

The Missouri Supreme Court Historical Journal

Published by the Missouri Supreme Court Historical Society

Vol. 4, No. 1

Spring, 1992



President's Message

I want to take this opportunity to report to members of the Missouri Supreme Court Historical Society on some of the purposes and activities of the Society. As you know, the purposes of this organization are to gather and display or disseminate information concerning the history of the Supreme Court of Missouri as well as to report on current events of historical importance.

This publication is one means used to report on the current history-in-the-making of the Court. Preservation of items of historical significance has been accomplished by restoration of the portraits of many of the former members of the Court. Displays of historically significant papers and artifacts have also been created in the Supreme Court Building. Extensive research into the history of the Court has been undertaken in conjunction with the University of Missouri, some of which has been published in this JOURNAL.

A major undertaking of the Society is now nearing fruition. Publication of the history of the Missouri Supreme Court, written by Professor Emeritus Gerald T. Dunn, St. Louis University School of Law, under commission from the Society. The title of the history will be *THE MISSOURI SUPREME COURT: FROM DRED SCOTT TO NANCY CRUZAN*. Public announcement of the book's publication will appear in the Fall-Winter catalog of the University of Missouri Press which will be issued in June. Members of the Society will receive a separate announcement concerning publication of the history. The Society has negotiated a discount from the publisher's list price for Society members.

A meeting of the Trustees of the Society was held in Columbia on Saturday, April 25 to review matters related to the book and to take action on other proposals. Amendment of the By-Laws to provide for attendance at meetings of the Trustees by telephone conference call to facilitate further meetings was adopted. A proposal to change the membership year to a calendar year was also adopted.

As we look forward to the coming year, I hope that membership in the Society will continue to grow and that members will take an increasingly active role in the work of the Society.

Thomas A. Vetter
President

Supreme Court Historical Society Holds Sixth Annual Meeting

The Sixth Annual Meeting of the Missouri Supreme Court Historical Society was held Saturday, November 16, at the Holiday Inn Executive Center in Columbia. The opening reception was held at 6 p.m. followed by dinner, business meeting and election of officers and an address.

President Don Chisholm presided at the meeting. Following a short business session he called for a report of the nominating committee consisting of David Brydon and Richard Brownlee. The committee presented a slate of officers for approval of the members. The only recommended change in the list of 1990-1991 officers was the replacement of Don Chisholm, who had completed two terms, by Thomas A. Vetter. Mary-Louise Moran moved the slate be approved by acclamation. Larry Crahan seconded the motion which carried on a voice vote.

Copies of the treasurer's report were distributed showing a balance on hand of \$58,571.88. President Chisholm reported that the history, written by Professor Emeritus Gerald T. Dunne of St. Louis University School of Law was being published by University Press.

President Chisholm then introduced Professor Dunne as the featured speaker. His topic was "Crucible of Controversy: The Supreme Court From Dred Scott to Cruzan."

Following Professor Dunne's address, President Chisholm introduced incoming president Vetter who made brief comments before the meeting adjourned.



Thomas A. Vetter, newly elected president of the Missouri Supreme Court Historical Society, welcomes to the Society's Annual Meeting members Lawrence Crahan and his wife Linda Legge.

Major Changes In Missouri Supreme Court . . .

Resignations, Retirements, Deaths and New Appointments Bring About Change of Historical Significance in Membership of Missouri's Highest Court

The resignation of one Missouri Supreme Court judge, the retirement of two others and the death of another has brought about unprecedented rapid change in the make-up of Missouri's highest judiciary during the past several years. These changes, combined with the imminent retirement of two additional members of the Court, will bring about completion of a situation of historical significance in the membership of the Court — a situation deemed impossible by the framers of the Missouri Non-Partisan Court Plan. It will mean that by the end of 1992, when Governor John Ashcroft completes his second term in office, he will have appointed every member of Missouri's highest court. This situation was made possible when the Constitution was amended in 1965 permitting a governor to serve two consecutive terms.

