the duty of the General Assembly to provide speedy relief for the Supreme Court, but its only recommendations were to provide for the printing of transcripts on appeal (which until then had been handwritten and were hard to decipher) and to limit appeals of cases involving amounts of less than \$200 to the circuit courts.

\* A.B. 1929, LL.B. 1931, University of Missouri; Judge, 27th Judicial Circuit 1941-1950; Commissioner, St. Louis Court of Appeals 1950-1959; Commissioner, Supreme Court of Missouri 1959-1978; Senior Judge 1978-\_\_\_\_\_.



### Commissioners Authorized



Although the need for additional judicial personnel was not included in the committee's recommendations, the need was recognized, and by an Act approved March 22, 1883<sup>4</sup> the General Assembly authorized the Supreme Court to appoint, as officers of the court, three persons, designated as commissioners, for a term of two years, to whom the court could submit such causes as the parties or their attorneys might agree, and any causes submitted to the court on briefs or without argument. The reports of the commissioners on the cases they heard could be approved, modified or rejected by the judges. If approved and adopted they became the opinions and judgments of the court. Section 6 of the Act provided: "Owing to the large number of cases now pending in the supreme court, and the inability of the court to dispose of the same promptly without further aid, and the great detriment to litigants and to the public generally in consequence of the delay in the disposition of causes brought to said court, an emergency exists for the immediate taking effect of this act; therefore, this act shall take effect and be in force from and after its passage." On the same day the Act was approved the Supreme Court appointed Charles A. Winslow of Jefferson City, John F. Philips of Kansas City and Alexander Martin of St. Louis, as commissioners, and directed them "to meet at the Supreme Court Room at the City of Jefferson on the 16th day of April, 1883, to enter upon the discharge of their duties as such commissioners." On that same day the court made an order referring 150 cases to the commissioners. Forty nine more cases were referred to the commissioners in April, 1883; 83 in November, 1883; 78 in January, 1884; 17 in April, 1884 and 91 in May, 1884, for a total of 468 cases referred to three commissioners during the two-year life of the first Supreme Court Commission.<sup>5</sup>

### Commissioners Abolished



In 1884, the Constitution of 1875 was amended to create a new three-judge court of appeals at Kansas City, and to authorize the General Assembly to create other courts of appeal as deemed necessary. This gave the Supreme Court some relief. The assistance of commissioners no longer being deemed necessary, the Supreme Court Commission was abolished. "The problem of an overcrowded supreme court (docket) remained, however, and in 1890 the voters ratified an amendment increasing the number of supreme court judges to seven and establishing a civil and criminal division of the court."<sup>6</sup>

In 1909 the General Assembly created the Springfield Court of Appeals, and enlarged the jurisdiction of the courts of appeal to include cases involving amounts up to \$7,500. Three judges were thereby added to the appellate work force, but this did not solve the problem.

### Commissioners Re-Created

By 1911 the situation had become so acute that the General Assembly, by an Act approved March 27, 1911,<sup>7</sup> re-created the office of Supreme Court Commissioner, authorizing and directing the Supreme Court to appoint four persons possessing the same qualifications as judges of the Supreme Court, for four years, to sit with the regular judges, hear arguments of cases on appeal, and prepare opinions, subject to the approval of the judges which, if adopted by majority vote of the judges, became the judgments of the court. The commissioners were required to be appointed on a bipartisan basis. Each commissioner was provided with an office "suitably furnished" in the Supreme Court building, "supplied with stationery," authorized to appoint a stenographer, and provided the same compensation as that of a judge. As in 1883, the Act of 1911 contained an emergency clause, which recited that the court was not able for want of time to hear the large number of cases then pending.

### The Speaker's Committee



Eight years later, in 1919, the Speaker of the House appointed a special committee consisting of John C. Dyott, Chairman, J.D. Hostetter, W.W. Henderson, J.W. Campbell and Frank Williams, Members, to examine into the status of the Supreme Court docket.<sup>8</sup> The special committee reported in part as follows:

"When the commissioners (four in number) began their work in April, 1911, the average time between the docketing and submission of cases appealed from circuit courts as well as those certified up from the various courts of appeals was three years and two months. In other words, litigants in such cases were required at that time to wait three years and two months on the average after the term to which their cases were returnable in the Supreme Court, before they could be heard, and a further delay ensued, estimated to be on the average of three months after hearing and submission, before an opinion was promulgated disposing of their cases. This, with the usual and necessary delay in the lower court, made about a four-year delay in these cases from the time of the trial in the lower court until their cases were determined in the Supreme Court, a condition which amounted almost to a denial of justice. At present the average time between the return term of such appeal cases and the submission of same is two years and two months, thus indicating that in the approximate period of eight years during which the commission \* \* \* has been in existence, the court is practically one year nearer up with its docket \* \* \* than it was when the commission began its labors in April, 1911.

"From the best information obtainable the commissioners, during the eight years of the life of the commission, will have written a little over 1,100 opinions which have received the approval

of the judges and have been promulgated as the law. This constitutes an average of around forty opinions per year for each commissioner. This is a little over the average number of opinions written and promulgated by the judges of the court during the same period, although no doubt there are instances where the individual commissioners or judges have written more than the average and others where some have fallen behind the average on account of illness, or necessary absence.

### Original Writs

**H**owever, the judges, as distinguished from commissioners, sit en banc and attend to the examination of original writs, in which duties the commissioners do not participate. Therefore, to that extent the commissioners have more time to devote to the preparation of opinions in cases than have the judges. In addition to that, the judges in each division are necessarily required to examine the opinions written by the commissioners \* \* \* whereas the commissioners are not required and it is beyond their province to examine any opinion written by the judges with a view of concurring or dissenting. The applications for original writs, with which the commissioners have nothing to do, have nearly doubled since the commission began in April, 1919. \* \* \* (T)he judges must devote a considerable portion of their time to these rapidly increasing applications for original writs. They must examine with the same degree of care and with the loss of much time those cases in which writs are denied and in which no opinions are written, as well as cases where writs are issued and in which opinions subsequently follow."

The committee, being of the opinion that if the commissioners had not written the 1,100 opinions they wrote during the previous eight years the court in 1911 instead of being behind two years and a fraction would have been behind from five to seven years, recommended the re-enactment of a law continuing the commission "for at least a period of four years."

