

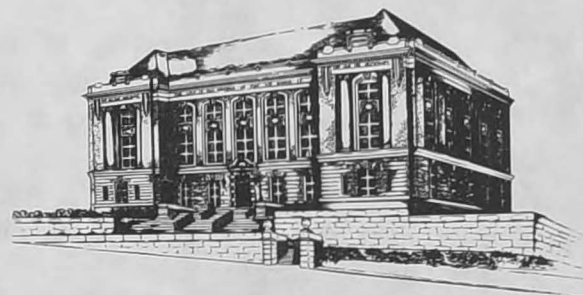
The Missouri Supreme Court Historical Journal

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OFFICE OF SECRETARY OF STATE
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August, 1999



William Ray Price, New Chief Justice Missouri Supreme Court

On July 1, 1999, William Ray Price became the Chief Justice of the Missouri Supreme Court succeeding Duane Benton. He will serve a two year term. He was appointed to the court in 1992 and retained in office for a 12 year term in the November, 1994 election.

Judge Price was born January 30, 1952 in Fairfield, Iowa. He was raised in Keokuk, Iowa. He graduated with high distinction from the University of Iowa in 1974. While there, he received the Hancher-Finkbine award and was a member of Omicron Delta Kappa and Phi Beta Kappa. He attended Yale University Divinity School on a Rockefeller Fellowship for one year. He received his law degree from Washington & Lee University School of Law, *cum laude*, in 1978. He was admitted to the Missouri Bar in 1978.

Before becoming a judge, Price practiced law with the Lathrop law firm in Kansas City, Missouri from 1978, until his appointment to the court. While in Kansas City he was President of the Kansas City Board of Police Commissioners.

While serving on the court, Judge Price has served by special appointment as a trial court judge and motion court judge in St. Louis County. He has supervised projects including: cameras in the courtroom, gender fairness, electronic filing, alternative dispute resolution, and drug courts.

Judge Price and his wife Susan are the parents of two children. Emily Margaret Price and William Joseph Dodds Price.



Letter from President Thomas. A Vetter

Dear Member:

The Annual Meeting of the Board of Trustees of the Missouri Supreme Court Historical Society will be held at 5:00 p.m. on Thursday, September 23, 1999 in the Crown Center Hotel in Kansas City during the annual meeting of the Missouri Bar. The room for the meeting will be posted at the Missouri Bar registration area.

The meeting is open and the Trustees will welcome suggestions from any member. If you have an idea for consideration please let us know.

We need the services of interested individuals to serve as Trustees. If you wish to serve, or if you wish to nominate someone for a seat on the Board of Trustees, please submit your name or the name of your nominee to D. A. Divilbiss, Chairman of the Nominating Committee, P. O. Box 448, Jefferson City, MO. 65102. Before submitting a nominee's name, please get their permission to do so. All nominations must be signed by the persons submitting them. Deadline for nominations is September 7, 1999.

The Society's Annual Membership Reception and Dinner Meeting will be held at the Jefferson City Country Club on October 9, 1999. The speaker will be Alfred F. Neely IV, Professor of Legal History at UMC School of Law.

Details will be forwarded to members by mail.

Thomas A. Vetter
President

SOCIETY MAKES RESEARCH GRANTS

Secretary of State Rebecca McDowell Cook has announced the selection of three scholars to receive Missouri Supreme Court Historical Society grants for research into Missouri Court records contained in the Missouri Archives. Thomas A. Vetter, president of the Supreme Court Historical Society, said that each of the recipients received a \$3,000 grant.

"We are pleased to offer this opportunity to help scholars further their learning while highlighting the richness of the documents contained in the Supreme Court Collection."

Recipients of the grants, which were approved by the Society's Board of Trustees at its Fall, 1998, meeting :

Kimberly Schreck, PHD candidate at the University of

(See RESEARCH GRANTS, Page 4)

Annual Meeting Held October 4, 1998

The thirteenth Annual Meeting of the Missouri Supreme Court Historical Society was held on October 4, 1998 in Jefferson City at the Jefferson City Country Club.

Following dinner, President Thomas A. Vetter called the meeting to order. The first item on the agenda was the election of the following slate of officers:

Chairman of	
the Board	William H. Leedy
President	Thomas A. Vetter
1st Vice President	Mrs. Sinclair S. Gottlieb
2nd Vice President	William A. R. Dalton
Secty./Treas.	D. A. Divilbiss
Trustees	Honorable, Warren D. Welliver
	David J. Roth and William G. Guerri.

The motion to approve the election of all officers and trustees was moved by Judge Andrew J. Higgins and seconded by Mark Comley.

Members had received copies of the Treasurer's report during the dinner. A motion to approve the report was made by Virginia Gottlieb and seconded by Henry Andrae.

President Vetter introduced Kenneth Winn, State Archivist, who reported that the exhibit "Verdict of History" will stay in Jefferson for about five more months and will then move to the Old Courthouse in St. Louis. After spending some time there, it will move on to Kansas City.

President Vetter reported that at the Trustee's meeting held on September 24th at Tan Tar-a a decision was made to fund an Internship and Fellowship through the office of the Secretary of State to prepare an index for the Supreme Court records maintained by the Archives. The Fellowship would provide funds for a person working on an advanced degree to prepare a report as to the impact of Missouri on the national scene. The internship would be funded at \$3,000.00, the Fellowship would be funded at \$6,000.00 for a total award of \$9,000.00.

Having completed the business and announcements, President Vetter then turned the meeting over to our speaker of the evening, Professor Gary Kremer, Professor of History at William Woods College, Fulton, Missouri, who spoke on "State v. Celia, a Historical Perspective".

