First and Only Verified Autobiography of the 32nd President of the United States—Truman v. Chilton, The

John K. Hulston
Paul W. Barrett

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Essay

The First and Only Verified Autobiography of the 32nd President of the United States

*Truman v. Chilton*¹

*John K. Hulston*²

*Paul W. Barrett*³

By reason of the sheer eminence of the position, every President of the United States has been the subject of life histories, biographies and scholarly research, searching out and probing into every triviality of life. *Harry S. Truman: A Bibliography of His Times and Presidency*, a scholarly bibliography of the 32nd president, contains 3,050 entries arranged by subject, but does not purport to exhaust the possibilities.

Dr. Benedict K. Zobrist, Director of the Truman Library, cautions that there are at a conservative estimate several thousand titles in the library's book collection dealing with domestic or foreign affairs during the Truman administration. In this plethoric mass of material, is it possible that a most interesting, fascinating and undiscovered, if not historically shattering, fact could now be unearthed and shed a puzzling insight into the life of "The Man From Missouri?"

Two very obscure, even dull and mundane, cases in the Supreme Court of Missouri, *Gallagher v. Chilton* and *Truman v. Chilton*, perhaps provide an answer to this question. These cases would be deservedly cast in the oblivion of literally thousands of state supreme court cases throughout the United States, except for their involvement with the future Thirty-Second President of the United States.⁴ Truman buffs, the Truman family and perhaps even "Give 'em Hell Harry" himself would have savored the resurrection and adonization of this obscure trivia.

In his two-volume *Memoirs*, the retired President Truman "digressed" long enough to devote two chapters, twenty-nine pages, to what may be

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1. 197 S.W. 346 (Mo. 1917). *See also* Gallagher v. Chilton, 192 S.W. 409 (Mo. 1917).
3. Former Senior Judge, Missouri Supreme Court. B.A. Drury College, 1924, J.D. University of Chicago, 1927.
4. Truman considered himself the thirty-third president, counting Cleveland twice.
deemed a first autobiography. He deliberately and thoughtfully called the volumes Memoirs, the first book subtitled Year of Decision. While the words "autobiography" and "memoir" are synonymous, there is a subtle distinction. The omnivorous student of biographies and American history may have been aware of the nicety, as a memoir may be written "without regard to completeness." The twenty-nine page Memoirs of his early life, documenting the first forty-seven years (1887-1934), is an explication of his historic decisions as senator, vice-president and President. He always capitalized, as was his choice, the word "President."

In his recitation of the early years, there is a marked tendency to lament and minimize his failures. By innuendo, he attributes the failure of the Jacobson-Truman Haberdashery to the policies of President Harding and Secretary of the Treasury Andrew Mellon. In explanation of his longing and fortunate rejection as a candidate for Congress in his home district, he lamented, "I was maneuvered out of this and finally ended up running for the U.S. Senate."

After becoming a senator, vice-president and world-renowned figure, even the usually frank and earthy common man may have become a bit squeamish about some episodes and events of early life. In contrast to the detailed frankness in his letters to Dear Bess, detailing every trip and every venture and family lawsuit, there is but a sparse paragraph describing a teenaged trip to see his father's "forty acres" in Oregon County, Missouri, and crossing the Eleven Points River with a buggy and team thirteen times in eight miles to find a piece of land "more perpendicular than horizontal and certainly not worth much."

The Memoirs contain no references, as in Dear Bess, to land ventures in Texas and Montana, or to a disastrous Texas trip with his older first cousin, Major General Ralph E. Truman. There is no reference to his Truman v. Chilton suit and his failure to personally appear for its trial in 1912. After his earlier trip to Oregon County, it seems safe to say he knew the way. There may be a subtle clue, if not an apology, for the Spartan genealogical account and his reticence in Memoirs: "One of the difficulties I encountered with becoming President was the intrusion of journalistic curiosity about my personal affairs and my family." Therefore, he reluctantly "digress[ed]."

Contributing understandably to the pique and indignation of Truman writers at this "convoluted litigation" is the fact that the first of two cases involve and turn upon a series of dubious conveyances. The first case revolved around the validity, integrity so to speak, of three other prior cases in which judgments had solemnly decreed and adjudicated unqualified ownership, fee simple title in legal parlance, to 120 acres of uninhabited land. And here they are, all re-opened and tried again, the only difference being that the earlier cases had not been appealed. Now, years later, they were being attacked, relitigated, and finally title adjudicated by the state's highest tribunal.
Truman’s deposition was not taken in the former trials, and so they do not contain his first and historic autobiography—the story of his life from 1884 to 1917. He, and those upon whom he necessarily relied as establishing his right to some interest in the land, at least "an arguable interest" some buff's called it, were parties to all the cases, and it was assumed the cases settled their respective titles and interests for all time to come, forever and permanently.

