

CHAPTER X.

LEADING INCIDENTS IN THE HISTORY OF THE COUNTY, FROM 1865 TO 1884.

The War Over — Adoption of the Drake Constitution — The “Ousting Ordinance” — Indicting the “Rebel” Preachers — Registration of Voters — Miscellaneous — Robbery of the County Treasury — The Political Campaign of 1870 — Universal Amnesty and Impartial Suffrage — The Floods of 1876 — The Benjamin Will Case — The Robber Johnson — Murders and Homicides.

1865.

The early spring of this year was unusually wet and cold, and the season was backward and unpropitious, but the farmers in the county began to plow and sow, although it was not certain but that another should reap. The news from the chief seats of war and all the signs of the times indicated that the war would soon be over, but these signs and tokens had all appeared before, and many had been deceived thereby. Not until the middle of May and the 1st of June was planting finished in this county. But the season turned out fruitful, and crops were extraordinarily large. Everything was abundant and prices good.

“RICHMOND HAS FALLEN!”

About the 1st of April news came that Gen. Lee’s army in Virginia was in a bad way. April 9, four years, lacking three days, from the capture of Ft. Sumter by the Confederates, Gen. Lee surrendered to Gen. Grant at Appomattox. A few days previously Richmond had been occupied by the Federal troops, and when this intelligence was received there was the wildest rejoicing among the Unionists of the county. Even many of Confederate sympathies were not sorry that peace was in prospect, though the terms might not have been to their liking.

The hearts of the Southern sympathizers of the county now sank heavily. It was clearly evident that a bad investment had been made when stock was taken in the Confederacy; for it was apparent that defeat, utter and complete and overwhelming, would soon overtake those who followed the stars and bars. The Confederate people of

the county became reconciled to the inevitable, and waited with resignation for the end.

THE WAR OVER.

And the end soon came. A few days after Lee had surrendered to Grant, Gen. Joe Johnston's army surrendered to Gen. Sherman, and May 13, Kirby Smith's Trans-Mississippi army, except a portion of Shelby's brigade and some other Missourians, gave up to Canby. Gen. Price, Gen. Shelby, and certain other Confederate Missourians to the number of 500 or more went to Mexico for awhile. Very soon thereafter the Confederate soldiers began to return to their Missouri homes. Many passed through this county, and others lived here. In most instances the vanquished men in gray were allowed to return to their homes in peace, but occasionally some brute or brutes in blue, who shamed the name of soldiers, insulted and abused them. The returned Confederates, having fought a good fight and been fairly defeated, philosophically accepted the situation and set to work to retrieve lost time and mend their broken fortunes. That is, those who did return, for many a Shelby county soldier who wore the gray had lost his life in the cause he deemed right, and filled a soldier's grave.

ADOPTION OF THE "DRAKE" CONSTITUTION.

On the 18th of April, the State Convention, by a vote of 38 to 14, framed an entirely new constitution of the State, which was to be presented to the voters for adoption on the 6th of June. The canvass which succeeded was one of great bitterness. Although the war was practically over, all of the regular Confederate armies having surrendered, and the Confederate President, Jefferson Davis, a close prisoner, yet a few guerrillas and bushwhackers continued in existence in this State, to the detriment of the peace and safety of the sections which they infested. The presence of these villains furnished an excuse for keeping bands of the military in the field, in many counties, to "preserve the peace," hold the guerrillas in check, and punish them for disorders.

All of those who had participated in, or given any sort of voluntary aid or encouragement to the rebellion or the Confederate cause, were, by the third section of the proposed new constitution, debarred from voting or holding office, as well as from teaching, preaching, practicing law, etc. And all such were prohibited from voting for or against the adoption of the constitution! A spirit of unrest and malevolence, hatred and ill-will, prevailed among our people, and the

character of the issue discussed, to say nothing of the discussions themselves, was not calculated to restore an era of good feeling, or cause the two factions to make haste to clasp hands over the bloody chasm. Hundreds of our tax-payers, many of them old and honored citizens, non-combatants during the war and men of education and influence, were disfranchised by the third section, and denied the privilege of the ballot in the decision of the great issue before the State — that issue being the adoption or rejection of an organic law, which was to govern them and their children after them.

On the other hand, the Radicals and friends of the new constitution maintained that citizens who, by overt or covert acts, had attempted to destroy their government; who had, by fighting against the Federal government, “committed treason,” or in deeds, words and sympathy, given encouragement to those who had, were not and could not be proper recipients of the ballot. It was further alleged that, had the Confederate armies succeeded, and Missouri become in fact and indeed one of the Confederate States, then every Union man in the State might have considered himself truly fortunate if he had been allowed to live in Missouri; that no Union soldier, or militiaman, or those who had sympathized with either, would have been allowed a vote; and that, in all probability, Gen. Price’s threat, made in the fall of 1861, would have been carried out — and the \$250,000,000 worth of property belonging to the Union people of the State would have been confiscated for the benefit of those who had remained loyal to the Confederate cause, and suffered thereby, etc., etc.

In Shelby county the threat of Senator Green, at Shelbyville, in the summer of 1861, was quoted. Speaking to the Union men, he said: “If *you* win, we *will* leave; if *we* win, you *shall* leave.”

