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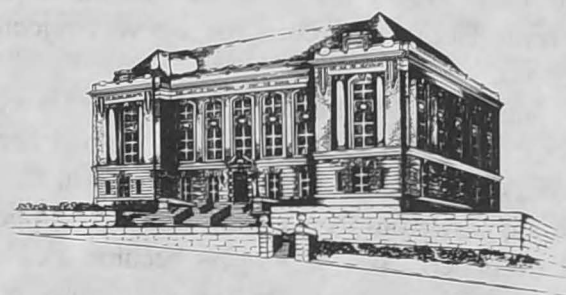
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Politics And The Courts

Douglas V. Billings - Primary Election, 1938

By D. A. Divilbiss

In the summer of 1938, a Democratic campaign for the nomination of a candidate for judge of the Missouri Supreme Court led to one of the most hotly contested and vicious primary elections in Missouri history. The candidates, one a member of the Supreme Court, the other a circuit court judge, quickly became involved not only in winning the nomination, but in the larger issues of political control of the Supreme Court, domination of the Democratic party and continuation of 'Boss control' of the party. Although not foreseen at the time, this election would also play a major role, not only in changing politics in Missouri but in changing the very structure of the court system itself, not only in Missouri, but in many other states!

The events leading up to the 1938 campaign started in November, 1936 when Lloyd C. Stark, with the backing of "Political Boss" Tom J. Pendergast of Kansas City, was elected governor of Missouri. Although Stark had pledged his loyalty to Pendergast, once the election was over he refused to be controlled by "the boss". The first break between "the boss" and the governor came in response to a federal grand jury investigation of voter fraud that occurred in Kansas City during the 1936 gubernatorial election in which Stark had been elected. The investigation discovered that between

50,000 to 60,000 illegal votes had been cast. Initially, the grand jury returned 37 indictments, and eventually 257 individuals were charged and sent to jail. Stark challenged Pendergast by actively promoting new legislation to change

the registration law to prevent a recurrence of the problems in Kansas City. He defied Pendergast by appointing a new Kansas City Election Board consisting of two Republicans, one anti-Pendergast Democrat, one member of the Citizens Revolt group and only one Democrat that Pendergast considered "acceptable".

The second challenge arose over a dispute with a long time friend of Pendergast, Emmett O'Malley, Superintendent of Insurance, concerning disbursement of funds from the state's complicated fire insurance rate case. The case originated in 1929 as a result of the insurance companies raising their rates sixteen and two thirds percent. When the state protested such huge increases, the insurance companies went to court to enjoin state interference with the new rates. While litigation was pending, the excess premiums were collected and

impounded. In 1938, the fund amounted to two million dollars. O'Malley had proposed a compromise that provided only twenty percent of the funds would be returned to the policy-holders. Stark disagreed. He insisted that the total two million be returned to the



policy-holders. O'Malley refused to cooperate and Stark fired him. When the case was heard in the Missouri Supreme Court, the compromise was rejected in a 4-3 decision.

One of the Supreme Court judges voting with the majority was James M. Douglas. He had been appointed by Stark in March, 1937 to succeed John C. Collet who, with support from Pendergast, had been appointed to the Federal bench. When Douglas became a candidate to fill out the remainder of the six year term on the court,

TO THE VOTERS OF VERNON COUNTY:

DOUGLAS is the Judge now on the Court who is running for the Democratic nomination for the unexpired term of six years to which he was appointed when a vacancy occurred last year.

No one questions his integrity or ability,—but TOM PENDERGAST for some reason is AGAINST DOUGLAS!

DOUGLAS is entitled to your support for Supreme Judge.

**Vernon County Douglas for
Judge Club**

Pendergast considered this another assault on his authority and issued a statement reminding Democrats that Stark had sought and received his support in 1936 for the governorship.

He said that he had given Stark "every ounce of support in both the primary and general election (but) I have not received that kind of consideration from the governor." He concluded the statement by saying "Stark will have to live with his conscience...if his conscience is clear - I know mine is, I now say, let the river take its course."

On April 20, Pendergast endorsed James V. (Josh) Billings, a circuit judge from Kennett, Missouri, as his

candidate for a seat on the Supreme Court of Missouri, thus setting the stage for what newspapers described as a primary election presenting the most "momentous issues before the people of Missouri since 1866 when the Drake Constitution almost divided Missouri into two states, one Union, one Confederate."

Stark started his campaign for Douglas on April 29 just nine days after Billings was endorsed by Pendergast. In a speech delivered in St. Louis before the St. Louis Women's Club, the Governor said;

"A sinister and onimous shadow is raising its ugly head in an attempt to destroy the sanctity of our highest court and ultimately destroy our freedom and liberties. All you Missourians who love your state, do your duty. Do not fail to go to the polls in August. Save our Supreme Court."

This became the keynote of Stark's campaign as he repeatedly stated that the race was a test between control by "all the people of Missouri" and the Kansas City "boss" rather than a contest over the qualifications of the two candidates.

In May, he stated in a speech before the Missouri Bankers Association, "Missouri Supreme Court must not be violated by the sinister group that seeks to dominate it. Do not let this catastrophe happen." He went on to describe the court as being "sanctified by the ages as the last resort of the people, a temple of justice, open on an equal and fair basis to all." In a speech before the Missouri State Medical Association, he said "Go home and let your people know what boss control of the state supreme court will mean." He warned of the "political corruptionist who conceals vicious intent under a mask of benevolence, for he is a deadlier foe than the communist who sows his seed of propaganda." He urged his audience to go to the polls in the primary and "do your duty, for it is in the primary in August that the horse is stolen and not in November."

A week before the election, Stark took his crusade to Kansas City for a meeting arranged by the newly formed Democratic Club to rival Pendergast's club. Speaking at the Muehlebach Hotel, he told a huge audience they "were witnessing a plain, unvarnished attempt by a powerful boss ...to punish the governor and the eminent judge of the Supreme Court.... to wreck vengeance on me because I dared to keep my promise to give Kansas City and the rest of the state honest elections." He added, "The election frauds and vote thievery...were becoming a cancer on the breast of the Democratic party."



Thomas J. Pendergast



Lloyd C. Stark

In his final speech on July 30 at Palmyra, Missouri, three days before the primary, he continued his efforts to convince voters that the campaign was between "backdoor government" conducted through the office of T. J. Pendergast in Kansas City. Stark said "some four months ago Pendergastism, with its shameful record of fraudulent election, brazen connections with vice, crime and racketeering, trained its sights upon a place on the Supreme Court now occupied by Judge James M. Douglas." Stark continued to assert that he was being punished by the "Boss" because he refused to re-appoint the old Kansas City Election Board and that opposition to Douglas came as a result of his vote in the insurance rate compromise. The governor concluded his speech with a plea to "stand between Pendergastism and its damnable purposes."

In addition to numerous personal appearances on behalf of Douglas, Stark wrote thousands of letters on the governor's letterhead to friends warning that "the greatest crises in the history of Missouri is at hand." He repeated that a vote for Douglas would determine whether a Supreme Court member would be subjected to the "domination of a political boss...or free to serve the people of Missouri."

