

BEHIND THE BRICKS AND MARBLE:
HISTORY OF THE 1907 SUPREME COURT BUILDING,
A CENTENNIAL CELEBRATION

BY,

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I. INTRODUCTION

THE YEAR WAS 1881. It was the dawn of the “*New Commonwealth*”¹ – an era in American life and intellectual thought that can accurately be described as the early period in the shaping of modern America.² It was an eventful year which saw the Boston publishing house of Little, Brown and Company issue what would become a classic in American law and literature, *The Common Law*. On the first page of his classic work, Oliver Wendell Holmes, Jr. wrote: “The life of the law has not been logic, it has been experience.”³ And so too, is this phrase applicable to art and architectural history. History is a record of life. It is the story of civilizations, of cultures, and within them—the very institutions which we have constructed as symbols of our political and legal systems.

On November 15, 2007, the Supreme Court building marked its centennial. Like most state supreme courts and the Supreme Court of the United States, the Supreme Court of Missouri was housed in the basement of the state capital. In 1877, the Court received its first building located on the Southeast lawn of the Capitol where the Missouri Department of Transportation (MoDot) is currently

situated. The cost was \$ 17,000.00.⁴ This was a modest structure by any means, as the second state capitol building which was constructed following the fire of 1837 cost the taxpayers of the State a staggering \$350,000.00.⁵

A. THE COURT'S FIRST PERMANENT HOME

At the time the first supreme court building was constructed there were five Judges of the Court. By 1890, the Court was experiencing a substantial appellate backlog. Cases were lingering for a good three years without being heard and decided. To alleviate this problem and secure appellate justice for the citizens of Missouri, a proposed constitutional amendment was submitted to the voters in the November 1890 general election. Suffice to say, the voters adopted the proposed article of amendment.⁶ With passage of the amendment, the Court's size was increased from five to its present number of seven Judges. Not only did the 1890 amendment increase the size of the bench, the amendment created two divisions within the Court. Division One heard civil appeals, and Division two heard criminal appeals. Today, the Court sits *en banc* –in whole. Nonetheless, when needed for the administration of justice, the Court under the 1890 constitutional amendment retains authority to sit in division.⁷

B. THE 1890 ANNEX

An annex to the original (1877) supreme court building was constructed at a cost of \$12,500.00.⁸ The annex not only housed chambers for the new judges, it was also home to the supreme court law library. By 1903, the building was busting at the seams. Judges still took their meals with the lawyers who were to

appear before them the next day in Jefferson City's only hotel –The Governor Hotel. To alleviate the problem of over-crowding, the State purchased what had been the Thomas Lawson Price Mansion located at 207 West High Street as the new home for the state Supreme Court Building.

II. THOMAS LAWSON PRICE: THE MAN BEHIND THE COURT'S NEW VENUE

Who was Thomas Lawson Price, the man behind the Supreme Court's new home? Born in Danville, Virginia, on January 19, 1809, the future first mayor of Jefferson City, Missouri, attended the country schools, moving to Missouri in 1831. Settling in Jefferson City –then the new state capital (Jefferson City had only been the state capital since 1826), Thomas Lawson price conducted a stage coach line business and also engaged in manufacturing and mercantile pursuits. Upon the incorporation of the City of Jefferson, he was elected its first mayor in 1839. He served in that capacity from 1839-1842. Unsuccessful for state senate in 1845, he was commissioned a brevet major general of the Sixth Division of the Missouri Militia in 1847.

In 1849, Thomas Lawson Price was elected Lieutenant Governor of Missouri. He went on to serve as a State Representative from 1860-1862, was one of the incorporators of the Capital City Bank and president of Jefferson Land Company. Active in various promotions of the railways, when the Civil War broke out President Abraham Lincoln commissioned him a Brigadier General in the Missouri Volunteers. Thomas Lawson price served in this capacity from 1861-1862, when he was elected as a Democrat to the Thirty-Seventh Congress to

fill the vacancy caused by the expulsion of John W. Reed. Price served in Congress from January 2, 1862 to March 3, 1863. Unsuccessful in the 1862 mid-term elections, Congressman Price returned home as “Citizen Price” to pursue business interests.

In 1864 and in 1868 Thomas Lawson Price was elected a delegate to the Democratic National Convention. During this period, he had a mansion built on what would become the grounds for the 1907 Supreme Court building. The first Mayor of Jefferson City, Lieutenant governor of the State of Missouri, Brigadier General under Abraham Lincoln and a member of Congress died in Jefferson City on July 15, 1870. Thomas Lawson Price was interred in a private cemetery. In 1912, he was reinterred in the Riverview Cemetery.⁹

III. BURSTING AT THE SEAMS: THE SUPREME COURT GETS A NEW AND PERMANENT HOME

By 1903 the Court was busting at the seams. In that year, the Missouri General Assembly appropriated \$990,000.00 for the 1904 Louisiana Purchase Exposition (also known as the St. Louis World’s Fair).¹⁰ From the Fair’s surplus,¹¹ \$185,000.00 was to go for construction of the Supreme Court building. Then like now, by the time the Court was finished in 1907 there was about a \$215,000.00 cost over run. The cost of the building came to about \$400,000.00.

In 1905, the State obtained the present site,¹² and ground was broken in October 1905 –two months later than originally planned. But how one might ask, did the building get its shape?

A. AN ARCHITECTURAL CONTEST

Not any architect was hired to design and oversee the construction of the 1907 Supreme Court building. This was the period of the *Beaux-Arts*, of the French Neo-Gothic Renaissance. Plain but elegant was the concept that surrounded the design of the building. And the architects who competed to build the Supreme Court building were the best not only from a technical perspective – but also from the vantage point of beauty.

In 1911, the Capitol burned, and with it many of the State’s records. We do not have the winning plans. Suffice to say, evidence point to their destruction in the Great 1911 Capitol Fire.

1. THIRD PLACE

“Louis Clemens Spiering was born in St. Louis in 1874, into a cultivated German –American family. His maternal grandfather was Charles L. Bernays –a German born journalist whose St. Louis work as editor of *Anzeiger Des Westens* attracted President Lincoln’s admiration and patronage. His father Emil Spiering was prominent in St. Louis cultural life as the leader of his own orchestra. Louis Spiering attended Webster Public School before his family sent him to school in Cincinnati and then onto the Real – Gymnasium in Berlin.”¹³

In 1891, young Louis graduated from the Real – Gymnasium. He then attended the Royal School of Technology in Berlin where he studied architecture. Returning to the United States in 1892, he gained practical experience in the

Chicago architectural firm of William A. Otis. At night he studied water color at the Chicago Art Institute.¹⁴

In 1895, Spiering went to Paris where he sat for and passed the rigorous entrance exam for *l'Ecole de Beaux –Arts*. He spent the next seven years in Europe studying architecture. After successfully defending his thesis “A Mansion for a Rich Amateur of Music,” Spiering in June 1902 added his name “to the small society of American architects with a complete Beaux –Arts education.”¹⁵

In July 1902, a story ran in the *St. Louis Republic* “announcing Spiering’s decision to return to St. Louis and work on the World’s Fair with Chief Designer E.L. Masqueray.”¹⁶ The article in pertinent part read: “*Mr. Spiering, so far as known, is the only St. Louis architect holding a diploma from the Beaux – Arts. There are twenty such in America.*”¹⁷ During his time with Chief Designer Masqueray, “Spiering worked on the gardens, bridges and general layout of the Exposition grounds. He designed the restaurant pavilions and colonnades on Art Hill, the Horticulture Building, the “Palais du Costume,” the Wireless Telegraph Tower and was Superintending Architect for the French and Austrian governments’ exposition buildings.”¹⁸

In December 1903, Spiering opened his own practice and joined the fledging architecture department at Washington University in St. Louis. Professor Spiering must have been quite handsome as well as a popular professor because his involvement in the daytime architectural program at Washington University,

the “Girlish swoons,” and the effect of his lectures was recorded in the University’s magazine *Student Life*.

a. A PARTNER IN THE ARCHITECTURAL CONTEST

Louis Clemens Spiering teamed up with Professor Thomas M. Mann, an M.I.T. educated architect and chairman of the architecture department at Washington University in St. Louis to design the 1907 Supreme Court building. Despite the wealth of talent, the team of Spiering and Mann walked away with third place and a prize of three hundred and fifty dollars.¹⁹

2. SECOND PLACE

Second place and a prize of five hundred dollars went to St. Louis architect F.C. Bonsack.²⁰ Missourians and other individuals, who have traveled to St. Louis and are familiar with the Central West End, have passed by the magnificent works of F.C. Bonsack. In 1904, Mr. Bonsack built a carriage house at 4225 Maryland in the heart of the Central West End.²¹ In 1908, F.C. Bonsack designed the American Theatre which was located at 619 Market Street in the City of St. Louis. This was the original American Theatre owned by Louis Cella. Well built is an understatement. In 1953 the Cleveland Wrecking Company began razing the theatre. It took a crew of 75 to 100 men using 1000 foot cranes and 4,000 ton wrecking balls over a period of five months to bring the hotel and theatre down. This was the quality of workmanship that one saw in architectural design and construction in the late 19th and early 20th centuries.²²

a. A PIONEER IN AMERICAN ARCHITECTURE

Other structures designed by Frederick C. Bonsack include the Luyties Homeopathic Pharmacy and Company Building located at 4200 Laclede Avenue in the City of St. Louis. The architectural style was representative of the late 19th and early 20th centuries American movement –a break from the *Beaux –Arts* and the neoclassical European influence in art and architecture. American architects like Bonsack, were pioneers in what would become a style distinctively called “American Architecture.” In 2003, the Luyties Homeopathic Pharmacy Building was added to the *National Register of Historic Places*, a testament to Bonsack’s vision and to the man –one of St. Louis’ leading architects.²³

3. FIRST PLACE

The winning architectural team was that of Louis LaBeaume and Guy C. Mariner. The prize: One Thousand Dollars plus the contract of nearly \$10,000.00.²⁴ The sum was staggering. When we think of the real power of money in 1905 as compared to 2007, we notice that the architectural team of Louis LaBeaume and Guy C. Mariner divided between themselves twenty-three years of income.

a. LOUIS LABEAUME

Louis LaBeaume was born in St. Louis in 1873 and graduated from Washington University’s Manual Training School. He continued his education, studying architecture at Columbia University and then in Europe. Returning to the

United States he apprenticed in a leading Boston architectural firm of the day before making his way back home to St. Louis in 1902.

In 1902, he joined the Louisiana Purchase Exposition Company design staff. A few years later he opened a practice with Guy C. Mariner. Their architectural feats can be seen throughout St. Louis – be it the Divoll Branch of the St. Louis Public Library, the St. Louis Y.W.C.A., the Kiel Opera House (1934) or the Beaumont Medical Building (1926). Tour the Central West End and see the homes they designed on Westmoreland and Portland Places.²⁵

b. GUY C. MARINER

Guy C. Mariner was the youngest of all the architects to enter the competition to design the Supreme Court building. Born in Fredonia, Kansas on April 8, 1875, the son of George W. and Mary C. Mariner, young Guy attended Columbia University School of Architecture for three years. During this time, he worked under the famed New York architect John Galen Howard. From 1900 to 1917 Mariner practiced his profession in St. Louis, and from 1904 to 1911 he was in partnership with Louis LaBeaume.

Mariner has the distinction of being one of the first architects to be licensed by the State of Illinois. In 1915, Mariner resigned his membership in the St. Louis chapter of the American Institute of Architects. In 1917, he moved to New York, and after a brief period in land development he organized the Bonmar Development Corporation and also Guy C. Mariner, Incorporated. Capturing first place in the architectural design competition for the Supreme Court of Missouri's

new home –jettisoned Mariner onto the national stage. He is credited with designing the Severs Hotel in Muskogee, Oklahoma, the Lathrop Building in Kansas City, Missouri, the Crescent Hotel in Eureka Springs, Arkansas, the Soulard branch of the St. Louis Public Library, the New Kingsbury and Oxford Apartments, St. Luke’s Hospital on 5500 Delmar Boulevard in the City of St. Louis, the Y.W.C.A. in St. Louis, the University Club (which houses the alumni societies of Washington University in St. Louis and St. Louis University), and a plethora of other buildings in St. Louis.

In 1926, Chief Justice William Howard Taft, the only Chief Justice of the United States to have also served as President of the United States (1909-1913), invited Guy C. Mariner to submit plans for a building which would become the permanent home of the Supreme Court of the United States. Though he did not win the competition, he did win one in Missouri, and it is this red brick building, the 1907 home to the Supreme Court of Missouri that stands today as a testament to the ingenuity and talents of the architectural team of Mariner and LaBeaume.

Guy C. Mariner was the last of the competing architects. He died in Corning, New York in 1967 at the age of ninety-two. His talents can be found in Missouri, Arkansas, Oklahoma, Florida, and in Downstate and Upstate New York.²⁶

(i) THE 1907 SUPREME COURT BUILDING

When the Missouri General Assembly appropriated funds from surplus of the Louisiana Purchase Exposition (commonly called the St. Louis World’s Fair),

the plans for the current structure were accepted with a completion date before January 1, 1907.²⁷ Suffice to say, the Supreme Court building was not completed in a timely manner, and the Judges of the Court, and Court staff did not move into their new home until October 1907.

(ii) DESCRIPTION OF THE BUILDING

In the pages to the 1905-1906 Official Manual of the State of Missouri (commonly called the “Blue Book,” because of its cover), one comes upon a description of the new Supreme Court building in these terms:

It will be built on an eminence one-half block south of the capitol grounds at Jefferson City, and will be of stone, in the form of a parallelogram; of modern monumental style architecture, and will be 158 feet front and 112 feet deep.

It is to be constructed of hewn stone, and will embrace three stories and a basement. On the main floor there will be located a grand central corridor and offices for the Attorney-General, Clerk of the Court, Official Reporter, Marshal and Janitor. On the second floor the entire front will be occupied by the library — 158 by 40 feet. In each of the rear corners will be a courtroom, 36 x 44 feet, with the center space occupied by the judge’s assembly room, a lawyers’ waiting room and chambers for one of the Justices.

On the third floor will be six suites of rooms for the remaining Judges. Each suite will embrace a large working room, a small room for stenographer and a sleeping apartment. In the basement will be located the heating and lighting plant, store rooms, closets, etc., and immediately under the Clerk’s room on the main floor will be fire-proof vaults for records and documents. To this room the only access will be from the Clerk’s room above the stairway. The division walls be of brick and furnishing will be *plain but elegant*. Lavatories and closets will be located on each floor, and the structure will be modern in all its appointments.²⁸

This was the concept of Mariner and LaBeaume –and it was this concept – a blending of the *Beaux –Arts* with modern architecture, of stressing that a government building can be plain but elegant that caught the eye of the judges and which jettisoned this architectural team into first place.

(iii) BEAUTY FROM WITHIN: DIFFERENTIATING MISSOURI FROM OTHER STATE SUPREME COURT BUILDINGS

Unlike other state supreme court buildings, Missouri’s 1907 Supreme Court building is unique. During the two-year process of constructing the Supreme Court building, all vital materials except for the slate roof (which is still the original), are from Missouri. The marble that graces the Court is from Carthage, Missouri. The red bricks – a defining feature of the Court, are from Audrain County, a mile northwest of Jefferson City. Counsel tables and the tables in the law library, as well as some of the chairs in the Division One (the main courtroom), are made of walnut from Southwest, Missouri. And the iron rod on the winding banister is from Irontown in Southeast, Missouri. The only vital non-Missouri product that went into building the Court was the slate roof – slate which came from West Virginia.

B. CONSTRUCTION COSTS AND AN INVESTIGATION

The cost of construction ran to nearly \$400,000.00, an impressive sum of money a century ago.²⁹ The price tag for the Supreme Court’s new home drew the ire of some members of the Missouri General Assembly.