In the whole State only 85,478 votes (including soldiers’ votes) were cast at the election adopting the new constitution, as follows: For, 43,670; against, 41,808; majority for, 1,862 — a very small majority, indeed, to decide so important a question. The constitution went into effect on the 4th of July following. At this election, the following was the vote of Shelby county: For, 282; against, 164.

No wonder the ex-Confederates and those who sympathized with them hated intensely the Drake constitution, and still retain vivid and bitter memories of the days when it was in force. Happily those days have passed, and with them nearly all of the bitterness and animosities then engendered.

By a section of Article II, every person holding any office of honor, trust, or profit, in this State, whether under the authority of the State

or any municipal corporation, was required to take the oath of loyalty within 60 days after the adoption of the constitution.

THE "OUSTING ORDINANCE."

The State Convention passed an ordinance vacating certain civil offices in the State and filling the same anew by appointment of Gov. Fletcher. This authority His Excellency exercised generally by the elevation of his political friends over the incumbents who were not Radicals. In this county the appointments were:—

W. J. Holliday, county clerk, vice T. O. Eskridge, removed; John S. Duncan, circuit clerk, vice W. L. Chipley, removed; James Bell, treasurer, vice C. K. Cotton, removed. County court justice Samuel Huston gave way to Lewis F. Carothers. The other officials remained.

In this judicial circuit John I. Campbell was appointed judge in the room of Hon. Gilchrist Porter.

All of the new appointees were Radical Republicans. When it came to holding offices in those days, no Democrat needed to apply. Judges Bay and Dryden, of the Supreme Court (Democrats), who had been elected in 1863, were removed by force, being placed under arrest by the police of St. Louis for refusing to vacate when ordered, they holding the ousting ordinance to be unconstitutional. Those who were removed in Shelby county submitted without an audible murmur!

INDICTING THE "REBEL" PREACHERS.

Under section 9 of Article II. of the Drake constitution, teachers and preachers were liable to arrest and punishment if they could not take the oath embodied in the second section. In this county there were many such.

In November, 1866, the grand jury of Shelby county indicted the following ministers of the gospel for preaching without taking the Drake oath: Rev. Jesse Faubian, three counts; Henry Louthan, Robert Holliday, Milford Powers, William Pulliam, Father D. P. Phelan, and Rev. Robey and Brown.

The indictments against the preachers were found separately, and charged each and every one of them with having, on a certain day, "at the county of Shelby aforesaid, more than 60 days after the 4th of July, 1865, unlawfully, feloniously, etc., 'preached,' without first having taken, subscribed and filed, * * the oath of loyalty," which said preaching was "contrary to the form of the constitution

in such cases made and provided, and *against the peace and dignity of the State!*"

The preachers were arrested, but never brought to trial and conviction. The cases were postponed, and some time this year the Supreme Court of the United States decided the "teaching and preaching" clause of the Drake Constitution to be in conflict with the Constitution of the United States, and the charges were dismissed.

REGISTRATION OF VOTERS.

Under the constitution of 1865 every voter in the State had to be registered before he could vote. If he had not been "strictly loyal" he could not register. A board of registrars was appointed and before these each voter must appear.

In this county the board of registrars prepared a list of questions which were submitted to every applicant for registration. These questions were printed in a book, with blanks for answers, one book for each township, and answers of the applicant became a matter of record.

MISCELLANEOUS.

Upon the conclusion of the war the county made rapid progress in its development, increase of population, acquisition of permanent improvement, etc. Immigrants came in from other States and found good homes on the cheap lands then being offered. Much new land was opened and other older tracts were better improved.

As soon as the county got rid of some of its indebtedness, a part of the legacy left by the war, it began the construction of bridges and the improvement of roads. July 15, 1871, the contract for the large, long bridge across Salt river, between Shelbyville and Shelbina, at the old Dickerson ford, was let. Addison Lair was the commissioner and Morse & Hearne were the contractors. The contract price for the bridge proper was \$5,373.75, but the entire cost of the bridge and its approaches was \$10,007. Morse & Hearne built the approaches also. The work was completed in December, 1871. Three or four years since this bridge was pronounced unsafe.

The same year (1871) the iron bridge across the South Fabius, in the north-eastern part of the county, was built by Bishop & Eaton, at a cost of about \$2,800. This was the first, and up to the present is the only, exclusively iron bridge in the county. There are many combination bridges, however.

ROBBERY OF THE COUNTY TREASURY.

On the night of the 20th of November, 1868, the county treasury of Shelby county was robbed of about \$10,000 by burglars. The treasury at that time consisted of a safe purchased by the county in 1857 and set into a vault in the county clerk's office, built for the purpose. It had previously been deemed secure, and was the only receptacle provided by the county in which to keep the funds and other valuables belonging to the county.

The burglars effected an entrance into the clerk's office through the north window. The doors of the safe were pried open with powerful levers and pries and steel wedges made expressly for the purpose. The safe was thoroughly ransacked and every cent of money it contained was taken. The robbery was first noticed by the county clerk, W. J. Holliday, on his repairing to the office the next morning.