To conduct a state-wide campaign, headquarters were established in St. Louis, Kansas City and Jefferson City. Mayor Bernard F. Dickmann and Robert E. Hannegan shared the chairmanship in St. Louis. The "Out-State Campaign for Douglas" established at 322 High St. in Jefferson City was under the direction of Senator Frank Hollingsworth, who later became a judge on the Supreme



James M. Douglas


Court. His organization started an effective letter writing campaign that suggested each person write letters to ten friends, then each of the ten friends write letters to ten more friends creating a chain letter request for votes for Douglas that blanketed the rural areas of the state. An "Out-State Negro for Douglas for Supreme Court Judge Club" was organized under the direction of Thomas J. R. Wilson. In Kansas City John W. Oliver, a future federal judge,

was secretary of the Douglas Committee.

As the campaign became state-wide, various people and organizations joined forces with the Governor. William Hirth, publisher of the "Missouri Farmer", who had originally sought the nomination for governor against

Stark, now jumped on the band wagon. In an article in his paper he urged all farmers to vote for Douglas as a way of ending "Pendergastism, and all the crookedness that it stands for in the public affairs of our state." Since both Stark and Douglas had served in World War I, Stark with the rank of Major, Douglas as a 1st Lieutenant, all Missouri veteran organizations rallied to their support. Residents of the State Federal Soldiers Home, at St. James, Missouri, sent a contribution of \$142.00.

Several ministers joined the cause. One minister in St. Louis wrote in his "Pastors Column" that to leave the



JUDGE JAMES V. [Josh]
BILLINGS
 Candidate for the Democratic Nomination
Judge of the Supreme Court
 DIVISION ONE

governor "stranded in his courageous effort to break the power of a political ring would be a crime against heaven." Another in out-state Missouri said "we are in a political campaign that has pagan aspects." He urged his congregation as "Christians not to place a man on the supreme bench who depends for his election upon support of a self-converted and arrogant political machine." A letter from a friend in Kansas City indicated that two Catholic priests "are with us." One big surprise came from the numerous members of the Republican party that wrote letters to the governor pledging their support to him and his candidate at the polls in August.

Though common knowledge, but hard to document, to finance his campaign Stark was accused of requiring some

state workers to "donate" between 10-15 percent of their salary to the "lug." To protest such demands, the following poem appeared in several newspapers.

Lug'em Lloyd, Lug'em

The hopeless fight to beat Judge Billings
Is costing the asylum boys some shillings.
When, in all history, may I ask
Has a governor stooped to such a task?
These asylum boys get meager pay
They earn their pittance everyday.
To shake 'em down for a single dime
Is a rank injustice anytime.
Its an outrage, folks, I want to say
To lug such men of little pay.

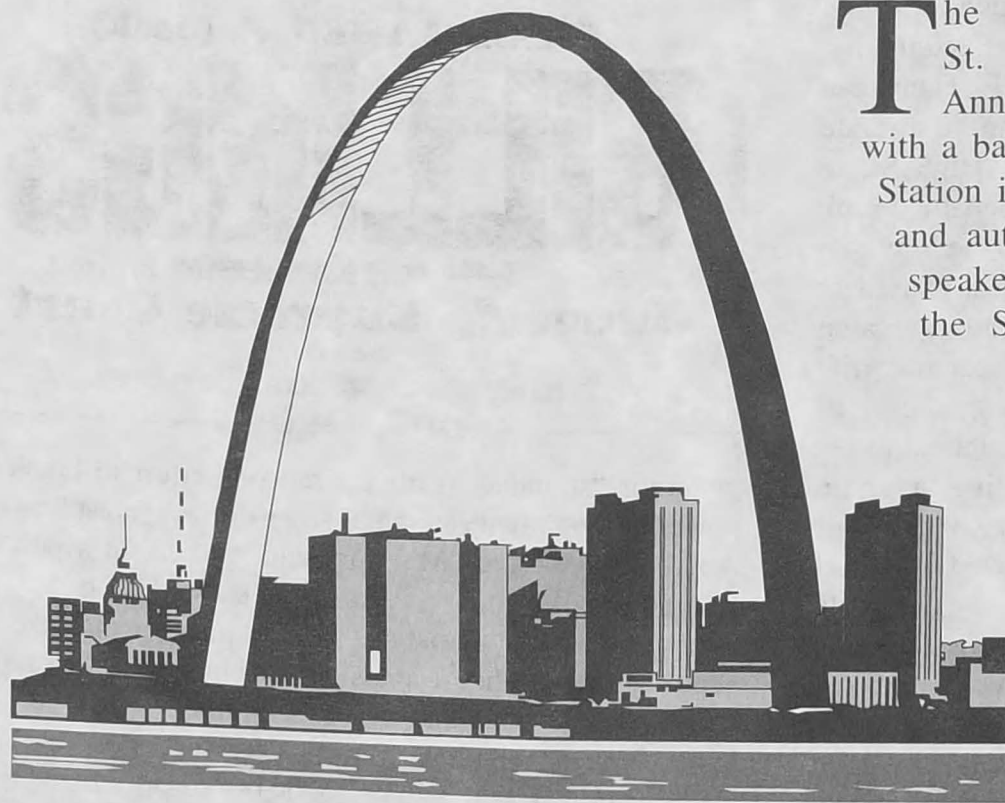
In retaliation, and to imply that Pendergast was coercing WPA workers to vote for his candidate, Stark supporters circulated the following poem in newspapers around the state.

Say "I'm for Billings"

If you want to get work on the WPA
There's a certain magic words you must learn to say,
Say, I'm for Billings.
Then if after you get this work
You feel lazy and would like to shirk
Say I'm for Billings.
Or you might be late to work some day
Maybe would like to have a little more pay.
Say I'm for Billings.
If you want to get off early and go to town
And do a little meandering round
Say I'm for Billings.
Let the big shots think they're having their way
Until August the second that's election day.
Then to H....with Billings.
For we'll panhandle enough to buy a jug
Then we'll each and all line up for Doug
And it's bye bye Billings.

State workers were also given time off to campaign for Douglas and were constantly reminded to write letters in

St. Louis Bar Association Celebrates 125th Birthday



The Bar Association of Metropolitan St. Louis will celebrate its 125th Anniversary on Saturday, March 11, 2000 with a banquet at the Hyatt Regency at Union Station in St. Louis. Award-winning historian and author, Douglas L. Wilson will be the speaker. Proceeds from the event will benefit the St. Louis Bar Foundation and the Missouri Supreme Court Historical Society. The celebration will include dinner and cocktails, a fife and drum corps, the Missouri State Archives Historical exhibit and reminiscences of famous St. Louis attorneys.

Other events scheduled for the birthday celebration include a rededication ceremony of the Justice

Louis Brandeis plaque at 101 North Broadway, the original site of his law office, on Friday, March 10. Information concerning reservations can be obtained by calling Delores at 314-421-4134.

his behalf to their friends. On election day state workers also drove voters to the polls. Even the *St. Louis Post Dispatch* "Weatherbird" got into the act with its comment "Stark is pruning the old plum tree."