Supreme Court of Missouri Treasurer's Report – October, 1998

Balance on Hand October, 1997

Checking Account	\$ 1,793.55
Money Market Account	75,748.84
	<u>\$ 77,542.39</u>

Income, October, 1997 – October, 1998

Membership Dues	\$ 5,525.00
Royalties from sale of Dunne's book	30.83
Memorials in honor of Mrs. Helen Finch and Judge Robert Seiler	200.00
Interest on Money Market Account	<u>3,009.56</u>
	<u>\$ 8,765.39</u>

Annual Expenses – October, 1997 – October, 1998

Dr. LeeAnn Whites - Honorarium and mileage for speech at Twelfth Annual Meeting.	\$ 516.80
Public Office Service - Photocopies.	8.00
Tom Vetter - Dinner Twelfth Annual Meeting .	797.58
Modern Litho Printing - Invitations	347.72
Printing Volume 6 #3 of the JOURNAL	<u>1,149.27</u>
D.A. Divilbiss - Expenses to attend Trustee's Meeting in St. Louis, Sept. 1997, and to attend Conference for State and Federal Court Historical Societies June, 1998.	201.85
Registration fee for Conference for State and Federal Court Historical Societies in Wash. D. C.	<u>1,358.17</u>
Jane Vetter - Flowers for October Enrollment Ceremony and Annual Dinner.	30.00
U. S. Postmaster - Stamps and Bulk Mail Permit.	164.50
Janet Musick - Layout for Volume 6 #3 and #4 of the JOURNAL.	181.00
Capitol Projects - Postage to mail JOURNAL.	<u>1,000.00</u>
Rebecca M. Cook - Registration.	84.29
Madison Café - Lunch with Tom Vetter, Wally Richter and D. A.	<u>15.00</u>
	<u>25.00</u>
	<u>\$ 5,879.68</u>

Balance on Hand – October 1, 1998

Checking Account	\$ 2,662.20
Money Market Account	<u>78,758.40</u>
	<u>\$ 81,420.60</u>

Allocation of Funds on Hand

Herman Huber Memorial Fund	\$ 525.00
Unrestricted Funds	<u>80,895.60</u>
	<u>\$ 81,420.60</u>

Michael A. Wolff Sworn in as Judge of the Supreme Court of Missouri

(Ed. Note: Acceptance speech delivered by Judge Michael A. Wolff on being sworn in as a member of the Supreme Court of Missouri, September 9, 1998.)

Good afternoon. Mr. Chief Justice, Governor Carnahan, Father Biondi, fellow members of the Court, distinguished guests, friends, all. I'm deeply, deeply honored and grateful for the opportunity to serve on this great court.

I'm thankful most immediately to the members of the Appellate Judicial Commission who selected me as one of three nominees, and to Governor Carnahan who appointed me from that list. I promised them and I promise to you just one thing: I'll do my best.

By the way, when I thank the chief executive who appointed me, I'm reminded of what President Eisenhower said of at least one of his Supreme Court appointees, "It was the worst damn fool thing I ever did." I know this is an independent position, though, and I pray that Governor Carnahan won't have occasion for such sentiments.

Well, what do we expect from a Judge? It is a most humbling prospect. What we expect, of course, is good judgment. And where, we might ask, in good Socratic fashion, does one get good judgment? From Experience. And where does one get experience? From poor judgment, of course. I bring you all of my experience.

Now, we spend our lives learning, and I am, to a great extent, the sum of what I have learned from others. I'm not talking about formal education. And education, really, is what you have left after you've forgotten everything you learned in school. And I've forgotten a lot. But I have many thanks to give to people from whom I have learned, and I will try to do it somewhat categorically. And please, all of you, in many respects, should feel included.

From my mother, who is here, I learned optimism. Perpetual optimism. I wouldn't have gone through some of the stuff that you all were recounting without having some sense of optimism. Perhaps unrealistic optimism.

From my late father I learned to think problems through, to get over it, to move on. From both my parents, a sense of humor. Both my parents, I might note, some years ago were actors in community theater. "Never read your reviews," my father told me. "And if you do read them, don't believe them."

From my late brother Jim, who was developmentally and somewhat physically disabled, I learned about making the best of the hand that you've been dealt.

In my immediate family, especially from my wife Pat, I've learned about love, dedication, hard work, good parenting, and meeting life head-on with enthusiasm. She told me, "Trust your feelings," long before Obi-Wan Kenobi ever said it to Luke Skywalker.

My sons, Andy and Ben, have taught me that childhood can be fun, occasionally even for the parents. They have learned to be proud of their own accomplishments and responsible for their own lives. I read in the paper that my son Andy believes that as a father I've been fair. Now, I

always thought I was slightly above average. But it turns out that the question the reporter asked was, "As a father, has he been fair?" I guess I never should have read that review.

Our son Ben, by the way, is away at college and is not here today. He was here a couple of weeks ago. And at today's tuition prices, we don't want him to miss a moment of higher education.

One of my first indoor jobs was as a newspaper reporter and editor. It taught me something. Objectivity may be elusive, if not impossible, but journalists do strive to be accurate and to be fair. It was an essential lesson for those like me who abandoned that craft for a more adversarial line of work. My first job after law school as a law clerk to Federal Judge Miles Lord showed me that a passion for justice, which the Judge had in abundance, can bring joy and, of course, an occasional reversal.

As a new lawyer in Legal Services, I learned from clients, especially from those who were poor and powerless, that they are what really matters, that justice means respect and dignity as well as fairness, even I suppose, and especially, in a system where there are winners and losers.

I can hardly begin to tell you in the few minutes that I have here all that I have learned from the faculty, the staff and the students of St. Louis University in the 23 years that I've been there. There is a genuine sense of community at the law school and a real sense of collegiality. We have worked together for common goals, primarily the education of law students, developing the ability to disagree without being disagreeable.

The law school and university nurture and encourage involvement in public service. Some have found it remarkable that there are three St. Louis University law faculty members who have joined this court in the past 20 years; Joe Simeone, Charles Blackmar and me. Remarkable, perhaps, but not surprising to those of us who are familiar with the culture of the school. I am grateful to Roger Goldman, the dean and my friend for these past 23 years, for his kind words.