The safe contained the following amounts of money:—

1	\$1000	national bank note	.	.	.	.	.	\$1,000	00
1	500	" " "	.	.	.	.	.	500	00
3	100	" " "	.	.	.	.	.	300	00
		or greenbacks	.	.	.	.	.
7	50	" " "	.	.	.	.	.	350	00
301	20	" " "	.	.	.	.	.	6,020	00
63	10	" " "	.	.	.	.	.	630	00
80	5	" " "	.	.	.	.	.	400	00
16	10	Union military bonds	.	.	.	.	.	160	00
19	5	" " "	.	.	.	.	.	95	00
13	3	" " "	.	.	.	.	.	39	00
Total,								\$9,494	00

Of this sum \$1,290 had been received from the tax on licenses, \$3,224 belonged to the State revenue fund, and \$4,980 to the State interest fund. In addition to the sums of public money in the safe, Clerk Holliday had some funds of his own, and a considerable sum belonged to the Enrolled Militia, having not yet been disbursed, making in all about \$10,000.

A few days before, Sheriff J. M. Collier, then the county collector, had taken a considerable amount of the public funds, about \$30,000, to Quincy for safe keeping. Had the robbers come while this sum was in the vault their visit would have been quite profitable. The collector had made a full and legal investigation of the case, in which county attorney M. J. Manville represented the county. The result was an

exoneration of the public officials from all blame or censure, and the inculpation of no one.

Two men from Quincy, sojourning in Shelbyville at the time, were objects of suspicion, and the citizens took them into custody. They were taken out of town and lynched to make them confess, but they protested their innocence so fervently that at last they were released. The real culprits were never discovered. A year later some heavy iron and steel pries and drills and a few wedges were found in a fence corner in a little meadow south of town and north of Black creek. These were supposed to have been used in "cracking" the Shelby county safe.

THE POLITICAL CANVASS AND ELECTION OF 1870.

No more important or exciting political contest ever came off in Shelby county, not even in Presidential years, than that in 1870. The contest was between the regular Republicans or "Radicals" on the one side, and the Liberal Republicans and Democrats on the other, and this contest extended throughout the State.

The questions of universal amnesty and enfranchisement, of the repeal of the Missouri "iron-clad" test oath for voters, jurors, ministers, lawyers, teachers, etc., were rapidly sowing the seeds of discord and disintegration in the Republican party of the State, and dividing it into two wings, the Radicals and Liberals. The former, led by Charles D. Drake, maintained the extreme and harsh policy, and the latter, headed by B. Gratz Brown and Carl Schurz, contended for the more magnanimous policy in regard to those who, by word or deed, or both, had held complicity with the rebellion.

There was a growing sentiment among the people that the war was over; that the time for expurgatory oaths of all sorts had passed; that taxation without representation was unjust; that since, by the adoption of the XV Amendment this year, negroes who formerly were slaves were allowed to vote, it was but equitable that their former white masters should be given the same privilege; that public sentiment, inside and outside of the State, was making largely against the condition of things as illiberal, proscriptive, unjust and tyrannical, and that circumstances demanded a change.

Owing to the test oath prescribed by the Drake constitution, and the very stringent registry laws passed to enforce it, the Democrats were in an almost hopeless minority at the polls, and therefore had little or no voice in the direction of public affairs. As was natural, few ex-Confederates or their sympathizers were Republicans; their disfran-

chisement by the Republicans kept them from becoming voters, and embittered them, of course, against the authors of their condition. There being but two parties, they were forced therefore to sympathize with the Democrats, even had many of them not been at heart of that faith for years before the war.

Hoping to gain the ascendancy in the State by the acquisition of the disfranchised Confederates, rehabilitated with the elective franchise, through a repeal and destruction of the constitutional and legal barriers which interposed between them, the policy of the Democrats was first to divide and then to conquer the Republicans. To accomplish this, no way seemed so hopeful of favorable results as "the passive policy;" — or, as it was popularly called, "the 'possum policy," — which signified the withdrawal of the Democratic party as an organization from the canvass of 1870, and the co-operation of its members individually with the Liberal Republicans as allies. It was apparent that, once the disfranchising clause of the constitution should be removed, the Democratic party would come speedily into power, and once in power and place, it would be secure in the possession thereof for an indefinite period, intrenched behind the huge majority it would have.

The Democratic State Central Committee, Hon. D. H. Armstrong, chairman, refused in March to call a State convention, tacitly binding the party to the support of the Liberal Republican nominees, whoever they should be. The counties were to be left to take care of themselves.

The Republican State convention met August 31, and of course there was a split. The Liberals, headed by Carl Schurz, withdrew from the convention and organized another, nominating B. Gratz Brown for Governor and Col. J. J. Gravelly for Lieutenant Governor, on a platform unequivocally in favor of the adoption of the amendments proposed to the constitution by the previous Legislature, to be voted on at the coming election, and commonly called the suffrage and office-holding amendments. The Radicals nominated Joseph W. McClurg for re-election on a platform favoring "re-enfranchising those *justly* disfranchised for participation in the rebellion as soon as it can be done *with safety to the State*," and recognizing the right of any member of the party to vote thereon as he pleased. McClurg personally favored re-enfranchisement. Then the canvass opened.

Among the prominent Liberal Republican speakers this year in Missouri was Gen. John McNeil, the commander of this district dur-

ing the war, who was now in favor of enfranchising the men whom he had once ruled so rigorously.