Unlike Stark, Pendergast did not personally campaign for Judge Billings. Floyd L. Sperry was Billings campaign



Mrs. James V. Billings

manager. He was a Commissioner on the Kansas City Court of Appeals. In 1932 he had been an unsuccessful candidate for Lt. Governor. Sperry was quick to point out that in 1936, Stark had "pleaded" for and accepted Pendergast support to win the governorship. This became his battle cry and he repeated it at every opportunity. Stark freely admitted this, but added that when he accepted Pendergast support he didn't realize he was expected to "connive at

corrupt elections and uphold scandalous insurance agreements."

Sperry focused voter's attention on Billings' qualifications as a Prosecuting Attorney, a twice elected Circuit Court Judge, and his rural background as a "country Democrat." He stated, that if elected, Billings would be the only member of the Supreme Court from southeast Missouri "an empire of 68 counties, (more than half of the total area of the state) contributing 335,000 of the one million Democratic votes of Missouri." He added this area had not had a representative on the court for 19 years. He described Billings as "our kind of people, speaks our language," a family man with five children in contrast to Douglas a bachelor.

In a form letter circulated around the state, Sperry accused Stark of coercing prisoners into writing letters to their friends and relatives "requesting them to vote for Stark's candidate, having been told that it will be of assistance to them in securing a pardon or parole." He was so concerned that a large Republican cross-over vote would develop, that he sent "Instructions to Democratic Judges" reminding them that "only" Democrats could vote in a Democratic primary, and should a Republican attempt to vote it was the judges "duty to require them to hold up their hand and take an oath that if permitted to vote in the primary....they will support the nominee of the Democratic party at the November, 1938 election." Judges were further instructed to "keep a list of them (Republicans) on the attached sheet... sign it before a

notary and turn it in to your County Chairman." In another letter to the election judges, Sperry refutes Stark's charge of "Bossism" as "ridiculous, for it is inconceivable that the six Democratic members of the court will be demoralized and contaminated by the seventh member." He pointed out that "Judges Gantt, Ellison, Leedy, Tipton and Hayes were all nominated with the support of the Kansas City Organization." He ends the letter asking for a rebuke of the governor for his "unwarranted, militaristic and dictatorial attitude." Later, Sperry said as he traveled around the state he was "aware of a rising tide of dissatisfaction with the governor...and his Hitleristic attitude."

As the campaign came to a close, various Billings supporters through-out the state started attacking Stark saying he had "betrayed a confidence", and had created an

MISSOURI DOESN'T HAVE TO BE SHOWN!



"unnecessary division within the Democratic party." Others called him a "turncoat", an "ingrate", a "clownish governor", an "apple-knocker" and "one of the best liars the state capitol ever had." One went so far as to say "I would rather have ten thousand Pendergasts giving me orders than one militarist, one bigot, one double-crosser, and one egotist combined in a single human hide" and then compared him to Judas Iscariot for his betrayal of Pendergast.

Douglas V. Billings (continued on page 13)

The New American National Biography and Historical Memory

Ed. Note: Speech delivered at the Annual Meeting of the Historical Society, October 9, 1999 by Professor Alfred S. Neely, Professor of Law at the University of Missouri-Columbia School of Law

This is a story of two judges of the Missouri Supreme Court and one solicitor general of the United States. Each was born in the heart of the last century, and their careers carried into the early decades of the century about to close. The common denominator of the moment is that I authored the entries for each in the new *American National Biography* published early in 1999. The purpose of my talk this evening is to tell you about my work on this project and the lessons I took from it about the ways in which history remembers, and particularly how some are remembered and many forgotten.

At first glance the ways of history's memory might seem simple and logical. As such, after putting aside the matter of things lost to memory, important things are to be remembered, and the unimportant are not. Of course, this requires a bit of slack to account for the interesting, the amusing and the anecdotal that persist long after one might expect them to have disappeared. However, first glances can be distorted. That was confirmed by my experience with my two judges and one solicitor general.

American National Biography

The *American National Biography* was published by Oxford University Press under the auspices of the American Council of Learned Societies and the general editorship of John A. Garraty and Mark C. Carnes. The familiar *Dictionary of American Biography* was published in 1932. The thought was that the new work would provide comparable service in more modern garb. The result was 20,000,000 words in 24 volumes with 17,500 individual portraits of persons from America's past. Its publisher welcomed the public to its presentation of these biographies of "America's most important men and women." I stand before you as one on the cast of over 6,000 authors who wrote the entries. On a personal note, I found my small role in this special effort unusually satisfying.

I became involved in the project several years ago with a letter from Oxford Press telling me of the project and asking if I would be interested in writing the entry on Thomas Adiel Sherwood. I suppose they wrote because it would not be too difficult to determine that I "did some history" and whatever the sort history I did, I did in Missouri. It was not a matter of my expertise on Sherwood. I had never heard of Judge Thomas Adiel Sherwood whose time on the Supreme Court of Missouri ended just as this century began.

I accepted the offer. It presented an interesting challenge, in addition to learning about Judge Sherwood from scratch. My work could not exceed 750 words. My other writings have not been subject to such limitations. One of my books, for which I am now writing the third edition, will expand from one to two volumes. Yet I knew that notwithstanding the discipline of making every word count, there was room to spare for greatness. After all, Lincoln's Second Inaugural Address contained only 703 words, and the Gettysburg Address a mere 272. It was time to learn something of my subject.

Judge Thomas Adiel Sherwood

The Thomas Adiel Sherwood I met began life in Georgia in 1834, traversed the continent and died in California in 1918. His path west to Missouri, where he spent most of his adult life, followed that of his Baptist educator father who moved to the presidency of Masonic College in Lexington, Missouri in 1848, and a year later to a ministry in Cape Girardeau. The son completed his undergraduate education at Shurtleff College in Illinois and his legal education at the Cincinnati Law School. After his admission to the bar in Missouri in 1857, he practiced for many years in southwestern Missouri and was elected to the Missouri Supreme Court in 1872 and reelected in 1882 and again in 1892. In 1902 he expected to be nominated to run for a fourth term, and was disappointed when he was not.

The Judge Sherwood I met was one who "[i]n judicial outlook and temperament . . . leaned toward strict construction of constitutions, careful maintenance of separation of powers, and distrust of concentrations of federal power at the expense of state governments or private individuals." He also had a reputation for frequent and effective dissents, that in time often became law. It seemed to me that he was "perhaps the dominant figure in the Missouri judiciary in the late nineteenth century," and that "[w]ith his emphasis on constitutional literalness and a fierce determination to preserve individual rights, Sherwood contributed to the creation of a jurisprudential model that became a theme and a characteristic of much in the Missouri judiciary in the twentieth century." It also seemed to me that Judge Sherwood, as one who shaped the law of his times, was a worthy candidate for inclusion in the *American National Biography*.