I'm honored by Father Biondi's participation here. Those of you who have not been to the campus in recent years should go and see some of the true miracle that Father Biondi's leadership has produced. He really has created a vision of a connection between the physical environment and the spirit of learning at the institution. And I note that the law school is dedicating its new facility, its remodeled and expanded facility, this week.



(See WOLFF, Page 4)

(WOLFF, from Page 3)

I thank my friends and colleagues of St. Louis University, not only for being here, but for being here for me in many respects over the years. Including, and I'll just single one person out, Mary Ann Jouer, who has been my secretary for 18—well, for longer than she would care to think about.

I have, as you know, spent some time practicing law in and around St. Louis. There are scores of lawyers from who I have learned much. I thank Steve Ringkamp, one of my early St. Louis mentors, his former partners, John Frank, Jim Hullverson, J. R. Hullverson, my good friend and fellow trial advocacy teacher Steve Tillery and his partners, and my good friend David Howard. These are people I worked with in trying cases.

During that period when I was involved with the trial practice and trial advocacy teaching, Judge Blackmar turned over to me the writing and editing of Federal Jury Practice Instructions, which I am forever grateful for. And I found it to be a wonderful blend of the practical as well as the academic.

I suppose in terms of practice I should also mention opposing counsel. I was privileged in the time that I was actively involved in that kind of work to have the kind of respectful and highly professional relationships that have been fostered by great lawyers and by those who founded and perpetuated the Lawyers Association of St. Louis.

I also want to mention all that I've learned from politics, which lately, sadly, has fallen a bit in the public's estimation. In its highest sense it connects us. It connects the people involved in it to the hopes and wishes of the public. And I genuinely wish well those of you who serve in public life and public office. In my own campaign work and in the work I've done for others, I've made many friends and have many fond and remarkable memories.

Governor Carnahan has taught us that one can do well in

political life, as well as doing a lot of good for the public. He has attracted an able and dedicated staff and a remarkably talented group of cabinet members and others, people that I am genuinely grateful for the experiences that I've had with these good people.

Jewel Scott was kind enough to come and remind us of our efforts, legislative and otherwise, to help urban kids. I gained an enormous respect for the legislative process in the work that I've done there for some of its grand masters, like my friend Harold Caskey and others, who taught me a lot that I probably can't even mention.

Finally, I've been here at the Court a few weeks working on the business of learning some of the essentials of this new role. I am truly, truly grateful for the gracious and helpful welcome that my new colleagues have extended to me. It has really been quite overwhelming. I've learned very much from you in the short time that I've been here. I'm truly honored to serve with you. And keep filling me in. Okay?

The staff here who have put together all of these things—I saw a couple of folks at lunch and—they asked me about this and I said, "I don't know, I just show up," because they're doing so well. Tom Simon and his staff, including Norma Nuelle, who has been filling in in my office, have really gone beyond the call of duty, and I thank them.

Being a judge of this Court is, as I mentioned, an immense and a humbling prospect. I will be mindful of the ideal of equal justice under law and of the court's critical role in safeguarding the liberty and preserving the dignity of people.

From the experiences I have alluded to, I've distilled a few thoughts, a few things that will guide me. I will take ideas seriously. I will take principles and ethics seriously. I will take people's interests and feelings seriously. But I will really endeavor not to take myself too seriously. In time, perhaps, I will be fair in the sense that I hope my son Andy intended. Thank you very much. It's a pleasure.

(RESEARCH GRANTS, from Page 1)

Missouri-Columbia, who will further her study of central Missouri women during the late 19th Century through the review of Archive court records. Ms. Schreck was awarded the Hall Prize for the best paper written by a graduate student and has received grants from the Missouri Humanities Council to study the history of African-American women in Cooper County and black education in Sedalia.

Shelly L. Lemons and Michael Roth will do work to help preserve and promote access to the Archives collection of territorial and early statehood papers.

Ms. Lemons is a doctoral student in History at Oklahoma State University. She received that university's History Department Research Paper Award and a grant for research from the Harry S. Truman Library Institute. Her work has focused on the Cold War and the life of Bess Truman. She has also contributed essays to the forthcoming Dictionary on Missouri Biography and the American National Biography.

Mr. Roth is a student in the Master's Program in American History at the University of Missouri-Columbia. He has

extensive experience in archives and special collections such as the Federal Writer's Project Slave Narrative Collection and the Picker Memorial Library Special Collection in Kirksville. He has written several papers based on his archival research.

The grantees began their work in the Archives research in June of this year.



From left, State Archivist Kenneth Winn, Intern Michael Roth, SCMHS President Thomas Vetter, and Intern Shelly L. Lemons. Not pictured, Fellow Kimberly Schreck.

Obituaries

ROBERT TRUE DONNELLY: 1924-1999



Robert True Donnelly, former judge of the Missouri Supreme Court, died Wednesday June 16, 1999.

Judge Donnelly served on the court from 1965-1988. He was Chief Justice twice, serving from 1973 -75 and 1981-83. During his twenty-three years on the court he wrote 546 opinions.

Born in Lebanon, Missouri, August 31, 1924, he was raised in Tulsa, Oklahoma graduating from Tulsa Central High School in 1942. He enrolled in the University of Tulsa in the fall of 1943. In the spring of 1943, he went into the Army and was sent to Ohio State

University for an Army Specialized Training Program. After the war, he returned to Missouri, where he graduated from the University of Missouri- Columbia School of Law in 1949. From 1952 to 1965, he was a member of the law firm of former governor Phil M. Donnelly and David Donnelly in Lebanon, Missouri. He was an Assistant Attorney General from 1957-1963.

During World War II, he was assigned to the 405th Infantry Regiment of the 102nd Division and served in the European theater from 1944 till the end of the war in 1945. In an autobiographical book *A Whistle in the Night*, recently published, Judge Donnelly recounts his war time experiences together with recollection of his early years in practice, family reminiscences and his years on the Court. He received both a Purple Heart and Bronze Star for injuries received during the war.