In Shelby county the politicians were excited. The old Democratic war-horses, which had for so long been grazing on scanty pastures, out in the cold, cocked up their ears as they sniffed the official provender in the public crib, and ambled forward for a chance at it. There was something of a scramble for the offices believed to be in prospect. The party managers drove back some of the aspirants, however, and allowed the Liberal Republicans a chance. A combination ticket between the Liberals and Democrats was arranged, and shrewd preparations made for the overthrow of the Radicals.

When the registrars had completed their work this year, it was found that there were 1,403 legal voters in the county, as follows:—

<i>Townships.</i>	<i>No. of Voters.</i>
Salt River	308
Jackson	178
Clay	184
Jefferson	93
Taylor	87
Black Creek	263
Bethel	183
Tiger Fork	107
Total	1,403

The election in the county resulted in a mixed triumph for the Liberals and Democrats, as follows:—

Governor — *McClurg*, 600; Brown, 637.

Congress — *J. T. K. Hayward*, 594; J. G. Blair, 635.

Representative — *Shorts*, 571; Shafer, 653.

Circuit Clerk — *Leonard Dobbins*, 616; Duncan, 591.

County Clerk — *E. A. Graves*, 661; J. S. Preston, 542.

Sheriff — *William A. Poillon*, 534; S. F. Dunn, 677.

Straight Republicans in *italics*.

On the amendments the vote stood: For, 881; against, 242. In the State they were adopted by a majority of more than 100,000. Brown defeated McClurg by 41,038. In this Congressional district the vote stood: Blair, 11,682; Hayward, 9,143. The year 1870 will ever be memorable in Missouri, by reason of its having been the year when both "rebels" and "niggers" were allowed to vote—or that

witnessed the triumph of the principle of “universal amnesty and impartial suffrage.”

THE FLOODS OF 1876.

In the summer of 1876 the waters in some of the streams of the county rose to a remarkable height. Salt river was higher than it had ever before been known, even by the oldest settlers, who remembered the floods of 1844, 1851, and 1856. It was literally from bank to bank in many places. Where the Shelbina and Shelbyville road crosses, at the long bridge, over the old Dickerson ford, the water covered the bridge and its approaches. On the north side it washed the base of a huge granite boulder, a prominent object in the road. Nailed high up on a large black oak tree to the east of the road is now (1884) the high water mark of 1876, “so plain that all may see.”

CENSUS OF 1880.

The total population of Shelby county in 1880 was 14,024, divided as follows: Whites, 13,089; colored, 935. The following was the population by townships:—

TOWNSHIPS.

Bethel	1,343	Jefferson	1,548
Black Creek, including Shelbyville	2,074	Salt River, including Shelbina	2,866
Clay, including Clarence	1,761	Taylor	1,212
Jackson, including Hunnewell	2,057	Tiger Fork	1,163

TOWNS.

Shelbina	1,289	Clarence	570
Shelbyville	619	Hunnewell	424

LAST THREE CENSUSES COMPARED.

	1860.	1870.	1880.
Whites	6,565	9,540	13,089
Colored	736	571	935
Total	7,301	10,111	14,024

THE GREAT BENJAMIN WILL CASE.

In April, 1878, a suit was begun in the Shelby circuit court to set aside a will made or alleged to have been made by Hon. John F. Benjamin, of this county, a few hours before his death, March 8, 1877. This was and is a “celebrated case” in the annals of North-east Missouri jurisprudence, and will bear something of detailed mention and elaboration.

Mr. Benjamin was a native of New York, born in 1817. He came to Shelby county at an early day—before 1846—and settled at Shelbyville. He was an attorney of more than ordinary ability and was possessed of great shrewdness, sagacity, and aptness for money making. He improved every opportunity to add legitimately to his property, and in time became possessed of a considerable fortune, estimated at about \$75,000. It is said that he made something of a start in California, during the flush times of 1849–51. He was himself a “49er.”

During the Civil War Mr. Benjamin was an ardent Unionist, and early entered the Federal service. Some of his services are noted elsewhere. He rose from a captaincy to a brigadier-generalship of the Missouri militia. In 1864 he was elected to Congress as a Radical Republican, and re-elected in 1866 and 1868, serving three terms as a member of the thirty-ninth, fortieth and forty-first Congresses. In 1872 he was again a candidate, but was defeated by Col. John M. Glover, the Democratic nominee.

After the war Mr. Benjamin removed from Shelbyville to Shelbina, where he built a handsome and comfortable residence, costing over \$15,000. After being defeated for Congress, he repaired to Washington and in the fall of 1874 engaged in banking with one Otis Bigelow, the firm being known as Bigelow & Benjamin.

Gen. Benjamin had long been married, but was childless. While in Washington as Congressman he formed the acquaintance of some ladies named Welsh. One, Miss Minnie Welsh, he took under his patronage and assisted financially and in many other ways. Upon her marriage to a gentleman named Hammond, he assumed a protectorate over her sister Guy H., a beautiful and winsome young lady, but capricious and guilty of certain breaches of propriety, and offenses against good morals. Married to a Mr. Allen, she eloped from him at Los Angeles, California, and in male attire concealed herself in the state-room of her paramour on board a vessel bound for San Francisco. She was apprehended and the elopement frustrated.

