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The Missouri Supreme Court
Historical Society Journal
Published by the Missouri Supreme Court Historical Society
Vol. 7, No. 3 July, 2001

Judge Stith Named To Missouri Supreme Court

Judge Laura Denvir Stith, formerly of the Missouri Court of Appeals, Western District, was formally invested into the Missouri Supreme Court, Thursday, April 12, 2001 before the Court En Banc and a large gathering of professional colleagues, relatives and friends in Division I of the Supreme Court Building. She had earlier taken the oath of office in a private ceremony on March 7 in the office of Chief Justice William R. Price.

Judge Stith is the second woman to serve on the state's highest court, succeeding Judge Ann K. Covington who recently resigned from the court. The new judge was appointed by Governor Bob Holden from a panel of three selected by the Missouri Judicial Commission. She had previously served on the Court of Appeals, having been appointed to that position by Governor Mel Carnahan in 1994.

Prior to her service on the courts she practiced with the Kansas City law firm of Shook, Hardy and Bacon for 15 years. Judge Stith had served as a law clerk to former Supreme Court Judge Robert Seiler and is the first law clerk to become a member of the Supreme Court.

Stith is from Clayton, Missouri. She graduated from John Burroughs School in 1971. A National Merit Scholar, she earned a degree in political science and psychology from Tufts University. She received her law degree from Georgetown University in 1978.

She is married to Donald Scott who is also an attorney and was a law clerk for former Supreme Court Judge Warren Welliver. They have three daughters.

Judge Stith was President of the Women Lawyers of Greater Kansas City, 1994-95, Chairwoman of the Joint Committee of Gender and Justice of the Supreme Court and Missouri Bar 1999-2000, and gender bias program speaker at the Missouri New Judges School, 1999-2000.

She was sworn in by Chief Justice Ray Price at an informal ceremony and took her seat on the court Wednesday, March 7, 2001.

Covington Resigns From Supreme Court

On Thursday December 14, 2000, Missouri Supreme Court Judge Ann Covington submitted her resignation to Chief Justice William Ray Price. Her resignation was effective January 31, 2001. Appointed to the Supreme Court in 1988, she has served on the court for twelve years. She was the first woman appointed to the court. She served as Chief Justice for two years from July 1993 through 1995. Prior to coming on the Supreme Court she served on the Missouri Court of Appeals in Kansas City from September 1988 until her appointment to the Supreme Court. She was the oldest member of the Supreme Court, at 58, and the longest serving judge on the current court. She hopes to pursue various job opportunities in the private sector. She said, "To have served as a judge on this court, I know, has been a unique privilege."

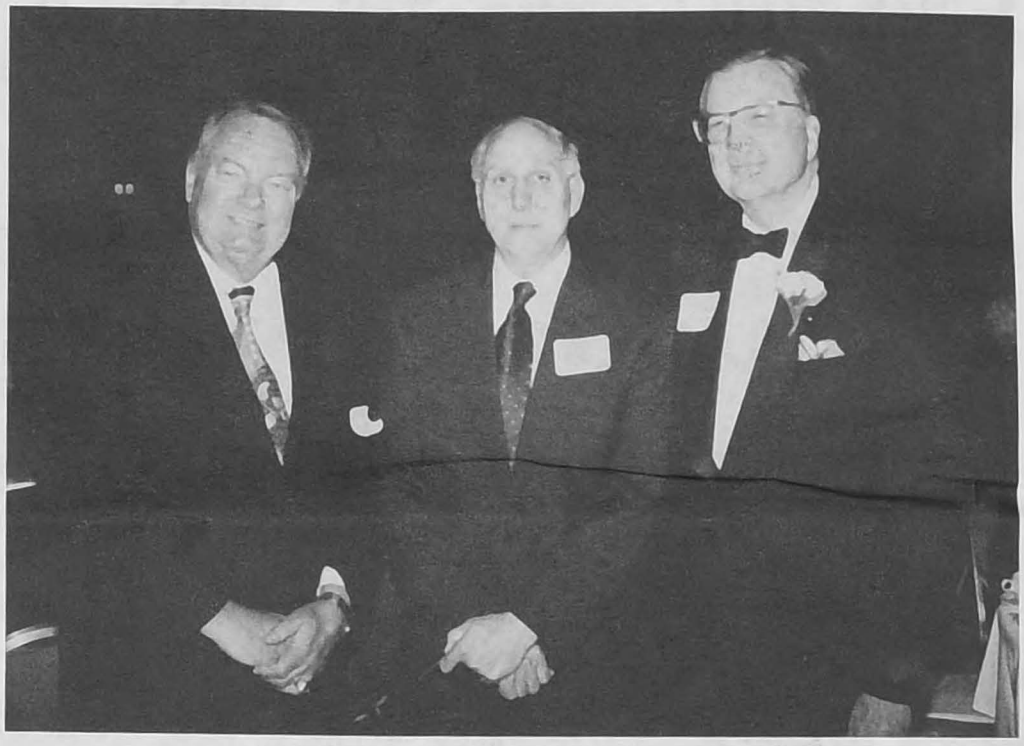
BAMSL 125th Anniversary Dinner Raises Large Gift For Society

On March 16, 1874, some 100 St. Louis judges and lawyers met in St. Louis to organize themselves professionally into what was soon to become the Bar Association of St. Louis. At the time, St. Louis, including what is now St. Louis County, was a city of 350,522 (U. S. Census, 1890). This population was served by 40 breweries, 163 churches and 415 law firms, the latter figure from Gould's St. Louis Directory, which did not list law firm members individually.

A century and a quarter later, on March 11, 2000, more than 200 judges and lawyers met in St. Louis to celebrate the 125th Anniversary of the Bar Association's founding at a banquet sponsored by its progeny, The Bar Association of Metropolitan St. Louis. The population of the City of St. Louis is 396,685 (U. S. Census 1990) excluding that great rural area of 1874 now encompassed by St. Louis County. This population is now served by countless churches, a Bar Association with more than 6,000 members and two breweries.

To celebrate this historic event, Carol Chazen Friedman, BAMSL president, had organized this gala affair as a fund-raising event for the benefit of the St. Louis Bar Foundation and the Missouri Supreme Court Historical Society. As a result, each of these organizations received gifts of $8,500.

The legal profession of St. Louis was among the first in the United States, along with Philadelphia and Chicago, to organize professionally. Through the years it has played a prominent role locally and nationally in seeking and achieving improved professional excellence for the courts and the legal profession and improved legal service for the public. National recognition of its leadership role is attested to by the fact that five of its members have been chosen to head the American Bar Association. Its second president, James O. Broadhead, in fact, was one of the founders of the national organization and served as its first President.



Missouri Supreme Court Historical Society President Thomas Vetter with trustees Frank Duda and Stuart Symington attending the BAMSL 125th Anniversary Banquet.

Mr. Broadhead began his practice of law in Missouri in 1842. Appearing in this issue of the JOURNAL, (see next page) is an excerpt from an article written by Mr. Broadhead in 1899, recalling experiences and acquaintances in his half century of practice. The excerpt is from THE BENCH AND BAR OF MISSOURI, published in 1899.

Seiler Grant To Scholarship Fund

A generous contribution of $3,500 has been made to the Missouri Supreme Court Historical Society Scholarship Fund in memory of the late Supreme Court Judge Robert Eldridge Seiler by his daughter Sunny, (Mrs. Frederick Dupree, Jr.) The gift will fund the Robert Eldridge Seiler Fellow for 2000, which was presented to Dr. Donald H. Matthews' who holds a PhD. from the University of Chicago and teaches at St. Louis University.

Selected as interns in the Society's summer Archive's program were Kirk G. Bast and Jeremy Neeley, both of whom are Doctoral Candidates at the University of Missouri.