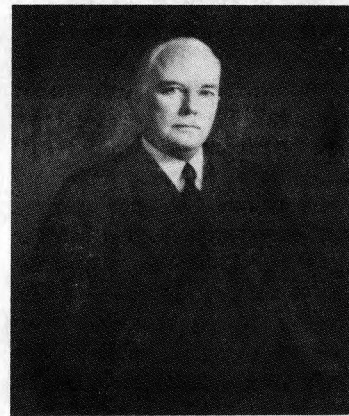
In 1920 a constitutional amendment to add two more judges so that the Supreme Court could sit in three divisions was defeated.<sup>9</sup>

The increase of judicial business following the close of World War I made it impossible to make much progress in catching up with the docket, even with the aid and assistance of two additional commissioners, until the nineteen-thirties.

Legislation renewing the Supreme Court Commission for four-year terms was enacted every four years after 1911, until 1963 when an Act was passed giving the Supreme Court continuing authority to make the four-year appointments as they expired, without the necessity of returning to the General Assembly every quadrennium for a renewal of authority.<sup>10</sup> During the period 1919-1923 the number of commissioners was increased from four to six; from 1923 to 1927 the number was reduced to four, and from 1927 to the time

the commissioner system was phased out the commission consisted of six persons.<sup>11</sup>

Beginning in 1938 and continuing on an annual basis through 1945, and again from 1954 through 1957, the Missouri Law Review carried articles and statistical surveys captioned "The Work of the Missouri Supreme Court for the Year \_\_\_\_." In these articles outstanding judges, lawyers and law professors analyzed the work load of the court and the individual production of the judges and commissioners in opinions written, and briefly reviewed the latest decisions of the court. Writing in November, 1939<sup>12</sup> then Commissioner Laurance M. Hyde discussed the divisional system of organization in a single appellate court; pointed out that the seven-member Missouri Supreme Court had operated in two divisions since 1891, with Division 1 (with four judges) hearing appeals only in civil cases and Division 2 (with three judges) hearing all appeals in criminal cases and many appeals in civil cases. Each division was assisted by three commissioners. Commissioner Hyde reported that the divisional system had enabled the court to hear and determine almost double the number of cases it could have



Laurance M. Hyde

disposed of if all cases had been heard by the court *en banc*, and that for many years Division 2 had been able to keep the criminal docket on a current basis, but that even with the aid of the divisional organization the court could not keep up with the rapid increase of cases on the civil docket. He observed

that with the "additional judges" provided by the commissioner system the court had been able to gain materially toward bringing its civil docket to a current basis.


### Docket Current

Six years later, in November, 1945, then Judge Hyde, again contributing to the series of articles reviewing the work of the Supreme Court,<sup>13</sup> stated, "The Missouri Supreme Court has now caught up with its docket, and is keeping it on a current basis. \* \* \* Twenty years ago, we were reaching the peak load of the increased business which followed World War I, and the supreme court was two full years behind with its docket. \* \* \* During the past year the court has commenced each term with all previously submitted cases handed down, that is with no undecided cases remaining under submission." Judge Hyde commented on the ever-increasing burden of responsibility confronting the judges, which he attributed to a number of factors: the filing of cases calling for a construction of the new Constitution of 1945 and the new



Civil Code, effective January 1, 1945; the historical increase in judicial business following a war; new duties supervising admission to the bar, legal ethics and disciplinary problems; prevention of unlawful practice of law; the integration and government of the bar, and responsibility for formulating both civil and criminal procedure. According to Judge Hyde " \* \* \* this work could not have been accomplished without the assistance of the Commissioners in writing so many of the divisional opinions," and he concluded that " \* \* \* the minimum present requirement must be the continuance of the Commissioners for an indefinite period."

### The Bar Approves


ursuant to a resolution of the Board of Governors of The Missouri Bar dated January 27, 1950 President Rufus Burrus appointed a special committee "to inquire into the methods of selection of commissioners of the Missouri Supreme Court and the Courts of Appeals," and make recommendations to the board with reference to any changes deemed appropriate. The committee consisted of Henry S. Caulfield, of St. Louis, Chairman; and James A. Finch, Cape Girardeau; Charles V. Garnett, Kansas City; William S. Hogsett, Kansas City; John S. Marsalek, St. Louis; Allen McReynolds, Carthage, and Branham Rendlen, Hannibal, Members. After making a thorough investigation the committee in its report filed September 14, 1950<sup>14</sup> stated that "In April, 1911, when the Commissioners first began their work for the Supreme Court, that court was about three and one-half years behind with its work, a deplorable condition, amounting in some cases to a denial of justice. It took over twenty-two years thereafter, with the aid of the Commissioners, for the Supreme court to achieve and maintain its present current basis. The work of the Commissioners has also enabled the Judges to perform important and time consuming duties required of them by the new constitution, and has worked for better opinions, by making possible more conferences and study, freed from harassing, futile hurry." The committee was of the opinion that the membership of the Supreme Court and the three courts of appeal not be diminished; that "(t)he injustice of delay can be avoided only by allowing the courts adequate judicial man power. It is a greater service to the public to give it high quality opinions, promptly handed down, than merely to save it money on salaries." The committee recommended (1) that the commissioners be continued by legislative enactment; (2) that the commissioners continue to be appointed by the judges — that any other method of appointment would be inconsistent with the nature of their work, "which is professional, technical and important"; that being assistant and subordinate to the judges for the performance of such duties as the judges assign to them, their compatibility with the judges is indispensable, and that the

judges, "who are responsible for their work and who depend upon them so much," rightly should continue to select and appoint them; (3) that the Constitution not be amended to increase the number of the judges, with a view to dispensing with or reducing the number of the commissioners, and (4) that legislation be enacted increasing the terms of commissioners from four to six years, and eliminating the necessity of going to the General Assembly every four years to obtain authority to appoint them.

### Reapportionment

An amendment to Article III of the Constitution of Missouri adopted January 14, 1966 provided that if the commission designated by law to reapportion the house of representatives failed to file with the secretary of state a final statement of the numbers and boundaries of the districts within six months of the time fixed for the appointment of the commission it should " \* \* \* stand discharged and the house of representatives shall be apportioned by the commissioners of the state supreme court, a majority of whom shall sign and file its apportionment plan and map with the secretary of state within ninety days of the date of discharge of the apportionment commission. \* \* \* " The designated commission failed to act following the 1970 census, so the then Commissioners of the Supreme Court<sup>15</sup> proceeded to reapportion the house of representatives by dividing the population of the state by the number one hundred sixty three; establishing each district so that the population of that district, as nearly as possible, equalled that figure, carefully drawing the lines of the districts so that each district was composed of contiguous territory as compact as could be. This work was completed by the commissioners promptly and filed with the secretary of state on time. The reapportionment by the commissioners was never challenged in or out of court and stood the test of time.