The three prior cases, strangely enough to the uninitiated, involved not only the same facts and persons, but identical legal problems as well, the same principles of law, so to speak, as the two cases appealed to the Missouri Supreme Court in 1917. Elemental principles of equity mandated the very simple and necessary initial procedural process of service by publication—a notice published in a newspaper. In the Shuck case, service of process was had by publication, and a judgment in partition found that Shuck and Mary McIntyre each owned a one-fourth interest in the 120 acres, and Gallagher a one-half interest.

In the 1910 case of Davis-Chilton against eleven named people, including Martha and Harry S. Truman, it was alleged—and Judge Evans specifically found—that several of the parties, particularly and emphatically Harry S. Truman, had been "duly and properly served by publication" in the Current Wave, a newspaper published in Eminence, in which there is some likelihood that Chilton had a proprietary interest.

The utterly baffling and unanswerable conundrum is that it took ten years and five separate lawsuits, all in the same court, to finally bring to an end and temporarily quiet the title to 120 acres of wild land in Shannon County. In Truman v. Chilton, Commissioner Roy succinctly and bluntly concluded, "The evidence affirmatively shows that Truman has never owned any interest in the land."

The three prior cases are referred to and discussed in some detail in the 1917 Supreme Court opinions, and were devastatingly analyzed by Judge Williams in Gallagher v. Chilton. But those cases invite and prompt further observation of some crucial and foreshadowing facts not mentioned in the decrees and opinions over the almost ten years' litigation. The 1907 case, however, was the disproportionate obstacle confronting the future President when, after the lapse of three years, he entered the lists as the aggressor attacking the validity of that judgment, asserting that "he is and was at all times hereinafter mentioned the owner and claims the title" to 120 acres of wild, uncultivated land worth at best 750 dollars.

The original records in the three other prior cases, as well as the original files and bills of exception in the two later cases appealed, have long since

5. As an interesting aside, the "S" in Harry S. Truman stood for nothing, and sometimes is written just "S" without any period.
vanished, disappeared in the detritus of county courthouse basements. The only official data and records, muniments of title, in the three cases are contained in the hand-written minute books kept by the clerk of the circuit court, recording day-by-day the happenings and orders emanating from the court.6

In point of time, the earliest of these records was a clerk's minute "in vacation" (a period in which the court was not in fact in session) dated November 21, 1907. That entry was an order allowing service by publication in McIntyre v. Truman. There is marginal notation that the subject is an "Action To Try Title" to "240 acres, more or less." There, it is recited, the McIntyres, five in number, headed by Mary, named as defendants Harry S. Truman, Frank C. Gallagher, and George Shaeffer, in that order.

As to Truman and his co-defendants, the McIntyres sought "to have the defendants debarred and precluded from claiming said property" without revealing the interests owned or claimed. The McIntyres did not claim full legal title, fee simple, in themselves; they claimed to own an "undivided one-half interest" in land valued ten years later at 750 dollars. No precise claim of a specified interest is assigned to the future President or to his co-defendants. In the generalities of legal jargon, it is said "the object and nature of which said suit is to ascertain, settle, define and determine the title of the plaintiff and defendants respectively."

On March 13, 1908, circuit court was in regular session and when Judge Evans called the docket, the McIntyre plaintiffs announced that they were prepared and ready to try the case. The clerk's record recites that "the defendants though three times solemnly called comes not and makes default even though duly and legally notified." Judge Evans heard the evidence "adduced" by the McIntyres and, there being no evidence or reason to the contrary, found that the plaintiff McIntyres were "the sole legal and equitable owners in fee simple" of the described land even though in the beginning they had claimed but a one-half interest.

The trial court judgment, unappealed and not challenged for almost three years, conclusively determined that Harry S. Truman had no interest or claim to any part of the desolate 120 acres of Shannon County land. Thus, the future President unknowingly lost round one in this ten-year marathon of five trials and two appeals to the Supreme Court of Missouri. The solemn, authoritative judgment in the first case was the disproportionate obstacle that

6. The clerk's minutes in all five cases were meticulously kept by the clerk, A.E. Orchard (predecessor and in every sense the precursor of the present clerk), setting out verbatim the various deeds entitled to recording for permanent preservation. From these hefty, antiquated volumes fifty-five pages of inestimable value have been unearthed by the very competent Lucille Orchard, 1989 Clerk of the Circuit Court and ex-officio Recorder of Deeds, and her accommodating staff.
would confront Truman when, three years later, he would, at least temporarily, successfully launch an attack on the integrity and validity of the judgment.

Prior to President Truman’s intervening suit in 1912, there was a second case and numerous deeds were executed, all adding to the complexity of this prolonged litigation, which lasted nine years, eleven months, and twenty days. After the conclusion of the first case, the successful McIntyres deeded a one-fourth interest in the 120 acres to Ed J. Shuck, one of the lawyers in the first action. Whether this conveyance was in payment of his legal services or for purpose of investment and speculation is not known.