Reminiscences of Fifty-five Years of Practice

By James O. Broadhead – 1899

There was something adventurous and exhilarating in the life of a young lawyer in Missouri fifty-five years ago, who commenced his career as most of them did, with a horse, saddle, bridle, and a pair of saddle bags as his only possessions, except perhaps, a copy of the Revised Code of 1835, Blackstone's Commentaries and a copy of Chitty's Pleadings. His ambition and his hopes were the incentives that stimulated his energies and opened up before him a bright future. For a while at least he depended upon his credit, and credit was freely given to any one who had an honest face, a correct deportment and industrious habits. It was a land of plenty so far as the necessaries of life were concerned, and when a young lawyer swept out his office, chopped his own wood and made his own fires, he was considered worthy of credit of one month's board at least. It is astonishing how men upon the frontier lean upon each other, and how freely and cheerfully they afford mutual assistance. If an emigrant comes from afar and enters a tract of land where he expects to make his home, he must have a cabin, and all the neighbors collect together on a certain day and give him "a house raising." A hunt or a frolic succeeds, and he begins to feel at home. And such was the conduct of the lawyers toward each other. There was no rule, or regulation against borrowing, and whatever his neighbors have that he has not, is at his service, except their wives, and these they would sometimes swap off, as I have been told by a lawyer of the olden times, who said that in one county in which he practiced, the inhabitants were of the opinion that there was not more than a cow and calf's difference between any two women in the world.

"In the early days the professional business of one county was not sufficient to support three or four lawyers, and therefore like the Methodist preacher, they would have to ride the circuit."

When eggs were six cents per dozen, beef three cents per pound, wheat from fifty to sixty cents per bushel and everything else in proportion, a lawyer could not expect large fees. Ten Mexican dollars to try an action of forcible entry and detainer, the most important case before a Justice of the Peace, after riding a distance of twenty miles, was considered a good fee. In this connection I may state, as was said, that James R. Abernathy, of Monroe County, who for a long time was Prosecuting Attorney for that Circuit, in his early professional career brought an action of forcible entry and detainer for a bee hive, and this being a case of more than ordinary character, his fee may have been large. Uriel Wright, then of Palmyra, and the most elegant and accomplished speaker in Northeast Missouri, was noted for his long speeches, particularly in the defense of criminals prosecuted by Abernathy as Circuit Attorney, and much give to repetition. Abernathy on one occasion said that Wright reminded him of a race horse, who was put upon the track to run a race four miles and repeat. The attorneys were not then limited in the argument of a case before a *nisi prius* court. It is true there were not so many cases before the courts, but they were more speedily disposed of. A demurrer or a case tried by the court without a jury was generally disposed of at once before the Judge left the bench, certainly not later than the next morning. They were not held under advisement in order that the Judge might find out some point upon which to decide the case, not mentioned or discovered by the attorney.

The session of the courts lasted about three weeks on an average, and to postpone the decision of a case until the next term was considered a "denial of justice," in the language of Magna Charta. I recollect trying a case before Judge William A. Hall in Mexico, in Audrain County, involving the title to an old Spanish grant of 6,000 acres of land, taken before him by a change of venue from Pike, and he decided the case the next morning – and no appeal taken from his decision. He was considered one of the best *nisi prius* Judges of the State, as undoubtedly he was. As a man of great learning in his profession, of clear mind and of quick perception, he had no superior in the State as a Judge. A Judge in those days would decide the case at once after hearing the arguments of counsel, without spending a month or two in reading the conflicting opinions of other Judges to be found in the reports. The fact is he could not help himself, for there were very few reports to be had, and he was compelled to follow the course of the judicial tribunals of Continental Europe, where as a general thing there are no reports of cases (and so much the better it is for the cause of justice), and therefore when the case was tried before a Judge, whether he was asleep or awake, on the trial he decided it at once.

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Go West Young Man

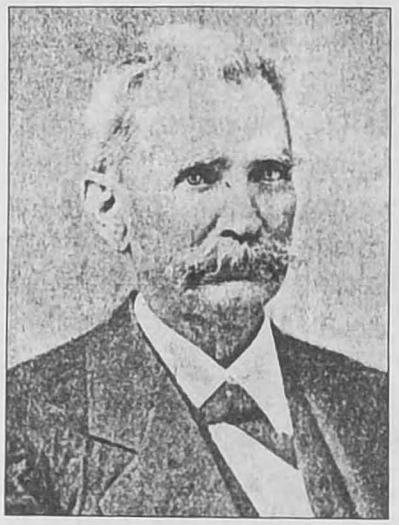
Editorial Note: Even before Horace Greeley published his well-known admonition "Go West, young man!", many young men had reached the same conclusion. Quite a few of them ended up as lawyers in Missouri. A surprising number became members of the Missouri Supreme Court. In this issue of the JOURNAL, we include sketches of two of these westward wending men who, in spite of varied familial and educational backgrounds and deviant personal and professional experiences, became members of Missouri's highest court.

It is interesting to consider how these two historically prominent and, in retrospect, highly respected judges would have fared had they been forced to undergo the same microscopic examination and public scrutiny of their personal lives, political attachments and philosophical inclinations which today's aspirants to high judicial office must endure. – EAR

Inventing The Old South In The New West: Life and Law According to Judge William Barclay Napton

Supreme Court Judge 1839-1857 and 1873-1880

By Dr. Christopher W. Phillips,
Professor of History University of Cincinnati



William Barclay Napton

On the morning of April 15, 1861, upon learning that Abraham Lincoln called for 75,000 volunteers from the American states to put down what he called a "rebellion in the southern states" following the surrender of Fort Sumter, Missouri Supreme Court justice William Barclay Napton wrote from St. Louis the following to his wife, Melinda, at home on their farm, Elkhill, in Saline County: "The wretched set of malignant fanatics who have the control of the government have at last inaugurated war…It will be soon seen what Missouri will do now. There is no longer any room for neutrality. The Bl(ac)k Republicans intend to hold on to power in the North by keeping alive the blame Negro fanaticism & carrying fire & sword into the South. The only hope is that the masses of the people will tear down the hideous despotism they have set up….It is hard to say what (Missouri) will do – but the first impulses, on learning the news from Charleston & the President's Proclamation, will be undoubtedly a speedy secession from Blk. Republican domination. Neutrality is a dangerous & disgraceful position & gets Kicks & curses from both sides."

Four days later, upon learning the news of Virginia's secession from the Union, he wrote another exultant letter to Melinda. "Thank God, Old Virginia has come out in

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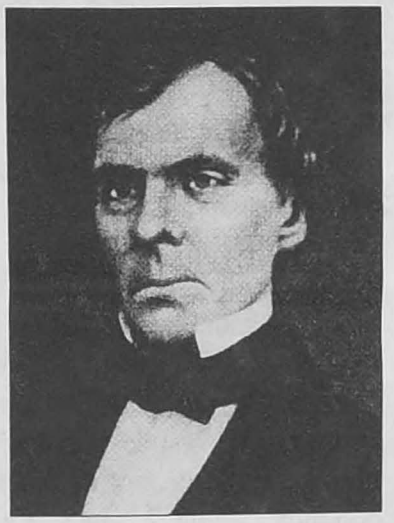
Abiel Leonard: A Yankee From Vermont

Supreme Court Judge, 1855-1857

By: D. A. Divilbiss

In 1819 Abiel Leonard arrived in Franklin, Missouri Territory. He had walked all the way from St. Charles. He was a twenty-two year old bachelor, penniless, friendless, "Yankee" Whig from Vermont hoping to open a law office in the Boonslick area. He was a physically unattractive man. His contemporaries described him as "small in stature, weighing perhaps 100 pounds, a little over 5 feet tall with a face of singularly green complexion, so ugly as to attract attention." He seemed unaware of the fact that the community he had chosen for his home was a traditional Southern Democratic one, most of the citizens having immigrated from Virginia and Kentucky, bringing with them their unique customs and prejudices. He was not accepted by the local inhabitants, but was viewed as a "humorless, cold Northern weakling" not to be trusted. It is hard to believe that from this inauspicious beginning, in later years, he would not only be accepted in the town, but would become one of their most honored and respected citizens.