Judge Robert Franklin Walker

Not long after completion of Judge Sherwood's biography, Oxford Press wrote again to ask if I would be willing to write another entry. This time the subject was Judge Robert Franklin Walker, also of the Missouri Supreme Court. Naturally I was no more familiar with this subject than I had been with my first. This time the offer included a limit of 1,000 words. I was not certain what to make of this — a compliment as to the quality of my earlier 750, or an expression of the hopelessness of asking too much of me in the way of brevity. I agreed to the task.



Robert Franklin Walker was born in Florence, Morgan County, Missouri in 1850, and died in Jefferson City in 1930. After a start as printer and newspaper reporter, Walker turned to higher education. He graduated from the University of Missouri and was admitted to the Missouri bar in 1876. Following a career as prosecuting attorney of Morgan County, and assistant attorney general of Missouri, Walker returned to private practice for a short time before his election in 1892 as attorney general of Missouri. Five years later he moved to St. Louis and returned to private law practice until his election to the Missouri Supreme Court in 1912. He remained on the court until his death.

The Judge Walker I met was of sort different from Judge Sherwood. He was one whose "judicial outlook and temperament turned on the nature of the case," defying categorization as either liberal or conservative. Generally, he held little sympathy for defendants in criminal law settings, but on the civil law side he was zealous in his watchfulness over individual rights. I learned of a man with "a reputation for impeccable integrity, judicial and personal," with the "capacity for lavish praise for those he admired and whose culture he shared." On the other hand, I found a man with a capacity for "harsh judgment for those whose culture he did not share." When President Theodore Roosevelt invited Booker T. Washington to dine at the White House, Walker wrote in a Jefferson City newspaper that he considered the president "an enemy to individual liberty and a disgrace to his own race." The picture that emerged was of one who was more the product of his times. I concluded: "Walker was an important figure in the Missouri judiciary of the early twentieth century. His jurisprudence reflects dynamic tensions between principles of liberty, equality, and property, which he never quite addressed, much less resolved. He was not alone." Judge Sherwood stood in sharp and favorable contrast.

It crossed my mind as I worked on Judge Walker's biography to wonder what it was that put him on the editors' list of the 797 subjects initially selected for inclusion from the field of law. It seemed not a particularly long list and, as such, rather select. Yet I was not privy to

the list. I did not understand why he was to be remembered and others were not. I completed the entry. It did occur to me, however, that the editors, with my Walker biography in hand, would be in a position to make whatever comparative judgments were in order, and include or exclude it, as they saw fit.

Solicitor General Lloyd Wheaton Bowers

In contrast, I had a great deal to say about the selection and inclusion of my third and final subject. In 1996 I received another request from Oxford Press by way of the Project Editor responsible for "Education, Business, Social Sciences, Art, Architecture, Applied Arts, Performing Arts, Law, Reform, Literature," a grouping with a subtle yet rough symmetry, with Law poised on the heels of the Performing Arts on the road to Reform. The editor described the problem as follows: "Thus far in the field of Law, 521 of the 797 subjects that have been selected for inclusion have been contracted to various authors. While we are proud of this high number of acceptances, it is important to that *all* figures who deserve coverage receive it." The request was for help, and accompanied by an annotated list of the 276 names still unattended.

I agreed to do one more from the list: "Bowers, Lloyd Wheaton d. 1910 Private practice attorney; corporate counsel to prominent railway company; and US solicitor-general." In selecting Bowers, I passed over many others whose names, while not of the "household" variety, were of much greater prominence and significance in American law. For example, "Wigmore, John Henry d. 1943 Legal Scholar and educator," renowned on the subject of evidence, was not taken. Neither were "Scott, Austin Wakeman d. 1981 'Harvard Law School professor who taught law school longer than any other person in history,' also of some notoriety on the subject of trusts, nor "Llewellyn, Karl Nickerson d. 1962 Legal philosopher and teacher. Represented New York state in the Conference of Commissioners on Uniform State Laws, worked on the Uniform Commercial Code. 'The Bramble Bush' (1930)." Happily, someone else selected Wigmore and Llewellyn. No one selected Scott, but there is always the future. Oxford Press plans an incremental expansion of its coverage of those not included initially.

Why did I select Bowers and not Wigmore, Scott or Llewellyn? Why, for the moment and in the context of this project, is Bowers remembered and not Scott? It is not that Bowers was an unimportant figure. He was born in Massachusetts in 1859 and died there of an unexpected illness in 1910. He grew up in New York and New Jersey, and graduated from Yale College and Columbia Law School. His practice of law took him from New York to Minnesota to Chicago where in 1893 he accepted the

American National Biography (continued on page 15)

Annual Meeting Held October 9, 1999

The Fourteenth Annual Meeting of the Supreme Court of Missouri Historical Society was held Saturday, October 9, 1999, at the Jefferson City Country Club. Twenty nine members and guests attended.

Following dinner, President Thomas A. Vetter opened the meeting by introducing a new trustee, Francis X. Duda, an attorney with the firm of Anderson and Gilbert of St. Louis. He also introduced Missouri Supreme Court Judge Duane Benton and Laura Wilson, representing the State Archives. Michael Roth and Kimberly Schreck, recipients of the Fellowship awarded by the Society to the State Archives, were also introduced to the members.

President Vetter reported actions of the Trustee's meeting held in Kansas City on Thursday, September 24, 1999. The trustees adopted the following changes in the by-laws of the Society:

To abolish all committees except the Publications Committee.

To abolish the "annual meeting" and instead to meet from time to time.

To eliminate the office of Chairman of the Board. William H. Leedy, who had held this post to become a Trustee.

To renew funding of the Fellowship and Intern program at the Missouri Archives in the amount of \$9,000 for an additional year.

President Vetter, then asked that the Treasurer's report, which had been distributed to the members before the dinner, be accepted. Virginia Gottlieb moved the report be accepted, Virginia Young seconded the motion. All concurred.

The report of the Nominating Committee was presented by the president. The Committee's candidates for trustees were Francis X. Duda, Richard Schnake and the Honorable Andrew J. Higgins. The President then listed the names of the proposed officers for the coming year. Officers are: President, Thomas A. Vetter; First Vice President, Virginia Gottlieb; Second Vice President, William A. R. Dalton; and Secretary/Treasurer, D. A. Divilbiss. A motion was made by the Honorable Charles B. Blackmar, and seconded by Henry Andrae that the Nominating Committee report and the list of officers be accepted. All concurred.

Having completed all the business, President Vetter introduced the speaker, Professor Alfred S. Neely, of the School of Law, University of Missouri-Columbia, who spoke on "The New American National Biography and Historical Memory."

The speaker, Prof. Alfred E. Neel, and Trustee Virginia Young, (R) and Secretary D. A. Divilbiss. (L)



(L to R) Henry Andrae, Beth McHaney and Intern Michael Roth and his wife.



Intern Kimberly Schreck and Supreme Court Judge Duane Benton.



Newly elected Trustee Francis X. Duda, an associate from his law firm and Trustee Virginia Gottlieb.