### Modern Criminal Code

n 1969 Attorney General John C. Danforth, sensing the need for a complete overhaul of the criminal laws of Missouri, which had not been revised on a comprehensive basis since 1835, sought and obtained funds through the Law Enforcement Assistance Administration, to fund a study of the existing criminal statutes and to draft a new and modernized criminal code for proposal to the General Assembly. The project was implemented by the appointment of a thirteen member Committee for a Modern Criminal Code, representing all phases of law enforcement, including the judiciary. At the request of General Danforth the then Chief of Justice of the Supreme Court, Fred Henley, appointed Commissioner Norwin D. Houser to represent the judiciary and act as chairman of the committee. Other members of the committee represented police agencies, the

prosecuting attorneys, defense counsel, the department of corrections, the office of the Attorney General, and the General Assembly.<sup>16</sup> Assisting the committee and doing the actual drafting of the text were four law school professors. After four years of intense study, laborious effort, and innumerable meetings the committee prepared a final draft which was introduced in the 77th, 78th and 79th General Assemblies, and finally enacted in amended form in the 79th General Assembly.<sup>17</sup>

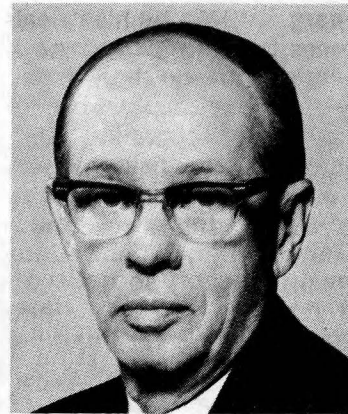
### Commissioners Phased Out

On August 4, 1970 the people adopted an amendment to Article V of the Constitution, which sounded the death knell of the commissioner system in this state. Under the amendment no new commissioner could be appointed after the effective date of the Act, and the appellate jurisdiction of the Supreme Court was considerably restricted and that of the Court of Appeals was correspondingly enlarged. This resulted in a substantial falloff in the number of appeals to the Supreme Court and an equivalent increase in the dockets of the courts of appeal. Section 7 of the Schedule provided: "The commissioners of the supreme court \* \* \* holding office on the effective date of this amendment shall continue to hold office as commissioners of the court \* \* \* until the end of their terms and shall be eligible for reappointment thereafter from term to term under existing law until retirement, death, resignation, or removal for cause. Upon the occurrence of such vacancy in the office of commissioner of the supreme court \* \* \* such office shall cease to exist." Accordingly, the commissioners were gradually "phased out," a process which extended over a period of eleven years. Resignations and retirement finally eliminated the offices of the last six commissioners<sup>15</sup> holding office on August 4, 1970.

### The Transition

**T**he commissionerships were replaced in the appellate judicial system by the creation of new judgeships on the Court of Appeals by virtue of Laws of Missouri, 1971-1972, p. 455, Section 3, subsection 2, which provided that "Whenever a vacancy occurs after September 3, 1970 in the office of supreme court commissioner, a judge shall be appointed \* \* \* (under the nonpartisan court plan of selection) to serve on the court of appeals. Appointments under this subsection shall be made to the districts of the court of appeals in this order: St. Louis, Kansas City, Springfield, St. Louis, Kansas City, St. Louis." (Our parentheses).

The amendment provided that from its effective date supreme court commissioners could be temporarily assigned for the performance of judicial duties as special judges of the supreme court, court of appeals, or any circuit court "where their services are required in the prompt and efficient administration of justice." During such



Paul W. Barrett

assignments the commissioners were given the same powers, duties and responsibilities vested by law in the regular judges of the courts to which they were assigned. Prior to 1972 commissioners of the Supreme Court did not have the constitutional power and authority to exercise judicial functions. This new

constitutional provision gave them that power and authority, and gave the Supreme Court a flexibility in the use of judicial personnel which facilitated the dispatch of judicial business. On various occasions after January 1, 1972 commissioners were assigned to the Supreme Court, the Court of Appeals, and various circuit courts. In 1975 the four commissioners still serving on the Supreme Court were assigned to the two busiest court of appeals districts, Alden A. Stockard and Norwin D. Houser to the Eastern District in St. Louis and Andrew Jackson Higgins and Robert R. Welborn to the Western District in Kansas City. (Meantime Paul W. Barrett had retired under a new constitutional provision mandating retirement at age seventy, and Jack P. Pritchard had resigned to accept appointment as Judge of the Court of Appeals, Western District.

On August 3, 1976 the people adopted an amendment to the judicial article, Article V, which provided, Section 26, 3., that "Any retired \* \* \* commissioner, with his consent, may be assigned by the supreme court as a senior judge to any court in this state or as a special commissioner. When serving as a senior judge he shall have the same powers as an active judge." Under this provision retired commissioners have frequently been assigned to assist the Supreme Court, the three districts of the Court of Appeals, and the several circuit courts.

### Personalia

A total of forty-two individuals served as Commissioners of the Supreme Court during two different time spans — from March 22, 1883 to March 22, 1885, and again from March 27, 1911 to April 27, 1982, when the last remaining of the phased out commissioners reached mandatory retirement age. The Supreme Court Commission, therefore, was in place during a total of seventy-three years and one month.

An alphabetical list of the commissioners, with their years of service and county or city from which they were appointed, follows:

Frank P. Aschemeyer	1950-1951	St. Louis
Paul W. Barrett	1941-1972	Greene
James T. Blair	1911-1914	DeKalb
Walter H. Bohling	1934-1963	Pettis



Henry W. Bond	1911-1912	St. Louis
John H. Bradley	1935-1950	Dunklin
Stephen S. Brown	1911-1923	Buchanan
Cullen Coil	1951-1964	St. Louis
James A. Cooley	1929-1941	Adair
S. P. Dalton	1939-1950	Cape Girardeau
Walter Naylor Davis	1923-1927	
	1927-1931	St. Louis
David A. DeArmond	1885-1886	Bates
George Robb Ellison	1927-1931	Nodaway
H. Clay Ewing	1883-1886	Cole
Charles L. Ferguson	1930-1939	Ripley
John T. Fitzsimmons	1931-1934	St. Louis
Berryman Henwood	1927-1930	Marion
Edward Higbee	1923-1929	Adair
Andrew Jackson Higgins	1964-1979	Platte
Lawrence Holman	1955-1963	Randolph
Norwin D. Houser	1959-1978	St. Louis
Laurance Mastick Hyde	1931-1943	Mercer
James D. Lindsay	1923-1930	Henry
Lue C. Lozier	1950-1955	Carroll
Alexander Martin	1882-1886	St. Louis
Norman A. Mozley	1919-1921	Stoddard
John F. Philips	1882-1885	Boone
Jack Pence Pritchard	1963-1972	Vernon
William T. Ragland	1919-1922	Monroe
Robert T. Railey	1915-1927	St. Louis
Albert L. Reeves	1921-1923	Jackson
Reuben F. Roy	1911-1919	Ralls
Alfred Morton Seddon	1924-1931	Jackson
Charles Edwin Small	1919-1924	Jackson
Alden A. Stockard	1954-1982	Cole
John Thomas Sturgis	1931-1935	Greene
Paul Van Osdol	1943-1959	Linn
Robert Rucker Welborn	1963-1981	Stoddard
Henry J. Westhues	1930-1954	Cole
John Turner White	1917-1922	Greene
Fred L. Williams	1913-1916	Jasper
Charles A. Winslow	1883-1883	St. Louis