Abiel Leonard

Leonard, born May 16, 1797, came from a traditional New England family. His great-grandfather was a pastor of the Pilgrim Church at Plymouth, his grandfather, Rev. Abiel Leonard, was a graduate of Harvard, pastor at Woodstock, Conn., and, at the request of General George Washington, became a chaplain in the continental army. His father, Nathaniel Leonard, was a captain in the U. S. Army, served

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Reminiscences *(continued from page 3)*

On one occasion a case was being tried before a certain Judge in Northeast Missouri and objection was made to a question asked of a witness. The judge was asleep, as was sometimes his habit, and after the argument of counsel on either side was made, one of the attorneys in a loud voice asked the Court whether the witness should answer the question. "Well." Said the Judge, who had by this time been aroused, "let him answer the question. It may throw some light on the case." He really did not know what the question was, nor what had been said on either side of the controversy. This, of course, he was not willing to admit, but did not wish to exclude any light that might be thrown upon the case – if an error it was on the side of justice.

Up to a late period the Judges of the Supreme Court were as prompt comparatively as the Circuit Judges. They never held a case under advisement for two years or more, until the arguments of counsel had been forgotten and they were compelled to study the case anew without the aid of the attorneys, who at least are generally as learned in the law as most of the Judges. They did not decide or ignore that declaration of the Bill of Rights which says that "Justice shall be administered without sale, denial or delay," and they did not act "in direct contradiction to those laws, which they are supposed to make the study of their lives, and which they are sworn to administer faithfully," for the Bill of Rights is as much a part of the law of the land as any other part of the Constitution. The docket may be crowded with a multitude of cases which cannot be disposed of, but of those which they are willing to hear, they ought to be ready to decide.

In the early days the professional business of one county was not sufficient to support three or four lawyers, and therefore like the Methodist preacher, they would have to ride the circuit. If a house of entertainment were on the route, they could have a good substantial meal for twenty-five cents and the same for feeding a horse. As a matter of precaution, however, it was usual for a lawyer to carry a lunch stowed away in the corner of his saddle bags, in which he carried also his shirts and socks and court papers. Upon the broad prairies and through the silent woods, he would have an opportunity to study his cases, and apply to the questions involved those principles which he had learned from the text books, when books had been accessible, without knowing or caring about cases, except as they were to be found in the decisions of the Supreme Court of Missouri to be found in the Clerk's offices up to and including Volume VII. Or if other attorney were in company, they would discuss questions of law as they had arisen from time to time in their professional career, and when the noon-tide came and no house of entertainment in reach, and both horse and rider needed rest, the weather being suitable, he would dismount and partake of his lunch and if need be rest upon the green grass with his saddle for a pillow.

Fifteenth Annual Meeting of The Missouri Supreme Court Historical Society

The 15th annual meeting of the Missouri Supreme Court Historical Society was held Friday, October 13, 2000 at the Jefferson City Country Club in Jefferson City, Missouri. Twenty-seven members and guests attended the dinner meeting.

Following dinner, President Tom Vetter opened the business meeting with a discussion of the Treasurer's Report that had been distributed earlier to the members. The Treasurer's Report was approved by unanimous vote.

The names of the following officers and trustees were presented for re-election:

Officers:

President: Thomas A. Vetter

First Vice President: Mrs. Sinclair S. Gottlieb

Second Vice President: William A. R. Dalton

Secretary-Treasurer: D. A. Divilbiss

Trustees (Three-year Term): N. C. Brill, John S. Black, Emory Melton

Their election was unanimous.

President Vetter then turned the meeting over to the speaker for the evening, Christopher Phillips, Professor of History at the University of Cincinnati. His address was titled "Inventing the Old South in the New West: Life and Law according to Judge William Barclay Napton".

Kenneth H. Winn, State Archivist, President Tom Vetter and speaker Dr. Christopher W. Phillips, Professor of History, University of Cincinnati, Annual Meeting Speaker.

Go West Young Man
Judge William Barclay Napton *(continued from page 4)*

flying colors & refused to bow the Knee to this infernal despotism we now have at Washington. She has seceded – Ky. & Missouri, I hope, will follow soon. This is the way to prevent war. The miserable vacillation of the border states has impressed these Vandals at Washington with an idea that they could walk over the Southern states, at their pleasure & execute their will. They will pause a little now - & count the cost....I would rather give up every Negro I own & lose them all & my land too, then remain a citizen of a state so craven hearted & pusillanimous as to submit to menaces of this Abolition despotism now ruling the North. I hope Missouri will now stir herself & drop the white feather. War can't be worse than the state of suspense & cowardly inactivity which now pervades her borders."

On this last point, of course, Napton was wrong. The war that followed was worse, far worse, then anyone in America – and especially in Missouri – could have envisioned. The bitter, fratricidal tragedy cost 620,000 American lives and produced psychic costs incalculable. Moreover, Napton's curious stance that the act of secession would actually forestall a war – presumably by the South's strong stand forcing the shocked North in the nick of time to consider seriously the South's grievances short of war proved dead wrong as well. His legal acumen undeniable, Napton was clearly no prognosticator. The war cost Napton his slaves, his wife, and his seat on the bench, but he did keep his land, though he was unable to live upon it for the duration of the war, an exile in St. Louis.

Judging by Napton's strong pro-secession words, one might assume that he was a fire-eating secessionist planter, a product of the cotton states with deep blood ties to match his deep convictions on the course of the South. Nothing could be further from the truth. Napton was a native New Jerseyite, the son of a merchant tailor and graduate of Princeton University who moved to Missouri in 1832 not to take up the position of slaveholding farmer, but largely because he was told that a young man with a law degree could go far in the West and, Missouri in 1832, was about as far west as a young man could go. So he went, to Fayette where he became a newspaper editor and clerk of the circuit court, then to Jefferson City as secretary of the House of Representatives, then attorney general of the state, then supreme court justice, which he served as for a nearly unprecedented twenty-five years. Yet by the outbreak of the Civil War, Napton was the owner or trustee of forty-six slaves, who toiled collectively on his 1,700-acre Saline County farm, Elkhill. His judicial rulings consistently supported the constitutionality of slavery, and he used the bench to offer government protection of the peculiar institution. To the end of his life, he extolled the moral superiority of a slave society and avowed the unconstitutionality of the federal government's wartime intrusions in the border slave states such as Missouri. The story of how Napton became an apologist for slavery and advocate of the Lost Cause mythology is one representative of Missouri's story as a whole, a once-western state that, by the 1880's, believed itself of the South. To understand Napton's world, we need to understand Napton the jurist, as well as Napton the man, a man who disavowed his northern roots in favor of the genteel slaveholding existence, which he and others replicated in the New West.

"The wretched set of malignant fanatics who have the control of the government have at last inaugurated war...It will be soon seen what Missouri will do now. There is no longer any room for neutrality..."

William Barclay Napton was born on March 23, 1808, at Princeton, New Jersey. The eldest son of John Napton, who was bound out to learn the tailoring trade and whose uncle, Welling, was bound out similarly to learn that of a carpenter. The Napton family was neither wealthy, educated, nor privileged, and Barclay Napton, as the son was called in his hometown (his wife called him, affectionately, Barley) felt the sting his entire life. Though Napton's son, Harry, later claimed modestly that Napton "was not possessed of a strong constitution, but was an industrious pupil, apt at learning," he was advanced enough at the age of fourteen to have entered Princeton College as a student. His parents appeared to have sacrificed greatly to afford the tuition – enough to mention it more than once later in life – and young Barclay's common origins drove him to excel when rubbing shoulders with the children of privilege at Princeton. He graduated four years later with First Honors, was among the top three students in his class, and was chosen by the faculty to deliver the English Salutatory Oration at graduation ceremonies in September 1826. He brushed with his Missouri destiny early; one of his Princeton classmates was James R. Tallmadge, the son of the New York representative who in 1819 had touched off the nation's first sectional storm by opposing Missouri's entrance into the Union as a slave state.