In Washington and elsewhere Gen. Benjamin introduced Guy Allen as his adopted daughter, and she called him “Papa.” She made at least one trip to Shelbyville with him, and accompanied him elsewhere on many occasions. It can not be questioned that the General, old and mature as he was, was very much attached to if not infatuated with the fascinating lady. Her enemies allege that his relations with her were illicit, as had been those he formerly maintained with her sister. It does not seem that Mrs. Benjamin recognized Guy as her

daughter, or approved of her intimacy and familiarity with Gen. Benjamin. She and others had been informed that Mrs. Allen was a Washington City adventuress, pretty and engaging, but wily and wicked.

In April, 1876, while at Shelbina, Benjamin made a will which was witnessed by W. A. Reid, Daniel Taylor and other citizens of the county. By the provisions of this will Guy Allen was to receive a specific legacy of the General's military clothing and equipments, his private silver plate and his diamonds. She was also to receive the income from the proceeds of the investment of one-half of his estate remaining after certain other legacies had been paid and satisfied. The investment was to be made in United States or Missouri bonds, the interest on which was to be paid "to my adopted daughter, Guy H. Allen, aforesaid, during her natural life—the same to be for her sole and separate use, and neither to be paid to nor in any manner controlled by her husband."

Also in this will the General directed that there should be erected over his grave a monument costing not more than \$5,000, and on which should be inscribed the following: "*John Forbes Benjamin; born in Cicero, New York, Jan. 23, 1817; died at ——— 18—. A captain, major, lieutenant-colonel, and brigadier-general in the Federal army, and a member of the 39th, 40th and 41st Congresses.*"

Gen. Benjamin spent a great deal of his time in Washington. He had rooms on D street, between Second and Third, which he occupied in connection with Mrs. Allen. Their rooms adjoined and communicated. Mrs. Benjamin remained at the elegant home in Shelbina.

In the early winter of 1877 Gen. Benjamin suffered from colds and neuralgic pains. On the 1st of March he was seized with a violent attack of pleuro-pneumonia. He died March 8. At the time of his decease, Mrs. Allen was lying very ill in an adjoining room, and was not informed of his death until ten days after it occurred. The General's body was immediately given to an undertaker, who prepared it for shipment and, in charge of one George C. Rowan, it was shipped to Shelbina and there buried.

Immediately after Gen. Benjamin's death, a will was produced bearing his undoubted signature, "John Forbes Benjamin," and purporting to have been made March 7, 1877, the day before his death. This paper was written by one George Truesdell, a real estate agent of Washington, whose office was in the banking house of Bigelow & Benjamin, and who was well acquainted with the General in his life-

time. He swore that the paper was written at Benjamin's dictation, and signed by him as represented. There signed this paper as witnesses the General's attending physicians, Drs. J. H. Thompson and G. L. Magruder; his partner, Otis Bigelow, and Mr. Truesdell; and there was present and witnessed the signing, the nurse, Catherine Mahoney. The following is a copy of the will:—

THE WILL.

Know all men by these presents that I, John Forbes Benjamin, of the town of Shelbina, county of Shelby, and State of Missouri, being of sound mind, but conscious of the fact that I have but a few days to live, do make, publish, and declare the following to be my last will and testament, thereby revoking all wills and codicils heretofore made by me.

1st. I give and bequeath the following specific legacies:—

To my good friend, Charles M. King, of Shelbina, of Missouri, my law library and furniture, or all that portion of the same now in use by him, and my gold-headed cane.

I give to George C. B. Rowan, of Washington, D. C., who has given me so much kind care and attention during my sickness, one hundred dollars (\$100).

To my beloved wife, Diana, all my property of every description owned or possessed by me in the State of Missouri; also, \$12,000 in District of Columbia six per cent. gold bonds. I also give her a deed of trust loan of \$4,000 made to John G. Waters, and a note for \$2,000 of William Ridge, of Shelbina, Missouri, which I hereby direct to be forwarded to her at Shelbina, Missouri.

I give and bequeath to my adopted daughter, Mrs. Guy H. Allen, wife of James M. Allen, late of Cleveland, Ohio, all my interest in the partnership of Bigelow & Benjamin, and all debts which may be owing to me by persons in the District of Columbia, and all the real estate owned by me in the District of Columbia. She is now very ill and may not survive me many days, and perhaps not at all; in either event, I give and bequeath the part given to her to her sister, Mrs. Minnie Hammond, of Cumberland, Maryland, wife of Eugene Hammond, of Cumberland, Maryland.

My remains after death here to be suitably but not extravagantly cared for by an undertaker and the same forwarded to Shelbina, Missouri, for such cemeterial disposition as may be had there. I leave it all to the discretion of my wife aforesaid.

I have long professed faith in the Lord Jesus Christ before men, as the Son of God. Into his hand I commit my spirit.

I nominate and appoint my friend, Joshua M. Ennis, of Shelbyville, Missouri, the executor of this my last will and testament, so far as my property in the State of Missouri is concerned; and appoint George Truesdell to wind up my business in the District of Columbia, so far as will not interfere with the rights of Otis Bigelow, my surviving

partner. Subscribed by own hand. Done in the City of Washington, in the District of Columbia, on the 7th day of March, A. D. 1877.