Whatever the reasons, in March, 1909 Shuck utilized that interest by instituting a suit in partition in his name alone, naming as defendants Harry S. Truman and Mary McIntyre. That action, in which again there was service by publication in the Current Wave, eventually concluded with a sheriff’s sale at the courthouse door in Eminence on September 15, 1909. Anna Davis, "being the best, highest and last bidder," purchased the land for the "price and sum of Thirty Dollars and Thirty-Five Cents," which represented, of course, the accrued costs of the action, including the cost of publication. Sheriff Summers appeared before Judge Evans and the sale was solemnly authenticated. Since the land was not appropriately "divisible in kind," Judge Evans decreed that the proceeds of the sale be divided according to the interest of the parties. The judgment in this case became the second obstacle to President Truman’s attack in 1912.

The third case arose when Anna Davis, recorder of deeds of Shannon County, conveyed to J. William Chilton an undivided one-half interest in the contested land by quitclaim deed for the recited consideration of 500 dollars. Before the litigation ended, Mr. Chilton would testify that, in fact, he paid Anna Davis about 300 dollars in cash, and that, prior to the execution of the deed, he had advanced her 200 dollars.

Wasting no time, Chilton entered the litigation as a party at the September 1910 term of the circuit court of Shannon County. This, the third suit, was in the minute and precise details of numerous actions to determine and quiet title to real estate which Chilton and his ilk had reduced to an art. There were eleven named defendants.

Here, for the first and only time, one Martha Truman was named a party, a fact of which she could not possibly have been aware. Her relationship to the other parties is not alleged by Chilton, nor do extant documents identify Martha. Indubitably, Martha was President Truman’s mother, Martha Ellen Young Truman, familiarly known as "Matt" and "Aunt Matt." There is no documentary evidence of Martha’s connection with this Shannon County wilderness. Mrs. Truman’s name does not appear in any abstract of title.

7. Anna Davis was also an initiative plaintiff in the third action, and the purchaser at the two previous sheriff’s sales.
However, the resourceful Chilton must have encountered something. He was not leaving a stone unturned. One could speculate that some transaction or visit by Truman’s father John may have prompted the inclusion of his wife in this lawsuit. The President’s father was sometimes deft, if not a bit shifty, in his numerous land speculations and may have, one time or another, unwittingly exhibited a "stray" unrecorded quitclaim deed designating his wife Martha as a grantee.

In the end, however, Martha’s rights and interests and place in the litigation, were disposed of without the use of proper nouns, in the judge’s final decree, using the jargon of judges and lawyers, the all-inclusive and generic collective nouns "plaintiffs" and "defendants."

Buttressing his claim, Chilton asserted that he and his predecessors in title had paid all taxes due on said land since 1870. Here, there may have been some poetic license. And here again, upon allegations that all said defendants were non-residents of the State of Missouri, there was service of notice by publication in the Eminence weekly newspaper.

After the defendants failed to appear on September 16, 1910, Judge Evans found the defendants in default. Upon hearing the evidence and the arguments of counsel, Judge Evans set forth the barest essential facts and found that the plaintiffs (Chilton and Anna Davis) were the sole legal and equitable owners of the land, and that the defendants collectively or separately had no right to title or interest in the whole or in any portion of the land. Thus, the decree in generic terms—probably drafted by winning lawyer/litigant Chilton—embellished the lack of title in Truman and his co-defendants.

President Truman and the Gallaghers, in their 1915 briefs and arguments, attempted to explain (an argument in confession and avoidance in the language of another circuit judge) the force and effect of the embellishment in this case and in the decree in its two companion cases. This was the third obstacle confronting the future President, as the Supreme Court of Missouri would ultimately point out in 1917.

These first three actions led up to the two Missouri Supreme Court cases which would involve Truman. These two inextricably interwoven and dependent tandem lawsuits, filed in late 1911, were returnable to the January 1912 term of the circuit court of Shannon County. This does not mean that the parties would be prepared and insist on immediate separate trials. There were repeated continuances and delays, some obviously dilatory. On January 12, 1912, Gallagher was continued by agreement. On the same date, Truman’s attorney filed an amended petition in the case to test and determine title to the 120 acres.

The atmosphere of a circuit court-tried case in Eminence, Missouri in 1912 cannot be recreated. The 20th Judicial Circuit was comprised of Howell, Shannon, Oregon, and Carter Counties. The Circuit Judge was William M. Evans, a four-year veteran of the Confederate Army from Kentucky.
In both cases, Truman and his co-parties were represented by S. A. Cunningham, a native of Shannon County and, for several years, a state senator. Throughout the litigation, the redoubtable and persistent J. William Chilton (as he then signed his name), represented himself, Anna Davis, and the parties through whom he claimed title.

"Bill" Chilton was a man of many talents: violinist, banker, author, and indefatigable writer of letters to the editor. He was a bit of a gadfly and had mastered the details of titles and "flaws" in wild land, explored its antecedents and, in these cases, had command of all the facts. Throughout the litigation, his co-counsel was G. E. Dalton, a leader of the adjoining Dent County bar.