Upon graduation, Napton began reading law with a local attorney, but apparently could not continue to burden the family's finances to continue. A professor of religion

at Princeton, a Virginian, recognizing the potential of the bright young man as well as his need to "be of some assistance to his parents," recommended him to a prominent Virginia planter, lawyer, military leader, and congressman, William Fitzhugh Gordon, as a tutor on his Albemarle County plantation. Gordon accepted the eighteen-year-old college graduate, and Napton spent six years some fifteen miles from Charlottesville as a tutor and as an instructor at a private academy. During this time in General Gordon's household, living in the literal shadow of Thomas Jefferson, Napton took his first lesson in politics, listening to the well-formed opinions of such venerable Old Republican house guests a Philip Babour and William C. Rives. He grew accustomed to meeting in the Gordonville neighborhood the nation-builders, such as James Madison and James Monroe, as well as their legacies, both in flesh and in spirit. Napton's experiences in the Gordon household and in Charlottesville society combined with his law studies at the University of Virginia profoundly influenced his thinking. Daily, he was surrounded by men of force, of education, of intellect of a high order, all of which was presented under the inviting facade of impeccable social grace. He adopted these manners for himself, only enhancing his physical stature. At just under six feet, with gray eyes and a full head of hair, courtly and urbane, Napton cut an impressive figure.

Admiring greatly the Virginia gentry and their economic, social, and political philosophies, Napton adopted enthusiastically "the strict construction, states rights attitude" of his Old Republican, Virginia mentors. More important to him, the experience convinced him to enroll at the most visible Jeffersonian symbol, the University of Virginia, to learn Modern Languages and the Law. He proudly signed his name to the matriculation book on September 10, 1829, the only northerner in the 133 members of his class. Curiously, he was the only one of thirty-two students who enrolled in the sixth session not to list the name of a parent or guardian, marking only a vague M. N. in the required column. The act was neither evasion nor oversight. It was a clear indication that Napton was consciously leaving behind a New Jersey past for a Virginia future. This entailed far more than simply adopting a new geographical state as his home. Napton was reconstructing his world.

As at Princeton, Napton did superbly at Jefferson's University, enough so to finish in July 1830 as one of the top two students in his class – no mean feat as an outsider in nepotistic Virginia – as well as within a month, as he wrote in his diary, "Qualified as an Attorney at Law to practice in the several Courts of this commonwealth." In attendance at his salutatory address in the Rotunda upon leaving the University were the Virginia patriarchs James Madison and James Monroe. In the heady days after his graduation, the young lawyer sought entry into the gentry of Virginia, and relates in his diary entry of October 15, 1830, that he attended a public dinner given for Philip Barbour by the bar and citizens of Charlottesville upon his appointment as Federal District Judge. Proudly he wrote in his diary of his toast, given aside those of Gen. Gordon, Thomas Gilmer, and "Mr. Carter of Prince William" County a member of the dynastic tidewater family, which signaled at least to him of acceptance in his new found circle. "Virginia," he said, "may her prosperity be proportionate to the zeal and ability with which she has uniformly maintained the true principles of the Constitution." So complete was his transition from New Jerseyite to Virginian that Napton ridiculed his alma mater, Princeton, for awarding him an honorary Masters of Arts, largely for his professional advancement in the field of law. A private memorandum in his journal, dated October 15, 1829, reads "This University (U of Va.) has set a noble example – it has abolished these old unmeaning titles…(N)o sooner does a man get in Congress & make a tolerable speech, write of it & send it home to his constituents neatly printed in a documentary form, than he is at once a great man - & despite of his ignorance, an L.L.D. is granted him by the first college that can claim him."

Napton soon learned the hard lesson that full ascendance was largely closed in the Old Dominion. Napton would be forever merely retinue of the Virginia nobility, especially in the crowded court near Charlottesville. He would not stay in the Old Dominion long. As chance would have it, Dr. John Gano Bryan, promoter of the New Eden in Missouri, sent word to as many connections as he could that the best and brightest outsiders (meaning those who did not stand to inherit the birthright of the Virginia high gentry) should come to the West where they could find a frontier fashioning on the Virginia model. Napton was intrigued by Bryan's glowing reports of Missouri and offering …land on such favorable terms, and borrowed funds to travel down the Ohio to Louisville, Kentucky, where the Doctor met him in his boat and brought him to Arrow Rock, in Saline County. As Napton wrote of the Boonslick lands, "I was captivated by them." He likely meant as much about his prospects in the west as of the land itself. And like thousands of earlier emigrants who left the crowded, closed East for the beckoning, limitless West, Napton left Charlottesville, Virginia on November 15, 1832, and arrived in Boonville on December 1. On February 12, 1833, he settled at Fayette, in Howard County, the newest man of the West.

Despite his pedigree and training (which would have given him nearly immediate entrance into the Missouri Bar, especially in the western counties), Napton did not initially practice law. Instead, Dr. Bryan helped him to establish the Boonslick Democrat, which he edited for four years. This tells us much about Napton. Though his editorials do not exist, the paper was clearly a political organ and offered its

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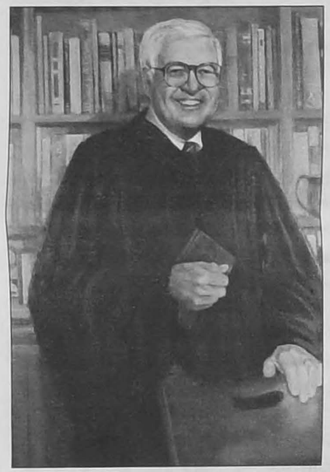
Presentation of Portraits of Recently Deceased Judges

Honorable George F. Gunn, Jr.

Chief Justice William Ray Price called a special session of the Missouri Supreme Court on April 5, 2000 to honor the memory of Judge George F. Gunn, Jr. and to receive his portrait. Justice Price then introduced Mr. Ben Clark, the master of ceremonies for the presentation.



Mr. Clark first called on Andy Gunn, Judge Gunn's son to give the invocation. Mr. Clark then referred to a ceremony held in November 1998 co-hosted by the U. S. District Court, Eastern District and the Missouri Court of Appeals, Eastern District, where the judge's life was reviewed in detail. He quoted a former law clerk's description of the judge as "He had a marvelous talent for lifting up people around him and for making us feel appreciated and important." One of the judge's colleagues is quoted as describing him as "How many different people felt as if Judge Gunn was their very best friend? Not a good friend, not a close friend, but their very best friend in the world."

Mr. Clark then turned the ceremony over to Judge Charles B. Blackmar, who joined the Supreme Court about six months after Judge Gunn had been appointed. He recalled that since they both lived in the building, they were dubbed members of "Bond's Bedroom Court." He remembered that they spent a lot of evenings together eating in some of Jefferson City's "Epicurean establishments." He said Judge Gunn was one of those judges that had great instinct for coming to the right decision in a case. He closed his remarks by saying, "Let's just be thankful for Judge Gunn."

Professor W. Patrick Schuchard, the artist that painted the portrait of Judge Gunn, followed Judge Blackmar. He said he had never met or known the judge, but had access to photographs to help develop the portrait. He added that when he mentioned that he was painting the portrait, people would start telling him stories about the judge and that helped him develop the judge's personality. He then unveiled the portrait.

Judge Stephen Limbaugh, Jr. accepted the portrait for the court. He remembered feeling lucky, that as a young lawyer, Judge Gunn had written the opinion for his first appellate case, which ruled in his client's favor. Judge Limbaugh then called on several members of the court's staff to add their memories of Judge Gunn. Mr. Tom Simon, Clerk of the court, said, "If we had a judicial yearbook, Judge Gunn's portrait would say "most popular" or maybe "most loved."

Judge Limbaugh continued by commenting on the interesting but obscure words that Judge Gunn incorporated into his opinions giving as one example the word "interdigitate"which means "it's like this" (hand motion showing fingers interlocked) and wondered how he had worked this into an opinion. He closed his remarks by saying Judge Gunn "is a splendid example of what the art of judging ought to be."

Chief Justice William Ray Price, Jr. thanked friends and family for coming and adjourned the special session.