Charles A. Winslow, one of the first three commissioners ever appointed (on March 22, 1883) died November 21, 1883.

Paul W. Barrett, appointed August 26, 1941 to succeed James A. Cooley, resigned, served until he retired January 3, 1972 — more than thirty years, and the longest period of service of any commissioner.

John Turner White lived to the most advanced age of any commissioner, having died on December 11, 1947 at the age of 93.

All commissioners practiced law prior to their appointment as commissioner. Many of them held public office before coming to the Supreme Court.

Norman A. Mozley was elected as a Republican to the 54th Congress of the United States and served from 1895 to 1897.

David DeArmond was a member of the Missouri Senate, 1879-1883.

John Finis Philips was elected to the Congress of the United States four times, in 1874, 1876, 1878 and 1880.

Eight commissioners had prior service in the Missouri House of Representatives; Henry Clay Ewing, Henry W. Bond, James T. Blair, Charles L. Ferguson, Edward Higbee, Lawrence Holman,

James D. Lindsay and Albert L. Reeves.

Several commissioners had prior judicial experience. Strangely, one of them, Edward Higbee, served as Judge of the Supreme Court of Missouri before he became a commissioner. He was elected judge in November, 1920 to fill the unexpired two-year term of Charles B. Faris, who resigned as judge to accept appointment as Judge of the United States District Court for the Eastern District of Missouri. Judge Higbee served as Judge of the Supreme Court until December 31, 1922. The following year he was sworn in as a commissioner, in which capacity he served until 1929.

Henry W. Bond was elected Judge of the St. Louis Court of Appeals in 1892 and served in that office until 1901.

John H. Bradley was elected Judge of the Springfield Court of Appeals in 1916 for a 12-year term.

John Thomas Sturgis served as Judge of the Springfield Court of Appeals from 1913 to 1921.

Norwin D. Houser served as Judge of the 27th Judicial Circuit from 1941 to 1950, and as Commissioner of the St. Louis Court of Appeals from 1950 to 1959.

Eleven commissioners previously served as circuit judges:

James C. Cooley, 1916-1929  
 Charles L. Ferguson, 1924-1930  
 John T. Fitzsimmons, 1929-1930  
 Andrew Jackson Higgins, 1960-1964  
 Lawrence Holman, 1948-1955  
 Norwin D. Houser, *supra*  
 Jack P. Pritchard, 1959-1963  
 William T. Ragland, 1911-1919  
 Reuben F. Roy, 1893-1899  
 Paul Van Osdol, 1929-1941  
 Henry J. Westhues, 1923-1930



ther public offices or positions of honor held by commissioners before coming to the Supreme Court:

Henry Clay Ewing was Attorney General of Missouri, 1873.

James T. Blair was President of Obion College, 1895-1896.

Robert T. Railey was President of the Missouri State Bar Association in 1908.

Edward Higbee served as Grand Master of the Freemasons of Missouri in 1916.

Paul Van Osdol was a member of the Missouri Public Service Commission, 1941-1943.

Thirteen commissioners were elevated to the office of Judge of the Supreme Court of Missouri after having served as commissioner:

Henry W. Bond was elected in November, 1912 for a 10-year term.

James T. Blair was elected in November, 1914 for a 10-year term.

Fred L. Williams was elected in November, 1916 for the unexpired 4-year term of Judge John C. Brown, deceased.

William T. Ragland and John Turner White were elected in November, 1922 for 10-year terms.

George Robb Ellison was elected in November, 1930, November, 1940 and November, 1950 for 10-year terms.

Berryman Henwood was appointed by Governor Henry S. Caulfield on November 25, 1930 for a term expiring on December 31, 1932.

John T. Fitzsimmons was elected on November 10, 1934, and died unexpectedly four days later.

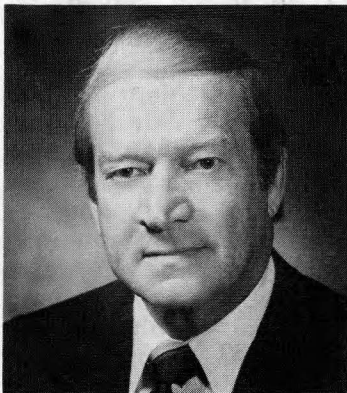
Laurance M. Hyde was appointed by Governor Forrest C. Donnell on December 30, 1942, and retained under the nonpartisan court plan in November, 1954 for a 12-year term.

S.P. Dalton was appointed by Governor Forrest Smith on January 3, 1950, and retained in November, 1952 for a 12-year term.

Henry J. Westhues was appointed by Governor Phil M. Donnelly on December 17, 1954, and retained in November, 1956 for a 12-year term.

Lawrence Holman was appointed by Governor John M. Dalton on May 14, 1963, and retained in November, 1964 for a 12-year term. He retired on December 31, 1976, after attaining mandatory retirement age.

Andrew Jackson Higgins was appointed by Governor Joseph P. Teasdale on July 3, 1979, and retained in November, 1980 for a 12-year term.



Andrew Jackson Higgins

These commissioners served in the following offices after leaving the Supreme Court:

David DeArmond served as Judge of the 22nd Judicial Circuit of Missouri, 1886-1890, and was elected as a Democrat to the Fifty Second and to the nine succeeding Congresses of the United States, serving from

March 4, 1891 until his death on November 23, 1909.<sup>18</sup>

John F. Philips served as Judge of the Kansas City Court of Appeals, 1885-1888. At the instance of his former law partner, George Vest of Sedalia, Judge Philips was appointed United States Judge for the Western District of Missouri by President Grover Cleveland in 1888, and served in that post until 1910, when he retired from public life.<sup>19</sup>

Albert L. Reeves was appointed United States Judge for the Western District of Missouri by President Warren G. Harding on January 24, 1923.