J. William Chilton and John Summers, a resident familiar with the land, were the only two witnesses personally present. The most relevant and convincing evidence was recorded deeds, judgments in other cases, and other documents indicating title to the land. All other witnesses testified by deposition: Margaret McIntyre, James McIntyre, Bridget Gannon, Stuart Abbot, and Peter McIntyre. In Truman, there was a stipulation by the lawyers that "during all the time mentioned," Harry S. Truman was a resident of Jackson County, but that defendants did not have actual knowledge of his residence.

The deposition of J. F. Buchanan was taken at the instance of the plaintiff, Chilton, on January 6, 1912, at Independence, Missouri. The deposition of Harry S. Truman was taken on the same date and it is assumed that it must have been taken in Independence. The fact that crucial witnesses Truman and Buchanan were deposed may indicate that even though Truman was a party, it was not contemplated that he would appear in person in the circuit court of Shannon County for the trial.

Normally a party plaintiff to a quiet title suit would put everything else aside and personally attend the trial of his case. It does not appear from the records why Truman, in either 1908 or 1912, did not consider his presence necessary or helpful to his cause. One possible reason may have been the value of the land. At best, according to the witnesses, the land was worth 750 dollars in those days. Another obstacle may have been the travails of travel in 1912. Art Taylor, Public Affairs Director of the Missouri State Highway and Transportation Department, says that the "highway distance" from Eminence to Independence today is 285 miles, on all paved routes—an estimated travel time of five hours at fifty-five miles per hour. In 1917, the distance was 305 miles, and Mr. Taylor estimates travel time "over graded earth [mud] and gravel roads approximately fifteen hours at twenty miles an hour."

This may be sheer speculation for, on September 9, 1912, Truman was writing Dear Bess from Grandview, "Today . . . the most satanic we've had," because of his trials in cleaning out the cistern and well. On September 23, he was ensconced in the American Hotel in St. Louis, seeing Sarah Bernhardt in a movie, and with Judge C. A. Mossman, of St. Joseph, attending Masonic
Lodge meetings. Further, the Trumans—father, mother, uncle and distant relatives—were not strangers to litigation or to chimerical, unrealistic speculations in land and oil from Montana to Texas to Kansas.

Both Gallagher and Truman proceeded on their dreary course. On September 10, 1912, the defendants in both cases refiled their answers to plaintiffs' amended petitions and plaintiffs immediately filed their replies to defendants' answers. Despite the presence of lawyers Chilton and Dalton on one side and Senator Cunningham on the other, experienced experts in the vagaries and intricacies of suits to quiet title, these delaying quibbles indicate some indecision and certainly a lack of aggressiveness in the prosecution of the respective causes.

After the parties' preliminary tactical maneuvers, nine months had elapsed. Both cases were tried together on the same day, September 14, 1912. In both cases, the recently discovered first autobiography of future President Truman appears. His testimony, with that of J. F. Buchanan, even though by deposition, was the only oral testimony in support of Truman's claim as the aggressor plaintiff in the one case and defensively in the other.

In many respects, the evidence in the two cases was repetitive of that in the prior three cases. The pleadings in the earlier three cases, the order and decrees, the sheriff's sales and deeds, and the numerous conveyances were all spread upon the record by Truman in his case and by Dalton and Chilton in their case. The historic first biography, however, would lie buried in this obscure context for the next seventy-six years, until fortuitously unearthed.

Unlike the three other prior cases, these two cases were contested, even though in many respects almost identical in tactics, procedure, and proof. Chilton was undoubtedly a witness in one or perhaps both of the cases, but testimony of other witnesses is not preserved. In the Gallagher case, in which Chilton was a party with Anna Davis, after relating his purchase of a one-half interest from Davis, he testified that he "made an abstract of title to the land from books of the Shannon Abstract Company, and examination of that abstract disclosed there was no record transfer from the patentee." It was Chilton's understanding, not in fact claimed by Truman, that the McIntyres, Gallagher and the Trumans were heirs and that a suit should be brought to establish that the only proper and legal source of title was from the heirs of Anthony McNamara. Chilton did find in his search a deed from Sabina McNamara to Winsor, and therefore brought suit against Truman. When he testified in Truman, he amended his prior testimony:

In addition to the facts stated in my testimony in the case of Gallagher v. Davis and myself, I ask to say that I contemplated bringing suit to quiet title to the land in question in 1910. I made inquiries to find out where Harry S. Truman lived and if he lived in Jackson County, Missouri. I wrote the sheriff of the county and received a letter I either
destroyed or threw away. He informed me that Truman had theretofore lived there but had gone to Kansas City, according to his information.

Chilton then wrote the city clerk, who responded that neither of the last two city directories gave his name, and with this information Chilton sought and obtained service on Truman by publication.

In support of his claim, Truman relied on the testimony, by deposition, of J. F. Buchanan, age sixty, who off and on for forty years had lived in Jackson County, and engaged in the abstract business. In 1896, he made an abstract to the 120 acres in Shannon County for Frank C. Gallagher from original deeds at the time in his possession, which showed an 1870 conveyance to Sabina McNamara, Truman’s only claimed source of title.