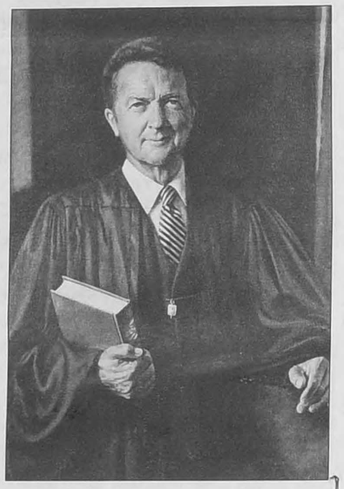
Honorable Robert E. Seiler

A special session of the Missouri Supreme Court was held March 20, 2000, to honor the memory of former Judge Robert E. Seiler and present his portrait to the court. Chief Justice William Ray Price, Jr. opened the ceremony. Mr. Ron Mitchell, a member of the judge's old law firm served as master of ceremonies and introduced Mr. Carl Blanchard, a former law partner.

Mr. Blanchard's remarks covered the first years of starting their firm, the interruption caused by the war and the resumption of the partnership upon the allies' victory. He also mentioned that in January 3, 1967, he was the first speaker at the ceremony when Judge Seiler took his seat on the Supreme Court. Mr. Blanchard then read a letter from former member of the court Judge Charles B. Blackmar, who succeeded Judge Seiler on the court.

The Honorable George M. Flanigan then recalled that the first time he came in contact with the judge was when he took the bar exam in this very same court room 51 years ago. He told antidotes from practicing both with and against Judge Seiler in Jasper County Circuit Court and amusing incidents from meetings of the "Academy" made up of Missouri judges and lawyers all graduates of "Missouri's finest law school."

One of Judge Seiler's former law clerks, the Honorable Laura Stith, since appointed to the Missouri Supreme Court, recalled her years of working with the judge. She mentioned that in 1973 the judge employed Rhonda Thomas, the first woman law clerk at the Supreme Court. She mentioned the volleyball team the "Final Judgment" composed of law clerks, Judges Bardgett, Rendlen and 65-year-old Judge Seiler. She pointed out that though J. Seiler was called "the great Dissenter" he had authored 265 majority opinions.



Former, Judge John E. Bardgett remembered the friendship Judge Seiler extended to him when he joined the court. He described him as a brilliant, strong minded, independent person who did his best to afford all people their due in both civil and criminal cases.

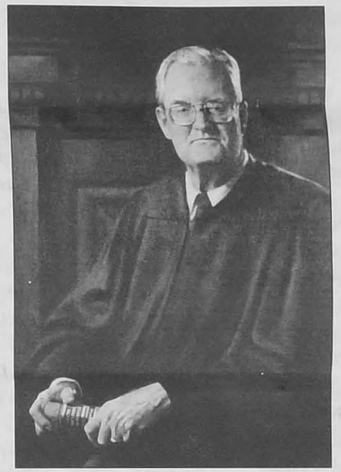
The Honorable Andrew J. Higgins, former member of the court discussed the judge's early years, high school graduation with honors from Chillicothe High School, undergraduate years at Missouri University where he was a member of the QEBH Honor Society and member of the 1932 Missouri University basketball team that was so successful they were invited to the White House to meet President Herbert Hoover. In 1935 he graduated from M. U. Law School where he was a member of the Law Review and Order of Coif. Judge Higgins recalled that while on the court the judge became an avid member of the "Thursday golfing division" of the court joining judges Holman, Higgins and Welborn at the Country Club.

Before the ceremony came to a close, family members participated in honoring the judge. His daughter, Sunny A. Seiler Dupree, read a very personal letter she had written to her father. Her son, Andrew Dupree, read a poem as did Lila Dupree, her daughter. The two grandchildren then presented the portrait to the court which was accepted by Chief Justice William Ray Price.

Honorable Robert True Donnelly

A special session of the Missouri Supreme Court was held May 24, 2000 to honor the memory of former Judge Robert True Donnelly and present his portrait to the court. Chief Justice William Ray Price, Jr. opened the ceremony by welcoming family and friends. He introduced Mr. Roger Toppins, former law clerk for Judge Donnelly as master of ceremonies.

Judge Donnelly was born in Lebanon, Missouri 1924, married his wife Susie in 1946, graduated from Missouri University Law School in 1949, and practiced law in both Greenfield and Springfield until he was appointed to the Supreme court in 1965. He retired in 1989. Mr. Toppins described the judge as good humored, logical, respectful, compassionate, steadfast, but most of all as a gentleman. He referred to the book the judge authored of his experiences in World War II titled "*A Whistle in the Night*" and quoted extensively from the passages in which the judge described the fear and misery of a foot soldier in the trenches of France and Belgium. The judge sustained an injury for which he received the Purple Heart. The proceedings were then turned over to Mrs. Kate Markie, Judge Donnelly's law clerk from January 1983 to July 1985.



Mrs. Markie commented on the interest in political philosophy she and the judge shared. She admired the respect he had for ordinary lawyers, the way he listened to their oral arguments and read their briefs before making up his mind in a case. He frequently said the law was like a religion to him. He was an Irishman and proud of his Celtic background. He always did his duty to follow the law, even the death penalty that he personally opposed. She closed her remarks by saying that his example of a honest man acting according to his beliefs provided a model of a man trying his best to do his best as a lawyer, a judge and a human being.

Those attending in addition to Mrs. Donnelly and their two sons were former members of the court Judges Welliver, Bardgett, Higgins, Blackmar and Robertson all who had served with the judge.

Mr. Toppins and Mrs. Markie unveiled the portrait of Judge Donnelly that was accepted for the court by Chief Justice William Ray Price.

Go West Young Man
Judge William Barclay Napton *(continued from page 7)*

editor entrance into the close circle known as the Central Clique, political leadership of the "*Boonslick Democracy*." Centered in Howard, Saline, Cooper, Chariton, and Boone counties, the Clique dominated the Democratic party in Missouri and during the 1830's the politics of Missouri in general. This politically and socially powerful group of elites included Dr. John Sappington, Dr. John Gano Bryan, Meredith M. Marmaduke, Thomas A. Smith, all of whom owned large tracts of land and numerous slaves, and exerted great influence in the region and state. Ardent states' righters, they supported limited use of the federal Constitution in governing activities in the individual states. All hailed from upper slave states, including Maryland, Virginia, Kentucky, and Tennessee. Clearly, Napton had designs on mastery.

Yet Napton's choice away from practicing law suggests an unwillingness to engage in the mundane and often unpleasant tasks required of practitioners of the legal profession, then and now. In his diary, as his son later noted with telling candor in a sketch of his fathers' life (written in part from interviews with Napton):

> {H}e complains of the mercenary character of the people, of their habit of applauding the lawyer who won his case, not upon its merits but upon some technical sharpness derived from an acquaintance with the rules of pleading in Chitty – the famous English authority then and now on common law pleading – or upon the country practitioner's intimate acquaintance with the statute law of the State. Probably he found himself unacquainted with the statutes. Oratory was one of the first requisites of the country practitioner and success with juries the means by which the farmer folk formed their opinion of a lawyer's ability. The young man was doubtless not a good "mixer," a poor statute lawyer, not much of an advocate with juries, and too retiring and diffident to proclaim his abilities in saloons or on the street corners.

In most ways, Napton was temperamentally unsuited for the life of a country lawyer. Instead, he sought loftier avocations and more refined circles, naively believing he would find them in the company of a coterie of local politicians. This aspect of his decision not to move into the courtroom reveals another facet that would characterize the remainder of his professional life. Napton detested personal conflict, and removed himself from it as best he could. The personal conflict that dominates an active law practice – the daily struggles necessary to win arguments and cases as well as the deep hunger for mastery that draws many lawyers into the practice and which drives those who succeed at it – cut against the grain of Napton's very being. His son described him, "By nature he was extremely reserved, not loquacious, rather austere in countenance – but amongst his friends and acquaintances, his reserve disappeared and his companionship was highly agreeable. His tastes were democratic and his life unpretentious. Politically he retained till his death the utmost confidence in the good judgment, integrity and uprightness of the masses of the people, yet he lived apart from the people much preferring his secluded farm to life in a city." Craving solace, he found no more pleasure in life than in immersing himself in books, which he purchased with aplomb and which he had since Princeton critiqued unfailingly in his diary and letters. Indeed, Napton would find a balance of intellectual solace and the law profession not on the courtroom floor, but behind its bench.