The Supreme Court, which will no doubt be known to historians as the 'Ashcroft Court', had its beginnings in 1985 with Governor Ashcroft's appointment of Edward D. Robertson, Jr., his first appointee to the Court. This was followed in 1988 by his appointment of Ann Kettering Covington, the first woman member of Missouri's Supreme Court, to succeed Judge Robert T. Donnelly. He next appointed John C. Holstein, in 1989, to succeed Judge Warren D. Welliver. Appointed next, in 1991, was Duane Benton to take the seat of Judge William H. Billings, who died while in office. Elwood L. Thomas was then appointed in 1992 to succeed Judge Andrew J. Higgins.

Governor Ashcroft will have two more appointments to make in 1992 when both Judge Charles B. Blackmar and Judge Albert L. Rendlen reach the mandatory retirement age.

Judge Robert T. Donnelly Resigns From Supreme Court



One of Missouri's longest-serving Supreme Court judges, Judge Robert T. Donnelly, resigned from the Court effective December 31, 1988. His term was not scheduled to expire until December, 31, 1990 and he could have continued serving until he reached the mandatory retirement age of 70 in 1995. Judge Donnelly, who was appointed to the Court by Governor

Warren E. Hearnes in 1965, served two terms as Chief Justice during his tenure on the Supreme Court.

Judge Donnelly said he was taking early retirement to get out of the pressure-packed environment of the Supreme Court.

"I feel great about retiring," he said. "I'm looking forward to resting awhile." Judge Donnelly said he planned to lengthen his winter vacations in Florida and to, perhaps, take up golf with his wife Suzie.

Prior to his appointment to the Supreme Court, Judge Donnelly practiced law in Lebanon where he headed up the law firm founded by his uncle, former Missouri governor Phil M. Donnelly. Prior to that he had practiced law in Greenfield. He had been an unsuccessful candidate for Congress from the old 8th District in 1962.

During his first term as Chief Justice of the Supreme Court, Judge Donnelly initiated the practice of delivering the State of The Judiciary address to the Missouri legislature.

Judge Warren D. Welliver Retires



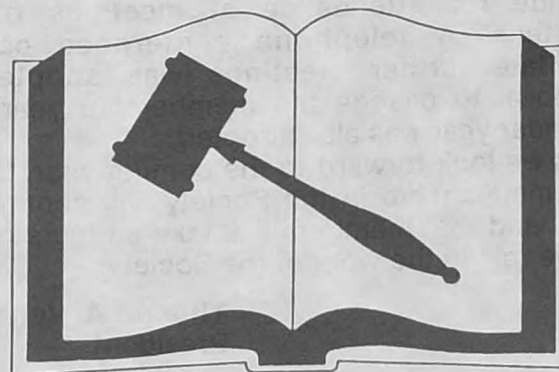
On September 8, 1989, Judge Warren D. Welliver retired from the Supreme Court of Missouri having served more than ten years.

Judge Welliver obtained both his undergraduate and Law degree from the University of Missouri-Columbia. After graduation he practiced law in Columbia with the firm of Alexander, Ausmus & Harris, but later started his own

law firm.

Judge Welliver served as President of The Missouri Bar in 1967-1968. In 1977 he was elected to the Missouri Senate from District 19 and served until his appointment to the Court.

While on the Court he wrote more than 298 opinions, 146 were dissents thus earning him the title of "The Great Dissenter."



Judge Andrew Jackson Higgins Retires



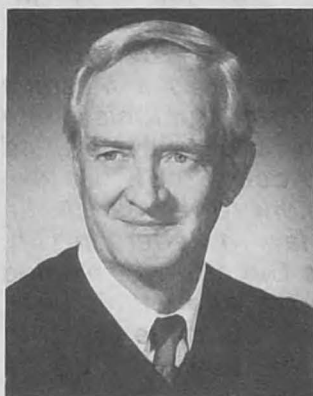
Judge Andrew J. Higgins retired Thursday, June 20, 1991, the same day that the United States Supreme Court upheld Missouri's mandatory retirement age law. He retired one day before his 70th birthday which was Friday, June 21st.