1. REPRESENTATIVE STAPLES

A call went up in the chamber of the Missouri House of Representatives to investigate the costs of the Supreme Court's new home. Leading the charge, a charge that would fail, was Representative Henry F. Staple of Atchinson.³⁰ A transplanted Missourian, Representative Staples came to Missouri from Fayette County, Iowa in 1876. Like many individuals of his day, Henry F. Staple wore an array of hats. He was an attorney, the publisher and editor of the Rockport Mail, a Cleveland Democrat, the former postmaster at Rockport under President Grover Cleveland and a musician of rare ability.³¹ This was the man who challenged the expenditures of the Supreme Court building.

Underlying Representative Staples' ire was not the need for a new and permanent Supreme Court building. It was the cost in excess of the contract price and of Governor Joseph Folk who recommended the expenditure of additional funds.

a. REPORT OF ATTORNEY GENERAL HADLEY

During the regular session of the Legislature, a question "arose as to making an appropriation for the payment of not only additional work which the Commission authorized and permitted the general contractor to perform, . . . , but also . . . additional work amounting to \$118,790, the Commission decided . . . before recommending to the Legislature the appropriation . . ."³²

The initial sum appropriated and to which the general contractor Hill and O'Meara of St. Louis agreed to was \$176,000.00.³³ In February 1906, the firm of Hill and O'Meara informed the Supreme Commission overseeing the construction

of the building that, “as contracted for,” the ‘building would be completed and ready for occupancy by the 1st day of October 1906, but that it would be necessary that Judges’ benches should be constructed and a number of other fixtures and appurtenances provided before the building could be occupied for court purposes.”³⁴ But what good is a supreme court building without fixtures and appurtenances? As time passed other problems began to emerge. The contractor informed the Commission that though the roof was “fire-proof in the ordinary understanding of that term, had some wooden construction and was not incombustible.”³⁵ The contract between the Supreme Court Commission and the general contractor was beginning to unravel.

On August 9, 1905, the firm of Hill and O’Meara informed the Supreme Court Commission “that a steel and concrete roof be substituted, and also recommended that be made in the front entrance, that skylights be put in the library ceiling, in order to insure better lighting, and that a better kind of plumbing be substituted for that called for by the contract.”³⁶ In his Report, Attorney General Herbert Hadley wrote:

As it was necessary that some of this work should be done before the building could be occupied, and unless it was done by the contractor in advance of an appropriation, there would be a delay from nine months to a year in time when the building would be ready for occupancy, and as the other changes suggested were recommended, both by the contractor and the architect, the Commission consented that this additional work, amounting to \$41,700 should be done by the contractor, upon the condition that no liability for the payment thereof would be incurred upon the part of the State or Commission in the event that the Legislature should not appropriate said sum of \$41,700 to pay for this work.³⁷

On March 19, 1906 the Commission entered into a contract with the contractor for the additional work. More proposals by the contractor followed upon the execution of the March 1906 contract. The Attorney General's Report discloses a pattern and practice by the general contractor at every turn in the construction process to obtain additional funds above the agreed upon contract price. As disclosed by Attorney General Hadley:

At the same time, the contractor submitted plans for the thorough completion of the building, including ornamental plastering, carving and inscriptions, filter, generator for light and electric dynamo (it having been ascertained that the power plant at the penitentiary was inadequate to furnish light for the new building and power for the elevator) electric elevator, screens, weather strips, mail chute, granitoid in basement, iron furring for plastering, marble and tile work, basement window guards, ornamental iron work, painting and decorating court rooms, bronze tablet, additional mill work, a granite retaining wall, granitoid walks, gutters, cabinet work, and additional hardware, which work the contractors proposed to do for the sum of \$ 118,790.³⁸

Aside from the ornamental work, the contractor's plans of March 19th encompassed necessities not luxuries: gutters, a mail chute, cabinets, screens, and a generator –and for performing the basics such as plastering and painting. By the time the Supreme Court building was completed and ready for business in October 1907, costs had risen to nearly four hundred thousand dollars. From a legal perspective the State did not owe additional sums to the firm.³⁹ In reaching this legal conclusion, Attorney General Hadley cited Article IV Section 44 of the 1875 Missouri Constitution governing the limitations of the General Assembly to enter into contracts. Article IV Section 44 stated:

The General Assembly shall have no power to contract or to authorize the contracting of any debt or liability on behalf of The State or to issue bonds or other evidences of indebtedness thereof, except in the following cases:

First, In renewal of existing bonds when they cannot be paid at maturity, out of the sinking fund or other resources,

Second, On the occurring of an unforeseen emergency, or casual deficiency of the revenue, when the temporary liability incurred, upon the recommendation of the Governor first had, shall not exceed the sum of two hundred and fifty thousand dollars for any one year, to be paid in not more than two years from and after its creation.

Third, On the occurring of any unforeseen emergency, or casual deficiency of the revenue, when the temporary liability incurred or to be incurred shall exceed the sum of two hundred and fifty thousand dollars for any one year; the General Assembly may submit an act providing for the loan or for the contracting of the liability, and containing a provision for levying a tax sufficient to pay the interest and principal when they come due (the latter in not more than thirteen years from the date of its creation), to the qualified voters of the State, and when the act so submitted shall have been ratified by a two-thirds majority, at an election held for that purpose, due publication having been made of the provisions of the act for at least three months before such election, the act ratified shall be irrevocable until the debt thereby incurred shall be paid, principal and interest.⁴⁰

What was the unforeseen emergency that warranted the General Assembly from encroaching upon the prohibition of plunging the State into undue indebtedness?

Surely not the building of the Supreme Court building! The general contractor had submitted a bid within the financial parameters set by the State. The parties to the contract had negotiated at arms length. The contract evidenced a meeting of the minds—a mutual assent as to the terms and conditions as set forth in the negotiations.⁴¹ What emergency existed aside from poor negotiations by Hill and

O'Meara as to warrant the invocation of Article Four, Section 44 of the 1875 Constitution? This was the line of reasoning articulated by Attorney General Hadley in his report to the General Assembly.⁴²

(i) SOVEREIGN IMMUNITY

The Attorney General's *Report* was based not only on the law of contracts, it sounded in sovereign immunity. "A subject cannot sue his sovereign; a citizen of the State cannot maintain an action against the State for labor performed or material furnished for the benefit of the State, however meritorious or necessary may have been his act in doing the work or furnishing the material."⁴³ Attorney General Herbert Hadley continued:

Therefore, construing the term "legal obligation" in the sense of constituting a basis for a legal action, there is no "legal obligation" on the part of the State to pay to the contractors the sum of \$160,790 for additional work done upon the Supreme Court building, as the contractors could not maintain a legal action either against the State or against any representative of the State in an official or personal capacity for the value of this work, or any part thereof.⁴⁴

Despite the opinion of the Attorney General, the Legislature enacted House Bill No. 948, "providing for the payment to the contractors of the sum of \$160,790 for the additional work done upon the Supreme Court building."⁴⁵ Near the end of his *Report*, Attorney General Hadley wrote:

It is simply a question whether the Legislature desires a building for Supreme Court purposes of the character and description of that this additional work has produced. If it does, no constitutional provision will be violated for paying for it. If it does not, no legal liability has been incurred by the State by reason of the fact that the contractors have done this additional work necessary to construct a building commensurate with the needs of the Judicial Department.⁴⁶

Attorney General Herbert Hadley had buttered both sides of the political toast. He had drafted a legal opinion for the Missouri General Assembly while in the end, paying homage to those who held the power of the purse. It was an erudite opinion –one that would not over shadow his political aspirations.

In November 1908, Herbert Hadley was elected Governor of Missouri.⁴⁷ From the Governor's mansion he went on to become Chancellor of Washington University in St. Louis⁴⁸ –a far cry from those early days as the State's chief lawyer.

b. SUPERINTENDENT FOURCHY'S REPORT

Construction of the 1907 Supreme Court building was mired in official reports. Not only did the Attorney General weigh in on the legal aspects surrounding construction costs, the Missouri General Assembly requested that Richard Fourchy, Supervising Superintendent of Construction of Public Buildings for the United States file a report on the construction of the Supreme Court building.⁴⁹

In early 1907, Richard Fourchy received permission from the Secretary of the Treasury George B. Cortelyou and Assistant Secretary of the Treasury J.H. Edwards to visit Jefferson City, Missouri without expense to the national government.⁵⁰ The purpose of the visit was to examine the architectural plans, drawings, specifications and contracts pertaining to the building, to examine the work done by the firm of Hill and O'Meara including all furnishings undertaken

without authority of the Commission overseeing the construction of the 1907

Supreme Court building and to file a report on the following points:

First: The general appearance and character of the building as to being in accordance with the modern styles of architecture and appropriateness of the design.

Second: The nature and character of the construction work, including workmanship and material.

Third: The cost of the complete building as to reasonableness, assuming the cost to be \$336,500.00, including cost per cubic foot as compared with other buildings.

Fourth: The manner in which the architects have supervised the work, and contractors complied with the requirements of the architects in reference to matters of construction and design.

Fifth: Whether the cost of the supplemental work (that is, of work not included in the original contract of \$176,000.00 of date August 9, 1905,) was, in itself, reasonable or excessive, regardless of the question as to whether the cost of the completed building (including supplemental work) is reasonable as a whole.⁵¹

From the view point of an architectural and design examination of the Supreme Court building, Supervisor Fourchy praised the high quality of the work, the supervision of the architectural firm of Mariner and LaBeaume, and found that the total costs were consistent with other such buildings.⁵² In his preliminary report, Richard Fourchy wrote: “Assuming the entire cost of the building, when completed, in accordance with specification and drawings now governing its construction and finish to be \$336,500.00, this building will have cost at the rate of 24 and 9-10ths cents per cubic foot, . . . a very reasonable rate.”⁵³

On March 23, 1907, Superintendent Richard Fourchy filed his *Final Report* with the Commission for the Construction of the New Supreme Court Building.⁵⁴ The Fourchy Report was deferential to the architects and the general contractors. And though the contractors exceed the agreed upon price, Richard Fourchy concluded that the extra sum requested was fair. Near the end of his *Final Report*, he wrote:

In competitive bidding on work of the class involved it is not uncommon for bidders in the first instance to vary as much as 10 per cent in their respective bids, so that even had my total result in this case been only \$146,000.00, as against the contractors' claim of \$160,790, I would not be justified in declaring the charges excessive, although I might consider them high.

It seems plain, therefore, that, under the circumstances, Hill & O'Meara will be entitled to receive the full sum of \$160,790.00, which they claim as soon as all of the supplemental work shall have been completed.⁵⁵

The *Fourchy Report* ignored simple percentages. The additional sum requested by the firm of Hill & O'Meara represented an additional ninety per cent (90%) over the agreed upon contract price. Even in the world of Richard Fourchy, this additional sum exceeded his additional ten percent figure. What are we to conclude as to Mr. Fourchy's expert Reports? Expert witnesses are by their very nature biased. They are bought and paid for. Historians have still to examine the intricacies of Richard Fourchy's connection to Missouri. But as Attorney General Herbert Hadley observed: "*It is simply a question whether the Legislature desires a building for Supreme Court purposes of the character and description that this additional work has produced.*"⁵⁶

B. REPRESENTATIVE STAPLE'S RESOLUTION

Representative Henry F. Staple of Atchinson led the charge against the vast over expenditures that went into the construction of the Supreme Court building.

On Friday, April 26, 1907 he stood before his colleagues in the House chamber and offered what has become a classic remonstrance against wasteful spending.

The Resolution in full reads:

Whereas, There is located in the center of the Universe a great Commonwealth, known as the State of Missouri, in the center of which is located a great and mighty city, called Jefferson, in honor of him who proclaimed political liberty to the world; and in this city is located a permanent seat of government, and the fixed and abiding place of the chief ruler, whose name is Joseph, whose predecessor was one Alexander M., who winketh the other eye, he being the successor of him who is called Lonnie, who was preceded by the great and only Bill, the same who is of great "Gum Shoe" fame. And behold the fame of this land hath gone abroad throughout the length and breadth of the whole earth.

And it came to pass in the first year of the reign of Joseph, in the first month and 4th day thereof, that the lawgivers of the people from every part of the land were assembled together in the city called Jefferson; and a majority thereof were of a strange political faith, being of those who vote not for "Jim Crow" bills," and contending that the foreigners pay the tariff and are followers of the teachings of one Teddy, the same who is of "You're a liar" fame, and who is wont to dine with Ethiopians. And the chief ruler, whose name is Joseph, sent unto the lawgivers much message, proclaiming unto them all the things he desired them to do, and and it was the 43rd General Assembly.

Now at this time there was in the treasury of the people of this land much money, the same being the unexpended balance of an appropriation for the exhibit of the great Commonwealth, to be made in the city by the "Father of Waters."

Now there is in the City of Jefferson a court commonly called the Supreme, and those who sit in judgment therein are seven in number, and they are great and wise men, and they spake unto the lawgivers and said unto them:

“Hearken unto us and we will teach you knowledge. Hear the words of our mouths and learn wisdom; for behold this the thing we have you do; give unto us this money, to the end that we may build for ourselves a fixed abiding place, for behold our present quarters are small, unsightly, unsanitary and unbecoming the dignity of this court and the great State of Missouri. Hearken unto us and we will build a building, the fame of which will be heard throughout the whole earth. It shall be complete in every particular from the foundation thereof even unto the tin Goddess of Liberty, holding the scales of justice on the dome, and the walls thereof shall abide forever, and your children shall rise up and call you blessed.”

And the lawgivers reasoned together and said—“So mote it be,” and they went their way.

Moreover, it came to pass in the third year of the reign of Joseph, in the first month of the year, and the second day of the month, when the lawgivers of the people were again assembled in the City of Jefferson, and they were of the political party whose motto is —“Salus populi suprema lex esto,” and it was called the 44th General Assembly, and they went forth at the break of the day to behold the beauties of the building, but when they saw it they were amazed, for the appearance thereof was like unto the appearance of an overgrown street car barn, and its beauty was like the beauty of a snaggle tooth Indian squaw of seventy-five summers, and it was red. And they tore their hair and rent their garments and clothed themselves in “sack cloth and ashes” and cried with a loud voice, saying, “Behold, we have been ‘gold bricked’ and our cake is ‘dough,’ for lo! when we return to our people and they say unto us, ‘Give us an account of your stewardship,’ and we ask them for re-election that we may make more laws and spend more of the people’s money, they will give us the ‘House laugh’ and say unto us, ‘Skidoo,’ for you are numbered twenty-three;” and they chewed the rag much.

And there came into that place a certain man who aforetime was a member of the Court, and was of them who made the contract. And he adorned himself with lace curtain whiskers, and his trade mark was like unto that of a sport, and his voice was as the voice of a roaring lion when he seeketh his prey. And he reasoned with the lawgivers long and earnestly and wept great tears, insomuch that they flowed into the river and threatened a flood in the city called “Cedar.”

And the lawgivers spoke, saying, “Let us sacrifice ourselves on the altar of country, for it is not mete that the Court of Justice should sit in a stolen building,” and they made the appropriation.

And the chief ruler sent unto them a message and gave them wise counsel, but they heeded it not in all particulars. Now when they departed for their homes, and the chief ruler examined the bills which they had passed and placed his autograph thereon; to the end that they may become laws. But he found that they had not heeded his counsel, and that the scribes who copy bills and made grievous errors and omissions. Therefore, he called unto him his chief scribe and said, “Send unto the lawgivers this proclamation: ‘array yourselves in a fried shirt, and red tie, put on your new Sunday suit, gather into your grip sack a change of underwear and a clean pair of socks and hike out for Jefferson City, and I have need of you.’ ”

And when they assembled themselves together they shook, each the other’s hand, and there was much hilarity and a great rejoicing among them, and the exposition of hot air was appalling, and they said one to another: “We will stay in this place even until the time when ‘The frost is on the pumpkin and the fodder is the shock,’ ” for their salary was five plunks per. And the chief ruler sent unto them another message and said unto them — “Hearken unto me, ye servants of the people, behold you have done well, but not enough. You have passed laws wise, unwise and otherwise, and behold your appropriation is no law, and is as useless as a stuffed club with the ‘stuffin’ out;’ therefore, get you to your labors and do this thing over again,” and the lawgivers became of a serious countenance and they looked at each other after the manner of men in great trouble. And they became very diligent in their labors. And one of their number, the same being my seat mate, who is of many years and white hair, rose up in the midst of their troubles and said — “Hearken unto me, my brethren; for behold there is in the land ‘A mysterious stranger,’ who is learned in the law and is reputed of great wisdom, and he is an officer of the State; therefore, I would resolute, and this is the manner of my resolution: Let us say unto our chief scribe, communicate with the ‘Mysterious stranger’ and say unto him: Render unto us an opinion, for behold we are all bailed up on this Supreme Court proposition.’ ” And when they had cast their ballots it was so ordered, and when the ‘Mysterious stranger’ had rendered his opinion, the substance thereof was about as follows: “The difference in the cost of the building completed and ready to occupy and a thorough and completed building is an additional cost of the latter of about one hundred per cent over the cost of the former.” Said opinion further recites that the State is in no wise bound to make any further appropriations for the completion of this building and it is not in any way bound to buy it or any part thereof from the contractors, but it would violate no law of this State in doing so, and that we have a perfect right, if we desire a court building of this kind,

to buy the same from the contractors. But said opinion does not recite what would be the status of the State's interest in this building in case the State refused to take the contractors part off their hands.