He is survived by his wife, Susan Oates Donnelly, two sons, Thomas Page and Brian True Donnelly and one sister Helen Donnelly Smith

JUNE P. MORGAN: 1917-1998

Retired Missouri Supreme Court Judge June P. Morgan died Monday, September 28, 1998, as a result of a car accident.

Judge Morgan served on the court from 1969 to 1982. Before joining the court he served as City Attorney in Chillicothe, Prosecuting Attorney, Circuit Judge in Livingston County and Judge on the Missouri Court of Appeals in Kansas City.

He was born in the Lincoln County town of Silex. He attended public School in Marble Hill. He received a bachelors degree from North West Missouri State College in

Maryville and his law degree from the University of Missouri- Columbia School of Law. During World War II he served five years in the United States Air Force including two years in China.

He is survived by his wife Emma Lee and three children; William V. Morgan, John L. Morgan and Betty Smith; seven grandchildren and two great-grandchildren. He is buried at Riverview Cemetery in Jefferson City.



NORWIN D. HOUSER 1908-1999



Retired Commissioner of the Missouri Supreme Court, Norwin D. Houser died Friday, May 21, 1999 at his home in Jefferson City.

A graduate of the University of Missouri with both an AB. and LLB degree, he was admitted to the Missouri Bar in 1931. He practiced law in Kansas City and Perryville, Missouri. He served as Judge of the 27th Judicial Circuit for nine years until he was

appointed as a Commissioner of the Supreme Court of Missouri. He remained on the court till he retired after serving 37 years. During that time he authored more than 700 published judicial opinions.

He chaired the Committee for a Modern Criminal Code in Missouri from 1969 to 1973 and co-authored the Missouri Approved Criminal Instruction to accompany the new Criminal Code in 1979. He was chair of the Missouri War Chest from 1944 to 1945. He was president of the Missouri Law School Foundation from 1954 to 1955, a member of the Order of the Coif, a Shriner, 32nd degree Mason and Rotarian.

He was married December 9, 1937 to Frances V. Houck, who preceded him in death. He is survived by one son, John C. Houser and one daughter, Elizabeth Gibbs; five grandchildren and two great grandchildren.

Obituaries

ROBERT R. WELBORN 1916-1998



Retired Missouri Supreme Court Commissioner Robert R. Welborn, died Monday, November 23, 1998 at a medical center in Jefferson City, Missouri.

Judge Welborn was born in Bloomfield, Missouri and was reared in St. Louis. He received his law degree from Washington University.

After serving in the army in the

South Pacific in World War II, he moved to Jefferson City where he was Supervisor of Corporation Registration and Commissioner of Securities for the Secretary of State. He later joined the office of the Attorney General as legal assistant to former Governor John Dalton. In 1963 he was appointed a Commissioner of the Missouri Supreme Court. He retired from that position in 1981.

He was a member of the Missouri Bar and was admitted to practice before the United States Supreme Court. He was a member of the Washington University Eliot Society and Honorary member of the Order of the Coif.

He married Mary L. McRoberts October 19, 1950 who died February 18, 1994. He is survived by three brothers; Joe C. Welborn, Dr. William S. Welborn and Arthur T. Welborn.

STATE V. CELIA, A HISTORICAL PERSPECTIVE

Ed. Note: Speech delivered at the Annual Meeting of the Historical Society, October 4, 1998 by Professor Gary Kremer, Professor of History at William Woods College.

Let me begin by expressing my appreciation for the opportunity to speak to this distinguished group. I have long been intrigued by the history of the Missouri Supreme Court. As many of you know, I am a student of Missouri history and I have a special interest in the history of gender and race relations in this state. Some of the most momentous issues dealing with race and gender in the United States have been discussed and debated in the Missouri Supreme Court before being finally decided by the United States Court, among them the 1948 case of *Kraemer v. Shelley*, the 1938 case of *Gaines v. Missouri*, the 1891 case of *Lehew v. Brummel*, the 1875 case of *Minor v. Happerstett*, and, unquestionably the most famous case of all, the 1850's case of *Scott v. Sanford*, otherwise known simply as the *Dred Scott* case. You will recall, I am sure, that in the *Dred Scott* case first the Missouri Supreme Court and then the United States Supreme Court ruled against the slave *Dred Scott*, concluding, among other things, that as a slave, he had no rights that any American court was obligated to honor.

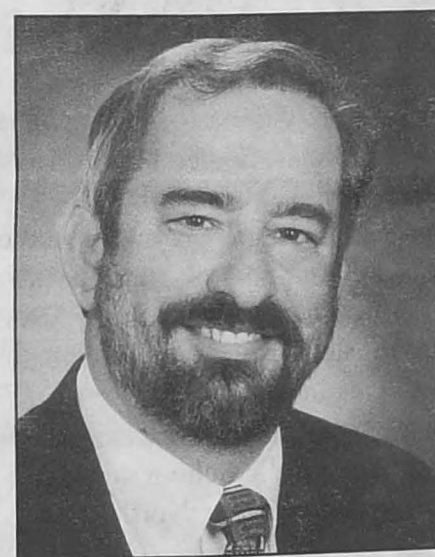
The case I want to talk about tonight, the case of the *State of Missouri v. Celia* was, in a sense, a precursor to the *Dred Scott* case. It occurred two years before the latter case was finally decided. The *Celia* case reveals a great deal about what life was like for black and white Missourians during the period preceding the American Civil War.

Most of what we know about the case of *Celia* is a consequence of an excellent book written in the late 1980s by historian Melton McLaurin. The book, entitled *Celia, A Slave*, was published by the University of Georgia Press and re-issued in paperback by Avon Press. My comments

tonight draw heavily upon Professor McLaurin's work (not only his ideas, but sometimes, even his language) although there are a few important things that have surfaced since he wrote his book.