"By nature he was extremely reserved, not loquacious, rather austere in countenance – but amongst his friends and acquaintances, his reserve disappeared and his companionship was highly agreeable. His tastes were democratic and his life unpretentious. Politically he retained till his death the utmost confidence in the good judgment, integrity and uprightness of the masses of the people, yet he lived apart from the people much preferring his secluded farm to life in a city."

After serving briefly as the state's attorney general, in 1839, at the age of thirty, he was appointed to Missouri's Supreme Court by Gov. Lilburn W. Boggs on the resignation of Judge Robert Wash. For nearly a quarter century (the fifth-longest tenure among Missouri's supreme judges), Napton's allegiance to the state's highest bench proved undeniable, though it often tested his endurance and his patience. Whether on or off the bench, he became the Court's consummate critic, suggesting his abiding concern for maintaining the quality of Missouri's highest judicial institution. Napton expected the Missouri Supreme Court to be superior in every respect, and his extended experience either on it or in front of it convinced him the Court had not yet reached its potential. Therefore, he regularly criticized the office and institution he profoundly respected.

Napton's most recurring complaint about life on the bench was the long hours and low pay. He considered his $1,500 annual salary paltry, particularly for the extended hours he spent hearing cases and writing opinions. He often thought about leaving the bench. While immersed in his judicial duties in February 1846, Napton lamented:

> During the week we have been engaged, either in hearing or deciding causes, and I have very little opportunity of writing except on Sunday. It is a dour life – that of Judge of our Sup.Ct. – and I should be glad if my circumstances would permit to quit it.

Nothing but the necessity of providing for a family would induce me to continue in the performance of such laborious duties. Nor have the convention raised the salaries – but they have left it to the legislature.

However onerous he often found his duties, the bench served Napton in two important ways in helping him to replicate the southern life he left. The first came from his marriage. In 1833, Napton met Melinda Williams, then thirteen, daughter of Thomas L. Williams, and influential and well-connected Judge of the Supreme Court of Tennessee, and for many years Chancellor of the Eastern Division of that state. Melinda and her sister were "domesticating" (as Napton termed it) at "Experiment," the Saline County farm owned by her uncle, Gen. George E. Smith, a native Virginian and the largest slave owner in Saline County. The couple were married in 1838, and ultimately produced ten children – nine sons and one daughter. Melinda brought slaves and property from her family immediately into the household, and Napton soon acquired his 1,700 acre Saline County farm two miles south of the Blackwater, which he called Elkhill. Napton's son, Harry, later credited the name to a "place which Thomas Jefferson owned in eastern Virginia." Just as Napton's chosen path as a judge replicated the path of his wife's' Tennessee family (in honor, he named all of his nine sons in part for members of his wife's family, rather than his own), his farm owed its conception to a distant Virginia landscape.

The bench also allowed Napton to insure the institution which he considered essential to achieving the southern gentility he sought in Missouri. That institution was slavery. Throughout his career, Napton consistently upheld the rights of slave owners to their chattel property, including ruling more than once on one slave freedom suit (Charlotte v. Chouteau). Only because he lost his bid for re-election in 1852 (when positions on the supreme court were made elective) did he not participate in the most celebrated slave case in Missouri, Dred Scott v. Emerson. As a slaveholder, he routinely commented on the political situation in the nation as it unfolded in the West. A rock-ribbed agrarian utopian, Napton promoted the classical republican image of superior slave-based societies, including Missouri, arguing that:

> "Whatever may be thought or said of the evils of slavery, and no people are more fully apprised of or regret them more than the intelligent slaveholders themselves, it is certain that the institution has the effect of ridding society of a great many evils which infest countries where free labor alone is found and tolerated. Hence a certain degree of dependence and loftiness of sentiment pervades even the poorer and humbler classes of citizens, which among the idle and higher classes, is united with intelligence, taste, and refinement…We are clear of these evils here….To slavery we owe this distinction."

Consistent with his unwavering support for the peculiar institution, Napton secretly authored the infamous Jackson Resolutions, which in 1849 instructed Missouri's senators (targeting Thomas Hart Benton) to vote consistently in favor of slavery's extension into the West. The furor cost both Benton and Napton their respective seats. In 1855, he served as a delegate from Saline County to the Slaveholders Convention held at Lexington, acting as chair of the committee that drafted the Convention's official address to the public and to Congress. In it, he condemned the extralegal actions in Kansas and offered a number of arguments against what he and many westerners saw as the government's war against slavery, including positive good arguments ("….both in Virginia and Kentucky, slavery…has been accepted as a permanent part of their social system"), political arguments ("{Massachusetts} Abolitionists and their allies… prostituted an ancient and respectable Commonwealth – one of the Old Thirteen – to commence, in her sovereign capacity as a State,…a crusade against slavery"), economic arguments (Missouri contained…one hundred thousand slaves, and their value amounted to fifty millions of dollars…{T}he abolition of slavery here would involve the destruction of productive capital estimated at fifty millions of dollars"), and historical arguments ("{I}n the history of African slavery up to this time, no government has ever yet been known to abolish it, which fairly represented the interests and opinions of the governed"), and constitutional arguments ("Missouri has taken her position…based upon the Constitution-upon justice, and equality of rights among states").

As Napton saw it, the Civil War threatened all that he considered civilized, but more important, all that he had come to believe himself to be. His place as a respected jurist and large landholder were entwined inextricably with his status as a slaveholder.

Because of slavery, above all else, Napton saw his ascension to the ranks of the elite of Missouri society, regardless that his income was hardly commensurate with the economic elite of the state (just before the war, his salary peaked at $3,100 yet his farm never produced a large income, and he struggled to maintain both a large family and farm as well as the manifold expenses incurred by keeping a separate residence for nine months a year in St. Louis and Jefferson City).

As Napton saw it, the Civil War threatened all that he considered civilized, but more important, all that he had come to believe himself to be. His place as a respected

jurist and large landholder were entwined inextricably with his status as a slaveholder. When the North and the federal government inaugurated a war against the South, his status as a slaveholder overshadowed his support for the Union. He sought during his entire adulthood the avenue to become a southerner by right, if not by birth. Ironically, the war gave him that opportunity only to take it away. Opposing the war brought not only to the seceded states but to the neutral slave states like Missouri as well, Napton could by association throw his lot with the South. For refusing to take the loyalty oath, he lost his seat on the bench. His eldest son, Billy, enlisted and served briefly in Confederate service. To his final years, though he regained his seat on the bench in 1873, Napton criticized the federal government for its unlawful intrusions into neutral Missouri and maintained a belief in racial superiority indistinguishable from those of Deep South apologists, even sharecropping out his beloved Elkhill to black tenants because none of his children had interest in sustaining his pastoral rural life. In 1871, Napton received what he considered his greatest recognition; he was invited back to the University of Virginia to offer an address to the alumni. To his listeners, he lauded the historical tradition of rural Virginia and the important place that the state would yet hold in the uncertain future of the nation. He concluded by stating, "Mr. President, I am not a Virginian. What I have said has been prompted...by the hearty admiration for the people and country, the social, educational and political institutions then characteristic of Virginia." He died in 1883 at his Saline County home. While he might have at last admitted he was no Virginian, William B. Napton had become something far more. He was now a southerner.

Go West Young Man
Abiel Leonard *(continued from page 4)*

in the War of 1812 and was commander of Fort Niagara. However, when the British captured the fort in 1813, it was later revealed that Captain Leonard was absent from his duty and that the main gate of the fort had been left open. As a result, in 1814, he was relieved of his command and discharged for "gross neglect and inattention to duty."