Now it seems from this opinion and from other known facts in the case that the State has been unwittingly drawn into a partnership, not of its own choosing, the status of which about as follows:

The State owns an interest in this building to the amount of the original appropriation, less the ten thousand dollars till unexpended.

The contractors own an interest to the amount of forty-one thousand seven hundred dollars, authorized and permitted by the commission, and the further amount of one hundred and eighteen thousand seven hundred and ninety dollars expended wholly on their own motion. If, then, the State has the right to buy the contractors part of the building or the right to refuse it, has it not also the right, if it does not desire to own a building of this kind at the estimated cost, to sell its part of the building to the contractors or to any other person, persons, firm or corporation who may desire to purchase the same and go into business with a full stock of ready made but unfinished Supreme Court buildings always on hand? therefore (*sic*) be it

Resolved, That it is the sense of the House that there should be appointed a commission, clothed and empowered with the full authority under the supervision, advice and direction of the legal department of the State, to sell the State's interest in the Supreme Court building, to the end that the State may gain undivided control of her funds, and profiting by past experiences, build for her people a much needed Supreme Court building suitable to the needs of the court, respectable in appearance, substantial in character and commodious in apportionment at a just and reasonable cost, and untrammled by the entangling meshes of a partnership net.

Resolved, That we go you one better, and we believe in the Good Book, which says that it is more blessed to give than to receive, and if you will add the following to your bill by asking for the appropriation for the completion of the Supreme Court building, we will help you pay for the same and forgive you and your trespasses:

Provided, That the joint committee appointed by the Senate and House of Representatives to investigate and adjust the differences in the cost of the Supreme Court building, in addition to the amount of the original contract entered into between the commission which had the construction

of said building in charge, and the architect, shall not allow any items of expense except that the same be properly itemized, signed and sworn to by the parties presenting the same, and that the itemized account shall not exceed both appropriations.⁵⁷

The tone of the Representative Staple's Resolution reflected the need for sound governmental accounting and oversight of contracts. The Supreme Court was in need of a new home. This Representative Staple's readily acknowledged. But in the same vein, he brought forth the issue of the general contractors stealing the State blind –of a nearly 100 % increase in building cost over a two year period. Were the cost incurred by the general contractors waste? Was the firm of Hill & O'Meara out to reek financial havoc at the taxpayers' expense? Should the Court have appointed two of its own members to the commission overseeing the construction of the Court? Today, the century old Supreme Court building is small. But in 1907, the new Supreme Court building was viewed as a “*red cow.*”

IV. THE GREAT FIRE OF 1911 AND THE SUPREME COURT BUILDING

Unlike today, in 1911 the Missouri General Assembly conducted business on Sundays! On Sunday evening, February 5, 1911 as the Senate and House of Representatives were in session, “a bolt of lightning struck the flagstaff and ignited the lantern at the top of the dome. The fire was communicated by the wooden framework to the roof of the building. In less than three hours the entire structure was in ruins.”⁵⁸

A. WHERE TO GO?

On Monday, February 6, 1911, the House of Representatives met at the Jefferson Theatre in Jefferson City for the purpose of conducting business. The first business of the House was deciding where to hold the remainder of its legislative session.⁵⁹ Representative H.J. Simmons of Shelby offered the following “Resolution” which was read and adopted by the House of Representatives:

Whereas, the capitol of the State of Missouri was, on the fifth day of February, 1911 destroyed by fire, leaving the Legislature without quarters in which to hold its sessions; therefore, be it

Resolved, that a committee of three be appointed by the Speaker of the House to secure suitable quarters for the House of Representatives and that said Committee is hereby given full power to equip same for the proper conduct of the business of the House, and that all expenses connected therewith be paid for out of the contingent funds of the House.⁶⁰

1. THE OFFERS POUR IN

On February 6, 1911 as the House of Representatives began the task of locating a facility to serve as their chamber for the remaining legislative session, offers throughout the State to house the Legislature began to pour in. The Business Men’s League of St. Louis offered the Senate and House to find suitable quarters for both chambers in St. Louis.⁶¹ St. Joseph, Missouri offered to lend its fire-proof auditorium to the “legislative bodies.”⁶² The Mayor and City Council of Palmyra offered to find suitable housing for both chambers in their modest town.⁶³ Suffice to say, the General Assembly was not short of offers as to where to sit for the purpose of conducting the State’s business.

2. GOVERNOR HADLEY WEIGHS IN

In a communiqué to the General Assembly of February 6, 1911, Governor Herbert S. Hadley opined that though the House and Senate “had no power to remove or provide for the location of a new State Capitol other than Jefferson City [.]”⁶⁴ the legislature “might by a joint and concurrent resolution provide for the holding of its sessions at a place other than the State Capital . . .”⁶⁵

a. OPTIONS IN THE SELECTION PROCESS

Leaders throughout the State had been gracious in offering their cities and towns to house the workings of the legislative branch of government. Now it was time for the General Assembly to decide where they would conduct the business of the State. The Supreme Court building⁶⁶ and the State Armory⁶⁷ and other structures within the City of Jefferson were advanced as possible venues. From a constitutional as well as a practical perspective, Governor Hadley’s communiqué of February 6, 1911 to the Legislature was sound. But how would the politics of selecting a temporary home of the State Legislature play out. This was the sixty-four thousand dollar question. And it was a question which the leadership in the General Assembly understood in terms of “time of the essence.”

3. DECISION DAY BY THE GENERAL ASSEMBLY

In a concurrent resolution of February 13, 1911, the Senate and House of Representatives agreed that that the House for the remainder of the Forty–Sixth General Assembly First Session would continue to meet and conduct its business in the Jefferson Theatre.⁶⁸ But where would the Senate meet?

a. THE SUPREME COURT: HOME TO THE SENATE

The Senate accepted the gracious offer of the Supreme Court to hold its sessions in Division One –today’s main courtroom – and in 1911, the Civil Appellate Division of the Court.⁶⁹ After 1911, the House and Senate met in a temporary Capitol which cost the taxpayers of Missouri \$77,427.00.⁷⁰ The Supreme Court building had functioned in 1911 in a dual capacity – as the chambers to the Missouri Senate and as its original purpose.

V. THE JUDGES

History transcends kings, queens, emperors, popes and wars: History is the study of human interaction. And to understand the Supreme Court of Missouri, we must examine the lives of those men who graced the bench during the construction of the Supreme Court’s new home.

Who were the Judges charged with overseeing the construction of the 1907 Supreme Court building? And when the Court opened for business in October 1907, what was the composition of the bench? Who were these Judges to first grace this magnificent piece of architecture?

A. THE JUDGES WHO SERVED AS COMMISSIONERS OF THE BUILDING

On March 30, 1905, the Supreme Court appointed two of their own to serve on the five member building commission charged with overseeing construction of the Court’s new home. The commissioners were Judges William Champe Marshall and James D. Fox.⁷¹

1. JUDGE WILLIAM CHAMPE MARSHALL⁷²

Many of those who graced the Supreme Court of Missouri were transplanted Missourians. So it was with Judge William Champe Marshall. A third cousin to the late Chief Justice of the United States John Marshall, William Champe Marshall was born on November 13, 1848 in Vicksburg, Mississippi, the son of Thomas A. and Latitia Miller Marshall. The future judge attended the University of Mississippi from 1865–1867. In 1867, he enrolled in the University of Virginia and received his LL.B. (Bachelor of Laws) in 1869. Returning home, William Champe Marshall was admitted to the Bar in November 1869. But his future home would be Missouri, the Show-Me-State.⁷³

On New Year's Day 1870, William Champe Marshall moved to St. Louis, Missouri where he established himself in the practice of law. His law partner, Shepard Barclay, went on to serve as a Circuit Court Judge in the City of St. Louis (1882-1888), a Judge of the Supreme Court of Missouri (1888-1898) and as a Judge of the St. Louis Court of Appeals from 1901-1902.⁷⁴

William Champe Marshall was active in Bar affairs, serving as Treasurer of the Missouri Bar Association for fourteen years,⁷⁵ whereupon he was elected President of the Bar in 1895.⁷⁶ A former City Counselor for the City of St. Louis, at the time of his election to the Supreme Court, Marshall had established himself as an authority in the field of municipal law — a relatively new field in American jurisprudence.⁷⁷ Though Judge Marshall was elected to a ten-year term in

November 1898, he served on the Court from January 1, 1899 through December 31, 1906 –deciding to return to private practice.

2. JUDGE JAMES D. FOX⁷⁸

The second of the two Supreme Court Judges who served as commissioners charged with overseeing the construction of the new Supreme Court building was Judge James D. Fox. The son of David M. and Eliza DeGuire Fox, the future Judge was born on January 23, 1847 on a farm near Fredericktown in Madison County, Missouri. David Fox, father of the future Judge was a highly educated Irish gentleman and was especially noted as an excellent criminal lawyer in the days of Henry Geyer⁷⁹ and Edward Bates⁸⁰ with whom he was associated in many important cases.

Educated in the public schools in Fredericktown and later at St. Louis University, Judge Fox studied law in his father's law office. Admitted to the Bar in 1866, his first case was in a justice of the peace court. And who was opposing counsel? None other than his father!⁸¹ Though concepts of legal ethics and professional responsibility had been articulated by Judge George Sharswood in his 1855 article published in the *American Law Register*⁸² – a code of legal ethics would have to wait until 1908 when the thirty year old American Bar Association enacted the first code.⁸³

On June 28, 1870, James D. Fox married Miss Laura Frazier daughter of William and Harriett Frazier in St. Michael's Catholic Church at Fredericktown. At the age of thirty-three, James D. Fox was elected Circuit Judge of the

Twentieth Judicial Circuit. He went on to win three other elections to the bench, and in only one election did he have an opponent. Popular and personal, Judge Fox was respected for his administration of justice. In 1900, Judge Fox was elected President of the Conference of Missouri Judges.

In November 1902, Judge Fox was elected a Judge of the Supreme Court of Missouri. He assumed his duties of a Supreme Court Judge on January 2, 1903, and in 1905, was appointed as one of the Court's two commissioners to oversee construction of the Supreme Court building.⁸⁴ On May 2, 1910, Judge Fox was elected by his colleagues as Chief Justice of Missouri. But the honor of serving as Chief Justice of Missouri was short lived.

Judge James D. Fox died in the City of St. Louis on Thursday, October 6, 1910, and he was buried on Sunday, October 9th in Fredericktown.⁸⁵

3. THE JUDGES DURING CONSTRUCTION OF THE BUILDING

One would be remiss in not mentioning those Judges who graced the Supreme Court bench during the time of construction.

a. JUDGE THEODORE BRACE OF MONROE COUNTY (1887-1907)⁸⁶

Theodore Brace a native of Allegheny County, Maryland was born on June 10, 1835, the son of Charles and Adelia White Brace. The future judge attended the common schools in Allegheny County and studied law at Cumberland, Maryland. Admitted to the Maryland Bar in 1856, Theodore Brace removed to Missouri settling in Monroe County.

When the Civil War broke out, Theodore Brace true to his Southern roots joined the Confederacy –which became the Missouri Third Calvary Regiment. Demonstrating leadership he was elected (unlike today’s military concept of promotion), to the rank of Captain of Company A. By 1862, he had risen to the rank of Colonel. But Colonel Brace’s days on the battlefield was short-lived. In that same year he was taken as a prisoner of war near Springfield, Missouri. When Lee surrendered to Grant at Appomattox in 1865, Colonel Brace was a non-combatant, a guest of the Army of the Potomac.

With the war over Theodore Brace returned home only to face the Drake Constitution –Missouri’s second constitution that was adopted in 1865. The “Iron-Clad Oath –a test-oath, required civilian Brace to swear or affirm that he had not taken up arms against the Government of the United States, that he was not a Southerner or Southern sympathizer, and that he did not have leanings in that direction. Those individuals who could not take the oath were prohibited from practicing law, medicine, from preaching the Gospel, and teaching school. In *Cummings v. Missouri*, the Supreme Court of the United States declared Missouri’s “Iron-Clad Oath” to violate the ex post facto clause of the Constitution. The Court’s opinion lifted the legal impediment which had barred Brace from practicing law.

With the legal impediment removed, the once Confederate Colonel returned to his civilian law practice. During the 1870s as the “Age of Gold and Glitter” began to impact American life, Theodore Brace found himself as City Attorney for

Paris, Missouri. In 1874, he was elected to the Missouri Senate to fill out an unexpired term. In 1879, he was elected probate Judge of Monroe County. From here there was no turning back. Greatness bespoke the man.

In 1881, Judge Brace was elected Circuit Judge of the 16th Circuit. Known for his impartiality and legal abilities, his reputation soon began to spread. In 1886, the State Democratic Convention enthusiastically made him a nominee of their party for the position of Supreme Court Judge. Elected to the Supreme Court in November 1886, Judge Brace took office in January 1887. He was reelected as a Judge of the Supreme Court in the general election of November 1896, and served until his term expired on December 31, 1906.

b. JUDGE GAVON DRUMMOND BURGESS OF LINN COUNTY (1893-1910)⁸⁷

Gavon Drummond Burgess was born in Fleming County, Kentucky on November 5, 1833, the son of Henry D. and Evaline Dye Burgess formerly of Maryland. With little education except that afforded by the common schools in those days –usually not pass the third or fourth grade –young Gavon early in life decided that he wanted to become a lawyer. To this end, the future judge seized every moment to improve his mind. In 1851, he began reading law in the law office of William H. Cord known to the legal profession as the author of *Cord on Rights of Married Women*,⁸⁸ a standard treatise on the subject in that day.

Admitted to the Bar in 1853, Gavon Burgess practiced law in Kentucky from 1853 until he moved to Missouri in the autumn of 1855. Locating in Milan, Sullivan County, the future Judge hung out his shingle and engaged in the practice of law

until 1866 when he moved to Linneus in Linn County. In 1874, Gavon Burgess was elected Circuit Judge of the Eleventh Circuit and was successfully reelected for eighteen years.

In November 1892, Judge Burgess was elected to the Supreme Court of Missouri. He entered upon his ten-year term on January 1, 1893, and was reelected in November 1902. At the time of his death on December 17, 1910, Judge Burgess was serving as Chief Justice of Missouri. He was buried on Wednesday, December 12, 1910 in Linneus.

c. JUDGE JAMES BRITTON GANTT OF HENRY COUNTY (1891-1911)⁸⁹

James Britton Gantt was born in Putnam County, Georgia on October 25, 1845, the son of Britton and Sarah Williams Dismukes Gantt. Educated in the academies of Clinton and Bibb Counties, Georgia, young James enlisted in the Twelfth Georgia Infantry at the age of sixteen. Serving under General Stonewall Jackson of the Army of Virginia, James Britton Gantt took part in many battles – twice wounded at the Battle of Gettysburg. Gantt was also wounded at the Battle of the Wilderness at Cedar Creek, in the Valley of Virginia on October 19, 1864. It is said that the future judge never recovered from his wounds.