First, the background. *Celia* was a young female slave, probably aged about fourteen years, who was purchased at a slave auction in Audrain County sometime in 1850. We know almost nothing about *Celia*'s life to that point, largely because no public effort was made in Missouri to document the lives of slaves. No birth or death records were kept, no marriage records. Slaves were not recorded in census returns by name; they merely appeared as checkmarks on ledgers under categories such as "Number of female slaves between the ages of 10 and 20 years" in a particular household. Thus, *Celia* was not legally a person. She was not even the female relative of a person. Rather, she was property.

We know much more about the man who purchased *Celia* at that 1850 auction in Mexico. His name was Robert Newsom and he lived on a farm in Callaway County, about nine miles south of modern-day Fulton, on land that is



Gary Kremer

today part of the Mark Twain National Forest, near New Bloomfield.

Robert Newsom was very much like many other people who came to Callaway County during the period just after Missouri became a state. He was from Virginia, having moved from there sometime between 1819 and 1822, with his wife and young children. He settled on public lands that had been opened up in 1818; his land was promising farm land, bordering the Middle River.

Like most Callaway County farmers, Newsom was engaged in diversified agriculture, with tobacco being the main cash crop, although the amount of tobacco produced in Callaway County was not nearly as great as in neighboring Boone County. Slaveholding was an important part of Robert Newsom's world and a key to prosperity in Callaway County in his time. In 1850, for example, the average slaveholder's farm in the county was valued at \$1,720, while the average nonslaveholder's was valued at less than a third of that figure, at \$500. The difference in holdings between slave holders and nonslaveholders is strikingly evident in the productivity of their farms in practically every category measured, including value of farm implements, livestock, and homemade manufactures. Slaveholders produced on average three times the wheat produced by nonslaveholders, and twice as much corn. Slaveowners held twice as many horses and sheep as did nonslaveholders, and three times as many cattle. For Newsom and other Callawegians it was obvious that the promise of America was more amply fulfilled for those who held slaves than for those who did not. In 1850, the year that Newsom purchased Celia, Callaway County had 13,827 people; 3,932 (22%) of them were black slaves.

By 1850, Newsom had become a prosperous, comfortable well-off farmer, although he was by no means among the country's elite. According to the 1850 census, he owned approximately 800 acres, almost half of which was improved land, worth some thirty-five hundred dollars. He raised approximately 1,200 bushels of grain per year and he owned 18 horses, 6 milk cows, 27 beef cattle, 70 swine, 25 sheep and 2 oxen (combined worth: \$1,000). He also owned five male slaves.

Robert Newsom was a widower when he purchased Celia in 1850. All of the evidence suggests that Newsom purchased Celia primarily for sexual purposes. Indeed, there is at least some evidence that Newsom sexually assaulted Celia on the way home from the slave auction in Mexico, which, in 1850, was a full-days travel from Fulton. That was the beginning of a pattern of regular and consistent sexual abuse of Celia by Robert Newsom over the next five years. Robert Newsom gave Celia special treatment: he installed her in her own cabin, a brick building, apart from the other slaves. In large part, that was so he could have a convenient place to use her sexually.

By 1855, however, Celia's relationship with her master became unexpectedly complicated. For one thing, by this

time Celia had already borne two of Robert Newsom's children and was having a difficult pregnancy with a third. For another thing, and this is by far the more important of the two, Celia had apparently fallen in love with another of Newsom's slaves, a man named George who had begun "staying" with Celia overnight in her cabin on occasion. There is reason to believe that Celia's third pregnancy had placed an emotional strain upon George the he could not accept. Although we will never know for sure, the child that Celia carried may have been George's. George made a demand upon Celia; he informed Celia that "he would have nothing more to do with her if she did not quit the old man." By the way, there is at least some evidence, although it is by no means conclusive, that the slave George might have been Mr. Newsom's son!



What was Celia to do? Perplexed, fearful, confused, she sought first to try to discuss the matter with her master's adult daughters who lived in his household (36 year-old Virginia who lived in the household with her 3 children, Mr. Newsom's grandchildren, and 19 year-old Mary). Significantly, when she approached the daughters and asked them for help in keeping their father away from her, the reason she used was that she was pregnant and sick rather than that she was engaged in a relationship with George. She was trying to protect George. No doubt she feared that if her relationship with George became known to others, George would be sold away from the Newsom farm, perhaps even be sold "down South."

It would be interesting to know what kind of response Celia got from the daughters. Personally, I would be surprised if they even listened to her. And even if they did, even if they sympathized with her, it is unlikely that they would ever have had the courage to confront their father about his sexual behavior. Among other things, they were economically dependent upon their father and the prosperity of his farm. Besides, males simply had too much power in the

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(CELIA, from Page 8)

patriarchy in which Robert Newsom reigned. Unfortunately, there is no record of the daughters' response.

Sometime on or immediately before June 23, 1855, Celia directly confronted her master and begged him to leave her alone, pleading, among other things, that she was sick. Apparently, as if to demonstrate his power over her, Newsom defied her request and showed up that very night at Celia's cabin looking for sex. Celia warned him to stay away from her and then, when he advanced toward her, she grabbed a large stick which she had brought into her cabin for this very purpose, and hit him on the head with it. Dazed by the blow, Newsom sank to his knees, groaning and throwing up his hands as if to try to grab Celia. Afraid that an angered Newsom would harm her, Celia raised the club with both hands and once again brought it crashing down on her master's skull. With the second blow, the old man fell to the floor. He was dead.

Now Celia's fear turned to terror. She didn't know what to do. She had just killed her master in the heart of one of Missouri's most rabidly pro-slavery counties. She allegedly decided to burn his body in her fireplace and so, she built a roaring fire, dragged his body to the fireplace and placed him in it and then continued to feed the fire all night so that by morning there was nothing left but brittle bones. The next morning she called to Coffee Waynescot, Newsom's 12 year-old grandson, to take out the ashes.