In 1813 Leonard enrolled in Dartmouth. He was sixteen. His family wanted him to study for the ministry, but he found he was not suited for it, so in 1815 he left college. He was very conscience of the shame and public humiliation associated with the family name, and decided to move to Whitesboro, N. Y. where he studied law in the office of Gould & Still. He passed the bar in 1818 and made the decision to head west. He originally thought he would settle in St. Louis, but changed his mind when he realized there was more opportunity in Franklin, at that time, the most important and populous town in the area outside of St. Louis. After the 1811-1812 New Madrid earthquake, settlers in that region were awarded land certificates to settle anywhere in the Missouri Territory. A lot of them had decided to redeem their certificates for new land in this area. The potential for litigation seemed promising to Leonard.

Having arrived in Franklin, his funds exhausted, Leonard opened a school and taught while waiting to take the exam for law licenses in Boone, Howard and Cooper counties. His early practice was meager. E. R. Hayden, a lawyer in Franklin, tried to befriend him by sending him a client whose case involved a problem with a horse-trade. The client, however, objected, "to employing such a strange looking fellow" but Hayden assured him that Leonard would do a good job for him. Unfortunately, Leonard lost the case. No case was too small for Leonard to accept, one client received a judgment of $2.27 ?. Apparently some people employed him in spite of his appearance and "Yankee" background, as his personal records show that in 1822 from July to November he had earned $497.00 By 1823 he could practice in all counties in the area and had earned enough to buy a new suit of clothes, discharge his debts, keep his bills current and purchase a small piece of real estate in Boonville.

A turning point in Leonard's career occurred in 1824. Hamilton R. Gamble, a local attorney, resigned his position as prosecuting attorney for the first judicial district and Leonard was appointed to replace him. This provided him with a steady income as well as a way of meeting people and appearing before the public. More important it led to his most famous case and his involvement in a duel that would haunt him for the rest of his life. As prosecuting attorney, Leonard had the responsibility of trying a case of forgery and perjury against Major Taylor Berry, the postmaster in Fayette and one of its most popular citizens. He was a big, strong, athletic man, a local hero of the War of 1812. When the trial started, the major's supporters issued threats of "bodily harm" to Leonard and "anyone who falsely testified against the Major." The jury, composed of local citizens, were all Southerners whose sympathies were with the defendant and against the "Yankee." Berry was acquitted. But Berry was not satisfied even though he had won the legal battle. He sought personal satisfaction against Leonard as further means of rectifying the dishonor brought on by the public indictment. A few days after the trial, Berry assaulted Leonard calling him a "damn Yankee" and proceeded to beat him with a rawhide whip. He challenged Leonard saying, "I can whip you, but I am ready to receive any communication from you." At the time of the assault, Leonard was unarmed and without any means of defense. He later told a friend "all I could do was simply to stoop down and gather chips and throw them into his face." Leonard responded immediately to this public humiliation. He knew the beating and challenge could not go unanswered without being called a coward. He did not hesitate and sent the following terse note:

"Franklin June 26, 1824

Sir: I demand a personal interview with you. My friend Mr. Boggs will make the necessary arrangements on my part.

Yours, A. Leonard"

Berry replied two days later:

"Franklin, MO. June 28, 1824

Sir: Your note of the 26th has been received. Without urging the objection which I might have to the note itself, or to the demand which it contains, I shall answer it, to redeem a promise which I made at Fayette (in passion) that I will give you the demanded interview. My business, which embraces many duties to others, will require my personal attention until after the first of September next, after which time any further delay will be asked from you only. To make any arrangements, Maj. A.L. Langham will attend on my part.

Yours, Taylor Berry"

Before the meeting took place, Leonard was arrested and required to post a $5,000 bond. The two seconds, Boggs and Langham, met and agreed on the terms and regulations to govern the "duel." The date was set for the first day of September. Both parties would go to St. Louis, board a steamboat to Wolf Island, then a part of Kentucky, close to New Madrid, Missouri. Other regulations concerned the time, the count, the choice of positions, the distance of 10 paces, and even the proper dress, described as an "ordinary three-quartered dress coat."

During the intervening months, Leonard had a will prepared and authorized Payton Hayden and John Ryland to handle his pending lawsuits. Having no experience with weapons, Leonard spent the nine-week waiting period practicing with dueling pistols in the woods close to Franklin. With the help of Boggs, Leonard was able to acquire "such proficiency as to be able to wheel at the word and cut with a bullet from his pistol a white ribbon tied around a tree 20 feet away." Friends had hoped the long waiting period would result in a cooling off between the two men so the duel could be avoided, but both men seemed determined to carry it to its tragic end. There are several accounts of the duel. Two accounts say that Berry was killed with the first shot; another says the first shot only grazed him and that Leonard's second shot to the lungs delivered the fatal blow. Berry died three weeks later, however the cause of death was officially listed as pneumonia.

In the October 1824, term of the Howard County Circuit Court, Leonard was indicted for "sending a challenge", and his second, Mr. Boggs, "for bearing the challenge." Leonard was found guilty, was fined $150.00 and was disbarred and disenfranchised. Surprisingly, the citizens of Howard County rallied to his defense and started circulating a petition asking the Missouri General Assembly to exonerate Leonard and restore all his rights. By December 1824, the petition presented to the Legislature contained 1500 signatures of Howard County residents. On Christmas Eve, of that year, the House and Senate passed the following resolution restoring all of Leonard's rights.

"AN ACT FOR THE RELIEF OF ABIEL LEONARD

...Therefore, be it enacted by the General Assembly of the State of Missouri, That the said Abiel Leonard be and he is hereby restored to all the rights, privileges and liberties of a citizen of this State, in as full and perfect a manner as he possessed and enjoyed them before the conviction aforesaid. This Act shall take effect and be in force from and after the passage thereof, and shall be taken and considered a public act."

It is hard to believe, but several times later Leonard agreed to be a second in a duel for two of his friends, but in each case tempers cooled and the duels were cancelled. Later he challenged State Senator John Miller to a duel for making derogatory remarks about his "course, ill-formed features", but the Senator did not respond.

Leonard's practice, meager at first, grew rapidly after the news of the action of the legislature circulated around the state. His position as Prosecuting Attorney in Howard County had established his reputation as a trial attorney. In 1828, his defense and subsequent acquittal of David Todd, judge of the first judicial district, who was impeached and tried by the Missouri Senate, on charges of malfeasance in office, gave Leonard state-wide recognition as one of Missouri's' foremost attorneys.

With his fortune increasing, in 1830 he married Jeanette Reeves, daughter of Col. B. H. Reeves of Kentucky, one of the best lawyers in that state. They eventually moved to Fayette where they built a two story brick and stone house called Oakwood where they raised their family of seven children. The house still stands today. In 1834, he was elected to represent Howard County in the Missouri Legislature where he helped with the required ten-year revision of the Missouri Statutes.

As his fame grew, his practice was no longer limited to clients from Howard County. In 1834, the Mormon's, involved in problems in Clay and Jackson County, appealed to Leonard to join four other prominent attorneys they had retained to represent them. When Governor John Miller had a suit filed against him in chancery he asked Leonard to represent him, but Leonard had to decline as he was representing the party on the other side. Senator Benton, who was sued over a problem of debt, passed up the St. Louis lawyers and chose Leonard to represent him. In Boonville and Hannibal, the land titles were in chaotic

conditions, and Leonard was retained to sort out the problems. In 1843, when the legality of the conveyance of a part of the land where the capitol stood was challenged, Governor John C. Edwards secured an appropriation of thousand dollars to retain Leonard to handle the case.

Abiel Leonard's "Oakwood" in Fayette, Missouri

During his career, he became recognized as a scholar on constitutional law. In 1840 when a new constitution was drafted, the committee sent the final draft to Leonard for his perusal and comments. A major constitutional question developed in 1861 when Governor Claiborne Jackson, and all of the elected officers, left the state to join the Confederacy. Hamilton Gamble, then Provisional Governor, asked Leonard's opinion as to the power of the Missouri Convention to declare those offices vacant and create a provisional government. At the time, Leonard was the controlling member of the Committee of Eight in the convention and upheld the conventions' power to act.