Judge Higgins was appointed to the Missouri Supreme Court in July, 1979 by Gov. Joseph Teasdale after serving as a court Commissioner for 15 years. He served as the court's Chief Justice from July 1985-1987.

Higgins is a graduate of Central College in Fayette, Missouri having worked his way through by playing clarinet in a dance band. In 1948 he graduated from Washington University School of Law in St. Louis. From 1948-1960 he practiced law in Platte City. He served as Platte County Prosecutor from 1951-1957 and Platte City mayor from 1958-1960. He was appointed to the 6th Judicial Circuit in March, 1960. He resigned in June 1964 to become a Commissioner on the Supreme Court.

Judge Higgins has written about 750 opinions since joining the Supreme Court. Chief Justice Blackmar said, "Judge Higgins was a very efficient administrator. He is distinguished for diligence and stability."

William H. Billings, Missouri Supreme Court Judge, Dies



Judge William H. Billings of the Missouri Supreme Court died Thursday, May 23, 1991 at his home in Jefferson City. Death was attributed to complications from kidney failure and a lung disorder.

Judge Billings, a native of Kennett, Missouri, was the son of Kennett Circuit Judge James Billings. Judge Billings received his law degree from the University of Missouri-Columbia School of Law in 1952 where he was a member of the Missouri Law Review and the Order of Coif. He practiced law in Kennett from 1952-1966 when he was appointed Circuit Judge for the 35th Judicial Circuit by Gov. Warren E. Hearnes. He also served as a member of the Missouri Board of Curators from 1965 to 1974. In 1973 he was appointed by Hearnes to the Missouri Court of Appeals, Southern District. He served as Chief Judge of that court from 1974-1978.

Judge Billings was appointed to the Missouri Supreme Court in 1982 by Gov. Christopher S. Bond. He served as Chief Justice from 1987 to 1989.

"He had a fine legal mind and made a distinguished contribution to the judiciary and the legal profession of Missouri," said Missouri Supreme Court Chief Justice Charles Blackmar.

New Members of the Missouri Supreme Court

Following are the remarks made by each of the newly-appointed Supreme Court judges at the ceremonies when they were formally sworn-in as members of the Missouri Supreme Court.



JUDGE JOHN C. HOLSTEIN, took the oath of office of the Missouri Supreme Court on December 1, 1989. A native of Springfield, he is a 1971 graduate of the University of Missouri-Columbia School of Law. He practiced law in West Plains from 1971 to 1975 when he was appointed Associate Circuit Judge of Howell County.

After being reelected to this post, he was then named Circuit Judge of the 37th Judicial Circuit in 1982. He was then appointed to the Southern District of the Missouri Court of Appeals in 1987. On October 11, 1991, he was appointed to the Missouri Supreme Court to fill the vacancy created by the retirement of Judge Warren E. Welliver.

May it please the Court, Mr. Chief Justice, elected officials and honored guests.

Just over 19 years ago I stood in this room and took another oath, that of an attorney. Chief Justice Jim Finch administered the oath that day. No one there, least of all me and my family, could have anticipated that I would be back in this room today, taking the oath of office as a member of this great Missouri Supreme Court. Then and now, I and my family considered ourselves ordinary people with ordinary values and virtues and faults. Today we are reminded that all history, including that of this great court, is nothing more than ordinary people confronting extraordinary circumstances in extraordinary places. There is no false modesty in the awe I hold for the office that I am about to assume.

I'm most grateful to be here. My very presence here is the direct result of so much that has been given to me.