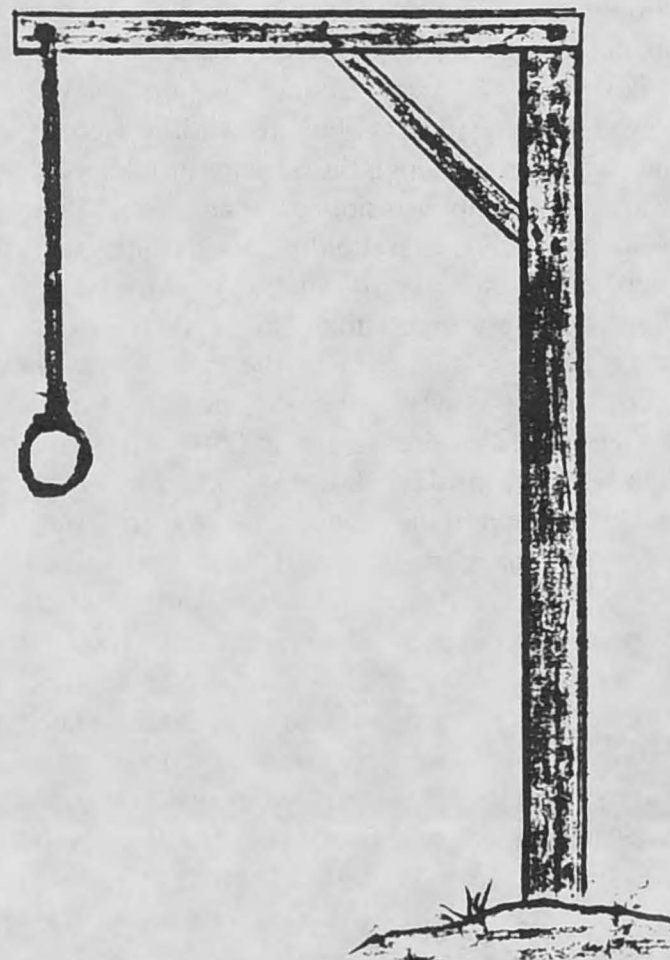
Soon (Sunday, June 24, 1855) an all-out search for Newsom began. George was one of the first people questioned and by this time it appears that Celia had told George what had happened. George feared for his own life and after considerable questioning, told the sheriff that Celia had killed Mr. Newsom. Celia was confronted and eventually confessed. It's hard to imagine just how alone Celia must have felt at that point in her life, having killed her master, in part because of the fear of losing her lover, only to discover that her lover had betrayed her to the authorities.

A jury was called to consider evidence against Celia and to decide whether or not to return indictment. This was, it should be noted, a jury of NEWSOM'S peers, not Celia's, and the jury returned an indictment of murder. Celia was bound over for trial.

Meanwhile, George and Celia were both questioned at greater length, seemingly about whether or not George had helped Celia. In spite of his betrayal of her, Celia refused to implicate George. Nonetheless, George was very fearful and soon he managed to escape. This fueled the rumor that George had been involved all along. Although there is no conclusive evidence one way or the other, it seems to me highly likely that George might have been involved, if not in the actual murder, perhaps in the disposition of Newsom's body.

Before going on to describe the trial that occurred in this case, I think it's important to remember what was going on in the state and nation at this time. The sensitivities and anx-

ieties of slaveholders, in particular, had been heightened by the debate going on over whether or not to admit Kansas to the Union as a slave state. Pro-slavery border ruffians from Missouri were crossing into Kansas to vote for a pro-slavery constitution and free state sympathizers from the east (including the notorious John Brown, and a Dartmouth,



New Hampshire abolitionist named Richard Baxter Foster, who was the principal founder of Lincoln Institute in Jefferson City) were traveling to Kansas to fight off the "slaveocrata." "Thus," as Professor McLaurin writes, "on the eve of Celia's trial, the reverberations of an increasingly violent struggle over slavery in Kansas had disrupted the public tranquility in Missouri and threatened with discord the state's basic political, legal, and social institutions."

Celia was defended by a court appointed attorney, the much respected John Jameson. The appointment of Jameson, by the way, is important and interesting. Jameson was a former Missouri legislator, Congressman, a Disciples of Christ minister, and a prominent farmer. In part, the choice of Jameson seemed to be aimed at deflecting the criticism of abolitionists that Celia was being railroaded by an immoral slaveowning culture and that her trial was a sham. The court also appointed two young attorneys to assist Jameson: twenty-two years old Nathan Kouns and twenty-six year old Nathan Boulware. I should explain that John Jameson was a reputation for being an exceptionally capable trial lawyer, very good with juries. Indeed, as one of his contemporaries wrote, "As a jury advocate he was not

excelled by anyone in central Missouri, and by few, if any, in the State." He also had a reputation for being a bit lazy and for "a fondness for distilled spirits that eroded his professional and political reputation. On occasions he would imbibe a little too freely, producing a slight unsteadiness in his walk, which he seemed to apprehend would be noticed." Jameson fully understood that public intoxication was inappropriate for a man of his station and calling, however, and he possessed the grace and wit to devise an acceptable, if rather transparent, excuse for his occasional stagger. To avert questions about his poor balance, Jameson would tie a silk handkerchief around his knee and complain of rheumatism. Should his complaints elicit an expression of sympathy, Jameson would reply: "It is immaterial." Jameson employed this tactic frequently enough to earn for himself the nickname "Immaterial John."

So, "Immaterial John" took up Celia's defense, the essence of which was that she was merely trying to protect herself from assault by Mr. Newsom. This, I think, is extremely interesting, for Jameson, a native of Kentucky, was a slaveowner himself. Yet, his performance in the trial revealed that he believed that even a slave accused of her master's murder not only deserved the best possible defense, but that this slave was morally innocent.

The case turned around the issue of whether or not the Missouri statute which allowed women the legal right to use force to repel sexual advances of men applied to Celia. Ultimately, the judge and jury, in spite of Jameson's argument, decided that it did not. In essence, the court ruled that there was no such crime as the rape of a slave woman. The crime, if there was one, was trespassing on the master's property. In the case of Celia, she was Newsom's property and since it is impossible to trespass on your own property, there was no crime against which Celia could be defending herself. Celia was found guilty and sentenced to be hanged. Jameson decided immediately to appeal the case to the Missouri Supreme Court. He hoped, of course, that the Supreme Court would side with his argument on behalf of Celia. He also hoped that his friend, Abiel Leonard, who had only recently been appointed to the court, would be his advocate. But the Supreme Court hesitated to hear the case, and Celia's sympathizers feared that she would be executed before the high court heard her appeal.