Judge Andrew Krekel (continued from August 1999 issue)

by Joan Juern

Editor's Note: Due to a computer error the major portion of the article on Judge Krekel in the last issue of the S.C.H.S. Journal was eliminated. The missing part is published herewith.

Religion

When Arnold Krekel died, his family followed his wishes and held a non-religious burial ceremony. Dr. Pretorius, another well-known Missouri German (publisher of the St. Louis German-language paper the *Westliche Post*) gave an address at the gravesite in both German and English. The service ended with songs from a double-quartet of area singers.¹⁵

During the course of his adult life Arnold Krekel had avoided organized religious denominations. Attendance at both Catholic and Protestant schools in his youth was just the beginning of a life of varied philosophies. His grandparents were Huguenots (Protestants) who emigrated from France to Germany during the French Revolution to escape religious persecution.¹⁶ His father and brothers were practicing Catholics.

Arnold, however, always had his own FreeThinker ideas and philosophies. For example, he believed in the scientific theory of man's creation. According to historians of the time Arnold's opinion of human creation could be summed up in these words:

He supposed there was a place in some remote country where, the soil and elements being favorable, man germinated and grew like the vegetable productions of the earth and afterward developed from that imperfect state into his present condition.¹⁷

Arnold, along with fellow pioneers Julius Mallinckrodt, and Frederick Muench, at Dutzow, formed the Friends of Religious Enlightenment with others from Hermann, MO. Remembering the problems they left behind in Germany, where the alliance between church and state was overpowering, they worried that this might happen again in their new homeland. The group was extremely wary of organized religion, especially of people who were overzealous in religious matters. 18 in all, 38 members of the FreeThinker immigrant group came together in April of 1844 in Augusta to found the Association for Rational Christians. Arnold Krekel was named director for St. Charles County.

Upon settling in this country, Arnold's father Francis helped establish St. Vincent DePaul Catholic Church in Dutzow, Missouri.¹⁹ Although Arnold did not share his father's beliefs, he was helpful to the Catholic Church in St. Charles County.

In a tremendous act of generosity to the parish of his younger brother, Nicholas, Arnold in 1869 donated about four acres of his O'Fallon, MO property. Assumption Catholic Church was built there. In 1871 Arnold formalized the gift by signing a deed that gave Archbishop Peter Richard Kenrick the land.²⁰

Dedication to Democracy and Community

Looking back over Arnold's life, it is clear to many that he always sought to better his community. His active role in the community and government began when he was appointed Justice of the Peace for St. Charles in 1842. By the time of his death he had risen to Federal Judge. Meanwhile he served at various times as Attorney, Engineer, Surveyor, and Councilman for the City of St. Charles.²¹ Arnold Krekel earned the trust, loyalty and support of the citizens of St. Charles County with his hard work, dedication and availability.

Fellow immigrant, Dr. William Follenius, gave an excellent example in the *St. Charles Demokrat*, of Krekel's tireless commitment. The story Follenius told was this: He was visiting with his friend Krekel in Krekel's law office when a farmer barged in needing help with naturalization papers. The man told Krekel and Follenius that his friends had told him, "Go to Krekel, he is a lawyer, he helps us people do right and it

doesn't cost anything with him." Arnold and Dr. Follenius laughed. Arnold stood up then and told the farmer, "Come, so that we get rid of your Prussian King and bring your affair in order." He then told Dr. Follenius he would continue their visit in a half an hour. Summarizing his reminiscences of Arnold Krekel, Dr. Follenius wrote:

*Lawyers, like Krekel, who were selfless, willing helpers to the completely inexperienced in a new fatherland, are surely as rare as white ravens.*²²

Recognizing the positive economic impact it would have on his community, Arnold also was interested in bringing the railroad through St. Charles County. In 1854 he gave the North Missouri Railroad a right-of-way through his property (now part of the city of O'Fallon, Missouri).

When the railroad was built through the settlement, (called temporarily, "Krekel's Addition" because Arnold Krekel had platted the original town in 1855), the



railroad's board of directors needed a permanent name for the town. Arnold Krekel was given the honor of deciding its name. He could have named it after himself, but instead he chose to honor one of the railroad Board members, John O'Fallon, brother-in-law of explorer William Clark.²¹

In the late 1850's the Know-Nothing movement challenged Arnold Krekel's deep belief in community and democracy. This anti-immigrant group felt that Americans should rule America. They wanted legislation enacted so that only American born citizens (and non-Catholics) would be allowed to hold office. Also, they wanted naturalization laws changed to require a 21-year residency before citizenship instead of the current 5-year wait.

One counter-move by Krekel was to create a newspaper for the Germans in the area that would inspire a sense of community within it. In 1852 he founded and became editor of the St. Charles Demokrat, a German-language paper. It would inform his fellow immigrants of news in both their old homeland and the new.

Surely, this was no easy task. It has been written about Krekel's paper that,

*Personal physical danger and material sacrifice (were met) to gain respect and relevance for his countrymen, to protect them from attacks and harassment of locally-born Nativists. To better promote the sense of community among Germans, Krekel established the St. Charles Demokrat in 1852. Like a real and just lawyer of the people, with a sharp pen and in a selfless fashion he presented the rights of the German population in the newspaper, disregarding his sacrifice of money to keep the publication alive.*²⁴

In another reaction to the Know-Nothing movement, Arnold Krekel chaired a public protest meeting on March 29, 1856 in Cottleville. A committee formed that day passed a series of resolutions. They stated that those favoring "America ruled by Americans" were discriminating on the basis of one's place of birth or religious ideas and thus were anti-constitutional.²⁵

Arnold and his contemporaries would have had to deal with Nativist and other ethnic sentiments for many years. Sometimes there was violence. For instance, Arnold was called to investigate an incident in Augusta in which violence broke out on election day August 3, 1857 between American slaveowning citizens and anti-slavery German settlers. However, the cause of this incident may have been anti-abolitionist not antinativist sentiments. The day after the elections, the Augusta Town Board resolved to pay Arnold Krekel to investigate and prosecute the rioters. Court records show that Peter Fulkerson shot John F. Schroer and George P. Tupker, but after a court delay the case was dropped on procedural grounds.²⁶

Military Career

Along with all of the anti-immigrant troubles, there was the underlying national problem of slavery and states' rights. The late 1850's were a time of turmoil and pending armed conflict in Arnold's new homeland. Totally rejecting the idea of states' rights, Arnold deeply believed that people should do all they could to maintain the American Union. Furthermore, he believed that all slaves should have their freedom. This attitude was prevalent among most of the Germans in the area. Historians summarized their views as follows:

*... the Germans were friends of liberty and equal rights, regardless of party interests or affiliations. Having secured their own rights they were for securing the rights of all other men, regardless of race or color, and were therefore friends of negro emancipation and enfranchisement.*²⁷

At the onset of the Civil War, Arnold Krekel immediately sided with the Union forces and organized the St. Charles Home Guards. He traveled to the St. Louis federal arsenal to procure arms and then organized two regiments of Union Home Guards in St. Charles County. Arnold was appointed Colonel of the St. Charles County Regiment of Home Guards. The men he recruited, called "Krekel's Dutch," were instrumental in countering Confederate guerrillas and keeping peace in the St. Charles County area and northwest Missouri. The troops offered protection for the local people and were able to prevent bushwhacker attacks that plagued other areas of the country and state.