Walter Naylor Davis was elected Lieutenant-Governor of Missouri on November 7, 1944 for a 4-year term.

Jack P. Pritchard resigned as commissioner to become Judge of the Court of Appeals, Western District, by appointment of Governor Warren E. Hearnes on December 14, 1971, and was retained for a term expiring December 31, 1986.

Alexander Martin, one of the first three commissioners appointed in 1883, became Dean of the Law Department of the University of Missouri

in September, 1889. He was the second person to occupy the Dean's chair. Dean Martin served until 1902. The following is a quotation from *A History of the University of Missouri 1839-1939*, by Jonas Viles, p. 441:

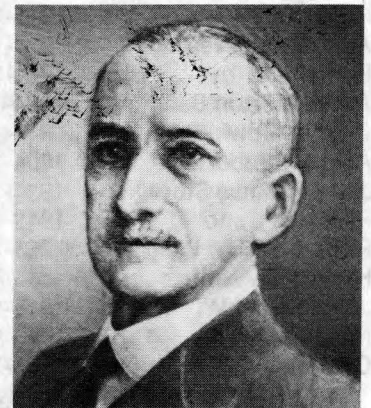
"The death of Dean Martin closed a period of service covering thirteen years. His success is summed up in the following editorial from the *Columbia, Missouri Herald* of December 19, 1902:

'When it was desired to secure the ablest lawyer possible for Dean of the University Law Department he was sought as the best equipped jurist in the State for the office, and he was probably the only man who has ever held a place as preceptor in that institution who made his own terms regardless of all precedents. The great success of the department has been largely due to his high reputation and splendid administration. His death is a great loss to Columbia, to the University, and to Missouri.'

At the service held in the University auditorium Walter Williams said of him: 'He was learned in the law in the best and finest sense; student, author, advocate, jurist, teacher, he adorned the Bar of Missouri.'

John Turner White, after serving as both Commissioner and Judge of the Supreme Court, served a term as Reporter for the court for a period of nine years.

Lue C. Lozier was appointed Reporter and ex-officio Executive Secretary of the Judicial Conference of Missouri on March 3, 1958 and served in that capacity until October 16, 1965.



John Turner White

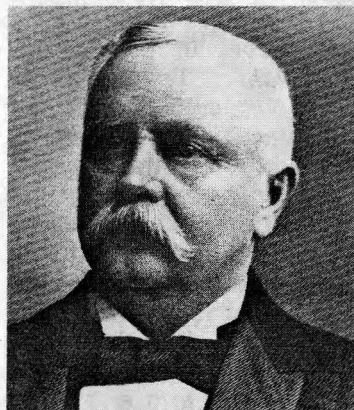
### Anecdotal Personalia

One commissioner took a leave of absence from his judicial duties to act as defense counsel in a murder case. Late in the criminal career of the notorious outlaw Frank James he applied through an intermediary to John Finis Philips, a renowned and successful lawyer and leader of the Bar in Kansas City, asking whether if he surrendered to the authorities Philips would represent him and see to it that he received a fair trial. Philips agreed to act as Frank James' counsel on that condition, knowing that James had no money with which to pay a fee, and knowing that the defense of James would subject him to reproach. Frank James then surrendered to Governor Thomas H. Crittenden on October 5, 1882 and was charged with murder of Frank McMillan in the course of robbing a Rock Island passenger train at Winston, Missouri in 1881. By the time the case came on for trial in Gallatin, Philips had been appointed and was



serving as Commissioner of the Supreme Court. When Philips left the bench to assume the defense of Frank James he was roundly criticized by the newspapers. Nevertheless, "With tact, skill, learning and judgment, and all the courage of his nature, he threw himself into the cause \* \* \*"<sup>20</sup> The trial commenced on August 25, 1883. Final arguments to the jury began on the morning of September 3 and ended on September 6. Judge Philips began his address to the jury as follows:

"In view of the malign criticism of certain newspapers in the state as to the propriety of my appearing as counsel in this case, it is not improper, in justice to truth and my position as a member of the Supreme Court Commission, that I should detain you for a few minutes in explanation. There is nothing in the constitution of this state to prevent me from appearing here as counsel. There is nothing in the act creating the commission to render it unlawful or improper. Long before the commission was created, or I had any expectation of connection with it, and long before the prisoner at the bar had surrendered to the governor of the state, he applied to me, through a mutual friend, to know whether, if he should come in and throw himself 'upon the country,' I would undertake his defense and aid in according to him the constitutional privilege of a fair and impartial trial before the courts. He was distinct and candid in the statement that he had not a dollar in the world to offer me. Upon me he had no claims, other than those which spring from the bonds of human sympathy and that charity — the 'one touch of which makes all the world kin.' "



John F. Philips

He stated that the episode of the James Brothers came as a bitter fruit of the strife and recrimination of the Civil War, and that when the "James gang" offered to submit themselves to the justice and mercy of the law, he had but one response to their personal appeal to him. Philips went on to say, "No man, no creature made in the image of God, could appeal to me for words of justice, for one throb of sympathy, under such conditions, without my heart beating a little warmly for him and his. As cowardly and mean as the miserable fellows are, who are traducing me for this act of chivalry and grace, I would ask mercy for them, if not justice — should they come to contrition, especially if they had wife and child, with piteous eyes beaming on me, pleading for the life of the man they love. It was in response to that overture, and to this sentiment, that I consented to defend this man. On my promise to defend him he came from his hiding and handed his pistol to the governor of the state. To keep that promise I am here. What

brave man, with any nobility in his soul, will deny the rectitude, the honor of my action? I am not here as a commissioner, with the judicial ermine around me. I am here as a licensed attorney of this commonwealth, standing on the commission of my manhood, trusting to nothing to rescue this prisoner, save the law and the evidence, as I am able to understand and expound them to this jury."