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JUDGE DUANE BENTON

was sworn in as a member of the Missouri Supreme Court on Sept. 4, 1991. Judge Benton, also a native of Springfield, is a graduate of Northwestern University and the Yale University School of Law. He also has a Master's Degree from Memphis State University and is a Certified Public Accountant. Before appointment to the bench, he was in the private practice of law in Jefferson City for six years. He also served as Director of Revenue of Missouri from 1989 to 1991. On August 16, 1992, he was appointed to the Missouri Supreme Court to fill the vacancy created by the death of Judge William C. Billings.

Having heard all the kind things that have just been said, I could not help but think of my grandmother — who is here today. She was so very, very proud of me when I was accepted at law school. She lives in Mountain View, Missouri, a town of about 2,000 or so people in South Central Missouri. She was so very, very proud of me and wanted to get the word around town very quickly that I had been accepted at law school. So she called in the town gossip, her friend. Brought her in on the sofa and said, "Fannie Lou, remember little Duane? Remember my grandson, little Duane that used to run around here? He is going to Yale." Fannie Lou, hard of hearing, leaned forward and said "What did he do?" [Laughter]. So we can take ourselves a little too seriously sometimes.

I realized this morning that perhaps this — even with all of you here and me feeling so emotional — this ceremony is not even the most important thing occurring in our family today. I *know* it is not the most traumatic or the most emotional. Today was Megan's first day at school as a first grader. It is tougher on the parents than on the children, as those of you who are parents are aware. As we left the school this morning, a comparison struck me. Megan begins 12 years of school today, and as many of you know, a term on this Court, the voters willing, is 12 years.

I thought as we left the school: Who will learn more in those 12 years? Of course Megan is bright, reads some, adds and subtracts some, but by high school graduation in 12 years, my goodness, socially and academically, she will witness such a change that it will be scary for me.

My challenge is to learn some significant fraction of what Megan will learn in 12 years. Maybe if I learn any fraction of what she does, I can live up to the billing I just received from our distinguished speakers.

Of course, the further I got from school the more I began thinking: Maybe our basic values are not formally learned at all. When I got back here this morning, I picked up this book. [Displaying book]. *All I Really Need to Know I Learned in Kindergarten*, some of you may remember it, it was a best seller

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JUDGE ELWOOD L. THOMAS

became a member of the Missouri Supreme Court on October 1, 1991, filling the vacancy created by the retirement of Judge Warren E. Welliver. He is a 1954 graduate of Simpson College and received his law degree from Drake University School of Law in Des Moines, Iowa in 1957. He was in the private practice of law in Iowa for eight years. In 1965 he became a professor of law at the University of Missouri School of Law. He served on the law school faculty until 1978 when he joined the Kansas City law firm of Shook, Hardy and Bacon. He continued in this position until his appointment to the Missouri Supreme Court by Governor Ashcroft on September 5, 1991.

I first want to thank Governor Ashcroft and the Appellate Judicial Commission for the confidence they have shown in me in selecting me for this important position. I was honored to be on the panel with two very fine judges who are friends of mine: Judge Dick Webber of the First Judicial Circuit, and Judge Robert Ulrich of the Court of Appeals, Western District. I am very honored to have been selected from that panel, and I pledge to the members of the Judicial Commission and to Governor Ashcroft that I will do everything within my power to make each of you proud of your decision.

I also want to thank all of my friends, the lawyers and support staff at Shook, Hardy & Bacon, my former students, the members of the judiciary and the many other people for their support and approval of the selection process. My only wish is that I could pare down your expectations to something which is in the range of what I might be able to fulfill. If I can be half as good a judge as you expect me to be, I will be doing well. Actually, half is probably about right since most of you are lawyers and in every case, about half the lawyers are happy and the other half are not.