Early in 1862, Krekel's Home Guard unit was reorganized into four companies, comprised of one infantry and three cavalry units, of the Missouri State Militia. At this time he was promoted and became a Lieutenant Colonel commanding approximately 1400 men. During the war, Krekel found a unique way to help some slaves. He would write his superiors and tell them that a certain young man had helped him out and that he wanted permission to keep the man among his troops. This way the slave would not be returned to his owner.²⁸

Although he never had to fight in a major battle, he and his men were active in Callaway, Monroe, and Ralls counties, in addition to their own St. Charles County. The "O'Fallon Centennial" said that his men,

*... stood a dreaded menace to the active Southern element in all this part of the country and gave loyal men the assurance of protection and encouragement. It was commonly recognized that Judge Arnold Krekel's prompt action and activities, during the Civil War, had saved all this region of the State north of the Missouri for the Union.*²⁹

There was loud protest when in 1862 Krekel's infantry unit was attached to the 1st Missouri State Militia of St.

Louis for three year tours and the cavalry units were discharged. Many men went into the newly created Enlisted Missouri Militia for one and a half year tours."³⁰

Slavery

Despite his admirable pro-Union Civil War record, Arnold Krekel is shown in the 1852 State of Missouri Census to have two slaves.³¹ This may at first seem hypocritical. Here was a man passionate about people's freedoms and rights, a man who fought to give slaves their freedom, and yet he owned two slaves. One possible explanation is offered by Walter Kamphoefner who says specifically of Arnold Krekel and his friends, that,

*...both slaveholding and participation in public life were functions of social class with these people, for all were of upper-middle-class origins in Germany and had enjoyed the benefits of higher education.*³²

But Arnold Krekel did not fit this description of uppermiddle-class. Perhaps Arnold's friend Julius Mallinckrodt's explanation is more plausible. Writing to his family in Germany, Julius tried to explain to them that slaves were something that "one has to buy because one cannot work a farm alone...".³³ At that period of sparse frontier settlement it was exceptionally hard to find people to employ. The majority of settlers were either buying land and working it by themselves, or establishing their own businesses. At the breakout of the Civil War, Krekel freed his slaves before setting off to help their cause.³⁴

Near the end of the war, the people of St. Charles, Warren, and Montgomery Counties elected Krekel as a delegate to the State Constitutional Convention. He was a very influential member who tried to help conservatives and liberals find some common ground. Krekel was called, "a voice of moderation and conciliation"³⁵ during this highly emotional convention that was to formulate a new Constitution outlawing slavery. Theodore Bruere, a writer/editor for the *St. Charles Demokrat*, attorney, state legislator, and lifelong friend of Judge Krekel, described Arnold's influence at the convention as follows,

*His marked ability as a parliamentarian (sic), his impartiality and kindness to the members of the convention made him friends all over the state...*³⁶

As a member of this Convention, Krekel was chosen Chairman. In that position, on January 11, 1865 he signed into law the Ordinance of Emancipation, freeing the enslaved in Missouri.³⁷ Having understood that his father left their homeland to enjoy the freedom and rights of the United States, Arnold rallied behind others in the same position.

Justice

A great honor was bestowed on Krekel as he was fulfilling his role of chairman of the State Constitutional Convention. On March 31, 1865, President Abraham Lincoln appointed him to fill the vacated position of U.S.

Western District Judge.³⁸ It would be one of Lincoln's last judicial appointments. Arnold Krekel held this position for over 23 years, serving from both Jefferson City and Kansas City. After his appointment, Judge Krekel and his wife moved to Jefferson City. In 1879 the Western District was further divided into the Eastern Division to meet in Jefferson City and the Western Division in Kansas City. As a result, in 1881, Judge Krekel moved again, this time to Kansas City. He would remain there until his death.

The period during which Judge Krekel held court was a very intriguing time labeled by Mark Twain, "The Gilded Age." When he began his duties there was a tremendous backlog of cases because of the interruption of the Civil War. In addition, many new laws concerning the newly emancipated slaves and their rights had to be worked out. There also were issues concerning the relationship between state and federal government. Finally, it was a tremendous time of growth and reconstruction in the state of Missouri. In his time on the bench, he did not hear any overly sensational or controversial cases.

Rather, he heard cases concerning subjects such as mail fraud, moonshine, counterfeit money, illegal timber cutting, and bankruptcy.³⁹

In his position as a Federal Judge, Arnold's ideas and opinions impressed many in his courtroom. Cyrus Thompson in his essay, "Reminiscences of Official Life in Jefferson City 1865-1875" said Judge Arnold Krekel, "...was a Federal Judge and a terror to evildoers."⁴⁰ Krekel, for instance, showed no tolerance for Southern sympathizers, those who might dare to work against the Union.

In his article, "Some Missouri Judges I Have Known," North Todd Gentry tells an interesting story about Judge Krekel's strict courtroom attitude on that subject. It seems Gentry's own father was selected as a potential juror in Krekel's courtroom. At the beginning of the court proceedings Judge Krekel gave a speech stating that no man would serve on his jury unless he was absolutely loyal to the Union and had no Southern sympathies. After this lecture, Gentry's father proceeded to explain to the Judge that he was a true Union man that believed one hundred percent in the Union cause and had served in the Union forces. However, he stated his brother, against Gentry's advice, had enlisted and fought with the Rebel army. He was wounded at the Battle of Wilson's Creek and after three amputations of his leg he wanted to be brought home to die. Gentry's mother begged him to go and help his brother. He reluctantly agreed and hired a teamster to go and retrieve his brother. When the teamster reached the younger Gentry, he had already died so the man had him buried in Springfield. The elder Gentry paid the teamster out of his brother's estate. So, Gentry said, that was the only thing he had ever done that might be considered helping the South.

Judge Krekel listened to Mr. Gentry's lengthy story and replied,

*Well, Mr. Gentry, if you did that, you are not qualified to serve on the United States Grand Jury. Stand aside.*⁴¹

Stories began to circulate in the early 1880's about the severe hearing loss with which Krekel seemed to have been stricken. For many years rumors were spread that Judge Krekel was in ill health and was going to resign. In fact, he did suffer from Bright's Disease, a kidney ailment which later caused his death. When a lawyer finally asked him if he did in fact plan to step down, he answered,

*Vat, me retire, I should say not When I go down the street now people say, "Der comes Judge Krekel," but if I should retire they would say, "Der comes that old Dutch son-of-a-b——!"*⁴²

When his health declined and the rigors of his job became too much to handle he finally stepped down. On June 9, 1888 he handed in his resignation. He lived only a little more than a month longer.