JOHN FORBES BENJAMIN.

Subscribed by us as witnesses in the presence of each other, and in the presence of and at the request of the testator, who declared to us that the foregoing was his last will and testament, the testator being known to each of us to be the party signing as such.

J. H. THOMPSON, M. D.,

G. L. MAGRUDER, M. D.,

OTIS BIGELOW,

GEORGE TRUESDELL.

About March 1, 1877, or eight days before his death, Mr. Benjamin made what was intended evidently to be a schedule of his property. This schedule, or memorandum, which was in his own handwriting, was as follows: "Bank, \$34,500; St. L., 2,000; Notes, \$11,440; Ridge, \$2,000; Waters, \$3,000; Bonds, \$12,000; R. E. [real estate], \$2,000; Int., \$310; Profit, \$50; cash, \$2,450. Total, \$69,750.

The immediate relatives of Gen. Benjamin — his wife, Mrs. Diana Benjamin; his brothers, George H. and Henry H.; his sister, Mrs. Louisa Wood; and a niece, Mrs. Thurza Parks — contested this will, and in April, 1878, brought suit in the Shelby circuit court to have it set aside and declared null and void, on the ground that it had been fraudulently obtained and made; that the principal beneficiary, Mrs. Guy H. Allen, had an undue influence over the testator, etc.

It was further charged or insinuated that there had been the foulest of foul play in the transaction; that a general conspiracy had been entered into by the doctors, the nurses, Col. Truesdell, Jennie Welsh, a sister of Mrs. Allen, and Mrs. Allen herself, to put Gen. Benjamin out of the way, and to obtain possession or control of the greater portion of his valuable property. Some thought he had been drugged in his last illness; others that a will different from the one shown had been prepared by the General's dictation, but that the one exhibited was substituted when it came to signing.

Numerous witnesses testified to the genuineness of the will, giving circumstantial accounts, substantially agreeing, of its preparation, and of the soundness of mind of the testator at the time of making it. It was also testified by all the witnesses who were present when Gen. Benjamin died that at the time of his death, and for some days preceding and succeeding that event, Mrs. Guy Allen herself lay in an adjoining room unconscious of what was occurring and had occurred to Mr. Benjamin. It was furthermore sworn to that Mr. Benjamin

was not friendly disposed towards his brothers and sisters; that he had been estranged from them for years, and it was sought to establish the conclusion that this was the reason why they were excluded as beneficiaries of his will. It was furthermore sworn to that the testator had repeatedly introduced and represented Guy Allen as his adopted daughter, and treated her openly with great affection. His first acquaintance with her had begun during his first term in Congress, when he was a boarder in her mother's establishment.

The suit was begun in April, 1878, but was not tried until a year later. The intervening time was spent in taking depositions in Washington and in other proceedings incident to the law's delay. In April, 1879, the case was called in the circuit court at Shelbyville. Judge John T. Redd, of Palmyra, was on the bench. A strong array of lawyers, from Washington and elsewhere, was present, and the courtroom was crowded with spectators. The trial was prolonged for some days, and every point was hotly contested.

For the plaintiffs there were D. C. Cameron and Judge Barrow, talented and experienced attorneys of Washington City; Thomas L. Anderson, the veteran lawyer of Palmyra, the Nestor of the North-east Missouri bar; and King & Giles, the well known accomplished practitioners of Shelbina. For the defendant, Guy Allen, there were A. S. Worthington, of Washington, now district attorney; Hon. B. F. Dobyens, a most learned counsel and brilliant advocate, of this county; Hon. Theo. Brace, now a erudite judge of this circuit. P. B. Dunn, Esq., represented J. M. Ennis, the executor for Missouri, and a lawyer named Barnard appeared for Geo. Truesdell, the Washington City executor. Mrs. Allen herself was present throughout the trial and testified as a witness, making a most favorable impression — demure and modest as a Quakeress, and shrewd and quick-witted as a queen's maid of honor.

He over whose effects the litigants were wrangling and snarling lay silent in his narrow house in the Shelbina cemetery, and those who ought to have been mourning his memory were quarreling over his dollars. Of what avail now was the wealth he had toiled so long and so hard for — the privation he had endured, the hard bargains he had made, and the enemies he had created thereby? How much had he taken with him to that city whose gates are of pearl and whose streets are paved with gold and lighted with the divine glory? Alas! for the dross which he had striven so hard for! It had become as the spoil of a pirate — as a bone over which dogs might fight! Far better had he done good with it while he lived, visited the widow and the fatherless and them which were sick and in distress, and ministered to them in their affliction. Far better had he never acquired it.

After some days the jury retired, but found it impossible to agree. In October following the case was tried again, with the same result. The multiplicity of testimony, some of it conflicting, the weary lawyers with their endless tongues, the lengthy and learned instructions of the judge, the entrancing features of the principal defendant in the case, who was present on both occasions, and sat the trial through, muddled the senses and confused the opinions of our Shelby county yeomanry.