Judge Philips then delivered a moving plea for the life of Frank James, "a masterpiece of argument, eloquence and force."<sup>20</sup> It was " \* \* \* the greatest speech of his life. It was preserved by the stenographer, and the strength, boldness passionate eloquence and invocation of the spirit of Justice under a constitutional government, of that great plea have seldom been equalled in forensic annals."<sup>21</sup>

Frank James was acquitted, and thereafter led a peaceful law-abiding life.



hortly after James Cooley was sworn in he went to the Sanitary Barber Shop. While getting a hair cut the shine man, George Shelton, gave Cooley a shoe shine (of one shoe, since the man had but one leg). When Cooley started to leave he offered to pay George who, feeling sorry for the handicapped stranger, generously declined the offer, saying, "Oh, that's all right; the shine is on me." After Cooley departed one of the barbers said, "George, don't you know who that is? Why, that's Judge Cooley — he makes seven thousand five hundred dollars a year!"



ommissioners earned their compensation. They were given onerous responsibilities in the assignment of cases for the preparation of opinions, not only in number but also in difficulty and complexity. The judges of the Supreme Court were not reluctant, chary or hesitant about assigning the hard cases to the commissioners — cases with thousands of pages of transcripts, boxes full of exhibits, and excessively long and numerous briefs containing multifarious complicated and mind-boggling assignments of error and points on appeal, requiring intense and penetrating research. Occasionally, in particularly burdensome appeals, with a record so huge that no presiding judge would have the heart to impose the case on just one commissioner the court would assign two commissioners to the task. Thus the ponderous fire insurance litigation appeal, an action in quo warranto against one hundred twenty two fire insurance companies for alleged violation of state laws, misuse and abuse of franchises granted and usurpation of franchises not granted, with a record containing 32,000 pages of testimony and exhibits, was assigned to two commissioners (S. P. Dalton and Henry J. Westhues). The opinion reported in the Southwestern Reporter<sup>22</sup> occupied fifty five pages. The celebrated "coin rejectors" case, with a transcript of some 40,000 pages<sup>23</sup> was assigned to Commissioners Robert R. Welborn

and Jack P. Pritchard to ferret out the facts, research the complicated issues of law, and write the opinion for the court.

The granddaddy of them all was *Leggett v. Missouri State Life Insurance Company*, 342 S.W.2d 833 (Mo.Sup. 1960), through which Commissioner Alden A. Stockard and the writer suffered for seven months. They were excused from participation in all other cases in order to devote themselves exclusively to this case. The trial in the circuit court consumed nine months. The trial judge held the case under advisement four years. His opinion, in two volumes, was 957 pages long, and cost \$3,600 to print. The transcript on appeal contained 18,000 pages and occupied ten feet of shelving. The court set aside one whole day for the argument of that case alone. The seven judges sat in their regular places behind the bench; the six commissioners were seated below, on the floor level with the rest of the courtroom. The opinion occupied 107 pages of the *Southwestern Reporter*. When the long and complicated opinion was circulated among the judges the commissioners who wrote it rested easy, confident and secure in the assurance that the opinion would receive the approval and concurrence of all of the judges, with no dissents, lest the juggernaut be reassigned to the dissenter. One afternoon the opinion writers, weak and weary if not exhausted by the intricacies of the case, confronted by the many thousands of pages of the transcript of the evidence, decided as a matter of curiosity to weigh the transcript, volume by volume. Scales were obtained and the entire transcript was weighed. It weighed 105 pounds. Later the commissioners were said to have observed that this was done so they could always truthfully say that they had carefully weighed the evidence in the case.

Because the judges, as we have seen, had various time-consuming duties and functions to perform which perforce lessened the time available to them for research and writing opinions — duties and functions not within the scope of the commissioners' responsibilities — the six commissioners regularly wrote more opinions than did the seven judges. The statistics for 1936-1939, 1940-1945, and 1953 through 1956, reported in the annual "Work of the Missouri Supreme Court" surveys<sup>24</sup> disclose that during those twelve years the judges wrote a total of 1,424 opinions and the commissioners wrote a total of 1,854 opinions, or 56.55% of the total number of 3,278.



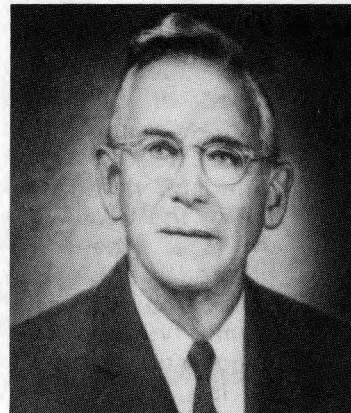
According to one account<sup>25</sup> Judge Henry W. Bond "\*\*\*\* had differences with his associates on the high bench about opinions written by the Commissioners although he had been one himself. Sometimes he was quite sarcastic about those opinions. \*\*\*\*" On one occasion Judge Bond found a young lawyer studying a book in the Supreme Court Library and asked what he was doing. The young man (North Todd Gentry, who later became a Supreme Court judge), replied that he was trying

to learn a little law, to which Judge Bond said, "Well, if that is true, you should certainly not be looking among some of the recent reports of the Supreme Court of Missouri."



Judge Westhues related the following incident, which occurred while he was a commissioner. For years the judges and commissioners lunched together at a local restaurant. One summer day on the way to the restaurant the seven judges, walking together in a group, were several steps ahead of the six commissioners. Just as the commissioners, trailing the judges, passed the local taxi stand the dispatcher shouted out directions to the cabbie parked at the curb, "Rear end of the Supreme Court!"

A retired Jefferson City business man who in his youth was a caddy at the Jefferson City Country Club recalls that when judges and commissioners of the Supreme Court came out to the club in foursomes to play golf they generally would hire but one caddy for the foursome. The lone caddy would carry the golf bag for one of the four, but would be expected to shag (find and locate) the lost balls for all four players and hold the flag stick on each green, all for the usual caddy fee paid by one golfer. Consequently the caddies would run and hide when a judicial foursome arrived at the club house for a round of golf.



Henry J. Westhues

One day Judge Westhues and the writer chanced to meet in the Clerk's office. The conversation somehow turned to Indian wrestling, in which the contestants take a firm stand foot to foot, facing each other, engage their right hands and at the word "Go" push, pull, shove and twist the opponent's hand, arm and body to unbalance, dislodge and cause him to lose his footing, while maintaining his own original stance. We agreed to compete, right there in the office. Judge Westhues, strong as an oak tree and quick as lightning, won two engagements in quick succession, notwithstanding he was four inches shorter, twenty five pounds lighter, and twenty years older than his opponent. No further challenges were issued to Judge Westhues.

The Commissioners of the Supreme Court took pride in the fact that whereas the regular judges of the Court were elected by popular vote, or were appointed by the Governor, with the inevitable overtones of political consideration in the choice, the commissioners were appointed by the judges, on a bipartisan basis, strictly on the basis of merit.



The judges, who best knew the character, legal acumen, analytical talents and writing ability of the members of the bench and bar, chose the best available legal minds for appointment as commissioners as a matter of expedience, since the judges were responsible for the quality and soundness of the opinions issued by the Court. That commissioners' opinions were quality products is attested to by the fact that virtually all of the opinions submitted to the judges by the commissioners were approved and adopted by the Court. It was a rare situation when a commissioner's opinion failed of adoption.