After the Civil War, Gantt enrolled at the University of Virginia where he received a law degree in 1868. Admitted to the St. Louis Bar, James Britton Gantt moved to Clinton in 1869. For a short period of time he was a law partner with future United States District Judge John F. Phillips and George Graham Vest, a

future United States Senator from Missouri and noted lawyer in the Old Drum case.

In 1880, Judge Gantt was elected Circuit Judge of the Twenty-Second Judicial Circuit then composed of Bates, Benton and Henry counties. In November 1890, Judge Gantt was elected to the state Supreme Court, and was reelected in 1900. But Judge James Britton Gantt and future Supreme Court Judge John C. Brown of Carter County were to make Supreme Court history in 1910. Only a few years before in 1907, Judge James Britton Gantt had the honor of serving as Chief Justice of Missouri at the time the new Supreme Court building opened for business. But would Judge Gantt's love of being a state Supreme Court Judge be soured in the hotly contested 1910 election and the Court's opinion of June 1912?

(i) ELECTION CONTEST IN THE COURT

In the November 1910 election, lawyer John C. Brown defeated incumbent Judge James Britton Gantt who was seeking his third ten-year term on the state Supreme Court. Speak about a lawsuit and the lawyers on both sides of the political controversy! The election contest in the state Supreme Court makes one appreciative of the Missouri Nonpartisan Court Plan⁹⁰ that places merit above politics –for that is how *dirty* the election contest between Judge Gantt and lawyer Brown was.⁹¹

Representing defeated Judge James Britton Gantt were none other than William Champe Marshall who served as a Judge of the Supreme Court from 1898

-1906, and William Muir Williams, who graced the state Supreme Court bench from 1898-1899, and who went on to be elected President of the Missouri Bar Association in 1903. Despite these heavy hitters in Judge Gantt's corner, the state Supreme Court did two things that stoked the political furnace for abolition of election of judges: *First*: Before deciding the case of *Gantt v. Brown* which would not come down until June 20, 1912, the Court seated John C. Brown as a Judge of the Court. *Second*: The Court handed down its opinion in *Gantt v. Brown* on June 26, 1912, 29 days Judge Gantt died.⁹² Was not the case of *Gantt v. Brown* rendered moot by reason of Gantt's death?

In the seminal case *Gantt v. Brown*, the Supreme Court was faced with the issue of whether death of a party abates an election contest. The Court answered in the affirmative.⁹³ Despite this fact, the Court engaged in a lengthy discussion of the issue – engaging in *obiter dictum*, and thereby distracted from the merits of the opinion.

Third: The Court decided *Gantt en banc*, when in fact, a second election contest arising out of the November 1910 election, involving a seat on the state Supreme Court, was pending before it.⁹⁴ *Fourth*: Because there were two election contests before the Court each of them involving a Supreme Court Judgeship, the Court sat with only five members, Judges Kennish and Brown (the ultimate victors) rightfully and ethically not sitting. But we are left to inquire as to whether or not this action of the state Supreme Court impacted its institutional integrity?⁹⁵

And if so, to what degree and period of time did the opinions in *Gantt* and *Timmonds* ruminate in Missouri legal and political circles?⁹⁶

d. JUDGE WALLER WASHINGTON GRAVES OF BATES COUNTY (1906-1928)⁹⁷

Judge Waller Washington (W.W.) Graves had firm roots in American soil. His family landed at Jamestown, Virginia in 1607, the first among them being Captain Thomas Graves. The Graves family was prominent in colonial life. The Graves family married the Wallers, Gabneys, Pollards and Carrs – other prominent colonial families. The Graves' finally settled in North Carolina. The future judge's mother's side of the family was from Virginia and Maryland. Suffice to say, his ancestors were large land owners.⁹⁸

Waller Washington Graves' parents settled in Lafayette County, Missouri. The future judge was born on December 17, 1860, the son of Abram L. and Martha E. Pollard Graves. Young Waller received his early education in the public schools of Lafayette County. In 1881, Waller Washington Graves graduated from the University of Missouri, and relocated to Bates County where he entered the noble profession of teaching school. In his off hours, Waller Washington Graves read law, and in 1885 he was admitted to the Bar.

Success soon followed this once school teacher. Four years after being admitted to the Bar he was elected Circuit Judge of the Twenty-Ninth Judicial Circuit, which office he held with distinction. Appointed to the Supreme Court of Missouri in 1906 by Governor Joe Folk of St. Louis, Judge Graves filled out the

unexpired term of Judge William Champe Marshall who had resigned from the Court.

In November 1908, Judge Graves was elected to a full ten-year term on the Court, and was reelected in 1918. In 1928, he announced his attention to seek a third ten-year term. Judge Waller Washington Graves would not live to see his announcement come true. The Judge died on June 17, 1928.⁹⁹

e. JUDGE HENRY LAMM OF PETTIS COUNTY (1905-1915)

The ‘Sage of Sedalia,’ the Court’s “poet in residence,” this was Judge Henry Lamm.¹⁰⁰ Born on a farm in Wayne County, Ohio on December 3, 1846 to good Pennsylvania Dutch stock, whose family had come to America before the Revolutionary War –Henry Lamm received his early education in Ohio. In 1867, he graduated from the University of Michigan. The *Michigan Alumnus* described Henry Lamm in these words:

Lamm is a strong man, mentally, physically and morally. . . .
A big broad shouldered man, full six feet in height with muscles
hardened at the plow, he was the foundation of force.¹⁰¹

Following graduation from the University of Michigan, Lamm sometime in 1867 removed to Sedalia, Missouri where he began teaching school. During his evenings and off-hours from the classroom, Henry Lamm engaged in the reading of law, and in 1871 he was admitted to the Bar. Like many attorneys of his day, Lamm served in the position of Circuit Clerk of Pettis County. But the position of circuit clerk was only to be temporary. In 1874, Henry Lamm and Peter Sangree

formed a most happy and successful law partnership –one that would last until his election to the state Supreme Court in the general election of November 1904.

Having served as circuit clerk, Lamm developed a taste for all things political. Shortly after forming his law partnership with Peter Sangree, the ambitious Henry Lamm served as City Attorney for Sedalia. From 1884 to 1888 he served as Prosecuting Attorney of Pettis County, and in 1892 he was the State Chairman of the Missouri Republican Party and delegate to the Republican National Convention.¹⁰²

Politics was running through Henry Lamm’s capillaries, veins and arteries. Bigger things were soon in sight. In 1902, he ran unsuccessfully for a Judgeship on the Supreme Court of Missouri. But the defeat did not get him down, for in November 1904, he was elected to the state Supreme Court for a ten-year term. Judge Lamm served only one term on the state Supreme Court, and like Mr. Justice Charles Evan Hughes, who stepped down from the Supreme Court of the United States, he and Justice Hughes¹⁰³ shared a common bound: political defeat.

(i) 1916: THE YEAR THAT WAS NOT TO BE

THE YEAR 1916: THE YEAR THAT WAS NOT BE. This, in the world of American political history summarizes the fate of Hughes and Lamm, giants in American law. In that year, Charles Evan Hughes, former Governor of New York State and Republican nominee for President of the United States went down to defeat by the incumbent, Thomas Woodrow Wilson of New Jersey. On the night of the presidential election, Justice Hughes had gone to bed before the vote came

in from the West coast. Would be President Hughes¹⁰⁴ awakened to a cold headline in the New York Times: “Wilson Sure of Victory.”¹⁰⁵ The same proved true for Henry Lamm who lost the Missouri governor’s race to Frederick D. Gardner his Democratic opponent by 2,163 votes out of a of total 762,347 votes cast.¹⁰⁶ The margin of defeat in the Missouri gubernatorial election was less than one-tenth of one percent of the vote. In the presidential election, President Wilson won reelection by a margin of only 3.1 percent.¹⁰⁷

And though the year 1916 was not to be for either man, both gentlemen have gone down in the annals of American political and legal history. Of Henry Lamm, one can accurately state that Judge Lamm was erudite. In 1918, Fred Mullinex published a book of excerpts taken from Judge Lamm’s opinions by the title, *Wit, Wisdom and Philosophy*. In 1926, Mullinex published a second volume on Henry Lamm, titled: *Legal Philology*.

On May 23, 1926, Judge Lamm died. He is buried in Crown Hill Cemetery, Sedalia, Missouri.¹⁰⁸

f. JUDGE LEROY B. VALLIANT OF THE CITY OF ST. LOUIS (1898-1912)¹⁰⁹

Like a majority of the Court a century ago, Judge Leroy B. Valliant was a transplanted Missourian. Born on June 14, 1836 in Muolton, Alabama, the son of Denton Hurlock and Narcissa Kilpatrick Valliant, the future judge graduated from the University of Mississippi in 1856 and Cumberland (Tennessee) University Law School in 1858. Returning home to his native Mississippi, Leroy Valliant

was admitted to the Bar, and entered upon the practice of law in Greenville in 1859. But the Civil War would interrupt the beginnings of his legal career.

A true Southerner, Leroy B. Valliant served as an officer in the Confederate Army and commanded Company "I" of the Twenty-second Mississippi Infantry at the Battle of Shiloh. More than luck can be attributed to him. After the Battle of Shiloh every field officer was either killed or disabled. Valliant survived.

After the War, Leroy Valliant and his wife, the former Miss Theodosia Taylor Worthington, daughter of Judge Isaac Worthington of Mississippi settled down.¹¹⁰ He returned to his Greenville law practice, and in 1867 was appointed Judge of the Court of Chancery.

In 1874, Judge and Mrs. Valliant moved to St. Louis. In 1886, Governor Marmaduke appointed Leroy Valliant a Circuit Judge for the City of St. Louis. He was reelected to the trial bench in 1892, and in 1898 he was elected to the Supreme Court of Missouri to fill the unexpired term of Judge George D. MacFarlane. Judge Valliant successfully stood for election to a full ten-year term in 1902. He closed out his judicial career while serving his second term as Chief Justice of Missouri.¹¹¹

On March 3, 1913, just three months and four days after the end of an illustrious career, Judge Leroy B. Valliant died. He was buried in Bellefontaine Cemetery in St. Louis.¹¹²

g. JUDGE ARCHELAUS M. WOODSON OF BUCHANAN COUNTY (1906-1926)¹¹³

Like his colleague Judge Waller Washington Graves, Archelaus Marius Woodson came from “one of the most illustrious”¹¹⁴ families in the West. Descended from John Woodson of Dorsetshire, England, the Woodson Family settled in Virginia in 1624.¹¹⁵ During their migration west, “they served as congressmen, judges, public officials and other professionals as doctors and lawyers across Virginia, Kentucky and Illinois.”¹¹⁶ Not to slight the feminine side of the Woodson Family, Betsy married John C. McCoy, who became one of the founders of Kansas City as well as the Santa Fe Trail.¹¹⁷

Archelaus M. Woodson, the ninth of ten children, was born in Knox County, Kentucky on January 30, 1854 the son of Benjamin Jourdan and Margaret Fulkerson Woodson, also of a noted Virginia family. His siblings are as fascinating as the future judge himself. They were: Stephen C. Woodson, President of the Saxton National Bank, Dr. C.R. Woodson, Superintendent of the State Insane Asylum No. 2; B.J. Woodson, a leading lawyer in St. Joseph and former Prosecuting Attorney of the county; W.E. Woodson and Calla E. Woodson, who became the wife of Dr. John B. Reynolds, County Physician of Buchanan County; the Honorable Silas B. Woodson, Governor of Missouri, and who was a half-brother to Judge Archelaus M. Woodson.¹¹⁸

In November 1854, the Woodson family relocated to Missouri, settling on a farm near Lexington, in Lafayette County.¹¹⁹ In the autumn of 1855, the family moved once again, this time locating near Sparta in Buchanan County.¹²⁰ There

they Woodson family sojourned until 1869 when they moved to Platte County. In 1886, the family moved once more, this time to St. Joseph.

Archelaus Marius Woodson attended Plattsburg College in Clinton, Missouri. Graduating in 1875, he entered Washington University Law School graduating with the LL.B. degree in 1877. In those days law school was two-years, but this is not to imply that the education was any the less rigorous than modern legal education. An aspiring student of the law in the 19th and early 20th centuries had to be adept in Latin and Greek. Many law students were also fluent in one or more of the romance languages –this we find in those lawyers who received a college or university education.

Admitted to the Bar in 1876, upon graduation from law school, Judge Woodson set up practice in St. Louis. Longing for the view of home scenes, of rural Missouri, the future judge in early 1883 moved to Platte City. In November 1884 he relocated to St. Joseph. There he established himself in the practice of law. On December 19, 1889 Governor David Rowland Francis (future Ambassador to Russia in 1916-1917, and President of the Louisiana Purchase Exposition Company –the 1904 St. Louis World’s Fair), appointed Archelaus M. Woodson a Circuit Judge for Buchanan County. In November 1892, Judge Woodson was elected to a six-year term.¹²¹

In 1904 Judge Woodson was nominated at the State Democratic Convention for a Judgeship on the state Supreme Court. He went down to defeat

that year, but won election to the state Supreme Court in November 1906. In 1916, he was reelected for a second ten-year term.

In a family that stands out in Missouri and American politics, Archelaus Marius Woodson took a backseat to no one. His most famous opinion, though a dissenting one, was in *State ex inf. Attorney General Hadley v. Standard Oil Company*.¹²² Prior to Judge Woodson's election to the Court in November 1906, the Court in an opinion by Judge Henry Lamm had appointed a master to take evidence, conduct a hearing and file a report with the Court.¹²³

(i) ANTI-TRUST LAW AND THE STANDARD OIL CASE: A BIRD'S EYE VIEW

The Sherman Anti-Trust Act of 1890 had proved unsuccessful before the Supreme Court of the United States as an effective weapon in trust busting. In *E.C. Knight Company v. United States*,¹²⁴ the Court in affirming the district court's dismissal of the anti-trust action brought by the United States held that, the fact that an item is manufactured in one state for the purpose of export to another state does not in itself determine whether the article passes from control of one state to the next for the purpose of enforcement of the anti-trust laws. Manufacturing, the Court held, did not constitute commerce within the meaning of the commerce clause to the Constitution. Though direct restraints to commerce remained vulnerable to the Sherman Act,¹²⁵ in practical terms, the Court's opinion in *E.C. Knight* substantially weakened enforcement power of the federal antitrust law.¹²⁶

Unlike the dismal success at the national level, Missouri was creative in its approach to the antitrust problem. Resort to the old common law, *a writ in the*

nature of quo warranto: or simply put, “‘By what right’ should you be allowed the privilege of practicing business in the State”¹²⁷ was the arsenal in busting the Standard Oil Trust. Standard Oil had a license to do business in the State of Missouri –a license, not a right. And it is this feature, a subtle one that highlighted the Standard Oil Case in the Supreme Court of Missouri. Not only was use of the ancient writ creative, it proved to be a success. The state Supreme Court fined Standard Oil the sum of Fifty Thousand Dollars and No Cents (\$50,000.00), to be paid into the “State Treasury for the use and benefit of the State of Missouri, within sixty days from rendition of this judgment.”¹²⁸

(ii) JUDGE WOODSON’S DISSENT

In his dissent, Judge Woodson did not find objectionable the busting of the “Oil Trust.”¹²⁹ The Woodson dissent viewed the Court’s remedy as not going far enough. *First*: Judge Woodson would have required the Waters–Pierce Oil Company, a subsidiary of Standard Oil of New Jersey to “in good faith, withdraw and completely sever all of its trust relations with the pool, trust and combinations charged in the information and which now stands convicted by a judgment of this court.”¹³⁰ *Second*: Judge Woodson would have required the Waters–Pierce Oil Company to sever their stock relationship from Standard Oil of New Jersey.¹³¹ *Third*: In his dissent, Judge Woodson would have required a severing of the interlocking boards of directors of the Waters–Pierce Oil Company and Standard Oil.¹³² *Fourth*: Judge Woodson would have required a complete severance of all

stock, trust relations, copartnerships, companies and corporations between these two business entities.¹³³

Last but not least, Judge Woodson would have suspended execution of the fine pending a ten day window to allow Standard Oil an opportunity to have indicated to the Court whether it intended to perform “the foregoing conditions and requirements.”¹³⁴ When viewed through the lens of equity jurisprudence, Judge Woodson attempted to balance the interest of the State against those of the trusts companies who had been found to have engaged in an unlawful restraint of trade, price fixing, and illegal combinations to the detriment of the citizens of Missouri. The Woodson dissent displayed an actual attempt to break the interlocking directorates –a progressive concept that would not become part of our statutory history until the New Deal which witnessed the birth of the Securities Act of 1933, the Securities and Exchange Act of 1934, and future congressional legislation aimed at curbing the abuses of inter-locking directorates.