Before it could be brought to trial again the case was taken on a change of venue by consent of parties (Judge Brace, who had come to the bench, having been of counsel) to Macon county, where it yet lies undisposed of. But in the meantime a suit was begun in the District of Columbia by Mrs. Allen, now married again to a Mr. Schley, of Washington, to secure the property which she claims was bequeathed to her by her "foster father." The *nisi prius* courts decided in her favor, and it is understood that their decisions now await confirmation by the Supreme Court of the United States. Upon this decision rests the ultimate fate of the case in its entirety, in the courts of Macon and elsewhere. The property in the District of Columbia has already been distributed by order of the probate court there, and Mrs. Allen given her share, or the greater part thereof. The Benjamin relatives are still fighting the case, without much show of success, however.

But the fascinating and beautiful Guy, fair of feature and light of love, yet reigns as a queen. She has at least the partial enjoyment of her fortune, and is happy in the possession of her new lover and husband. She speaks in the tenderest terms of Gen. Benjamin, and takes great pride in exhibiting his letters wherein he speaks of her fondly, calling her "Bonnie," and by other terms of endearment.

Mrs. Benjamin, the widow of the General, did not survive him but a few months. She died in Shelbina in the summer following, and was not buried beside her husband, but in the Shelbyville cemetery, and there is as yet no stone to mark her resting place, or that of her husband.

THE ROBBER "JOHNSON."

On the night of June 16, 1882, Mr. B. F. Smith, the proprietor of the City Hotel in Shelbyville, was robbed of about \$50 by a guest of the house, calling himself "J. B. Johnson," although registering as "J. B. Salmon." He had walked into town from the East the evening before, and had represented himself to Mr. Smith as a carpenter,

whose home was in St. Joseph, whither he said he was returning after having finished a job of work in Lewis county. Of fair address and agreeable deportment, there was nothing in the man's appearance, save it might be his cold, glittering gray eyes and his hard, cruel mouth, that would indicate him to be as he was, and is, one of the most desperate criminals in the country. Another alias of his is Henry Clark. It has not been ascertained where his home is or was.

Smith's guest retired early, after requesting change for a \$20 bill. The next morning at about 2 o'clock Smith was awakened by his wife, who directed his attention to the robber standing at the foot of the bed with a drawn revolver and demanding that his host should at once rise and deliver up his money or yield up his life. Smith arose and handed over the contents of his pocket-book and some loose change, amounting in all to about \$50. He then accompanied his guest to the hotel office, gave him his valise, and then the robber bade him good-night and stepped out into the darkness in the midst of a heavy thunder storm then prevailing.

The next morning pursuit was attempted, and that afternoon the robber was captured near Clarence. Deputy Sheriff Charles Ennis first discovered him, and a party from Clarence, headed by the marshal, and J. D. Dale, captured him a mile east of the town. They had been notified by a telegram sent by Ennis from Lentner, and Ennis had recognized him from the east-bound train as the robber was walking on the road. In the face of cocked revolvers the brigand was cool and collected, refused to throw up his hands, deliver his weapon or make a surrender. He was captured by main force and taken to Clarence.

The same evening of his capture, while in the second story of the hotel and under guard, "Johnson," as he called himself, proposed to sell to the highest bidder a hat which he claimed had belonged to the renowned bandit, Jesse James. Having attracted a large number of men from the street, he suddenly sprang through an open window to the ground in an attempt to escape. Luckily, he broke his leg by the fall and was easily apprehended.

On a preliminary examination "Johnson" was bound over and sent to the Palmyra jail for safe keeping. Here, before his broken leg was yet well, he headed an attempted outbreak, making a most savage assault on the young man who brought his food, and whom he beat most cruelly before a rescue was effected. October 13, 1882, he was arraigned in our circuit court and pleaded guilty to robbery. Judge Redd sentenced him to 12 years at hard labor in the penitentiary.

In the penitentiary he headed a revolt of some of the most hardened inmates. With his own hand he fired the prison, cut the hose used in attempting to quench the flames, and struck down one or two of the guards. The fire destroyed \$150,000 worth of property belonging to the State. Sentenced to a dark cell for his conduct, he subsequently made an unprovoked attack on a cell-keeper, whom he beat with a stone into a state of insensibility. He is more like a demon than a man.

MURDERS AND HOMICIDES.

Since the war there have been but few homicides in Shelby county. The record in this particular is especially creditable, especially when compared with that of some of the other counties in this part of the State. In Marion county there have been no fewer than 86 cases of murder and homicide, and only one execution therefor — that of a negro named “Ben,” who was hung in January, 1850, for the murder of two children of Michael Bright.

MURDER OF GEORGE QUEARY.

On September 4, 1873, a negro named George Ashby shot another negro named George Queary, a barber, in Shelbina. The shot tore out the bowels of the victim. He was standing on a sidewalk, and caught up his bowels, thrust them back, and held them with one hand while he clung for support to a lamp-post with the other. Soon he fell to the ground, was carried home and died that night at 11 o'clock. In a quarrel between them an hour or two before Queary had struck Ashby, and the latter went off vowing vengeance. At the time of the shooting Queary had a revolver and called to the crowd to “get out of the way.”

In May, 1875, Ashby was tried at Shelbyville, found guilty of murder in the second degree and sentenced to 20 years' imprisonment in the penitentiary, where he still is. He was ably defended by Messrs. Jewett & Hale, who were assigned him by the court.