The abstracts introduced in evidence in these cases, one compiled by Chilton himself, the other for Truman by Buchanan, would not be accepted today by any purchaser, loan agency, or insurer of land titles. No lawyer would be so bold as to offer them in evidence. In the days of these cases, the condition of the record title was not of great moment, and just about anybody could and did compile abstracts from whatever sources came to hand and satisfied the purchaser and perhaps his lawyer. In Shannon County in the 1900’s, undisturbed occupancy and defiant possession were the surest exemplars of ownership of nondescript wild land.

In the Gallagher case, Truman’s autobiographical deposition was offered in rebuttal of his case and claims, while in his own case it was the principal support and proof of his contention of fraud in the procurement of service on him by publication in the earlier cases. Here, the only evidence corroborative of his witness—abstractor Buchanan, and the now-historic document—did indeed possess compelling force in the two cases. As presented to the Supreme Court by Truman’s adversary, Chilton, in one case, and as identically set out in Truman’s own appellate record the first autobiography of "The Man From Missouri," given by him under oath, and first discovered and called to public attention by a co-author in An Ozarks Lawyer’s Story:

Truman was 27 years of age, lived now at Grandview, Jackson County, Missouri, was a farmer by occupation. Had lived at Grandview, five years and four months, prior to that time had lived four years in Kansas City, and prior to that time had lived twelve years in Independence, the county seat of Jackson County, Missouri; had been paying taxes in Jackson, for six or seven years; was well acquainted in Independence, and had never been served with process in . . . (the cases of Mary McIntyre v. Harry S. Truman, to quiet title to E NE & SE Section 28 Tp. 29 Range 6 West, Shannon County, Missouri). Had never seen the order of publication in the Eminence Current Wave (and had no knowledge of it and was never served with summons in the partition suit of Shuck v. Harry S. Truman; for partition of NE SE & SE SE Section 28 Tp. 29 Range 6 West, and never seen any order of publication in said suit.
Was never served with summons in case of *J. W. Chilton and Anna Galbraith v. Edward Winsor*; and never seen an order of publication in said cause), and had no knowledge of the pendency of the suit prior to rendition of judgment by the court. That he did not have in possession or under his control the deed (from Peter McIntyre and Mary McIntyre, his wife), to Sabina McNamara, dated June 30, 1870, recorded August 24, 1887, Deed Record Book G., page 443 & 444, Deed Records, Shannon County, Missouri (conveying E NE & SE Section 28 Tp. 29 Range 6 West) and did not know where such deed was; that he had never seen such deed and that he had made inquiry and searched for such deed but could not find it.

On cross-examination, and still under oath, Truman repeated all his statements as to where he lived at the time the newspaper ran the notice, and where he had lived theretofore. He stated he was single and that he had never been married. He stated that while in Kansas City, Missouri, he had worked as a bank clerk. He stated that he had made every effort to find the McNamara deed referred to in his direct examination (he had applied to J.F. Buchanan and to Sallie Ish). Witness further stated that he had never known McNamara (or Mary McIntyre).

The astonishing and confounding naked fact in the two circuit court cases, *Truman v. Chilton* and *Gallagher v. Chilton and Davis*, is Judge Evans' complete change of mind; his contrary finding of the facts, as well as a complete reversal of his decree and judgments in those cases in which he solemnly found that President Truman had no title or interest in the 120 acres. In *Mary McIntyre*'s case (one of the three prior cases), Judge Evans found Mary McIntyre and her co-parties to be the sole legal and equitable owners in fee simple to a one-half interest. Evans concluded that Truman and his associates "have no right, title or interest in said land or any part thereof," and with great formality held that "defendants [Truman, et al.] be forever barred and precluded from setting up or making any claim to said land or any part thereof."

Astoundingly, in the current *Gallagher v. Chilton and Davis* case, Circuit Judge Evans now found that his decree in March 1908, as certified by M. E. Orchard, Clerk, "was based on invalid judgments with full knowledge of all the equities existing in favor of plaintiffs herein." Judge Evans also set aside all his prior orders and decrees in the prior *Shuck* case (the second of the three prior cases). As to the third prior case, *Chilton-Davis*, in which Martha and Harry Truman were vanquished parties, Circuit Judge Evans also set aside his prior judgment. Finally, Judge Evans decreed that Frank C. Gallagher was the true and lawful owner of the 120 acres Ozark land. If that were not sufficient, with finality he decreed that the defendants (Chilton and Davis) were "hereby forever debarred, precluded, enjoined and estopped from setting up or claiming any title, interest or estate in or to said premises and any part thereof." In the companion case to *Truman v. Chilton*, Circuit Judge Evans
also found for Truman and the other plaintiffs. Thus, tit-for-tat, the future President of the United States scored a signal victory; benightedly, a Pyrrhic victory.