Another aspect of the relationship between judge and commissioner assuaging the minds of the commissioners in their subordinate position was the fact that the compensation of the commissioners was equal to that of the judges.

Although commissioners were creatures of statute, with no constitutional standing and no judicial power to vote upon or decide cases, having only the right to recommend judicial action, and therefore technically were not judges (prior to 1972) commissioners from the beginning were gratuitously given the title "Judge" by their colleagues, the Bar and the public.

\* \* \*

The Commissioners of the Supreme Court, past and present, were honored and memorialized at a luncheon meeting given by the Missouri Bar in Jefferson City on May 1, 1981.<sup>26</sup> Bar President Joseph E. Stevens, Jr. invited as guests former Commissioners Barrett, Holman, Higgins, Prit-



chard, Coil and Houser, and the two commissioners then remaining in service, Judges Welborn and Stockard. Wives, children and widows were included in the party. Hon. John E. Burruss, Jr., Treasurer of The Missouri Bar Foundation, presented to the Court a handsome bronze plaque on which were cast the names, dates of service and residences of the forty two commissioners who had served the Court.

This plaque is now on display on the second floor of the Supreme Court Building, affixed to the wall to the right of the main entrance to the Supreme Court Library. Chief Justice John E. Bardgett accepted the plaque on behalf of the Court. Norwin D. Houser responded on behalf of the commissioners, thanking The Missouri Bar, The

Missouri Bar Foundation and the Committee for thus recognizing and honoring the Commissioners of the Supreme Court for their service to the Court and their contribution to the administration of justice through nearly three quarters of a century.

\* \* \*

After the retirement of Judge Barrett and Judge Pritchard's resignation, Commissioner Houser retired on October 21, 1978 (37 years to the day after he was sworn in as a circuit judge on October 21, 1941, his 33rd birthday); Judge Welborn took early retirement on June 30, 1981, and Judge Stockard, the last remaining commissioner, retired at age seventy on April 27, 1982. On the latter date the Supreme Court Commission passed into history.

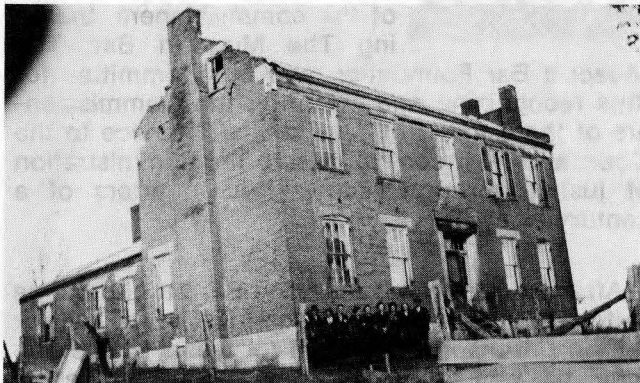
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# Society Seeks Portrait of First Chief Justice

One of the goals of the Missouri Supreme Court Historical Society is to "acquire by purchase, loan, lease, or gift" items which are of historical interest for display in the Court building. A number of items are already in place. On display, are the famous Dred Scott papers, of national historical interest. Also on display throughout the chambers and hallways are portraits of former judges of the Court. Of the approximately 100 judges who served on the Court, 63 portraits have been acquired by the Court. As explained elsewhere in this issue, work is now underway to restore and preserve these portraits for posterity.

At the same time the Society is taking care to preserve those items of historical interest now on hand, it is also seeking to add to the display. Especially important is the search for portraits or photographs of the thirty-seven judges which are missing from the judicial gallery. One portrait the Society is extremely interested in obtaining is that of Mathias McGirk, first judge and first Chief Justice, or "President" as he was then designated, of Missouri's Supreme Court.



The Society requests that if anyone has, or knows of, the existence of such a portrait of Judge McGirk, or even of a photo of his portrait, they notify D.A. Divilbiss, Supreme Court Librarian. While a portrait of the Judge has not been found, the Court does have photographs of Judge McGirk's grave and of his last home. These items, and events pertaining to them, were described in an article by Callaway County Judge Hugh P. Williamson in the JOURNAL OF THE MISSOURI BAR, August, 1963. Following are excerpts from the article which was accompanied by a photograph of the restored grave of Judge McGirk.

"McGirk, his wife, and daughter, are buried in the southern part of Montgomery County, near the village of Rhineland, on a hilltop which is open pasture land. The grave was covered with a sandstone slab. In 1948, Judge R.A. Bruer of Hermann called this situation to the attention of the Judicial Conference of Missouri. Judge C.A. Leedy, Jr., the presiding officer, appointed Judge Bruer, Judge Lawrence Holman and Judge Frank Hollingsworth as a committee to investigate this matter and if necessary to take appropriate measures to make more permanent and secure the marking of this grave. The result was that the grave was much improved and was protected by an appropriate barrier.

"The original gravestone of McGirk, which was so weather-worn as to make the lettering nearly illegible, was replaced with a granite slab bearing the following inscription:

"Mathias McGirk, 1793-1842, First Judge Missouri Supreme Court 1821-1841"

"The original stone, now in the possession of George Meyer (shown in the photo by the grave), a brother of the man upon whose land the graves are located, bears a rather lengthy inscription. In 1952, Miss Addie Carthrae and Mrs. John G. Miller of the Montgomery City Chapter of the Daughters of the American Revolution, copied the inscription which reads:

"McGirk, Mathias, a native of Virginia and for many years, Presiding Judge of the Supreme Court of Missouri, died at his seat in Montgomery County, Missouri, on the 14th day of August, 1842, in the 59th year of his age. Having spent his life honourably to himself and usefully to his country and left a name above reproach.

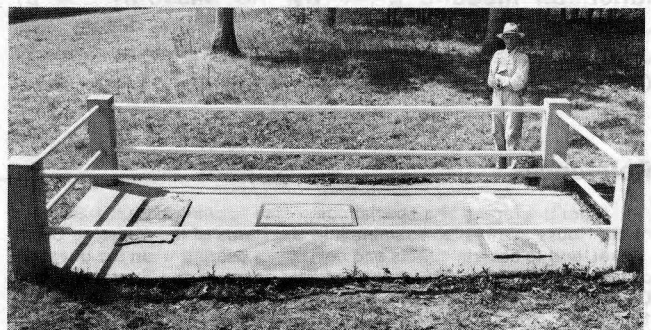
"McGirk, Elizabeth, his widow, died September 12, 1844, laid this stone to his memory.