Judge Woodson’s dissent in the *Standard Oil* case was a tour *de’force* in the development of contemporary antitrust law. A quarter of a century would pass, the nation and the world would be thrown into the Great Depression, and out of the abuses of the stock market crash of 1929 would come a posthumous recognition of Judge Woodson’s piercing dissent of 1909.

On November 15, 1925, Judge Archelaus Marius Woodson died while serving on the state Supreme Court. The Governor appointed the Honorable

Robert Otto of Franklin County to fill the vacancy created by Judge Woodson's death.¹³⁵

Around Christmas time 1940, Judge Woodson's brother who had been his law partner died. The *St Joseph –News Press* writing on the death of Ben Woodson had this to say:

*Ben Woodson was a gentle man being, a man marked by intellectual achievements. What Woodson was not? . . . Thus passes the last of the four brothers active in politics, all mentally towering high above the common herd. . . . Back in those days of the Woodson's political dynasty, and believe you us it was a dynasty, its political import was known from the Kaw River on the west to the Eads Bridge across the Mississippi to the east. They were one of the last remaining now fast disappearing, links with a bygone era . . . when native Missourians drank their bourbon whiskey straight and knew not the delicacies of cocktails and martinis.*¹³⁶

4. SALARY OF A SUPREME COURT JUDGE IN 1907

When the Supreme Court Building opened for business in October 1907, the Judges of the Court received an annual salary of \$4,5000.00.¹³⁷ It was a handsome income, and when we examine the gross domestic product index for 1907,¹³⁸ the salary of a state Supreme Court Judge carried a value of \$509,002.84 in today's world. Compared to his counterpart of today, he earned \$376,002.84 more.¹³⁹

VI. CONCLUSION

In 1907, a seat on the state Supreme Court was for all tense and purposes the capping to a long and distinguished legal career. Few members in the history of the Supreme Court of Missouri have gone on to serve as federal judges.¹⁴⁰

In the past century while the building has substantially stayed the same,¹⁴¹ today's Court is composed of young and vibrant blood. The Court as an institution of law and government has grown up. It has witnessed two world wars, each the War to end all Wars; it has been part of the atomic age, and has come to wrestle with questions of law clothed in the advancements of medicine,¹⁴² science and technology¹⁴³ that were once but of man's imagination.¹⁴⁴ Nonetheless, the Supreme Court of Missouri continues to function as it was designed to: as the State's highest court, cognizant of its duty to administer justice under law, to provide for a fair playing field, and to pronounce but not make law.¹⁴⁵

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¹ See John A. Garraty, *THE NEW COMMONWEALTH: 1877–1890* 1 (1968). The term “New Commonwealth,” is an attempt to describe the transformation of

American life from individual problem solving, to group problem solving by various segments of society such as, The Farmers' Alliance and Populist. The term of art by historians is also employed to describe an emerging new social order in American life –and the transformation of society from the days of the horse and wagon so to speak, to the era of the railroads; from an agrarian to an urban society.

² See Henry Steele Commager, *THE AMERICAN MIND: AN INTERPRETATION OF AMERICAN THOUGHT AND CHARACTER SINCE THE 1880's* (New Haven, Ct.: Yale University Press, 1950).

³ See Oliver Wendell Holmes, Jr., *THE COMMON LAW* 5 (1881) (Mark DeWolfe Howe ed., 1963).

⁴ See Joseph S. Summers, Jr., *PICTORIAL FOLK HISTORY OF JEFFERSON CITY, MISSOURI, 1890-1900* (1982, 1984 reprint); see also H.R. Walmsley ed., *THE STATE OF MISSOURI* 224 (Kansas City, Mo.: The Lewis Printing Company, 1932).

⁵ See 1911–1912 *OFFICIAL MANUAL OF THE STATE OF MISSOURI* 13.

⁶ See 102 Mo. iv–vi (1890), setting forth the adopted 1890 amendment.

⁷ See *Lucent Technologies, Inc. v. Mid-West Electronics, Inc. et al*, 49 S.W.3d 236 (Mo. Ct. App. W.D. 2001). In *Lucent Technologies*, the Court sat in division. After oral argument, the Court retransferred the case to the Missouri Court of Appeals Western District on jurisdictional grounds. During the 2005-2006 Term,

five members of the Court recused due to various reasons, albeit financial, family, former law partners etc. and the Court sat in division after appointing a special judge. The Court quashed a preliminary writ of mandamus. *See* State ex rel. City of St. Louis et al v. Honorable John J. Riley (Mo. Div. 1, April 12, 2006) (SC No. 87245). The Court sitting in Division One issued the following “Order” after Oral Argument: “The Preliminary Order is quashed. As to the discovery that is the subject of this proceeding, respondent is directed to assess all costs of that discovery to the party seeking the discovery.” Sitting in Division were Judge Teitelman, P.J., Judge White, and Judge Holliger of the Missouri Court of Appeals Western District sitting as a Special Judge.

⁸ *See* Joseph S. Summers, PICTORIAL FOLK HISTORY, *supra* note 2.

⁹ *See* n.a., Price, Thomas Lawson, 1809–1870, BIOGRAPHICAL DIRECTORY OF THE UNITED STATES CONGRESS 1774 –PRESENT, at <http://bioguide.congress.gov/scripts/biodisplay.pl?index=P000532>

¹⁰ *See Appropriations: World’s Fair*, Act of March 24, 1903, 1903 MO. LAWS 47, Section 1, at 48. For a cursory article on the construction of the 1907 Supreme Court Building *see* Bonnie Wright, Robert Durant Smith and Haden D. Smith, *And It Was Red: Missouri’s New Supreme Court Building 1907*, 78 MO. HIST. REV. 414, 415 (1984).

¹¹ *Id.*, Section 9, at 50; *see also Appropriations: Supreme Court Building*, Act of March 25, 1905, 1905 MO. LAWS 42-44.

¹² From a historical perspective, it is interesting to observe that, the General Assembly did not require that the present site of the Supreme Court of Missouri be located on the grounds of the former Price Mansion. Section Four of the Appropriations Act of 1905 for a new supreme court building reads in pertinent part: “The said board of commissioners are hereby authorized to locate said building *within the limits of the present capitol grounds or any place outside thereof or within or near the corporate limits of the City of Jefferson*; and if they determine that said building should be located outside the present capitol grounds they are hereby empowered and authorized to purchase on behalf of the State of Missouri any lots or plots of ground they may decide upon as a suitable and proper location for said building, . . .” 1905 Mo. Laws 42, Section 4 at 43.

¹³ *See Carolyn Hewes Toft, Louis Clemens Spiering –St. Louis Architects: Famous and Not So Famous, Part 17*, LANDMARKS ASSOCIATION OF ST. LOUIS, LANDMARKS LETTER (September/October 1991), at <http://st.louis.missouri.org/landmarks/architetcs17.html>.

¹⁴ *Id.*

¹⁵ Toft, *id*; *see also* Charles C. Savage, ARCHITECTURE OF THE PRIVATE STREETS OF ST. LOUIS: THE ARCHITECTS AND THE HOUSES THEY DESIGNED 205 (Columbia, Mo.: University of Missouri Press, 1987).

¹⁶ *See* Carolyn Hewes Toft, *Louis Clemens Spiering*, *supra* note 11.

¹⁷ Quoted by Toft, *id*. [Italics in original].

¹⁸ *Id*.

¹⁹ Toft, *id*.; *see also* REPORT OF THE STATE AUDITOR TO THE 44TH GENERAL ASSEMBLY OF THE STATE OF MISSOURI FOR TWO FISCAL YEARS BEGINNING JANUARY 1, 1905, AND ENDING DECEMBER 31, 1906 258, 259 (1907) (commonly called REPORT OF THE STATE AUDITOR). In 1905, a year's income for a junior partner in a law firm or a physician was six hundred dollars. In this light, Third Place and a prize of \$350.00 constituted half a year's income for a professional.

²⁰ *See* REPORT OF THE STATE AUDITOR 258 (1907).

²¹ *See* n.a., *Architects: Central West End, St. Louis, Mo. –Architects and the neighborhood homes they designed* at <http://stlouis.missouri.org/cwe/home-arch.htm#7>

²² *See* n.a., *Cinema tour: Cinema History Around the World* at <http://www.cinematour.com/tour.php?db=us&id=19872>.

²³ See n.a., *National Register of Historic Places: Missouri –St. Louis County* at <http://www.nationalregisterofhistoricplaces.com/MO/st+louis/state5.html>.

²⁴ Payment was of the Ten Thousand Dollars and No Cents (\$10,000.00), was broken down over the two-year period of construction. In the first year architects Louis LaBeaume and Guy C. Mariner received warrants in the amount of \$6,444.80. In the second year of the project they received warrants in the amount of \$3,505.20. See REPORT OF THE STATE AUDITOR 258-59 (1907).

²⁵ See Julius K. Hunter, WESTMORELAND AND PORTLAND PLACES, HISTORY OF PRIVATE STREETS 1888 –1988 (Columbia, Mo.: University of Missouri Press, 1988).

²⁶ See *G.C. Mariner, 92, Architect, Land Developer Dies*, THE CORNING– LEADER, June 23, 1967, OBITUARY PAGE; see also James L. Mariner, JAMES MARINER’S FAMILY PAGE, PERSON SHEET FOR GUY C. MARINER, SR., at http://www.users.qwest.net/~mjames1333/WebPage/Genealogy/PS01/PS01_106.HTM.

²⁷ See *The New Supreme Court Building, 1905–1906* OFFICIAL MANUAL OF THE STATE OF MISSOURI 118.

²⁸ *Id.* [Emphasis added].

²⁹ The cost to build the 1907 Supreme Court's new home was impressive. In real money today, and on the conservative side, to construct this building would run between \$15 to \$20 million dollars. Money aside, one can not reconstruct this beautiful building. *Why?* We as a society do not have the artisans, true artisans that were employed to build this building as Missouri had a century ago. This is all the more reason to appreciate the *Beaux – Arts* with then modern concepts of architecture.

³⁰ On Friday, April 26, 1907, Representative Henry F. Staple (Dem.-Atchison County), introduced a resolution calling for an investigation into the construction costs of the Supreme Court Building. *See* Resolution of Rep. Atchinson, JOURNAL OF THE MISSOURI HOUSE OF REPRESENTATIVES 44TH GENERAL ASSEMBLY EXTRA SESSION 136-37 (1907).

³¹ *See* 1907–1908 OFFICIAL MANUAL OF THE STATE OF MISSOURI 56. Born in Dearborn, Indiana on September 30, 1857, Henry F. Staple graduated from the State Normal School in Peru, Nebraska and from the University of Michigan Law School. *Id.* As set forth above, it was not uncommon for an individual to wear several hats. David Rowland Francis best known as the President of the Louisiana Purchase Exposition Company (commonly referred to as the 1904 St. Louis World's Fair), was an attorney, president of Madison County Ferry Company,

vice-president of the Merchants–Laclede National Bank, and president of the Merchants’ Exchange in St. Louis. He also served as mayor of St. Louis (1885-1889), Governor of Missouri (1889-1893); Secretary of the Interior under President Grover Cleveland (1896-1897); and in President Thomas Woodrow Wilson’s administration as United States Ambassador to Russia from 1916 until after the Revolution of 1917. *See* 1 Marshall S. Snow, HISTORY OF THE DEVELOPMENT OF MISSOURI AND PARTICULARLY OF ST. LOUIS 246 (1st ED., St. Louis, Mo.: National Press Bureau, 1908); *see also* n.a., Francis, David Rowland, THE COLUMBIA ENCYCLOPEDIA (6th ED., 2001-2005), at <http://www.bartleby.com/65/fr/FrancisDR.html>.

³² *See* REPORT OF THE ATTORNEY GENERAL OF MISSOURI TO THE MISSOURI HOUSE OF REPRESENTATIVES, APRIL 18, 1907 reported at JOURNAL OF THE MISSOURI HOUSE OF REPRESENTATIVES 44TH GENERAL ASSEMBLY EXTRA SESSION 65, 68 (1907).

³³ *Id.* at 66-67.

³⁴ *Id.* at 67.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 67-68.

³⁹ *Id.* at 69.

⁴⁰ *See* 1875 MO. CONST. ART. IV, SECTION 44.

⁴¹ *See generally* John D. Calamari and Joseph M. Perillo, THE LAW OF CONTRACTS SECTION 2-13 at 43-44 (2nd ED., 1977); AMERICAN LAW INSTITUTE (A.L.I.), RESTATEMENT OF THE LAW OF CONTRACTS SECTION 32 at 40-43 (1932) (Requirement of Certainty in the Terms of an Offer).

⁴² *Supra* note 32, at 69.

⁴³ *Id.* 69.

⁴⁴ *Id.* 69-70.

⁴⁵ *Id.* at 71.

⁴⁶ *Id.*

⁴⁷ *See* 1911–1912 OFFICIAL MANUAL OF THE STATE OF MISSOURI 19. At the general election on November 3, 1908, Herbert Hadley was elected Governor with a popular vote of 355, 932; Democratic candidate Cowherd's polled 340,053; Socialist Party candidate Garver received 14,505 votes; Prohibition Party candidate H. P. Faris of Clinton received 4,169 votes; and the People's Party

candidate William A. Dillon received 1,058 votes. *See Total Votes By Counties, For President and Governor. November 3, 1908, id.* 790, 791.

⁴⁸ *See* Joseph Fred Benson, *A History of Legal Education in St. Louis, 1843–1984*, 31 ST. LOUIS B.J. 75, 76 (Spring 1985).

⁴⁹ *See Statement of the Commission for the Construction of the New Supreme Court Building, and two Reports of Richard Fourchy, Supervising Superintendent of Construction of Public Buildings for the United States, as to Additional Work Done Upon the New Supreme Court Building*, JOURNAL OF THE MISSOURI HOUSE OF REPRESENTATIVES 44TH GENERAL ASSEMBLY EXTRA SESSION 72, 75, 80 (1907) [Hereinafter cited Fourchy Report]. Superintendent Fourchy filed his preliminary report titled PRELIMINARY REPORT OF RICHARD FOURCHY, March 12, 1907, *id.* at 75; and, FINAL REPORT OF RICHARD FOURCHY, March 23, 1907, *id.* at 80.

⁵⁰ *See* PRELIMINARY REPORT OF RICHARD FOURCHY, *id.* at 75.

⁵¹ *Id.* 77-78.

⁵² *Id.* 78-80.

⁵³ *Id.* at 78. Taken into account was the cost of the “fire-proof building with interior finish of the character of the work going into this structure.” *Id.*

Supervisor Fourchy then compared the cost per cubic foot to other then existing

fire-proof buildings of the era, and found the cost of the Supreme Court building to be consistent in cost. *Id.* 79.

⁵⁴ *Supra* note 49 at 80–81.

⁵⁵ *Id.* at 81.

⁵⁶ *Supra*, note 46 [Emphasis added].

⁵⁷ *See* Resolution of Representative Henry F. Staple (Dem.–Atchinson), JOURNAL OF THE MISSOURI HOUSE OF REPRESENTATIVES 44TH GENERAL ASSEMBLY EXTRA SESSION 136–37 (Friday, April 26, 1907).

