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Stand on Precedent. That's a Good Boy!

In 1870 a Missouri lawyer delivered 'A Tribute to a Dog.'

By Randy Maniloff
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SAVE PRINT TEXT

Among the portraits of former justices that hang in the Missouri Supreme Court building in Jefferson City stands the bust of a hound dog named Old Drum. The sculpture isn't meant as a homage to a canine. Rather, it is a tribute to a lawyer.

Old Drum was shot to death 150 years ago in Johnson County, Mo. His owner, Charles Burden, filed a lawsuit against Leonidas Hornsby, his neighbor and brother-in-law, whom he suspected of orchestrating the killing. Hornsby had lost numerous sheep to dog attacks and promised to kill the first stray that appeared on his property. George Graham Vest, a 39-year-old lawyer, represented Burden.

On Sept. 23, 1870, Vest delivered one of the most enduring arguments ever performed in a courtroom. The speech is notable for what it is lacking: any mention of Old Drum or the violent act that led to his death. Instead, Vest delivered a eulogy to all dogs.

He told jurors that "the one absolutely unselfish friend that a man can have in this selfish world, the one that never deserts him and the one that never proves ungrateful or treacherous is his dog. A man's dog stands by him in prosperity and in poverty, in health and in sickness. He will sleep on the cold ground . . . if only he may be near his master's side. He will kiss the hand that has no food to offer."

The jury awarded Burden \$50 for the loss of his hunting companion, the maximum allowed by law. Missouri's highest court affirmed.

Ronald Reagan portrayed George Vest in a 1964 episode of "Death Valley Days" and delivered his famous summation. You'll find it. Have a tissue ready. Vest's oration, referred to as "Tribute to a Dog," is revered by judges and lawyers.

In *Repin v. State* (2017), a Washington appeals court concluded that under existing law a dog owner could not recover emotional-distress damages from a veterinarian who allegedly clumsily carried out a euthanasia procedure that prolonged the dog's suffering. The judge advocated for a change in the law and quoted extensively from Vest's discourse to make his

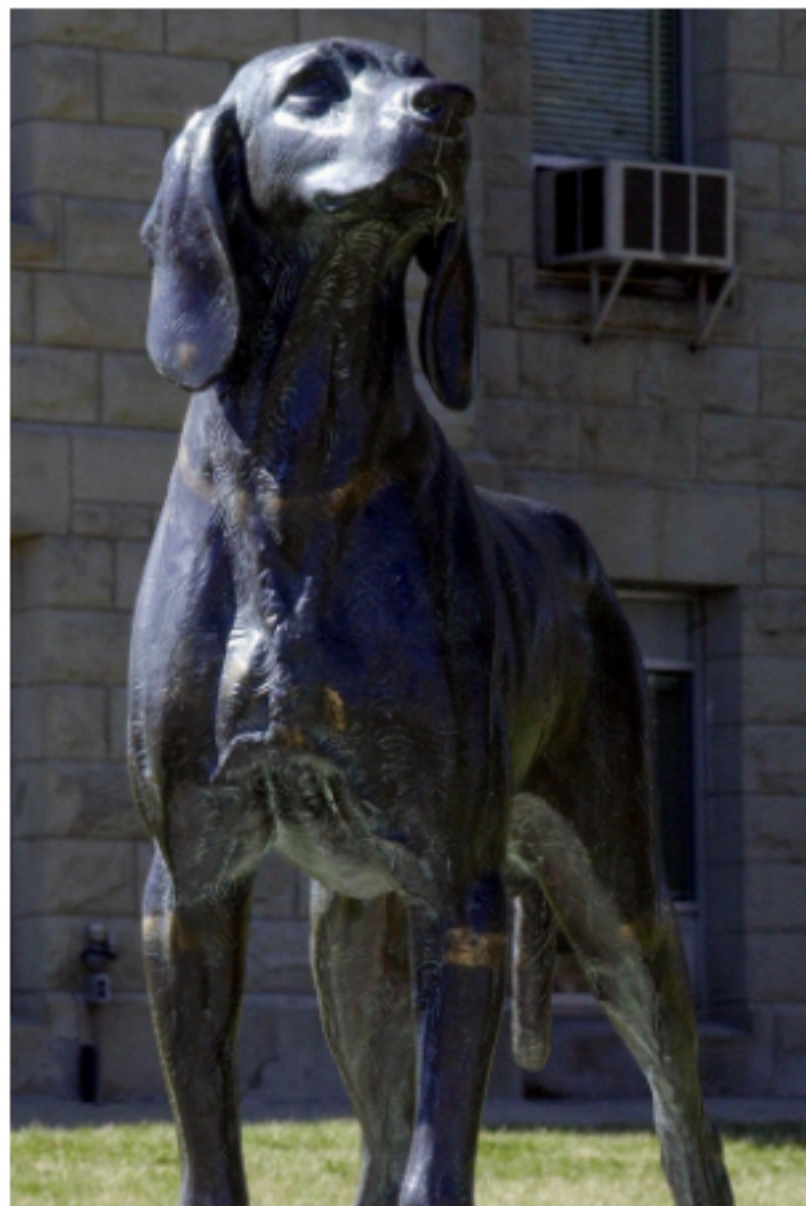
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A bronze tribute to Old Drum in front of the Johnson County Courthouse in Warrensburg, Mo., March 26, 2001.

PHOTO: KELLEY MCCALL/ASSOCIATED PRESS

point.

The Missouri appeals court in *State v. Stacy* (1962) concluded that a prosecutor impermissibly appealed to emotion when invoking Vest's argument in a trial for killing a dog. The court reversed a conviction.

Vest, who would go on to represent Missourians for 24 years as a U.S. Senator, concluded his speech by reminding the jurors that a dog remains loyal to the end. Even after his master's funeral, and all others have left the cemetery, Vest said, "There by his graveside will the noble dog be found, his head between his paws, his eyes sad but open in alert watchfulness."

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