"McGirk, Lane Eliza, daughter of Mathias and Elizabeth McGirk, died age 5 years."

"From the above it would appear that McGirk was born in 1783, if at his death in 1842 he was 59 years of age.

"My helpful friend, Judge Oscar Kamp, of Montgomery City, who supplied the above information, also informs me that only recently Mr. and Mrs. James M. Bishop have erected a beautiful home in Montgomery City, built with brick from the McGirk home, and that they also have the fireplace mantle which was in the old house.

"Two brothers of Mathias McGirk, Isaac and Andrew, also came to Missouri. The will of Isaac was filed in the Probate Court of St. Louis County, February 16, 1830. Whether these brothers left heirs we do not know. . . ."



The photograph of the McGirk gravesite published on this page, is that mentioned in the Williamson article. The photo of the old house is the last residence of Judge McGirk, also mentioned by Williamson. Both photos are in the possession of the Supreme Court.

Anyone having or knowing of similar items concerning the court or judges of the court are urged to make them known to the Society, as previously mentioned. Such historical memorabilia should be carefully preserved and made available for public display. This is the aim of the Missouri Supreme Court Historical Society.



## Annual Meeting

(continued from page 1)

Mr. Rollins then addressed the court briefly, explaining that Bingham had been a close friend of his great-grandfather and had presented the print to him as a token of his friendship.

The Society's second gift to the Court was a presentation of the restored portrait of Judge Theodore Brace, a former member of the court who served from 1887 to 1907. The Society had arranged to have this original painting of Judge Brace restored by Sid Larson of Columbia College. Over the years the paint had started to flake off, leaving white spots showing on the judge's coat.

After the presentation of gifts to the Court, the Society held its first annual business meeting and election of officers. Society treasurer David Brydon reported that the Society now has 200 members. After expenditures during the past year for the examination and restoration of the painting of the judges in the Supreme Court Building and retaining Mr. Larson to restore some of them, and after publication of the Historical Society Journal, Mr. Brydon reported that the Society had a balance of \$1,134.95 in the checking account and \$10,895.23 in the savings account.

Motion was made that all officers presently serving be re-elected for a second term. The motion was unanimously passed. Officers re-elected were William H. Leedy, Chairman of the Board; James A. Finch, Jr., President; Mrs. Sinclair S. Gottlieb, First Vice President; William A.R. Dalton, Second Vice President; Paul W. Barrett, Third Vice President; David Brydon, Secretary-Treasurer; Mrs. D.A. Divilbiss, Assistant Secretary-Treasurer.

Trustees re-elected were: William Aull, William H. Bates, David E. Blanton, Ilus W. Davis, John K. Hulston, D. Jeff Lance, Judge Stephen N. Limbaugh, Senator Emory Melton, June P. Morgan, Stuart Symington, Jr., and Avis G. Tucker.

## Society Seeks New Members

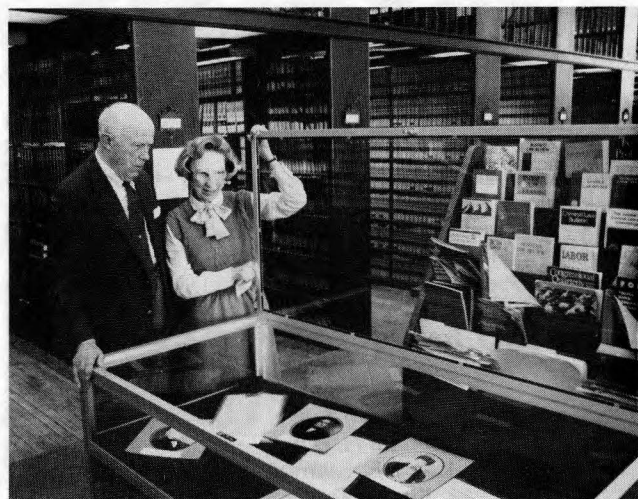
Society President James A. Finch, Jr. is asking all members of The Missouri Bar to join in a membership drive for the Supreme Court Historical Society. In this issue of the JOURNAL you will find a brochure describing the Society, its purpose and its activities. Judge Finch asks that each member of the Society make a special effort to hand this brochure to a friend, law partner or associate who is not a member and urge them to join. An application blank is included with each brochure. Prospective members should be urged to fill-in this application form and mail it with the appropriate dues to the Missouri Supreme Court Historical Society, P.O. Box 448, Jefferson City, MO 65102.

## Inspection of Supreme Court Portraits

In July, Sidney Larson from Columbia College, completed an on-site examination of the sixty-three portraits of former judges located in the Supreme Court building. Each portrait was scrutinized and carefully evaluated as to the amount of treatment needed to restore it to its original condition. This information was included in a report explaining in detail the proposed treatment for restoration and assigning a priority number to each one. The portraits were then divided into priority categories of one and two, with number one portraits exhibiting signs of active deterioration or esthetic damage. Eighteen of the sixty-three portraits are in this number one priority classification and should receive treatment as soon as possible. Estimated cost of treatments range from \$2,500 for the most severely damaged portrait of Philmon Bliss to \$30.00 to treat the portrait of John Kennish.

The Bliss portrait is a large portrait of Judge Bliss in a standing position. At some time in the past it appears that a varnish was applied to the canvas. This has darkened the clothes and produced what Mr. Larson describes as an "alligator" surface. Restoration will obviously be a very delicate and time consuming task.

The Society is hopeful that sufficient funds will be available over the next few years to restore all of the portraits that need urgent attention.



**DRED SCOTT DISPLAY** — Society President James A. Finch, Jr. and D.A. Divilbiss, Supreme Court Librarian, look over the display of the original handwritten decision of the Missouri Supreme Court in the now infamous Dred Scott case. The display is in the library of the Missouri Supreme Court. This two-to-one decision of the Missouri Supreme Court, with Judge Hamilton Gamble dissenting, was subsequently upheld by the United States Supreme Court.

## **YOUR HELP IS NEEDED**

### **Invite Your Friends And Law Associates To Join!**

As any new organization, the Missouri Supreme Court Historical Society needs members. You can be a big help in obtaining them. Just give the enclosed brochure to a friend, law partner or associate and ask them to join. The brochure will explain what the Society is all about. It includes a membership application which they can complete and mail.

Your help is needed to obtain new members for this worthwhile organization. If more forms are needed, they may be obtained by writing to D.A. Divilbiss, Supreme Court Librarian, or calling her at 314-751-2636.

**MISSOURI SUPREME COURT HISTORICAL SOCIETY**  
**P.O. Box 448 • Jefferson City, Missouri 65102**

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