⁵⁸ *See* 1911—1912 OFFICIAL MANUAL OF THE STATE OF MISSOURI 13-14. The bolt of lightning struck the 1837 Capitol Building at about 7 PM on February 5, 1911. *Id.* For a photograph of the Capitol building ablaze *see id.* at 10. The fire of 1911 was the second time in Missouri history that the State Capitol building had been struck by lightning and had burnt to the ground. The first Capitol constructed in Jefferson City in 1826 met its fate in November 1837. The *Jeffersonian Republican* described the fire in these words in its November 18th edition:

On Wednesday evening last, about nine o'clock, flames were seen bursting from the window of the north room of the State House, on the second floor, occupied by the Secretary of State. Every exertion was made by our citizens to extinguish the flames, but to no effect, there being no fire engines in the city. In a very short time the whole office was wrapt in flames, and no hope was left for arresting the progress. The books and papers of the Auditor's

office and part of the State Library, was with difficulty saved. Nothing was saved from the office of the Secretary of State . . . including the state seal . . . not even the smallest article of furniture. The destruction of the records of this office may be considered a great public loss.

In the November 25, 1837 edition of the *Jeffersonian Republican*, the newspaper pleaded for the establishment of a local fire department, writing:

It would certainly be well for our citizens to form a fire company under discipline sufficient to form a line to the river, in case of accident by fire. As might be expected in a place visited for the first time by this terrific element, the greatest confusion prevailed at the recent fire. Scores of men were seen running towards the scene without buckets . . . The forming of such a company would consume little time, and be attended with no expense to its members, except the funding by each of a fire bucket.

See Joseph H. Summers, Jr., *THE DAY THE CAPITOL BURNED*, February 11, 1911:

WITH A BRIEF PICTORIAL REVIEW OF THE DEVELOPMENT OF MISSOURI AND ITS CAPITOLS 56 (Jefferson City, Mo.: CeMoMedServ Publications, 1986). At the time of the fire, plans were underway to build a new capitol building. Summers, *id.* 59. From 1837 until the completion of the second capitol in 1840, the Cole County Courthouse served as a temporary facility for the Missouri General Assembly. *Id.* at 57.

⁵⁹ *See* JOURNAL OF THE MISSOURI HOUSE OF REPRESENTATIVES 46TH GENERAL ASSEMBLY 1ST Session (Twenty-Fourth Day, Monday, February 6, 1911)

[Hereinafter cited HOUSE J.].

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.* 311-12.

⁶³ *Id.* at 311.

⁶⁴ See 10 Sarah Guitar and Floyd C. Shoemaker eds., THE MESSAGES AND PROCLAMATIONS OF THE GOVERNORS OF THE STATE OF MISSOURI 380, 381 (Columbia, Mo.: State Historical Society of Missouri, 1928); also published as *Special Message of Governor Herbert S. Hadley Regarding Burning of State Capitol*, APPENDIX HOUSE AND SENATE JOURNAL, 46TH GENERAL ASSEMBLY 1ST SESSION PART 2 at 3, 4 (1911).

⁶⁵ 10 Sarah Guitar and Floyd Shoemaker, MESSAGES AND PROCLAMATIONS OF THE GOVERNORS, *id.* at 380; see also APPENDIX, HOUSE AND SENATE JOURNAL, *id.*, PART 2, at 3.

⁶⁶ See APPENDIX, HOUSE AND SENATE JOURNAL, *supra* note 64 at 3.

⁶⁷ *Id.*

⁶⁸ See HOUSE JOURNAL 339-40 (Twenty-Eighth Day, Monday, February 13, 1911). *But compare* Joseph S. Summers, Jr. THE DAY THE CAPITOL BURNED, *supra* note 58, at 27. According to Dr. Summer's (a Jefferson City physician and amateur historian), the House of Representatives met for the remainder of the legislative session at St. Peter's Hall now the Selinger Center of St. Peter's Catholic Church catty-corner to the Supreme Court building and across the street from the State

Capitol building. Dr. Summers quotes an article from the *Jefferson City Post* of February 7, 1911 to this effect:

The stage will be removed and a speaker's rostrum erected in place thereof. The members will leave for St. Louis tonight to get furniture for the new legislative chamber and Rep. Irwin said this afternoon that by Monday the members will be installed and ready for business at St. Peter's Hall. The school rooms below will be converted into committee rooms and school will probably be dismissed during the balance of the session. Father Selinger went to St Louis last night to get Archbishop Glennon's consent to dismiss school.

Dr. Summers' rested his historical account based on the February 7, 1911 edition of the *Jefferson City Post*. Six days after this news story appeared in the local press, the House of Representatives announced that they would continue to meet at the Jefferson Theatre. *See* HOUSE JOURNAL, *id.*

⁶⁹ *See* JOURNAL OF THE MISSOURI SENATE, 46TH GENERAL ASSEMBLY 1ST SESSION, 221, at 222 (Twenty-Eighth Day, Monday, February 13, 1911).

⁷⁰ *See* Joseph S. Summers, Jr., THE DAY THE CAPITOL BURNED, *supra* note 58, at 67.

⁷¹ *See* SUPREME COURT MINUTE BOOK, Thursday, March 30, 1905 at 140. The Supreme Court Minute Book is housed at the Missouri State Archives.

⁷² See e.g., 4 Howard L. Conard ed., ENCYCLOPEDIA OF THE HISTORY OF MISSOURI: A COMPENDIUM OF HISTORY AND BIOGRAPHY FOR READY REFERENCE 202-03 (New York: The Southern History Company, 1901).

⁷³ Interestingly, Judge Marshall served on the Supreme Court of Missouri at the time when Missouri Congressman Willard Duncan Vandiver (1897-1903), was supposed to have said at a naval banquet in Philadelphia, “I came from a state that raises corn and cockleburs and Democrats, and frothy evidence neither convinces nor satisfies me. I am from Missouri. You have to show me.” There are other versions of how the phrase Show-Me-State took root. See generally, *Why is Missouri Called the Show-Me-State,?* at <http://www.sos.mo.gov/archives/history/slogan/asp>.

⁷⁴ For a brief biography of Judge Shepard Barclay see L. C. Krauthoff, *The Supreme Court of Missouri*, 3 GREEN BAG 157, 190 (1891); Hugh P. Williamson, *Shepard Barclay: Aristocrat of the Law*, 17 J. MO. BAR 28 (1961); *In Memoriam: Hon. Shepard Barclay*, 317 MO. XLIII (1927).

⁷⁵ William Champe Marshall served as Treasurer of the Missouri Bar Association from 1881 through September 1895 when he was elected Bar President. See *Officers of Missouri Bar Association From 1880 to 1905*, PROCEEDINGS OF THE

TWENTY-FOURTH ANNUAL MEETING OF THE MISSOURI BAR ASSOCIATION 244-45
(1906).

⁷⁶ *Id.* at 245. Because the Missouri Bar Association did not hold an annual meeting in 1896 and 1897, Judge Marshall served a three-year term as Bar President.

⁷⁷ See Henry J. Lambeth, *The Practice of Law in 1878*, 64 A.B.A.J. 1015 (1978) (centennial issue). In 1872, Judge John F. Dillon's classic and first American law book on municipal corporations was published. See John F. Dillon, THE LAW OF MUNICIPAL CORPORATIONS (2VOLS., New York: James Cockcroft & Company, 1872).

⁷⁸ See generally 2 Howard L. Conard, ENCYCLOPEDIA OF THE HISTORY OF MISSOURI: A COMPENDIUM OF HISTORY AND BIOGRAPHY FOR READY REFERENCE 503 (New York: The Southern History Company, 1901).

⁷⁹ Henry Geyer was a prominent figure in the American Bar before and after the Civil War. He served as one of the attorneys who represented Dred Scott before the Supreme Court of the United States in *Dred Scott v. Sanford*, 60 U.S. (19 How.) 393, 15 L.Ed. 692 (1857). See e.g., William Van Ness Bay, THE BENCH AND BAR OF MISSOURI 143-152 (1st ED., 1878); George H. Shields, *The Old Bar of St. Louis* in A.D.J. Stewart ed., THE HISTORY OF THE BENCH AND BAR OF MISSOURI 112 (2nd ED., 1898); Walter H. Ehrlich, THEY HAVE NO RIGHTS: DRED

SCOTT'S STRUGGLE FOR FREEDOM *passim* (1979); *see also* Joseph Fred Benson, QUEST FOR FREEDOM: THE DRED SCOTT CASES IN MISSOURI AND AMERICAN LEGAL HISTORY 48-49 and notes 201-209 accompanying text (Unpub. Ms. 2006) (On file with the United States District Court for the Eastern District of Missouri Historical Society).

⁸⁰ Edward Bates was a noted St. Louis attorney. He served as a Judge on the St. Louis Land Court from 1853 to 1856, and was appointed United States Attorney General under President Abraham Lincoln. Bates served in the position of Attorney General from March 5, 1861 until his death in September 1864. *See n.a., Bates, Edward (1793-1864)*, BIOGRAPHICAL DIRECTORY OF THE UNITED STATES CONGRESS 1774 –PRESENT at <http://bioguide.congress.gov/scripts/biodisplay.pl?index=B000231>.

⁸¹ *Supra*, note 78.

⁸² *See* George Sharswood, *Professional Ethics*, 3 AM. L. REG. 193 (1855). The American Law Register is now the *University of Pennsylvania Law Review*. Regarding the development of legal ethics in American law *see e.g.*, Walter P. Armstrong, *A Century of Legal Ethics*, 64 A.B.A.J. 1063 (1978).

⁸³ Armstrong, *id.*

⁸⁴ *Supra*, note 71.

⁸⁵ The funeral Mass took place at St. George's Catholic Church in Fredericktown, Missouri, where Judge Fox and his lovely bride Laura Frazier were wed in June 1870 – forty years earlier. The result of Judge Fox's labors can be found in volumes 171 through 230 of the Missouri Reports. *See Resolution of the Southeast Missouri Bar, In Memoriam*, 232 Mo. iii –vii (1911).

⁸⁶ *See generally* A.D.J. Stewart ed., THE BENCH AND BAR OF MISSOURI 155-56 (2nd ED., Lewis Publishing Company, 1898); L.C. Krauthoff, *The Supreme Court of Missouri*, 3 GREEN BAG 157, 190 (1891); *Memorial*, 349 Mo. iii (1942).

⁸⁷ *See generally, In Memoriam*, 232 Mo. xii-xxix (1911).

⁸⁸ *See* William H. Cord, A TREATISE ON THE LEGAL AND EQUITABLE RIGHTS OF MARRIED WOMEN AS WELL AS IN RESPECT TO THEIR PROPERTY AND PERSONS AS TO THEIR CHILDREN: WITH AN APPENDIX OF THE RECENT AMERICAN STATUTES AND DECISIONS UNDER THEM (Philadelphia, Pa.: Kay and Brother, 1861).

⁸⁹ *See generally, In Memoriam*, 252 Mo. iii–xxxi (1913); *see also* 2 Howard L. Conard, ENCYCLOPEDIA OF THE HISTORY OF MISSOURI, A COMPENDIUM OF HISTORY AND BIOGRAPHY FOR READY REFERENCE 553-56 (New York: The Southern History Company, 1901).

⁹⁰ The Missouri Nonpartisan Court Plan was adopted by the voters at the general election on November 5, 1940, and has been a shining feature of Missouri's

judicial article for nearly seventy years. *See* 1875 MO. CONST. ART. VI, *amended by* Amendment of 1940 *in* 1939 MO. REV. STAT. (CUM SUPP. 1941); *readopted as* 1945 MO. CONST. ART. V, SECTION 25(a) – (g). *See also*, Jack W. Peltason, *The Missouri Plan for the Selection of Judges*, 20 UNIVERSITY OF MISSOURI STUDIES (No. 2, Columbia, Mo.: University of Missouri Press, 1945); Honorable Laurence M. Hyde, HISTORICAL REVIEW OF THE JUDICIAL SYSTEM IN MISSOURI 19-22 (Vernon’s Law Book Company, 1953). The latest scholarly article on the subject and highly worth reading is by the late Honorable Charles B. Blackmar, *Missouri’s Nonpartisan Court Plan 1942 to 2005*, 72 MO. L. REV. 199 (2007).

⁹¹ *See* *Gantt v. Brown*, 149 S.W.644 (Mo. banc 1912).

⁹² Judge James Britton Gantt died on May 28, 1912. *See In Memoriam*, *supra* note 89 at iii.

⁹³ *Supra*, note 91 at 646.

⁹⁴ *See* *Timmonds v. Kennish*, 149 S.W. 652 (Mo. banc 1912). In *Timmonds*, Kennish won the election contest and took his seat alongside of Judge Brown the only state Supreme Court Judge to come from Carter County, Missouri.

⁹⁵ Though the subject of judicial ethics is beyond the parameters of this article, the issues posed in *Gantt* and *Timmonds* raise interesting questions. *Gantt*, *supra* note 91; *Timmonds*, *supra* note 94. Not until March 1, 1966 did the Supreme Court of

Missouri enact Rule 1 known as the “Canons of Judicial Ethics.” *See* MO. REV. STAT. 1959 (CUM SUPP. 1967), 1672-1677; MO. RULES OF COURT 6 (1970) [Hereinafter cited MO. R. CT.]. Equally interesting is the question of why the state Supreme Court took 23 years to enact a code of judicial ethics when, in 1943, the Missouri General Assembly enacted a new code of civil procedure. *See Civil Procedure —General Code : Relating to the General Code of Civil Procedure, etc.*, Act of Aug. 6, 1943 , 1943 MO. LAWS 353-397, Section 10(a), at 359(codified as MO. REV. STAT. SECTION 506.030 (1949)). Section 10(a) of the 1943 Act, vested in the Supreme Court jurisdiction “to promulgate general rules for all courts of the state.” The 1945 Constitution vested in the Court the authority to establish rules of practice and procedure for all courts, 1945 MO. CONST. ART. V, SECTION 5; *see also* MO. REV. STAT. Section 506.030 (1949). In 1951, the Judicial Conference of Missouri adopted Canons of Judicial Ethics. These Judicial Canons were recommended by the American Bar Association. The 1951 canons have their roots in Biblical law and Magna Charta. *See* DEUT. 1:16-17; DEUT. 16:19 (King James Version REV. ED., 1970); MAGNA CHARTA CHAPTER XLV, contained in MO. R. CT. 7 (1970). For a more in depth examination of Biblical law regarding judicial ethics *see e.g.*, SHEMOT (EX.) 23:1, Not to hear one of the parties to suit in the absence of the other party (Mitzvot No. 245; Chofetz Chayim, SEFER HA- MITZVOTH HA-KATZAR /THE CONCISE BOOK OF MITZVOTH: THE COMMANDMENTS WHICH CAN BE OBSERVED TODAY, (Charles Wengrov, TRANS.)

(Jerusalem, Israel: Feldheim Pub., 1990) (Negative Commandment 65)); DEVARIM (DEUT.) 19:15, Not to decide a case on the evidence of a single witness. Chofetz Chayim, *id.*, Negative Commandment 73; VAYIKRA (LEV.) 19:15, To treat parties in litigation with equal impartiality (Mitzvot No. 251, Affirmative Commandment); VAYIKRA (LEV.) 19:15, Not to favor a rich man in his case (Mitzvot No. 253; Chofetz Chayim, *id.*, Negative Commandment 70); SHEMOT (EX.) 23:8, Not to take a bribe (Mitzvot No. 254; Chofetz Chayim, *id.*, Negative Commandment 71); DEVARIM (DEUT.) 1:17, Not to be afraid of a bad man when trying a case (Mitzvot No. 255; Chofetz Chayim, *id.*, Negative Commandment 72); SHEMOT (EX.) 23:3 and VAYIKRA (LEV.) 19:15, Not to be moved in trying a case, by the poverty of one of the parties (Mitzvot No. 256; Chofetz Chayim, *id.*, Negative Commandment 66). These are but some of the many Biblical commandments which governed judicial conduct in ancient times, and which have made their way into the common law and modern concepts of judicial ethics. To the Chofetz Chayim *compare* Moshe ben Maimon (Maimonides), the Rambam, SEFER HAMITZVOT, THE COMMANDMENTS: THE 613 COMMANDMENTS, A COMPREHENSIVE EXPLANATION OF THE 613 MITZVOTH (Rabbi Dr. Charles B. Chavel, TRANS.) (2 VOLS., London: Soncino Press, 1967). All citations to the Biblical text in Hebrew in this footnote are to Rabbi Dr. J.H. Hertz, z'l, late Chief Rabbi of the British Empire, THE PENTATEUCH AND HAFTORAHS: HEBREW TEXT,

ENGLISH TRANSLATION AND COMMENTARY (2nd ED., London: Soncino Press, 1961).