Education of Others

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 to teach the newly freed slaves. Tuition was free until 1905 when tuition was charged at \$2.50 per month. Arnold Krekel was a part-time faculty member, teaching Civil Government and Political Economy, and also served on the board of trustees for 20 years. Krekel never collected a fee for his lectures. In the early 1880's a dormitory was built and named the Barnes-Krekel Hall to honor the tremendous job of fund-raising Krekel had done on the school's behalf.⁴³

Yet another example of Krekel's tenacious pursuit of good education was seen when after only 18 days of legislative experience he proposed that the Missouri House school committee come up with a better way to finance the common schools. A strong believer in state aid for schools, Krekel was one of the three authors of the 1853 School Bill that set aside at least one fourth of the general revenue of the State for public schools.⁴⁴

Throughout his long life Arnold Krekel continued to educate students. For example, he lectured at Lincoln Institute over 100 times a year for ten years and also lectured for several years on "Jurisdiction of the Federal Courts" at Missouri University (Columbia).⁴⁵ In his lifetime he served on the board of directors for both St. Charles public schools and Lincoln Institute and at his death was president of the alumni of St. Charles College.

More than the Sum of His Parts...

Peers often hold up an especially clear mirror to the life of a well-known figure when he dies. About Krekel, the St. Charles Cosmos for instance said on 18 July 1888,

Judge Krekel among a large portion of the people

*of St. Charles County was highly respected for his many qualities of head and heart and was admired for the great pluck and iron will by which he won his way from comparative obscurity.*⁴⁶

Krekel's paper, the Demokrat wrote, *His influence among his fellow citizens, and especially among his fellow Germans, was so great that his word was decisive in all cases—he was their counselor, leader, defender against all attacks from xenophobics.*⁴⁷

A memorial service was held on September 14, 1888 at Lincoln Institute to honor the memory of its long-time benefactor, Arnold Krekel. At the service Professor Delaney read the following resolution:

*It was resolved that the name of Judge Krekel should always be remembered for the prominent part which he took in the emancipation of the slaves in Missouri, for the founding and fostering of Lincoln Institute, and for his manifested interest in every movement which tended to elevate all classes and races.*⁴⁸

So great was Krekel's influence on his friends and family that on June 7, 1902, 14 years after his death, a dedication ceremony at his grave site was held to unveil a six-foot monument placed there in his honor. At the ceremony, Arnold's friend and law partner, Theodore Bruere, gave a moving speech to the assembled crowd. In a short overview of Arnold Krekel's life and his accomplishments, Bruere said,

*This, my friends is a short sketch of the life of one devoted to the service of his fellow citizens and of his adopted country, of a man who left the impress of his individuality long after his death upon the state he lived in and whose memory will be cherished in the hearts of his friends until they are also called off, one by one, to the great unknown beyond
So let then this granite monument bear witness to future generations of our high regard and of our friendship for Arnold Krekel and may his noble life, be a bright example to the young men of the present day of what can be attained by self reliance, energy and love to our common country.*⁴⁹

Arnold Krekel was, indeed, much more than the sum of his parts. He should live in memory as a great Missourian.

Pictured left is the monument located at Oak Grove Public Cemetery, St. Charles, MO. It reads:



Arnold Krekel
Lt. Col. U.S.A.
And U.S. District Judge
1815-1888
Erected by his friends

With so much vicious political "name calling" swirling around their head, it was almost impossible for the two candidates to launch a campaign on the higher level traditionally associated with judicial offices. However, neither Douglas nor Billings engaged in heated rhetoric directed at their opponent. It was almost as if their roles were reduced to that of "innocent bystanders." A joke that appeared in several newspapers around the state had one voter asking another "Who are you going to vote for on August 2, Stark or Pendergast?"

Douglas, using the advantage of the incumbent, launched his campaign on April 20 with a letter written on



—Fitzpatrick in St. Louis Post-Dispatch.

"There is no more dangerous enemy of government by the people than the election crook."

—Gov. Stark of Missouri.

his Supreme Court stationery to numerous Kansas City lawyers and mailed in time to coincide with the day Billings announced his candidacy. Douglas said "In as much as a candidate for the Supreme Court is limited in his campaign, my first thought in presenting my candidacy is to write you and other lawyers for advice and assistance." He mentioned having served on the St. Louis Circuit Court

before being appointed to the Supreme Court, and invited them to visit him at the Supreme Court Building. He closed with the hope of meeting "as many of you as possible before August 2." He maintained a low key position all through the campaign. His amazingly restrained political rhetoric was best illustrated in a speech delivered toward the end of July, when he said "I stand before you tonight as one of the candidates for the Supreme Court to serve out the balance of the short term, the term which I am now serving. You may think it strange that I do not make a speech in behalf of my candidacy.....since this state was started it has not been proper for a candidate of the Supreme Court to engage in political debate or discuss partisan issues.....I stand here to give you an opportunity to look at one of your candidates and to respectfully solicit your support on August 2."

Billings announced his candidacy on April 29 in Kansas City after driving all night from Kennett to meet with the "Boss". He said "It will be my purpose to attract friends, support and votes for the Democratic cause. I feel fair minded people will concede that the southern half of Missouri is entitled to representation on the Supreme Court. If elected to this high position, I make a solemn pledge....to truly and conscientiously administer justice under the law." As he toured around the state he emphasized his country background and party loyalty by saying "I am making this race as a plain Democrat, raised on a hillside farm..." "I'm from the land of cotton, watermelons and Democrats." Another time he said, "I will never turn my back on the Democratic party." In an effort to secure the labor vote, he promised "If I am ever confronted with a labor problem, I assure every working man and woman to be fair and honest in my position as a public servant." One observer commented that the "bland" campaign the candidates were running made him wonder if they had enough intelligence to be on the Supreme Court.

Perhaps Billings's best, and surely his most ardent campaigner, was his wife, the former Leora Sapp, originally from Columbia. They met while Billings was in law school at the University, and married upon his graduation. As she toured the state with him, she reminded the audience that she was a Democrat currently serving as President of the Dunklin County Women's Democratic Club. In a letter asking friends to support his election she said "not only will it give him an opportunity to serve his state but will also furnish us with the means to educate our children."

Both candidates pursued votes through carefully worded campaign posters, advertisements in every newspaper in the state, spot radio announcements for Douglas, "vote for a man not a machine" and big billboard signs for Billings. Cartoonists had a field day depicting Pendergast in the most unflattering ways. When all the votes were counted on August 3, Douglas had won with 432,244 to Billings 312,746 a total of 119,498 votes over



THE NEXT PUTSCH

Billings, primarily delivered from the efforts of the out-state campaigns.

With victory for Douglas and defeat of Billings in his pocket, a jubilant Stark said now "we can write our own ticket." A disgruntled Pendergast attributed the defeat to the cross-over Republican vote (approximately 50,000) and said "the Democratic Party of Missouri will still need the Democratic Party of Jackson County." But did the victory bring about the end of Pendergastism and boss control? It certainly had an effect. Not only had Stark humiliated Pendergast and shown he was vulnerable when challenged, but the crack he made in the machine's power lead to the eventual downfall of Pendergast. Just eight months later, on April 7, 1939, an indictment for income tax invasion handed down by the federal court in Kansas City finally broke Pendergast's power.