A couple of days after my appointment, I received a telephone call from my good friend, Jack Edwards, who is the Associate Circuit Judge in Maries County in Vienna. Jack told me that a young lawyer came into his office the day before and said, "Well, Governor Ashcroft sure solved all of Clarence Thomas' problems." Jack said, "Oh, how's that?" And his friend said, "Well, he appointed him to the Missouri Supreme Court." Jack replied, "No, you have your Thomases mixed up, that's Elwood Thomas." I observed that it isn't often anyone gets the name "Elwood" mixed up with anything.

Later, I thought about my conversation with Jack and I wondered whether Governor Ashcroft had solved all of my problems. As my mind played with that question, I thought about the old saying — something about walking a mile in another man's shoes. I do not remember the rest of the quotation, but the point is that when you walk a mile in the other person's shoes, you will gain new insights;

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Holstein *(continued from page 3)*

My parents gave me a loving home. My hometown, Springfield, gave me good schools and outstanding teachers. The people of this state gave me universities and outstanding professors, some of whom are in this room today. When I began to practice law, the lawyers and judges in West Plains gave me openness and support. The community of West Plains gave me a healthy and wholesome place to rear my children.

The people of south central Missouri gave me their trust by electing me as an associate circuit judge and circuit judge.

When I went to the Southern District of the Missouri Court of Appeals, I was given the respect and patience of the then six judges on that court. They were not only my colleagues and my friends, but my teachers and coaches. They set high standards for writing style, scholarship and sound judgment. They challenged me always to rise to their standards.

The Appellate Judicial Commission has twice given their confidence to me by naming me to appellate court panels. Governor Ashcroft has now given me an opportunity, a challenge, that only a few of our profession are privileged to have when he appointed me to this court. To be so honored by one having Governor Ashcroft's high moral values, compassion and keen intellect is a gift of great price.

More than all of that I've been given the grace of a loving God, who through trouble and triumph, has held me and my family in the palm of his hand. It makes me tremble to be reminded that "those to whom much is given, much is required." I can never hope to repay all that I've been given, but my goal will be to preserve and pass on these good gifts to others.

We lawyers are always near the eye of the storm. Notwithstanding the lawyer jokes and the endless criticism our profession endures, it remains a noble profession. The courage and wisdom of men like Thomas Jefferson, John Marshall, Daniel Webster and countless others are the clear and unequivocal evidence of our profession's contribution to American freedom.

Today I'm particularly reminded of Hamilton Gamble, a great Missourian of the last century. He held his first statewide office, Secretary of State, at the age of 26. He had previously served as a prosecuting attorney in St. Louis. In 1851 he became a member of this court. He, as much as any other judge who ever sat here, established the doctrines of judicial restraint and *stare decisis*, or standing on precedent.

The first case Gamble wrote involved the constitutionality of a statute increasing the salary of circuit judges. Listen to what Gamble has to say in his first opinion regarding the rules for interpreting the Constitution:

"The Declaration of Rights (found in the Constitution) which furnishes limitations upon the powers to be exercised by all departments of government, is a comprehensive declaration of the great principles upon which rest our political, civil and religious freedom and our social and individual security. Yet no court is

authorized to declare an act of the legislature void without being able to point out some specific clause of the Constitution to which it is repugnant. If in listening to the voice of the people speaking through the Constitution, we had found one utterance prohibiting the passage of this act, we would cheerfully have rendered that prohibition effectual. But we are not at liberty to give our judgments of expediency or justice a controlling power over the legislature."

Gamble's wisdom was again to be put to the test in the March term of the Supreme Court in 1852. A slave named Dred Scott had sued his master in St. Louis Circuit Court, seeking to be declared free because he had been taken by his master into a free state and returned to Missouri. Public opinion in the case was at a fever pitch on both sides, but the weight of the clamor clearly favored slavery. Nevertheless, a jury in St. Louis found in Scott's favor. The master appealed. The majority of this court held that the presence of Scott in a state where slavery is prohibited did not entitle the slave to sue for freedom on his return to Missouri. Gamble registered the lone dissent. He based his dissent on case law precedent which he cited at length. Hear what Gamble had to say regarding the benefits of relying on precedent:

"The cases (I have cited) are cases decided when the public mind was tranquil, and when the tribunals maintained in their decisions the principles (approved by) and enlightened public opinion. Times have changed but principles have not and do not change; and, in my judgment, there can be no safe basis for judicial decisions, but in those principles which are immutable."