THE DALE-PHELPS TRAGEDY.

On the night of the 1st of May, 1875, there was a most desperate affray in Clarence, resulting in the death of one man and the serious wounding of two others.

John and Jonah Phelps were two young men, brothers, who lived on a farm six miles south of Clarence, whither they had removed from near Roanoke, Howard county. Their cousin, James Phelps,

lived on a farm adjoining town. On the night in question all three of the Phelpses were in town.

In Mr. Dale's restaurant two men had just eaten some oysters and had fallen on the floor in a drunken sleep. John Phelps was teasing them. Mr. Dale's son, John D. Dale, then a boy 15 years of age, was attending the restaurant, and remonstrated with Phelps. James Phelps came in and said to young Dale, "What is it your d—d business?" In a short quarrel that resulted Phelps struck the boy and knocked him down, and the two clinched. The boy's father sought to interfere, but John Phelps caught him and held him. Jonah caught up a chair and used it when and where he could.

Jim Phelps and John Dale were on the floor and Phelps was stabbing and cutting the boy fearfully. He made eight severe wounds. Jonah Phelps struck at Dale with a poker, but missed him and the blow fell upon Jim Phelps, stunning him. Young Dale then sprang up, all bleeding from his stabs, and ran behind the counter and secured a revolver. Jim Phelps recovered and again advanced, when Dale shot him through the upper portion of the body from side to side. He staggered to near the door and fell dead. As he was walking off Dale again fired, or the pistol was accidentally discharged, and wounded him in the heel. At the first crack of the pistol John Phelps released old man Dale and started towards young John, who fired and shot him fairly through the body, the ball passing through one lung. Jonah ran away and escaped unhurt.

Young Dale was arrested while lying in bed suffering from his numerous wounds, and upon a preliminary examination was bound over. He was indicted soon after and at the November term following (1875) was tried on a charge of murder. Prosecuting Attorney Dobyms made most strenuous efforts to convict him, going, as some thought, beyond his duty in his zeal; but the jury acquitted him without leaving their seats. Indeed, they announced that they were ready to render a verdict as soon as the evidence in the prosecution was in, and before that of the defense had been introduced.

John Phelps recovered from his severe wound. John Dale grew to manhood here and is the present circuit clerk for Shelby county. It is perhaps just to say that it is universally considered that there was not the least element of *crime* in what he did. Indeed, there are many who think that, for a 15-year old boy, he exhibited remarkable courage and proved himself a hero instead of a criminal, and that he should never have been indicted or even arrested.

KILLING OF CALVIN WARREN BY BRUCE GREEN.

In the summer of 1880 a young man, named Bruce Green, stabbed and fatally wounded another man, named Calvin Warren, in the village of Lakenan. The two men had been to Shelbyville that day with a load of pottery, which they had disposed of. They returned home by way of Shelbina. On the way from Shelbina to Lakenan, both being intoxicated, they quarrelled over some trivial matter. On arriving at Lakenan the quarrel was renewed. It seemed that Warren, who was a much older man than Green, was the aggressor. He made an assault upon Green, and the latter stabbed him so badly that he died in a few hours.

Green was indicted in October, 1880, and released on a bond of \$1,000. At the April term of the circuit court, 1881, he was tried at Shelbyville and acquitted. The trial was vigorously conducted, and attracted a great deal of interest and attention. The prosecuting attorney, R. P. Giles, made strenuous efforts to secure a conviction. Two of Warren's sisters, wealthy married ladies, were present and offered to employ additional counsel to assist the prosecutor, but he refused. The prisoner was defended by his uncle, Hon. J. G. Blair, of Lewis county.

The speech of Mr. Blair in behalf of his nephew is said to have been remarkable for its ability and eloquence, and was delivered with great force and power. At the conclusion of the trial young Green went home with his uncle to remain permanently.

A NEGRO MURDER CASE.

In the fall of 1881 a negro woman was killed in Shelbina by some negro men who surrounded her house and shot her through a window. It seemed that the negroes had an enmity against another man who was the recipient of more favors at the hands of another colored woman, an inmate of the house where the shooting was done. On the night in question five negro men, George Buckner, William Wilson, Bailey Lafoe, Ben Heathman and Oscar Brown, visited the house where they supposed the "fancy nigger" was, with an avowed purpose to "do him up." They attacked the house, and the old woman started up from her bed and sought to run to another room. The negroes saw her through a window, and, believing she was the man they were after, fired and killed her.

All the members of the party were arrested. Oscar Brown turned States' evidence. At the October term of the circuit court, 1881, George Buckner and William Wilson were convicted of murder in the second degree, and sentenced to the penitentiary, Buckner for 11 years and Wilson for 10 years. At the April term following a *nolle prosequi* was entered in each of the other cases, and Lafoe, Heathman and Brown were discharged. It was said that Brown fired the fatal shot.



History of Monroe and Shelby Counties, Missouri - Link Page

[PREVIOUS...SHELBY IX: DURING 1863 AND 1864.....767](#)

[NEXT.....SHELBY XI: LEADING INSTITUTIONS OF SHELBY COUNTY.....799](#)

[GO BACK TO THE ELECTRONIC INDEX PAGE...](#)