Throughout the primary race, Stark had claimed a vote for Douglas would keep the Supreme Court free of boss

control. In the November, 1938 election, when Albert M. Clark, supported by Pendergast, beat the lone Republican Supreme Court Judge William F. Frank, by a vote of 717,552 to 529,502, some observers felt six Pendergast backed members of the court did, in fact, give the machine control. However, Stark had proven that support does not command allegiance. In January, 1939, three months after the election, Stark joined with Judge Allen Southern of the criminal division of the Jackson Co. Circuit Court on a crusade to clean up Kansas City. The judge impaneled a grand jury to investigate gambling rackets in the city. County Attorney W. W. Graves immediately filed an application for a writ of prohibition before the Supreme Court, contending the investigation was an "irregular proceeding" because the prosecuting attorney was barred from the grand jury room. The Supreme Court quickly rejected the petition and the grand jury investigation proceeded - hardly the action of a pro-Pendergast court.

On May, 22, 1939, Tom J. Pendergast plead guilty to all indictments which the grand jury returned against him. The total tax due was \$830,494.73, but the government agreed to settle the bill for \$350,000. He was sentenced to serve fifteen months in a Federal prison and fined \$10,000 on the first count. The court sentenced him to three years on the second count but suspended it with probation for five years. On May 29, 1939 Pendergast reported to the Federal prison at Leavenworth, Kansas to start serving his sentence. He served one year and one day and was released from prison in May, 1940. He died at the age of 72 on January 26, 1945.

Even before the death of Pendergast, Missouri had taken action to eliminate the possibility of a similar political battle taking place in any future Supreme Court elections. When citizens through out the state demanded removal of its high court judges from politics, Missouri, in 1940, adopted a constitutional amendment for judicial reform that was to become widely known as The Missouri Plan. What had begun as a simple primary battle for a judicial post in Missouri, ended with the demise of a powerful political machine and judicial reform which became a model for the nation!

(Author's Note: The staff of the Western Historical Manuscript Collection at the University of Missouri - Columbia provided the material for this article.)

position of general counsel of the Chicago & Northwestern Railway Company. He represented the railroad for 16 years with what struck me as "quiet diligence and distinction." In March 1909 President William Howard Taft appointed Bowers as solicitor general of the United States and little more than a year later he was dead. His argument on behalf of the government in the corporation tax cases was recognized as the high point of his brief career in government, and his position prevailed after reargument made necessary by his death.

Much of the Bowers' legacy is in what he might have been and done. Bowers and Taft were classmates at Yale. When President Theodore Roosevelt considered Bowers for the United States Supreme Court in 1902, Taft was Bowers' enthusiastic and unqualified sponsor. By 1910, Taft was in a position to see to this himself, and in his public tribute to Bowers after his death, he said "it was my purpose to have appointed him a justice of the Supreme Court if opportunity offered." Justice Oliver Wendell Holmes, Jr. was of similar sentiment: "I know of no one who I so want to see on our Bench as much as I did the late Solicitor General." The Bowers I met was a figure known as much for his great promise as for his success realized, great promise unfortunately cut short, and thus great promise sadly unfulfilled.

Lyda Burton Conley and History's Memory

The question remains: Why did I select Bowers and not Wigmore, Scott or Llewellyn? On the face of it and on the merits, its answer seems at best elusive. Comparative merit clearly recommended the latter three over Bowers. The truth is that I picked Bowers not based on some assessment of relative importance, or for that matter importance at all. As is by now quite clear, I had long before reached a decision to not concern myself with who should be included and who should not. That was a matter for the editors at Oxford Press.

Unlike Judges Sherwood and Walker, I did know of Bowers. But the truth is that Bowers is remembered in the *American National Biography* because of his quite fleeting association with another attorney, Lyda Burton Conley. Conley is another of my interests. My work concerning her is still underway. It was through association with her that I became aware of him, and that is what caused me to volunteer to write his biographical entry. It had nothing to do with Bowers proper place in history on the merits. He is there on account of the coincidental and necessarily unintended intercession of Conley whom no one would have given any thought to including as 798 on the list of 797. But the reality remains — she is why he is there.

Conley's and Bowers' paths almost crossed in January 1910 when she appeared in oral argument before Holmes and the rest of the United States Supreme Court in the case of *Conley v. Ballinger*. Bowers, as solicitor general, appeared by brief alone and did not present oral argument on behalf of his client, the Secretary of the Interior. Conley represented herself. The dispute involved the government's plan to move the native Americans and others interred in Huron Indian Cemetery in Kansas City, Kansas, so that this commercially desirable, city-center land could be developed. Conley's parents, Wyandotte tribe members, were buried there, and she had studied at Kansas City Law School to become a lawyer for the purpose of defending their graves and keeping them undisturbed. The case that brought her to Washington and the Supreme Court sought just that. She lost the case, as she learned when Holmes wrote for a unanimous court. Ultimately, she won a political solution. Today the graves are still as they were. This was how the Solicitor General came to my attention.

In this is an ironic reminder that history's memory is not necessarily predictable, or on the merits. So, at least as far as Lloyd Wheaton Bowers is concerned, his entry in the *American National Biography* may help buy him another generation or two in history's memory, and if so, Lyda Burton Conley was responsible.

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SUPREME COURT OF MISSOURI TREASURER'S REPORT - October 1, 1999

Balance on Hand - October 1, 1998

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

Income - October 1, 1998 - October 1, 1999

Membership Dues	\$ 5,715.00
Royalties from sale of Dunne's book	92.26
Memorials to J. P. Morgan, Robert Donnelly and Norwin Houser	325.00
Interest on Money Market Account	<u>3,406.56</u>
	\$ 9,538.82

Annual Expenses - October 1, 1998 - October 1, 1999

Professor Gary Kramer - Honorarium for speech at 13th Annual Meeting	\$ 500.00
Brown Printing Co. - Letterheads	162.27
Modern Litho Printing Co.- Invitations and printing "Journal" 1998 and 1999	3,338.77
Cote Sans Dessien Antiques - Flowers for Fall Enrollment	100.00
Busch's Florist - Flowers for funeral of J. P. Morgan	31.87
Capitol Projects - Mailing copies of the "Journal"	81.53
Jefferson City Country Club - 13th Annual Dinner	659.88
Kinko's - Copies of membership renewal letter	11.20
Mail Box - Mailing membership renewal letter	36.75
Frederick T. Stolte - Restore portrait of Judge Atwood	425.00
Carolyn Birkes Memorial Fund	50.00
Price's Florist - Flowers for Spring Enrollment	123.00
Intern Awards - Michael Roth	3,000.00
Shelly L. Lemons	3,000.00
Kimberly A. Schreck	3,000.00
Secretary of State - Registration Fee	<u>15.00</u>
	\$ 14,535.27

Balance on Hand - October 1, 1999

Checking Account	444.99
Money Market Account	<u>75,927.93</u>
	76,372.92

Allocation of Funds on Hand

Herman Huber Memorial Fund	525.00
Unrestricted Funds	<u>75,847.92</u>
	\$ 76,372.92

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