If Truman or his counsel thought for a minute that these decrees forever ended the now complex litigation, little did they reckon with the persistent Chilton, who immediately perfected all procedural steps to appeal to the Missouri Supreme Court. On October 7, 1912, M. E. Orchard, Circuit Clerk, appropriately certified to the Clerk of the Supreme Court copies of all requisite judgments and orders.

Once the records, certified by Circuit Clerk Orchard on October 7, 1912, arrived at the office of J. D. Allen, long-time Clerk of the Supreme Court of Missouri, they were given permanent numbers: 17677 (Gallagher v. Chilton), and 17679 (Truman v. Chilton). They were then ready for the procedural processing leading to printed briefs and arguments, submission to the Court, and final decision.

But here, as with the prior five cases, the two cases now before the Supreme Court were not expeditiously processed or pursued. The Supreme Court’s dockets were clogged. After being given a place on the Court’s docket, immediately there were continuances by the parties.

After they had been submitted to the Court, the parties entered into a mutual agreement and stipulation that decision in President Truman’s case, No. 17679, should be continued "until the decision of the case of Gallagher v. Chilton, No. 17677, shall have been announced by the court."

When Presiding Judge Walker called the docket on January 11, 1916, the court’s minutes, as recorded by the clerk, stated "SOB," which means that the lawyers did not personally appear and exercise their right to orally argue their respective contentions, but waived oral argument and submitted their causes on briefs. In the Truman case, the minutes also meticulously record "SOB."

Presiding Judge Walker assigned the Gallagher case for an opinion to Judge Fred L. Williams. The Third Associate Judge then in Division 2 was Charles B. Faris, later to become United States District Judge for the Eastern District of Missouri. Judge Williams came to the Supreme Court from Joplin as a commissioner in 1914, and was elected to a judgeship for an expired term which would end in 1919.

It may appear at first blush that the parties, the lawyers, and the courts deliberately set out to confuse and frustrate future historians. The lawyers, in some respects, did obfuscate the issues. Dalton and Chilton argued res judicata. That is, they argued former adjudication of the unappealed judgments in the first three prior cases, maintaining that they were final and decisive and could not be set aside upon the grounds of fraud claimed in the two later cases. Merely claiming to be an owner, paired with a judgment rendered upon default of appearance, upon constructive service of process by publication, did not constitute such fraud as would permit the setting aside of judgments.
Just what approach and process Judge Williams devoted to unraveling and resolving the cases cannot be known. He had enough experience that deciding cases had become a habit of mind and a way of life. There are some possible clues in the interpolations found in the original Chilton-Davis briefs. Penciled in the margins were the numbers one thru five, with underlined text detailing the facts in the old cases. First, Judge Williams noted the Gallagher case in 1908, then the Shuck case and its sheriff's sales and deeds, then the challenge that Chilton got no interest from the Davis deed because Shuck had no title, and finally that the 1910 Chilton-Davis decree against Winson, Truman, and others was invalid because service of process was obtained by publication. The whole proceeding and foundation of their title was therefore inspired and created by fraud and, as a result, no title passed.

But, irrespective of the truth and validity of the claims of Shuck in the first case, the McIntyres in the second case, and Gallagher in the third, the law governing and relating to the three prior cases was simple and well-known. There is no mystery or hidden misgiving in Judge Williams' opinion. In Gallagher v. Chilton he spells out the essential elements of Truman's contention, his Missouri residence. Concededly, the plaintiffs in the three prior cases may have been devious and insincere in their claims, but the fundamental law of Missouri was aged and settled.

President Truman, in his autobiographical deposition, proves that in 1908, 1911, and at all times mentioned in the lawsuits, he was a resident of Jackson County. That does not irrefutably prove fraud in the procurement of the judgment, even though Chilton's reliance on letters from a city clerk and one sheriff's report derived from reference to a city directory may not have been the most desirable and diligent search for the residence of a party defendant to a lawsuit. Between the years 1908-1911, when the suits were filed, and 1917, when the cases were decided, there had been vast changes in the access and availability of information and communication between even Eminence, Missouri and Independence, Missouri.

From his penciled numbering and underscoring, Judge Williams, in his final opinion, reduces the case to its lowest common denominator: the hard and indisputable facts and circumstances essential to the judgments in the first three cases. Those facts, as set forth in Gallagher, Shuck and McIntyre, complied with existing statutes and law and warranted service by publication. Weekly publication, even though in the unlikely read Current Wave and Shannon Herald, was precisely correct and gave circuit court Judge Evans jurisdiction of the subject matter, and the corresponding power to adjudicate the controversy, in this case, a suit to quiet title to real estate.

Because of the substituted service—summons not personally served on a party—the court could not enter a personal judgment, against Truman or other parties serviced with notice by publication. But the court could and was empowered on constructive service of notice by publication to adjudicate the disposition and ownership of the land. Once the court exercised its power, its
unappealed judgments were final and binding, adjudicated forever, unless it could be incontrovertibly proved that there was fraud in the procurement and notice of publication.