⁹⁶ Though scholars and commentators on Missouri law and politics have long looked to the year 1938, and the defeat of Circuit Judge James Billings of Kennett, Dunklin County, Missouri as the impetus towards adoption of the Missouri Nonpartisan Court Plan, an interesting question is: Did the rumination of the *Gantt* and *Timmonds* cases a quarter of a century earlier impact albeit consciously or unconsciously the adoption of the Plan? Regarding the Douglas-Billings election for Judge of the Supreme Court of Missouri in 1938 see Blackmar, *Missouri's Nonpartisan Court Plan*, *supra* note 90 at 199 note 1; Gerald T. Dunne, THE MISSOURI SUPREME COURT: FROM DRED SCOTT TO NANCY CRUZAN 116, 119 (1ST ED., Columbia, Mo.: University of Missouri Press, 1993). Neither scholar (*i.e.*, the late Judge Blackmar and the late Professor Dunne), with whom I had the privilege of knowing as a law student at St. Louis University more than a quarter of a century ago, address this interesting feature.

⁹⁷ See generally *Memorial to Judge W.W. Graves*, 336 Mo. iii –vii (1935).

⁹⁸ Reva Stubbelfield, *Our Heritage, Judge W.W. Graves: A true American*, BATES COUNTY (MO.) NEWS –HEADLINER, April 1, 1982, at 2.

⁹⁹ *Supra* note 97.

¹⁰⁰ See e.g., Ron Jennings, ‘Sage of Sedalia’ was judge, writer, candidate for governor, THE SEDALIA DEMOCRAT, MONDAY, DECEMBER 13, 1993, at 4; Hugh P. Williamson, *Henry Lamm: Scholar, Phrase-Maker and Wit*, 17 J. MO. B. 91(1961).

¹⁰¹ Williamson, *id.* at 91.

¹⁰² *Id.*, at 92. The Tenth Republican National Convention was held in Minneapolis, Minnesota at which the party nominated Benjamin Harrison for President and Whitelaw Reid for Vice-President. In November 1892, the ticket of Harrison-Reid defeated the Democratic ticket of Grover Cleveland and Adlai E. Stevenson. In 2008, the Twin-Cities will host the Republican National Convention, their first G.O.P. national convention in 116 years. See Jim Hammerand, *Twin Cities vies for national convention: A selection committee will examine the metro for suitability Aug. 13-15*, THE MINNESOTA DAILY, July 26, 2006, at <http://www.mndaily.com/articles/2006/07/26/68639>. In September 2006, the Republican National Committee selected the Twin Cities of Minneapolis-St. Paul to host to the 2008 national convention. See Liz Sidoti, *Source: Twin Cities Win GOP Convention –Republican convention in 2008 to be held in Twin Cities of Minneapolis-St. Paul, source says*, at <http://www.cbsnews.com/stories/2006/09/27/ap/politics/mainD8KDC2780.shtml>.

¹⁰³ Hughes lost the 1916 presidential election by a razor-thin margin. He was, however, anything but a political hasbin. On February 3, 1930, President Herbert Hoover nominated the elder statesman to become Chief Justice of the United States. The Senate confirmed Hughes' nomination on February 13th, and Hughes received his commission that same day. He served as Chief Justice until his retirement on June 30, 1941. He died on August 27, 1941. *See n.a., Hughes, Charles Evan, JUDGES OF THE UNITED STATES COURTS, FEDERAL JUDICIAL CENTER, WASHINGTON, D.C., at <http://www.fjc.gov/public/home.nsf.hisj>.*

¹⁰⁴ Before the vote from the West coast came in, the *Washington (D.C.) Evening Star* in a 9:20 PM Extra ran a front page story reading: *Reports Indicate Hughes' Election*, WASHINGTON EVENING STAR, November 7, 1916 at 1. Thirty-two years later, on November 3, 1948, the *Chicago Tribune* ran an extra edition that read: "Dewey Defeats Truman." On Wednesday, November 4, 1948, President Harry S. Truman with a smile on his face held up the newspaper. Truman had won the 1948 presidential election capturing 24,105, 812 popular votes (49.8%) and 303 electoral votes to Governor Dewey's 21,970,065 popular votes (45.1%) and 189 electoral votes. President Truman carried 28 states, and Governor Dewey carried only 16 states. Strong Thurmond who had bolted from the Democratic National Convention over the issue of civil rights and who formed the States' Rights Democratic Party, also known as Dixiecrat Party, captured four Southern states

being: Louisiana, Mississippi, Alabama and South Carolina. Senator Thurmond received 1,176,125 popular votes (2.4%), and 39 electoral votes. Henry A. Wallace, who had served as Vice-President of the United States from 1941-1945, was the Progressive Party's nominee. He garnered 1,157,326 popular votes (2.4 %) and no electoral votes. The Socialist, Prohibition and Socialist Labor Parties polled 289,739 popular votes (0.6 %), and no electoral votes. *See* HARRY S. TRUMAN LIBRARY AND MUSEUM at <http://www.trumanlibrary.org/teacher/campaign.htm>.; *see also* n.a., *Images of American Political History: Map of the Presidential Election of 1948*, at http://teachpol.tcnj.edu/amer_pol_hist/thumbnaill410.html; n.a., PRESIDENT ELECT 1948, at <http://www.presidentelect.org/e1948.html>.

¹⁰⁵ *See Wilson Sure of Victory; Tumulty Claims California, Minnesota, Kansas, and New Hampshire. Long Vigil Finds Both Confident*, N.Y. TIMES, Thursday, November 9, 1916, at 1; the New York Times story can also be found at <http://query.nytimes.com/gst/abstract.html?res=9E0CE5DB1F3FE233A2575ACO A9679D946796D6CF>; *see also California Result To Determine National Election; Electoral Vote Now Stands: Wilson 251–Hughes 247*, MIDDLETON (PA.) TIMES-PRESS, Thursday, November 9, 1916, at 1.

¹⁰⁶ *See* 1917-1918 OFFICIAL MANUAL OF THE STATE OF MISSOURI 458. In the general election of November 1916, Henry Lamm, the Republican nominee for

Governor and former Judge of the Supreme Court of Missouri received: 380,092 votes. His Democratic opponent, Frederick D. Gardner (who won the election), received 382,355. Progressive Party nominee Mr. Fontron received 4,041 votes; he also ran on the Prohibition Party receiving 4,009 votes; Mr. Adames of the Socialist Party received 14,555 votes, and, Mr. Rogers of the Socialist Labor Party received 966.

¹⁰⁷ In the 1916 presidential election, the nominees were:

Incumbent President, Thomas Woodrow Wilson (Dem.); Charles Evans Hughes (Rep., former Associate Justice of the Supreme Court of the United States and former Governor of New York State); Allan Benson, Socialist Party; James Hanly, Prohibition Party; Arthur E. Reimer, Socialist Labor Party Reimer had received the Socialist Labor Party's (SLP) nomination as their candidate for President of the United States); and others (Plurality).

Wilson: Popular Vote: 9,127,979; Percentage:49.24%;Electoral Vote: 277/52.17%

Hughes: Popular Vote: 8,545,769; Percentage:46.12% Electoral Vote: 254/47.83%

Benson: Socialist Vote: 590,322; Percentage: 3.19%; Electoral Vote: 0/0%

Hanly: Prohibition:Vote: 219,014; Percentage: 1.19%; Electoral Vote: 0/0%

Reimer: Socialist Labor Vote: 13,132; Percentage 0%; Electoral Vote: 0/0%

Plurality/Write-In Vote: 480.

Total Votes in 1916 Presidential Election: 18,531,779.

Wilson won by a plurality of 582,210, and 23 electoral votes. *See* 1917-1918 OFFICIAL MANUAL OF THE STATE OF MISSOURI 427.

¹⁰⁸ *See Presentation of the Portrait of Judge Henry Lamm*, 327 Mo. iii (1936).

¹⁰⁹ *See generally*, 6 Howard L. Conard, ENCYCLOPEDIA OF THE HISTORY OF MISSOURI: A COMPENDIUM OF HISTORY AND BIOGRAPHY FOR READY REFERENCE 277-79 (New York: The Southern History Company, 1901).

¹¹⁰ Like many a soldier past and present, Leroy Valliant married during wartime. He was wed to Miss Theodosia Taylor Worthington in October 1862. Conrad, *id.* at 279.

¹¹¹ *See* Remarks of Hon. O'Neil Ryan, *In Memoriam*, 248 Mo. iii, v, at vii (1913). Judge Valliant had previously served as Chief Justice of Missouri from January 1, 1909 to May 1, 1910. He was elected to a second term as Chief Justice for a period beginning December 31, 1910 to December 31, 1912. ***Note of interest:*** O'Neil Ryan who delivered the remarks on the death of Judge Valliant, *id.*, was the Dean of the newly re-opened St. Louis University Law School. The law school, the first in the State of Missouri was established by Judge Buckner in 1843. With his death on December 8, 1847, the law school ceased operations. In 1908, St. Louis University Institute of Law as it was then called, as not to confuse it with St. Louis Law School of Washington University (now called, Washington University Law School), re-opened its doors and has been in operation ever since.

For a history of legal education in St. Louis see Joseph Fred Benson, *A History of Legal Education in St. Louis, 1843-1984: Part I — The Formative Years*, 31 ST. LOUIS B.J. 67-68 (Winter, 1984) (discussing the founding of St. Louis University Law School and Judge Buckner); *idem*, *Part II*, 31 ST. LOUIS B.J.75, 76 (Spring, 1985) (discussing Dean O’Neal Ryan and the reopening of St. Louis University Institute of Law); *idem*, *Part III—The Second Century*, 32 ST. LOUIS B.J. 53 (Summer, 1985).

¹¹² See *In Memoriam*, 248 Mo. iii, at iii (1913).

¹¹³ See generally, Remarks of Judge J.P. Morgan, Proceedings: *Presentation of the Portrait of Honorable Archelaus M. Woodson*, 5, 6 (Mo. December 2, 1982) (en banc). Judge June P. (J.P.) Morgan served as a Judge of the Supreme Court of Missouri from 1969 to 1982.

¹¹⁴ Morgan, *id.* at 6.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ See A.D.J. Stewart ED., THE BENCH AND BAR OF MISSOURI 660 (2nd ED., 1898).

¹¹⁹ Stewart, *id.* at 661.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² 218 Mo. 1, 116 S.W. 902 (en banc 1909) (commonly called the **Standard Oil Case**), *aff'd. sub nom.*, Standard Oil Company of Indiana v. Missouri ex inf. Attorney General, 224 U.S.270 (1912).

¹²³ *See* State ex inf. Attorney General Hadley v. Standard Oil Company of Indiana et al., 194 Mo.124, 91 S.W.1062 (en banc 1906). It is from the special master's findings of fact, conclusions of law and report that *Standard Oil II* is reported at 218 Mo. 1, 116 S.W. 902 (en banc 1909).

¹²⁴ 156 U.S. 19 (1895).

¹²⁵ *See e.g.*, Addyston Pipe & Steel Co. v. United States, 175 U.S. 211 (1899); Northern Securities Co. v. United States, 193 U.S. 197 (1904).

¹²⁶ *See* Laurence H. Tribe, AMERICAN CONSTITUTIONAL LAW 308 and note 9 accompanying text (2nd ED., 1988).

¹²⁷ *See generally* 6 John Norton Pomeroy, A TREATISE ON EQUITY JURISPRUDENCE, AS ADMINISTERED IN THE UNITED STATES OF AMERICA SECTION 1724 at 4011-12, 4014 (4th ED., 1919).

¹²⁸ *Standard Oil*, 218 Mo. at 464.

¹²⁹ State ex inf. Attorney General Hadley v. Standard Oil Company of Indiana, 218 Mo.1, 478, 116 S.W. 902, 1052 (en banc 1909) (WOODSON, J., dissenting).

¹³⁰ *Standard Oil*, 218 Mo. 1, 478, 501, 116 S.W. 902, 1052, 1060.

¹³¹ *Id.*, 218 Mo. at 501, 116 S.W. at 1060-61.

¹³² *Id.*, 218 Mo. at 501, 116 S.W. at 1161.

¹³³ *Id.*, 218 Mo. at 501, 116 S.W. at 1161.

¹³⁴ *Id.*, 218 Mo. at 507, 116 S.W. at 1061.

¹³⁵ See JUDGES OF THE SUPREME COURT, 311 Mo. iii note (1925).

¹³⁶ See Remarks of Judge June P. (J.P.) Morgan, Proceedings: *Presentation of the Portrait of the Honorable Archelaus M. Woodson* 5, 7 (Mo. December 2, 1982) (en banc) [Emphasis added].

¹³⁷ See 1907–1908 OFFICIAL MANUAL OF THE STATE OF MISSOURI 185.

¹³⁸ See *Purchasing Power of Money in the United States From 1774 to 2006*, at <http://measuringworth.com/ppowerus/result/result.php>.

¹³⁹ In the summer of 2007, Judges of the Supreme Court of Missouri received their first pay increase since 1999. Their annual salary went from \$123,000.00 to \$133,000.00. See HOUSE JOINT RESOLUTION [H.J.R.] NO. 55, PROPOSED CONSTITUTIONAL AMENDMENT NO. 7, *amending* 1945 MO. CONST. ART. XIII,

SECTION 3, 2007 MO. LAWS 1598–1600. The proposed article of amendment was adopted by the voters on November 7, 2006, and became effective on December 7, 2006. *See* 2007 MO. LAWS at 1600. In his year end report to Congress, Chief Justice John Roberts has called for an increase in federal judicial salaries. *See* Honorable John Roberts, 2007 YEAR–END REPORT ON THE FEDERAL JUDICIARY 6-8. This report can also be accessed under *Roberts again urges salary increase for federal judges in year-end report*, PAPER CHASE NEWSBURST at <http://jurist.law.pitt.edu/paperchase/2008/01/roberts-again-urges-salary-increase-for.php>.

¹⁴⁰ Of the 110 former Judges of the Supreme Court of Missouri, only a handful have resigned from the Court to accept a Presidential appointment to the federal bench. Those members of the Court who have served as federal judges are: 1) Judge Charles B. Faris (Judge, Supreme Court of Missouri 1913-1919), appointed to the United States District Court Eastern District of Missouri by President Woodrow Wilson in 1919; elevated to the United States Court of Appeals for the Eighth Circuit by President Franklin D. Roosevelt in 1935, *see* PROCEEDINGS OF THE MEMORIAL CEREMONIES TO COMMEMORATE THE MEMORY OF JUDGE CHARLES B. FARIS (E.D.Mo., May 12, 1939); 2) Judge John Caskie Collet (Judge of the Supreme Court of Missouri 1935-1937), appointed to the United States District Court for the Eastern and Western Districts of Missouri by President Franklin D. Roosevelt in 1937; elevated to the United States Court of Appeals for

the Eighth Circuit by President Harry S. Truman in 1948; *see* A HISTORY OF THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT 67 (Washington, D.C.: Judicial Conference of the United States Bicentennial Committee, 1977); Eugene R. Brouse, *Testimonial Dinner to Judge Collet*, 4 J. MO. B. 47 (1948); 3) Judge George F. Gunn, Jr. (Judge of the Supreme Court of Missouri 1982-1985), appointed to the United States District Court for the Eastern District of Missouri by President Ronald Regan in 1985 *see* PRESENTATION OF PORTRAIT HONORABLE GEORGE F. GUNN, JR. (Mo. April 5, 2000) (en banc); 4) Judge William Duane Benton (Judge of the Supreme Court of Missouri 1991-2004), appointed to the United States Court of Appeals for the Eighth Circuit by President George W. Bush in 2004, *see* 150 CONG. REC. S.7403-05 (Thursday, June 24, 2004) (daily ed.).