Gamble left the Supreme Court in 1853. He would serve later as the pro-union governor from 1861 until his death in 1864.

Today I take my place on this court sobered by the weight of its responsibility, nevertheless that weight is lightened when I consider Hamilton Gamble, who rose above current popular opinion, slogans, sound bites and demeaning labels. He and ten thousand others like him have lit the lamps for me and the other judges of this court to show the way.

Thank you all for your many kind thoughts and for your continuing prayers. I look forward to visiting with you and shaking the hand of everyone here at the reception which will follow.

May it please the court, that concludes my remarks.

Benton *(continued from page 4)*

2 or 3 years ago. Retired minister Robert Fulghum writes:

Most of what I really needed to know about how to live and what to do I learned in kindergarten. Wisdom was not at the top of the graduate school mountain but there in the sand pile at school. These are the things I learned. Share, play fair, don't hit people, put things

(continued on page 6)

Benton *(continued from page 5)*

back where you found them, clean up your own mess, don't take things that are not yours, say you're sorry when you do hurt someone, wash your hands, flush, warm cookies and milk are good for you, live a balanced life, learn some, think some, draw, paint, sing, dance, play, work every day some. When you go out in the world, watch out for traffic, hold hands and stick together.

I thought that was particularly relevant today, but as a lawyer would say, it is a little procedural. It does not really tell you about the values you are going toward; it tells you how to play as you go there. The prophet Amos addressed the essence of a judicial system. The prophet said, "Let justice run down as waters and righteousness as a mighty stream." There is a bit more modern statement of that. "Whatever things are true, whatever things are honest, whatever things are just, whatever things are pure, whatever things are lovely, whatever things are of good report, if there be any virtue and if there be any praise, think on these things." But we should not, and cannot define the logic of values. Oliver Wendell Holmes, one of the greatest American jurists, said, "The life of the law has not been logic, it has been experience."

And that brings us full circle. That brings us back to Megan doing it. Me doing it. Megan, come up here a second. [Holding Megan]. Megan, I hope and pray that your life experiences all the friends that we have here today. In particular, I hope you have leaders like Governor Ashcroft who are guided by Truth. I hope you have teachers like I had — I have a grade school teacher here today and high school teacher here today — who teach you not just the three R's of "reading, writing and 'rithmetic" but the three R's of "respect, responsibility and reverence." I hope you have professional associates like Lisa and Harvey and members of the Cole County Bar that are here, to teach you. And finally, just as my parents and family gave me a great foundation for life, I hope that Sandra and I can nurture you in the way you should go, so when you grow up you won't stray from it. And I thank all of you for making today possible.

Thomas *(continued from page 4)*

most of all, you will become aware of his or her worries and problems.

I thought back to my experiences in law school, which, of course, started with me as a law student facing my first final examinations; it was worse than any lawsuit I ever prepared for trial; test week was essentially a lost month. I remember Sue was waiting for the first one to end and, after ten days of only seeing me about once during each 24 hours, she planned that we go out to dinner to this very special place after my last final. We did, and we had no more than sat down at the table when my head was on my plate, and I was sound asleep.

Through all those test weeks, never once did I give a single thought about the difficult time my professors had writing those tests and what a never-ending job it was for them to grade them. It never entered my mind. That is, until I was on the other side of the teaching podium, writing and grading finals. I always said to myself — I never had the guts to say it to anybody else — there is no undertaking on earth to which is devoted so much skill, intellectual challenge and hard work (and the students would say cunning) as writing a good final examination question so that it has the right number of issues, some of which are easy to see, most of which are hidden away, which takes the right amount of time and provides enough of a challenge, but not too much, and is appreciated so little by those for whose benefit it is designed. But believe me, I never undertook to convince the students of that fact or anything even close to it. I may be an advocate, but I'm not a magician.