The authenticity, the content of the notice, and the process of its publication were not questioned. The reliance and attack were that Truman, and others notified by the publication, were, in fact, at all times during the litigation, residents of Jackson County, Missouri. Consequently, they could readily be found and personally served with copies of the petitions and notices of the filing of the suits. But his historic autobiographical deposition in 1912 does not incontrovertibly disprove the alleged facts and circumstances as they existed in 1907, 1909 and 1911, and upon which the judgments were based.

In jury-waived cases, appellate courts defer to findings of fact as the trial judge finds them, especially regarding the credibility of the witnesses whose demeanor the trial judge personally observed and appraised. But here the trial judge’s two separate findings of fact in the three prior cases and the two appealed cases were in conflict and there was no room or place for deference. In the cases before the Supreme Court, the facts were not in dispute or opposition. There were no inferences to be drawn. The problem in both instances was the force and the effect of indisputable facts. As Judge Williams observed in 1917, service of notice by publication in the three prior cases was appropriately requested, warranted, and justified. The requisite publication of notice process was followed, and solemn judgments entered upon the processes violated no constitutional restraints and were not lightly set aside.

The Supreme Court spent little time in exposition of the applicable law once the facts were established, citing but two cases. A headnote to one of the cases sets forth in hornbook style the law and its philosophical foundation:

Where the Court has jurisdiction over the subject-matter and parties, its judgment is unassailable, except for fraud in the very procurement of the judgment itself, and a judgment quieting title, though based on constructive service, will not be set aside because defendant, who had a good defense, was prevented from interposing it because of ignorance of the suit.

It was not necessary for the court to analyze and demonstrate whether the vague and indecisive evidence adduced by the future President, at best a wild deed to wild land, rose to the dignity of "a good defense."

The meticulous minutes kept by long-time Deputy Clerk Guy Silvers (over forty years’ service) record that Judge Williams’ opinion in the Gallagher case was in a "hand down" of cases on February 2, 1917. Chilton’s appeal of Truman’s case was assigned to Commissioner Roy three months later. As the lawyers had anticipated by their stipulated continuance awaiting disposition of the Gallagher case, Commissioner Roy’s task was quite simple. In fact, res judicata was all but mandatory, and five months and seventeen
days later he promptly and emphatically ruled. Citing only the *Gallagher* opinion, which he said quieted the title in the plaintiffs Chilton and Davis, Judge Roy's one-sentence opinion was devastating:

As the evidence affirmatively shows that Truman never had any interest in the land in controversy and as it clearly appears that no fraud was perpetuated on him in the last suit to quiet title, the judgment herein (Judge Evans' second decree) is without any evidence to support it, and is reversed for that reason and the cause remanded.

In later years, President Truman would have smiled that former Circuit Court Judge Roy, a Republican from, of all places, New London, Ralls County, the heart of Truman's favorite "Little Dixie," so unceremoniously disposed of his lawsuit.

Little did the future President and his counsel, Senator Cunningham, reckon with the pertinacious lawyer-banker-abstractor from Winona if they thought Judge Roy's terse and cogent opinion entirely ended the matter. Judge Roy's opinion was filed on July 16, 1917, and shortly, on July 23, 1917, clerk's minutes indicate that Dalton and Chilton had exercised their prerogative as victors and filed motions in both cases to tax the costs against respondent-loser Truman. Senator Cunningham stipulated that the costs of printing the abstract of the record and fees were $45.90 in the *Gallagher* case, and $41.10 in the *Truman* case, and the future President was thus obligated to pay the total sum of $87.00.

But again, the mutual stipulation did not end the matter even of costs. The costs were not paid, and on August 7, 1917, Chilton mailed this explicit and informative letter to the Clerk of the Supreme Court:

> Please issue fee bill against Harry S. Truman, in Case No. 17679, for the amount of costs taxed against him on motion in your court, namely $29.60, and send same to the Sheriff of Jackson County at Independence, Missouri. If you will send it right soon, the Sheriff advises me. Yours very truly, J. W. Chilton.

The one thing missing in this expectant request was an address, the exact place Truman could be found in Jackson County. From whatever source Chilton may have been forewarned, his premonition and anxiety were well founded, indeed. For the world was changing that Autumn of 1917 and both Truman and Chilton would soon forget the simple matter of $29.60 in a world at war.

The fee bills, "executions" of those days, as issued by the Supreme Court of Missouri, now artifacts, were works of art. At least one copy deserves preservation for its ornate beauty and authoritative tone. On irreplaceable sheets of high quality paper, 14 x 8 inches, printed in beautiful typeface
script, the fee bills always politely commanded "The State of Missouri to the Sheriff of Jackson County, Greeting."

After reciting that J. William Chilton and Anna Davis "had recovered against Harry S. Truman, respondent, the sum of Forty-One Dollars and Ten Cents ($41.10), for costs and charges" there follows the stern admonition:

Therefore, we command you, that of the goods and chattels, lands and tenements of the said Harry S. Truman, respondent, in your bailiwick, you cause to be made the aforesaid costs, and that you have the same before the Judges of our said Supreme Court on the second Tuesday in April next, and that you certify to our said Judges how you execute this writ, and have you then and there this writ.

