

Old Drum, Missouri's official historic dog

This Missouri dog's life and death sparked America's most famous use of the phrase, man's best friend.

Many people have read George Vest's "[Eulogy of the Dog](#)," but few know the story behind it that began with an ill-fated gunshot and a court case in Warrensburg, Missouri, that was appealed all the way to the Supreme Court of Missouri.

On Oct. 28, 1869, Charles Burden heard a shot ring out about a mile south of his farmstead, near the home of his brother-in-law, Leonidas Hornsby. Hornsby had recently threatened to shoot any dogs found on his property because his flock of sheep was being decimated by stray dogs. Hearing the shot, Burden called his hunting dogs to his house, but found his favorite hound, Old Drum, was not among them.

The next morning, Burden visited his neighbors, searching for his missing dog. Hornsby denied seeing Old Drum but explained that his nephew had taken a shot at a dog they thought belonged to a different neighbor. Later that morning, Old Drum was found dead with circumstantial evidence that convinced Burden that his brother-in-law had shot his best hunting dog. Charles Burden swore he'd have satisfaction and filed a lawsuit for damages with the Madison township justice of the peace.

Leonidas Hornsby was summoned to appear in court on Nov. 25, 1869, but his lawyers filed a motion to dismiss the case because Burden asked for \$100 in damages and the amount was beyond the jurisdiction of the local official. However, Burden was allowed to amend his request to the legal limit of \$50.

The jury could not agree on Hornsby's guilt at the first trial, but at a second trial on Jan. 27, 1870, Charles Burden was awarded \$25 along with court costs for the loss of Old Drum. Appealing this decision, Hornsby took the case to the Johnson County Court of Common Pleas. His appeal was based not on whether he was guilty of shooting Old Drum, but on the fact that Burden shouldn't have been allowed to amend his original request from \$100 to \$50.

On March 30, 1870, the case went back to trial with new evidence from Hornsby and his nephew stating that they went back and removed lead bullets from the dog's body, creating doubt as to whether Hornsby was the reason Old Drum died. Two days later, the jury decided in favor of Leonidas Hornsby, in the amount of court costs.

Charles Burden, unhappy with this reversal, filed a motion for a new trial, based on the additional evidence Hornsby brought in. He hired John F. Phillips and George G. Vest, who now sat across from Hornsby's legal team of Thomas Crittenden and Francis Cockrell. These four lawyers would later become so successful that they would become known as Missouri's Big Four.

The fourth trial over Old Drum began Sept. 21, 1870. Hornsby admitted to having his nephew shoot at a dog, but vehemently denied that the dog was Old Drum. George Vest took the floor for closing remarks and delivered a speech that never mentioned Charles Burden or Old Drum, but rather, presented an emotional tribute to the relationship between dogs and their owners. Later, his closing statement would be written down and titled "[Eulogy of the Dog](#)." This speech swayed the jury in favor of Charles Burden.

The litigation did not stop there. Hornsby appealed the decision to the Supreme Court of Missouri, based on both allowing the first request to be amended and because a new trial was granted. In 1872, the Supreme Court of Missouri decided it was perfectly proper to make the correction to the claim from \$100 to \$50 but that it was also proper to grant a new trial based on additional evidence. Charles Burden had finally won his case and justice for the death of Old Drum.

Why is there a bronze bust of Old Drum displayed in the Supreme Court of Missouri?

The story of Old Drum was a favorite of Judge Warren Welliver, who served on the Court from 1979 to 1989. Welliver's family presented the statue to the Supreme Court of Missouri Historical Society, which Judge Welliver personally founded in 1982 to preserve the history of the Court and its architectural splendor for future generations.

The real story of Old Drum even inspired a film in 2000 called *The Trial of Old Drum*, which resets the story in the 1950s and recasts Charles Burden as a child. Fortunately, in this version Old Drum is only incarcerated on suspicion of killing sheep.

In addition to the bust of Old Drum at the Supreme Court of Missouri, there is also a statue of the dog outside the Johnson County Courthouse in Warrensburg. Recognizing the truth that the most unselfish friend one can have is a dog, the Missouri Senate officially designated Old Drum as "Missouri's Historical Dog" in 2017.