Then, I left the academic world and went to Kansas City and Shook, Hardy & Bacon. It has been a great 13 years. I will miss the associations with my partners, with all the lawyers and with a dedicated and loyal staff. They have always been very patient with me, particularly in allowing me to give them a lot of advice and, of course, they gave me a lot back; it has always been a two-way street. The most rewarding thing about the whole experience is that the best common advice, which went back and forth and which I do not ever recall being contradicted, was the simple advice — do quality work. We will give you the support and the equipment; you furnish the time and the effort to do things right. Believe me, that's the only way in the world to practice law, and when you can practice this way, it is the greatest profession in the world.

I have always been a great believer in the advocacy system. Wigmore said the greatest engine of truth is cross-examination; I believe the greatest engine of justice is the advocacy system. When it is done right and all the participants carry out their roles, it produces a magic answer that no one participant could produce alone. When I picture the advocacy system, I see three participants, like a three-rail railroad track winding through a steep mountain pass: one advocate on each side of the issue and a judge or court in the middle. If the system works right, the advocates are good lawyers: they take time to get prepared, know the law and know the facts; they are articulate; they are persuasive; they devote 100% of their efforts to the position of their clients. Even though they devote 100% of their efforts to the interest of their clients, good advocates do not have tunnel vision. They leave the emotions of the cases to their clients. They recognize the weaknesses of their cases as well as the strengths. They need to have the courage, maturity and judgment to add measured restraint to their clients' enthusiasm for their side of the lawsuit while still being optimistic and positive about their clients' position. Young lawyers often mistake being ugly, disagreeable and downright mean with being a strong advocate — there is a vast difference. One of the keys to success in the practice of law, as well as being happy in the practice of law, is learning the fine balance between aggressively representing your

client and still being a person whose work will be trusted and who will be respected, not only by your colleagues, but also by your opponents and the judges who hear your cases.

One of the good things about being an advocate is that you do not have to worry about how the results of your case will affect other people in other cases in the future. Of course, you would like to convince the judge that ruling in your favor will create good precedent because that helps bring him to your position. But, by and large, you do not have to worry about the future; you can live for today's lawsuit and what happens in this case. On the other hand, because there are two advocates in every lawsuit, almost always one of them ends up being a loser and one a winner — at least on the face of it. Winning is an enormous high; losing can be a very low low. Life as an advocate is the ultimate roller coaster, and you have to learn to enjoy the highs and survive the lows.

Five days after I was appointed, I traveled to St. Louis to argue an appeal before the Eighth Circuit. I holed up in my hotel room, rehearsed my argument, and spent a restless night turning over and asking myself, "I wonder what Judge Hainey is going to ask me or what Judge Bowman is going to say about this issue." But, speaking to the question of whether Governor Ashcroft had solved all of my problems, I quieted my thoughts by saying, "This is the last time I have to go through this. Governor Ashcroft really has solved all of my problems."

Then, about a week ago, I picked up my first set of briefs and started reading in preparation of hearing my first oral argument as a judge. Suddenly, I realized Governor Ashcroft had not solved all of my problems. I had stepped across an invisible barrier into a new role in the advocacy system, one which had hardly entered my mind even a month before — sort of like my feelings towards the law professor's problems when I was a law student. I read the first brief and thought, "That's a pretty good argument." Then, I laid that one down, picked up the other brief and I realized it was a good argument, too. I never had that problem when I was an advocate; my client was always right. All of a sudden, I was saying to myself, "I have to make a decision that is fair to this plaintiff and this defendant that resolves their problem. But, I also have to be concerned about those other plaintiffs and defendants who will come down the road with the same kind of problem — or a problem that may actually be different but the answer may be generated by the decision that I and my colleagues on the bench make in this case." I sort of panicked.