Little did these powerful legalisms, with their dignified and impressive prose, reckon with the facts of political life in Jackson County in 1917. The sheriff's return to this all-encompassing writ solemnly recites that he "executed this writ in Jackson County on the 11th day of August, 1917, to the 8th day of October, 1917—but failed to find the within named Harry S. Truman." The return is signed "Overton H. Gentry, Jr., Sheriff, by George Klingber," and he adds "Fee 50¢." This would all be well and good and would end the matter but, scrutinizing the penciled notations on the back of the return, there are, despite the pious official return, these revealing notations: "703 New Ridge Arcade," at another "703 Ridge Bldg. with Army at Fort Sill," and finally, "Harry S. Truman is in the Army, and we have been unable to collect this execution." Thus, Chilton's foreboding was indeed justified. The war had not only ended forever Truman's farming days in Grandview, but also allowed him to close the books on the Missouri Ozarks land title battle.

On September 2, 1917, Judge Dorris, successor to Judge Evans, recited his predecessor's finding that "Harry S. Truman was decreed to be the sole, legal and equitable owner" of the 120 acres, but that judgment was appealed and "said Supreme Court reversed the judgment of this court." Complying with the explicit mandate of the Supreme Court of Missouri, "it is now ordered, adjudged and decreed that the decree rendered in this court on the 14th day of September, 1912 (only five years later) be and the same is hereby reversed, annulled and for naught held and esteemed." Judge Dorris emphatically decreed that Chilton and Davis "be restored to all things which they have lost—and that they be and are hereby declared to be the sole legal and equitable owners of the above described real estate."

So ended the saga of future President Harry S. Truman and his fruitless pursuit of 120 acres of wild, uninhabited land in Shannon County—a project in which he may in fact have had no financial or personal interests, but throughout the litigation, as one Truman biographer observes, may have fronted for his father, John Anderson Truman, a man of several dubious land speculations across the United States. Fortunately for posterity and the
preservation of this bit of history, the appeal of these cases was to the Supreme Court of Missouri. In the early 1900’s, the title to real estate—farms, homes, business property—was sacrosanct, so inviolable as to require the imprimatur of the state’s highest tribunal.

Now that a "first—first" autobiography and its provenance have been unearthed and spread upon the record, permanently enshrined, the first and authentic autobiography of Harry S. Truman, the primary aim and purpose of this enterprise has come to an end. What future historians and biographers may make of this "convoluted litigation" and its simply distilled historical fact of an unknown autobiography remains to be seen. What historians and biographers make of the man has taken shape. This story contains legal certification that Harry S. Truman, at twenty—seven, was an unknown person in Independence and Kansas City, Missouri. Imagine the interest today if such a document surfaced concerning Lincoln as an unknown in his hometown at a like age.

Bibliography

1. Gallagher v. Chilton, 192 S.W. 409 (Mo. 1917); Truman v. Chilton, 197 S.W. 346 (Mo. 1917).
2. The original files in these two cases were made available to the authors through the good offices of Gary Kremer, State Archivist, and Roy D. Blunt, Secretary of State. The files in the two cases, Nos. 17677 and 17679, had been commingled by the then Clerk of the Supreme Court, and perhaps by archivists, in rearranging and renumbering and preserving the records in these and other cases. Even the original file in No. 17677 is incomplete and consists only of the certified judgment of the Circuit Clerk of Shannon County, the original opinion of Judge Williams, a motion to tax costs, and the Appellants’ abstract of the record, brief, and argument.
3. J. HULSTON, AN OZARKS LAWYER’S STORY, 1946-1976, app. C at 464-69 (1976). (John K. Hulston’s resume and comments on Truman v. Chilton, 197 S.W. 346 (Mo. 1917), "A ‘Judicial Freak’ Case"—calling attention for the first time to the historic fact of "the first and only sworn autobiography of Harry S. Truman.")
10. Supreme Court of Missouri Minute Book, Division 2, 1904-1917, pp. 49, 56, 68, 70, 81-82, 100.
11. Roads and Their Builders (published without a date by Missouri State Highway Commission, W. R. Nunn, Director).
16. Letter from Alonzo L. Hamby, Department of History, Ohio University, Athens, Ohio to John K. Hulston (April 14, 1988).
21. E. Silvers, Examination of Missouri Titles (1911).
21. The authors would like to acknowledge Dorothy A. Divilbiss, Missouri Supreme Court Librarian; and Missouri Supreme Court Judges William H. Billings and Andrew Jackson Higgins for their assistance. They also thank H. H. Lawrence and J. W. Chilton, Jr., executors of the J. W. Chilton estate, who first gave a co-author the legal briefs in Truman v. Chilton, 197 S.W. 346 (Mo. 1917).