¹⁴¹ In the 1920s, chandeliers were installed in the Supreme Court law library to provide more light. This was to be sufficient for a half century. *See* Jerry W. Venters, *Supreme Court of Missouri*, JEFFERSON CITY, MISSOURI, VISITOR'S GUIDE 3, 4 (1977). By 1976-1977, the chandeliers were not giving off sufficient light. A decision was made to remove them, and install lamps on each table throughout the library. Unlike today's maintenance staff (the term "maintenance" is a discredit to the current staff as they are actually very talented individuals who by all means should be called "historic preservation building specialists." Led by a general contractor who is employed full-time by the Court, this "maintenance

staff,” engages in carpentry, plumbing, electrical work, plastering, painting, renovation and general upkeep of the building.), the maintenance staff of thirty years ago were truly just that: maintenance, and in the course thereof, they threw away the chandeliers rather than keep them in addition to using the newly installed table lamps.

Other changes were soon in the offing. By the 1930s the Supreme Court law library had run out of space. The Court asked for proposals as to how best it could expand the library and its holdings without detracting from the beauty of the library. But on a quiet Sunday morning in December 1941, the world as Americans and Missourians knew it came to an end: Pearl Harbor was bombed by the Japanese. For the next four and one-half years, money was scarce. Rationing of everything imaginable was the rule. Sugar, flour, wheat, corn, all produce, gasoline, rubber, steel etc. fell under the control of the federal government. Without iron and other basic essentials in the building trades, the law library was compelled to make due with what little space it had. After the War, in 1946, bids were once more let, and an addition of a second floor made of tempered glass 1 ¼ inches thick with an iron railing was installed. This project expanded the library’s holdings by one hundred percent to its current 110,000 volumes.

In the 1970s, the Court received a facelift “turning it into a bright and sparkling edifice with bounce and spirit.” Venters, *id.*, at 10. And in the past

several years, there has been a move to restore judicial chambers to how they would have looked when the Court opened up for business in October 1907. Poor budget years have constrained the Court from making substantial advancements in this area, though two chambers and the conference room (originally the Clerk's office), have undergone time period restoration.

¹⁴² See e.g., *Cruzan by Cruzan v. Harmon et al.*, 760 S.W.2d 408 (Mo. 1988) (en banc), *aff'd. sub nom.*, *Cruzan v. Director, Missouri Department of Health*, 497 U.S. 261(1990) (whether or not a person in a persistent vegetative state (PVS) has the right to refuse through her parents and /or guardian food and hydration); see also Gerald T. Dunne, *THE SUPREME COURT OF MISSOURI: FROM DRED SCOTT TO NANCY CRUZAN 188-89* (1st ED., Columbia, Mo.: University of Missouri Press, 1993).

¹⁴³ Since time immemorial, science and technology have out paced the development of the law. New inventions have created new methods of life and living. With advancements in science and technology have come dangers that were utterly unknown to man a decade earlier. And our courts have been called upon to give reasoned elaboration to these new technologies, albeit the street-railroad (an early name for the streetcar) of the late nineteenth century or power plants of the atomic age. See e.g. Francis H. Bohlen, *Fifty Years of Torts*, (PT.1), 50 HARV. L. REV. 725 (1937); *idem.*, (PT.2), 50 HARV. L. REV. 1225 (1937). Regarding the streetcar of the late nineteenth century see e.g., *Schepers v. Union*

Depot Railroad Company, 126 Mo. 665, 29 S.W. 712 (Mo. 1895) (Div. 1) (interpreting City of St. Louis Ordinance No. 14,000, SECTION 1246 (4), CHAPTER 31, ART.12, SECTION 2, RULE 4 City of St. Louis, Mo. (1889), the first ordinance regulating street-railroads in the United States, *see generally* 44 AMERICAN DIGEST –CENTURY EDITION PART II, SECTION 172(c) at 3284, and SECTION 174 (c), at 3286 (1658-1896). *Compare* Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc., et al., 435 U.S. 519 (1978) (suit contesting permit to construct a nuclear power plant). Both the streetcar (today’s metro –the above ground subway train system), and the nuclear power plants of the 1970s, brought in their train unforeseeable dangers. They also brought advancements in our standard of living, and, lawsuits that would define their existence. In these respects the street-railroad of 1886 and the nuclear power plant of the 1970s are alike.

¹⁴⁴ *See e.g.*, Albert A. Teich, TECHNOLOGY AND MAN’S FUTURE 53-61 (New York: St. Martin’s Press, 1972). Whether we speak of the first balloons, the V-2 rockets of Wernher von Braun, Sputnik, the race to the stars or the Supersonic Transport (SST), man’s imagination has yielded new technologies, and it has been up to the law to play catch-up, devising reasonable rules benefiting advancements in the sciences as well as protecting these new technologies from theft, and also of the public’s right to be secure in their homes and papers. *Compare* U.S. CONST. art. I,

section 8, cl. 8, “The Congress shall have power: To promote the progress of the science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.” The issue today is to what extent can government use technology without invading a man’s castle? See Patricia L. Bellia, *Spyware and the Limits of Surveillance Law*, 20 BERKELEY TECH. L.J. 1283 (2005); Susan Freiwald, *First Principles of Communications Privacy*, 2007 STAN. TECH. L. REV. 3; Patricia Sanchez Abril, *Recasting Privacy Torts in a Spaceless World*, 21 HARV. J. L. & TECH. 1 (2007).

¹⁴⁵ Carved above the outside of the Supreme Court building are three phrases. The phrase on the west front side of the building reads: “Ubi jus, ibi remedium –Where there is a right, there is a remedy.” On the east front of building the Latin quote is: “Jus dicere non dare – To speak but not make law.” And above the front center to the Supreme Court building is a quote from Daniel Webster former Secretary of State: “The Law: It Has Honored Us, May We Honor It.” See Gerald T. Dunne, *THE MISSOURI SUPREME COURT: FROM DRED SCOTT TO NANCY CRUZAN* 6 (1st ED., Columbia, Mo.: University of Missouri Press, 1993). The Webster quote is from a speech Daniel Webster delivered before the Charleston, South Carolina Bar on May 10, 1847. See John Bartlett, *FAMILIAR QUOTATIONS* 548b (14th ED., Boston: Little, Brown and Company, 1968). Read independently these quotes seem contradictory. But are they? No, said the late Professor Gerald T. Dunne in his *The Missouri Supreme Court*, *id.* Professor Dunne wrote: “The contradictory

command to seek continuously to do justice in new ways but within a context of satiability and continuity echoes through the colliding impact of the two great rivers and appropriately summarizes the past –and the future –of the state’s law and its medium, the high court.” *Id.* The rivers which Professor Dunne is referring to are the Missouri and Mississippi Rivers. *Id.* at 1.

APPENDIX I: OCCUPANTS OF THE NEW SUPREME COURT BUILDING

Aside from the Judges who occupied the Court, who were the people who worked in the newly constructed Supreme Court Building?

A. STENOGRAPHERS TO THE JUDGES

In 1907, each Judge of the Court had a stenographer. Today, that person is called a Judicial Executive Assistant (JEA), and the JEAs function in a broader capacity than their counterpart of a century ago. Today’s Judicial Executive Assistants have education and/or training beyond high school. Some are lawyers, others are paralegals, while still others have some college –but all exceed the limited capacities of the predecessors one hundred years ago.

Paul Brace (Dem.) from Jefferson City served as stenographer to Judge Woodson.

Zach Patterson (Dem.) served as stenographer to Judge Graves.

J.W. Valliant (Dem.) St. Louis served as stenographer to Judge Valliant.

Historical research does not disclose if there was any family relationship.

Holmes Hall (Rep.) Sedalia, served as stenographer to Judge Lamm.

R.W. Morrow (Dem.) Jefferson City served as stenographer to Judge Burgess.

Agatha W. Colt (Dem.) Clinton served as stenographer to Judge Gantt.

J.J. O'Connor (Dem.) served as stenographer to Judge Fox.

Each stenographer received a monthly salary of \$100 per month -\$1,200.00 per year.

B. OTHER COURT OFFICERS AND EMPLOYEES

When the Court opened for business in October 1907, the other officers and employees of the Supreme Court were:

Perry S. Rader (Dem.), Chariton County. Mr. Rader a member of the Bar served in the capacity as Reporter of Decisions. He was charged with the duty of going over every opinion, be it the majority, dissent or concurring and correcting spelling, punctuation, grammar, citations to cases, statutes, treatises, law review articles etc., and for preparing the opinion for publication in the Missouri Reports the official reports of the state Supreme Court. Mr. Rader was also charged with the duty of sending the opinions to West Publishing Company for publishing in the Southwestern Reporter, then an unofficial reporter and since 1956-57, the

Official Reports of the Supreme Court of Missouri and the Missouri Court of Appeals. Perry S. Rader received an annual salary of \$3,000.00.

A.T. Dumm (Dem.), Jefferson City. Mr. Dumm a member of the Bar served as Assistant Reporter of Decisions. He received an annual salary of \$1,500.00.

Idie Belch (Dem.), Jefferson City. Idie Belch served as a stenographer to the Court and not to any one specific Judge of the Court. Idie Belch received an annual salary of \$900.00.

John R. Green (Dem.), Ray County. Mr. Green served as Clerk of the Court, and received an annual salary of \$3,000.00

W.D. Fisher (Dem.), Ray County. W.D. Fisher served as Assistant Clerk of the Court and received an annual salary of \$ 2,000.00.

H.L. Creel (Dem.), Ray County. H.L. Creel served as a Deputy Clerk of the Court, and received an annual salary of \$1,000.00.

O.T. Johnson (Dem.), Montgomery County. O.T. Johnson served as a Deputy Clerk of the Court and received an annual salary of \$ 1,000.00.

Laura Tuckley (Dem.), Cole County. Ms. Tuckley served as a stenographer to the Court and not to any one specific Judge of the Court. Her annual salary was \$900.00.

Joseph H. Finks (Dem.), Howard County. Mr. Finks served as the Marshal of the Court. He received an annual salary of \$2,000.00, and was allowed to retain fees not exceeding \$500.00.

Thomas L. Hawkins (Dem.), Marion County. Mr. Hawkins served as Librarian of the Supreme Court Law Library. Mr. Hawkins received an annual salary of \$1,000.00.

A.J. Menteer (Dem.), Jefferson City. A.J. Menteer served as Assistant Law Librarian and received an annual salary of \$1,000.00.

Charles Glenn (Dem.), Jefferson City. Mr. Glenn served as Janitor, and received an annual salary of \$ 900.00.

In all, the Court employed nineteen (19) people –this includes the personal stenographers to the Judges. *See* 1907–1908 OFFICIAL MANUAL OF THE STATE OF MISSOURI 185.

APPENDIX II: HISTORICAL EVENTS FOR THE YEAR 1907

On October 22, 2007, the Scotland County Courthouse celebrated its centennial. The keynote speaker was United States District Judge E. Richard Webber, formerly the Circuit Judge for Scotland County. *See Scotland County Courthouse Centennial Celebration to be Held October 22nd*, MEMPHIS (MO.) DEMOCRAT, October 18, 2007 at 1; also at

http://www.memphisdemocrat.com/2007/news/071018_court.shtml; *Judge*

Webber Returns to Roots to Honor Courthouse Centennial, MEMPHIS (MO.)

DEMOCRAT, October 25, 2007 at 1; also at

http://www.memphisdemocrat.com/2007/news/071025_court.shtml.

Other historical events for the year 1907 were:

A. CORPORATE AMERICA

- 1) The first Neiman–Marcus store opened up in Dallas, Texas on September 10, 1907. The two-story fashion emporium was located at the corner of Elm and Murphy streets. The store was started by the former president of an Atlanta advertising agency A.L. Neiman, his wife Carrie, and his brother-in-law Herbert Marcus.
- 2) Standard Oil of Indiana was indicted by a federal grand jury for having received secret rebates on shipments of crude oil over the Chicago and Alton Railroad. United States District Judge Kenesaw Mountain Landis, then 41 years of age, imposed a fine of more than \$29 million against Standard Oil on the 1,462

separate counts in the bill of indictment, but the decision against John D.

Rockefeller's Standard Oil Company would be reversed on appeal.

3) The Bendix Corporation was founded in Moline, Illinois by inventor Victor Bendix who left home at 16 years of age to study mechanics in New York. The Bendix self-starter motor car would make its debut in 1912.

B. TRANSPORTATION

4) In New York City in May 1907, taxicabs made their debut in American transportation and social history. The taxicab replaced the Hanson cabs—a two-wheeled covered carriage with a driver's seat above and behind.

5) Automobile production for 1907 rose to 43,000 up from 25,000 in 1905.

6) "The Great Race," (a movie was made of the race in 1965 starring Tony Curtis, Jack Lemmon, Natalie Wood, Terry Thomas and Peter Falk), was the first long-distance motor car race. The race began on June 10, 1907, leaving the starting point in Peiking (now Beijing), China, headed towards the finish line in Paris, France. *See e.g.,* Jeff Matthews, *Around Naples: Antonio Scarfoglio & The Around-the World Race of 1908*, at

<http://faculty.ed.umuc.edu/~jmatthew/naples/greatrace.htm>. There was a second around the world race in 1908, *id.* The Matthew's article speaks to both of these events.

C. EDUCATION

7) The University of Saskatchewan in Saskatoon, Canada was founded.

8) The University of Hawaii had its beginnings in a school which opened up in Honolulu.

9) Degrees in Chemical Engineering were approved and authorized through a joint Department of Chemistry and Chemical Engineering at the University of Idaho College Of Engineering. Dr. Carl von Ende served as the first Chairman of the Department of Chemical Engineering from 1908-1934. *See Centennial 1907–2007: College of Engineering, Historical Events* IN THE UNIVERSITY OF IDAHO COLLEGE OF ENGINEERING HISTORY 1907–1957, at <http://www.engr.uidaho.edu/100/1907-1957/>.

D. LEGAL ETHICS AND PROFESSIONALISM

10) On August 26, 1907, a *New York Times* headline read: *Lawyers To Offer New Code of Ethics –Will Be Submitted to American Bar Association to Govern Attorneys in All States*. The next year, 1908, the legal profession in the United States saw its first Canons of Ethics go into effect.

E. ADMISSION OF OKLAHOMA TO STATEHOOD

11) The Territory of Oklahoma was admitted to statehood on November 16, 1907.

F. MEDICINE

12) In medicine, German neurologist Alois Alzheimer, age 43, developed a special staining technique that uncovers cerebral abnormalities in the brain such as, anxiety, agitation, and dementia. Alzheimer’s Disease is named after him.

G. MUSIC

13) In the summer of 1907 Scott Joplin and pianist Louis Chauvin composed *Heliotrope Bouquet*. This would become one of Joplin's most enchanting ragtime compositions.

14) In 1907 Scott Joplin and John Stark composed *Nonpareil*. See Edward A. Berlin, *A BIOGRAPHY OF SCOTT JOPLIN* (The Scott Joplin International Ragtime Foundation, 1988), at <http://www.scottjoplin.org/biogrphahy.htm>.

Appendix III: STATISTICS FOR THE YEAR 1907

A. GENERAL STATISTICS

- 1) The population of the United States was 87,008,000.
- 2) Federal spending was \$0.58 billion.
- 3) Unemployment rate was 2.8 percent.
- 4) Dow Jones Average was 59.
- 5) Average Yearly Income: \$897.00.
- 6) New car (average price) \$500.00.
- 7) Gasoline was 6 cents.
- 8) Bacon (per pound), was 21 cents.
- 9) Sugar (per pound), was 6 cents.
- 10) Butter (per pound), was 33 cents.
- 11) Bread (per loaf), was 5 cents.

12) Milk (one gallon), was 32 cents.

13) Eggs (one dozen), was 29 cents.

14) A postage stamp was 2 cents.

B. IMMIGRATION RECORD

April 17, 1907 was the single busiest day in the history of Ellis Island. On that day officials processed 11,747 arrivals. In the century that has passed, April 17, 1907 continues to stand as the high water mark in immigrant arrivals through the “Golden Door” to America. *See Centennial of the Busiest Day at Ellis Island –April 17, 1907*, at <http://ellisland.org/genealogy/1907.asp>.