By this time, I had realized Governor Ashcroft had not solved all my problems. Nevertheless, I say to the members of this Court, I am ready to walk in your shoes. I will need your help, your guidance and your understanding. I know we will disagree on legal issues; if we do not, we will not be doing our jobs. If there is only one right answer, we could set a computer on the bench and it could check the right box as to who should win and who should lose. As we agree and disagree in the future, may we always, above all, be congenial, respectful and thoughtful about the other person's opinions and viewpoints. May we listen with honest interest, open mindedness

and a willingness to put ourselves in the other person's position and critically re-examine our own position. If we are willing to do this, I firmly believe that out of our advocacy system will truly come a magic answer and, time and time again, we will be successful in not only solving the dispute between the parties before us, but in creating answers and solutions for the problems of generations to come. I know we can rely upon the lawyers of this state to be the superb advocates that are so essential to our system of justice.

With your help, I pledge to you that I will do everything within my power to do my part to help this Court fulfill its role, along with all the other courts of this state, in bringing to the citizens of Missouri a system of justice in which they have confidence and pride — a confidence and pride that will be fully justified and that will be earned through hard work, mutual respect and team work, issue by issue, decision by decision, and day by day.

Judge Paul Barrett Dies

**Veteran of 30 Years as
Supreme Court Commissioner**



Retired Missouri Supreme Court Commissioner Paul Barrett died in Jefferson City September 28, 1989. He had served as a commissioner of the Supreme Court for 30 years. He was 87.

Judge Barrett was a native of Sparta in Christian County and proud of it. He graduated from Drury College in 1924 and received his law degree from the University of Chicago in 1927. He shared a private practice of law with his father in Springfield before becoming an assistant prosecuting attorney for Greene County in 1929. He served as Springfield city attorney until he was appointed to the Supreme Court in 1941.

In addition to his reputation for astute legal ability, Judge Barrett was widely known as a historian. Shortly before his death a book "Massacre", co-authored with his daughter, was published. He also co-authored with John Hulston, an article about a lawsuit over some Ozark land involving Harry S. Truman.

Judge Barrett was probably best described by Supreme Court Judge Andrew J. Higgins who considered him his mentor when he joined the state's highest court as a commissioner in 1964.

Describing his 25 year friendship with Barrett as a 'grand experience', Judge Higgins said "His personality was infectious and his love of the law was contagious. He was a genuine person. He had no pretense about him. He knew and liked and respected people."

In return, Judge Barrett was liked and respected by everyone who knew him!

Supreme Court of Missouri Historical Society

Treasurer's Report - November 7, 1991

Balance on Hand October 25, 1990

Checking Account	\$ 4,413.08
Money Market Account	50,574.60
	<u>\$54,987.68</u>

Income, October 25, 1990-November 7, 1991

Membership Dues	\$5,662.00
Interest on Money Market Acct.	2,929.75
Gaylord Foundation	1,000.00
	<u>\$9,591.75</u>

Expenses, November 1, 1990-November 7, 1991

Printing — Modern Litho — Invitations	\$ 356.59
U.S. Postmaster — Bulk rate Annual fee	60.00
U.S. Postmaster — Postage for Invitations	73.66
Secretary of State — Annual fee	1.00
Final payment of Prof. Dunne for writing history	5,000.00
Holiday Inn Executive Center - 5th Annual Meeting	666.30
Honorarium, Prof. Dunne	500.00
	<u>\$6,657.55</u>

Balance on Hand, November 7, 1991

Checking Account	\$ 5,067.53
Money Market Account	53,504.35
	<u>\$58,571.88</u>

Allocation of Funds on Hand

Herman Huber Memorial Fund	525.00
Unrestricted Funds	58,046.88
	<u>\$58,571.88</u>

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