In one of the most curious twists in this case, unidentified townsfolk, perhaps including the defense attorneys, eager to see the case reviewed by the Supreme Court, freed Celia from jail only days before her scheduled execution date of November 16, 1855. Once the date had passed, they returned her to jail. Finally, the Supreme Court did consider the case, but, almost summarily, refused to overturn the lower court verdict and Celia's fate was sealed. She was hanged at 2:30 in the afternoon (Friday), on December 21, 1855, before a large crowd of Callawegians, after she had delivered a still born infant.

This was an extraordinary case, in a host of ways.

Perhaps more than any other slave-related case that I'm aware of in Missouri history, or, perhaps even in American history, the Celia case reveals the moral dilemmas created by slavery. What, after all, were Celia's choices? The case of Celia points out just how powerless slaves were to protect their most basic humanity from abusive masters. It points out the extent to which slave men were unable to protect the slave women to whom they were attached. George was unable to prevent Newsom's sexual abuse of Celia. Yet he was also unable to deal with it emotionally. It was George's male ego that placed Celia in the quandary that led to Newsom's death and her arrest, conviction and execution. If the conditions that produced the case of Celia were common on the small farms and plantations on which most slaves lived, then tension between black men and women was an inevitable product of slavery. Indeed, at least some historians have seen the situation of Celia and George as casting a long and dark shadow over the late twentieth century, even as far as the relationship between Clarence Thomas and Anita Hill in our own time.

Race and gender. Two fundamental realities of Missouri and American history. Each of us in this room tonight belongs to a race and to a gender, neither one of which we chose. Had we, through the mere chance of birth, been born into another race or the other gender, and a century or more earlier, our lives would have been considerably different. That is what makes the study of cases such as Celia's so important: we can look back at this case now, from the perspective of nearly a century and a half, and see all the things that were done wrong. And, we can resolve never to allow those things to go wrong again.

The Missouri Supreme Court in 1855 was morally wrong to refuse to consider Celia's appeal and decide the case on its merits. Were the case of Celia to come before the Missouri Supreme Court today, there is every reason to believe that she would be found "not guilty" of capital murder. She might well be found guilty of no crime at all. Today, she would be much more likely to be seen as a victim of a crime rather than as a perpetrator of a crime. The courts, especially the Supreme Court, it seems to me, ought to be one of the institutions that helps to point us in the direction of greater justice and equality for all.

Today, we no longer debate whether or not slavery is wrong. We know that it is. We accept the fact that slavery was one of the great historical sins that we have been guilty of. And yet, while we can agree today that slavery is wrong, we, as a people, are still divided over issues of race and gender. It is my hope that in the future, the Missouri Supreme Court will find a way to transcend its history. Rather than mirror the racism and gender bias of the contemporary culture, the Court will, I hope, lead the people of this state toward a fuller realization of the principle of freedom and justice for all, regardless of race, or gender, or even sexual orientation. That could well be the Court's greatest legacy of all.

Judge Arnold Krekel

More Than the Sum of His Parts

When Federal Judge Arnold Krekel died in Kansas City, Missouri on July 14, 1888, friends said the immigrant Missourian *"will live forever in the history of the state."*¹ And well he should have, for his achievements were likened to those of Abraham Lincoln. However, just two years after his death in an article in the weekly *St. Charles Demokrat*, which Krekel himself founded, friends said about him, *"The present young generation has no understanding of this man's life and work, excellent in all respects."*² Later the same year the *Demokrat* editorialized,

*The memories of a wonderful person, who in his time had his head and heart in the right place and did an unusual amount of good—that should not be forgotten like dust of the past. And such a man was Judge Arnold Krekel.*³

It is interesting to note that today almost no general Missouri histories or school-books mention this impressive man who played such a key role in our state's early beginnings. His accomplishments in life, vast by any standard, become greater yet when one learns of the hardships he had to endure in his youth, his unyielding thirst for justice, and his commitment to the education of others. Add to this, his family values, ahead-of-his-time views on religion, and a stubborn sense of right and wrong and one begins to see the true character of this intriguing early Missouri statesman.

Humble Immigrant Beginnings

Many consider Arnold Krekel a self-made man. He was born March 12, 1815 and was raised on a farm in the small town of Berghausen, Prussia.⁴ In his youth he attended both Catholic and Protestant schools. At age 15 he was an apprentice in a spice company where his jobs included cleaning up, filing, and bookkeeping. It was at about this time that his father, Francis Krekel, decided to leave their homeland to go to America. Many of his fellow countrymen were leaving because of political unrest and the failed revolution of 1830. Also, the possibility of a better economic situation in America was appealing.

Other Germans who had immigrated previously were writing home glowing reports of this new country. Gottfried Duden is perhaps the best known for his detailed letters that influenced many to leave Germany for America. Hermann Steines, another early immigrant who wrote home, spoke of his new country where,

*one fully enjoys what one earns, here no despots are to be feared, here law is respected, and honest citizens do not tolerate the least infringement or interference by human authority.*⁵

The Krekel family in 1832 consisted of father Francis L., 53, mother Mary, age unknown and children: Gottfried 25, Margaret 21, Arnold 17, Franz 14, Catherine 12, and Nicholas 10. They left Bremen for New York in August 1832 on an unimaginably harsh three-month ocean voyage by sailing ship, followed by a long overland journey to Missouri. In extreme temperatures, they traveled over land, lake, and river by wagon and boat. As a result, mother Mary became ill during the trip and died of cholera at Louisville, Kentucky. There they buried her and went on.⁶ Arnold was now in a new country whose language he did not speak nor understand, without a mother. Adding to their grief, the family had very little money and seven mouths to feed.