Hamilton Gamble's resignation on November 15, 1854 from the Missouri Supreme Court, created another career change for Leonard. At first, Leonard refused to offer himself as a party candidate in the election unless he had the approval of all the lawyers in the state. He reconsidered when the lawyers unanimously pledged their support and petitioned him to become a candidate. State Senator J. O. Broadhead commenting on the election, said, "even though Leonard was a prominent Whig he was elected in a Democratic state because of his high character and his ability as a jurist." Leonard was sworn into office on January 31, 1855 to fill Gamble's unexpired term. Records show that he bought a silk hat and a frock coat for the ceremony.

His tenure on the court totaled only two years, but in that brief time the decisions he rendered have had a lasting effect on Missouri law. This being the only appeals court in the state at that time, the sessions were much longer and more numerous. The docket sheet dated March 9, 1855 shows 201 cases were heard from March 19 to April 30.

In his first term on the court, Leonard wrote 7 decisions. One of the cases dealt with the inheritance of a large tract of land in St. Louis. Leonard wrote a 17-page decision describing the history of Roman, Spanish, French and United States law concerning marriage contracts, second marriages and succession. Cutter v. Waddington, 22 MO. 206 (1855) A later case, presented the question "was the seller of a horse guilty of fraud because he did not disclose the horses' health problem to the buyer?" Leonard wrote "....the public morals require us to lay down and enforce such rules ...as well secure fair and honorable dealing. Common honesty in such cases requires a man to speak out. Ordinary fair dealing between man and man requires this of him....He was guilty of fraudulent concealment." McAdams v. Cates, 24 MO. 223-226 (1856) His decisions were lucid and concise. For example, Boernateen v. Heinrichs, 24 MO. 26, (1856) is only three lines. In describing the contents of a pleading he state "Facts and facts alone are to be stated." Edgell v. Sigerson, 20 MO. 495 (1855). He could also be sarcastic as in Almedida v. Sigerson, 20 MO. 498, (1855) when he replied to an argument by writing, "It is a most ingenious attempt to evade the statute, but it cannot be allowed to prevail."

With the beginning of railroad construction, Leonard wrote one of the more important decisions defining the term "eminent domain." Newby v. Platt County 25 MO 259 (1857) In Whitesides v. Cannon, 23 MO. 457, (1856) he concludes in a trust created for a married women, to protect her separate property from the influence of her husband, that the wife may act as a "femme sole." However, he felt strongly that if "a testamentary provision by a husband, of either real or personal property to his wife, to be void upon her marrying again, is not void as against public policy, but valid disposition under our laws." Dumey v. Schoeffler, 24 MO. 170 (1857).

Leonard resigned at the end of his term citing ill health as the reason. From the beginning of his term his health was always a concern. Records show that Leonard was absent the greater part of the March 1857 term and was absent all of the July term that same year. However, it is obvious he made the decision to retire very early in his term as six months after joining the court, he wrote his wife stating that when his term expired he would not seek re-election.

The years between the time Leonard retired and his death in 1863 were not as he had hoped. He had planned to retire to his home Oakwood in Fayette and live the life

of a country gentleman. However, he was immediately faced with the realization that his financial situation was desperate. As a young man, he had hoped to become wealthy through land speculation but instead he found he was land poor at the time when the price of land had declined. His salary on the court was only $2,500. a year, considerably less then he had made from his practice, and now his former clients had gone elsewhere. He was 61 years old and in debt. He decided to go to St. Louis and establish a law office there. In October 1858, he wrote his wife "I mean to work until I get out of debt." Later he writes, "I have no fees yet but will send you some money soon." In the summer of 1859, he was so ill he returned home. In May 1861, Leonard's wife wrote to their son, Reeves, who was in Berlin, Germany, "Our national troubles have had a bad effect upon your father...His property is not worth anything and he is not able to do anything." She urged him to come home and go to work. Leonard's problems were exacerbated by the threat of the coming Civil War. The real estate market was depressed and sources of credit, formerly available, were no longer open to him.

He could not tolerate the "d—-d rebels (who) were fighting to destroy the government that their forefathers fought to obtain." He was a Union man and made no effort to conceal his support for the North. He was opposed to secession and stated he "felt morally bound to obey the constitution and laws of the Federal government, the best government the world ever knew, and upon which the hopes of civilization rest." He wished he could help in the defense of his country, but realized "I have no strength of body to give her any aid." One of his sons did go to war and unfortunately died fighting.

Leonard died March 28, 1863, at 66 years of age. He owned about 60,000 acres at the time of his death: all mortgaged. To salvage as much as possible of the estate, the executors started advertising his land all over the country as well as in England, Scotland and Canada. Creditors deferred their claims in respect to Leonard's memory until after the war when the estate was finally settled. Later, his son was quoted as saying, "If he had lived another ten years, he would have died, as he hoped, a wealthy man."

On July 30, 1951, at the annual meeting of the Boonslick Historical Society, a bronze plaque was presented marking Oakwood as the historic home of Judge Abiel Leonard. It read, " Oakwood, erected 1834-36 by Judge Abiel Leonard, lawyer, statesman, Judge of the Missouri Supreme Court." An amazing tribute to a "Yankee Whig" who was originally ridiculed and shunned by the community. His great-great-granddaughter Jane Spencer Burcham unveiled the plaque.

The Missouri Supreme Court Historical Society Journal

Published periodically by the Missouri Supreme Court Historical Society
P.O. Box 448, Jefferson City, MO 65102

Editor: E. A. Richter
Associate Editor: Mrs. D. A. Divilbiss

MISSOURI SUPREME COURT HISTORICAL SOCIETY TREASURER'S REPORT
October 1, 2000

Balance on Hand - October 1, 1999			
Checking Account			$ 444.99
Money Market Account			75,927.93
			$ 76,372.92
Income - October 1, 1999 - October l, 2000			
Membership dues	$ 5,100.00		
Royalties from sale of Dunne's book	22.59		
Memorial for Judge Donnelly	50.00		
Memorial for Judge Seiler to fund Scholar	3,000.00		
Money from BSMSL dinner	8,500.00		
Interest on Money Market Account	2,765.40		
	$19,437.99		
Annual Expenses – October 1, 1999 – October l, 2000			
D. A. Divilbiss – Expenses for Kansas City Trustee's Meeting.		$ 208.78	
Alfred S. Neely – Honorarium and mileage for Speech at 14th Annual Meeting.		520.00	
Missouri Bar – Conference call at K. C. Trustee's Meeting.		139.00	
Capitol Projects – Mailing copies of "Journal."		152.97	
Brown Printing – Letterheads, Envelopes, "Journal" & Brochures.		2,240.05	
Jefferson City Country Club – 14th Annual Meeting.		926.28	
Jane Vetter – Flowers for 14th Annual Meeting.		56.84	
U. S. Postmaster – Stamps.		132.00	
D. A. Divilbiss – Office supplies & photocopies.		105.20	
St. Louis Bar Foundation – Tickets for BAMSAL meeting for Wally Richiter and D. A.		250.00	
D. A. Divilbiss – Expenses for BAMSAL meeting		195.09	
E. A. Wally Richiter – Expenses for BAMSAL meeting.		252.97	
Cote Sans Dessein – Flowers for April Enrollment.		100.00	
Intern Awards – Jeremy Neely		3,000.00	
Greg Bast		3,000.00	
Robert Seiler Scholar- Donald Matthews		3,000.00	
Secretary of State – Registration Fee.		15.00	
		$ 14,296.43	
Balance on Hand – October 1, 2000			
Checking Account			$ 4,874.31
Money Market			77,193.33
			$82,067.64
Allocation of Funds on Hand			
Herman Huber Memorial Fund			$ 525.00
Unrestricted Funds			81,542.64
			$82,067.64

P.O. Box 448
Jefferson City, MO 65102

Missouri State Archives
600 W. Main
P. O. Box 1747
Jefferson City, MO. 65101

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