In Arnold Krekel's autobiographical essay he tells of his beginnings in St. Charles County,

*...we journeyed to St. Charles where father rented a house. After the family was settled here, it was left in my care and father and my older brother left for the upper part of St. Charles County, where he bought out a claimant and settled on his land.*⁷

The whole family worked together clearing and cultivating this land between what are now the towns of Augusta and Dutzow.⁸ An interesting side note is found in another letter written by Hermann Steines, where it is said that Arnold's father Francis,

*bought an improvement from the government, but drove the squatter who had made the improvement from the land with out paying him for his work. For this reason, Krekel was hated by his neighbors.*⁹

Nothing more is said about this incident, but Arnold's father was said by other sources to be honest, hardworking, and highly respected.

Arnold Krekel himself was always industrious and worked many odd and small jobs in order to make money for education. According to one account, to earn money for his tuition he cleared the land on which the old St. Charles College was to be built.¹⁰ He had also worked as a farm hand and rail splitter. All this in addition to helping his family clear its land, build a home, and establish a working farm.

At about the age of twenty-two Arnold traveled to Cincinnati. There he worked in a silk-dye works to earn more money for his education. It is at this time that he attended night school for his first formal English lessons. Arnold used the money he had saved and bought peddler goods such as fresh vegetables, apples, and cider. Traveling by steamboat to New Orleans, he sold the goods there for \$800. Returning to Cincinnati, he kept up his schooling, and the following spring he again invested his money in



(KREKEL, from Page 9)

goods. This time he came home to St. Charles instead of going to New Orleans.¹¹

While attending St. Charles College, Arnold Krekel also studied surveying under the tutelage of Conrad Mallinckrodt at Augusta. Mallinckrodt was the surveyor of the original 40 block town of Augusta in 1855.¹² Upon the completion of his schooling at St. Charles College, Arnold read law with practicing attorney Thomas W. Cunningham, a prominent lawyer of the time.

Family Values

Arnold Krekel seems always to have been dedicated to his family. When the Krekel family arrived in St. Charles County, motherless and near penniless, Arnold helped run the house and worked to support his family. This pattern of sharing work was, of course, common to immigrant and frontier families.

He was 30 years old (1845) before he married Ida Krug and established a home in St. Charles. Ida was the daughter of Dr. Frederick Krug, a physician with a practice in Warren County. According to his autobiography, Arnold Krekel adored his wife and looked upon her as an equal in their marriage. In 1874 he wrote lovingly about her,

Mamma was exceptionally industrious and known as a fine housekeeper. She always found time to help the suffering and the sick. But this was not her only virtue. She was known as a peacemaker and often was instrumental in settling family quarrels and other troubles. She never permitted anyone in her home to speak disparagingly of others, and if she knew of no

*other way to prevent it, she simply forbade the visit.*¹³

Arnold and Ida had six children, two of whom died in childhood (Franklin and Walter). Their four other children were Laura, Alfred, Hilda, and Alma. Ida died in 1871, at the age of 43, and Arnold buried her next to their sons on the family plot in Oak Grove Public Cemetery, St. Charles, Missouri.

It is interesting to note that Arnold Krekel tried to have all of his deceased loved ones brought together on this family plot. First there was his mother who had died on their trip to Missouri. About 5 years after he had come to the United States, Arnold returned to Louisville to try to find his mother's remains and bring them back to Missouri. Unfortunately the city of Louisville had grown so much in that short time that no one could tell him what had become of her grave. Arnold was able, however, to relocate his wife Ida's parents from their burial site in Warren County to his family plot in St. Charles. Although Krekel did remarry in 1880, when he died in 1888 he was buried in Oak Grove Cemetery in St. Charles, Missouri next to his first wife, Ida, their sons, and other family members.¹⁴

Immediately after the Civil War Arnold Krekel aided R.E. Foster in founding Lincoln Institute (now Lincoln University) in Jefferson City for the education of African-Americans. The goal of the educators was to turn out qualified teachers to send into Missouri communities.

Joan Juern, the author, is the 4th Great-grandniece of Judge Arnold Krekel. She is a freelance writer on local history subjects. She was born in St. Louis and lives at Lake St. Louis in St. Charles County, MO.

TRUSTEE'S MEETING – SEPTEMBER 24, 1998

A meeting of the Trustee's of the Missouri Supreme Court Historical Society was held on Thursday, September 24, 1998 at Tan-Tar-a at the Lake of the Ozarks. Officers/Trustees attending were President Thomas A Vetter and Secty./Treas. D. A. Divilbiss. Members attending were E. A. Wally Richter, Bill Thompson and Frank Duda.

President Vetter opened the meeting by distributing a proposal from the State Archivist Gary Winn requesting the Society approve \$9,000 to establish an internship and fellowship program to accomplish preservation of and expand access to the Missouri Supreme Court collection in the Archives. An internship would be paid \$3,000 to create a subject index of the territorial and early statehood sections of the collection. The fellowship would pay \$6,000 to a scholar to study the collection and publish a report as to the significance of the collection on our state and national history.

A discussion followed:

Mr. Richter – *Is this just the Supreme Court cases?*

Pres. Vetter – *Yes.*

Mr. Duda – *The collection is not helpful without an index.*

Pres. Vetter – *This could be an on going project with requests coming for funds again next year.*

Mr. Duda – *Could some part of the collection be on display at BAMSEL?*

D.A. – *Could we limit the funding to a certain number of years?*

Mr. Duda – *The amount requested is just about 10% of our total finances (\$81,952.60) You have to spend money to make money. This is what we do.*

Mr. Thompson – *Why don't we split the award? Give \$3,000 now with the idea of full funding later.*

Mr. Richter – *Do they really want us to divide this grant?*

President Vetter asks the group to entertain a motion to fund the fellowship whose report would be published in the law reviews at the various law schools in the state and in our own JOURNAL giving us credit for funding the project. All agreed.

There being no more business to discuss, the meeting adjourned.

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