

Law on the Edge:
The *Credit River Case* and the Fixations of Jerome Daly
1960-1990

By

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The Minnesota Law Library has reported that of all the documents digitalized and made public through its website the most searched-for records are for the *Credit River Case* (*First National Bank of Montgomery v. Jerome Daly* (1968)).¹ What's more, an internet search returns a dozen or more citations that typically refer to it as "the most important legal decision ever decided by a jury," and "legally sound." Remarkable. More than fifty years after its occurrence *Credit River* is frequently sought out and a prominent topic in several contemporary websites? Yet it's safe to say that most people have never heard of it. What was it about? Mass murder, the largest heist in the state's history, corporate fraud, steamy illicit sex, a Ponzi swindle, political corruption? Not close. *Credit River* was about money, banking, and a small real estate mortgage. Why an enduring attraction? As importantly, is *Credit River* relevant today?²

First, a case narrative. Jerome Daly, an attorney, practiced law in Savage, Scott County where in 1964 he purchased real property, reported to be a cabin. To finance the purchase, Daly gave a mortgage and promissory note of \$14,000 to the First Bank

¹The Minnesota Law Library includes an especially fine bibliography related to anti-government protestors, tax-protestors, constitutionalists, sovereign citizens, militias and others. It's titled Law on the Edge. See <https://mn.gov/law-library/legal-topics/law-on-the-edge.jsp>

² <https://mn.gov/law-library>

of Montgomery³ and made payments on that loan for a couple of years before falling into arrears. In 1967 the bank foreclosed successfully and recovered the property through a sheriff's sale. A year later, with the redemption period having passed, Daly refused to relinquish possession. As a result the bank began an unlawful detainer action to reclaim its property.⁴

At that time Minnesota had four levels of state courts—the state Supreme Court which heard appeals, State District Courts, Municipal Courts (which heard small claims, traffic offenses, and offenses against local ordinances), and, in small communities and townships, Justice of the Peace courts empowered to hear traffic offenses and claims valued at no more than \$100. Only a handful of the 400 or more Justices of the Peace, who were elected for two-year terms, were attorneys or had legal training. And, since 1977 Justice of the Peace courts have been eliminated. Currently, foreclosure matters are specifically adjudicated by State District Courts.

Although this judicial hierarchy would seem to have directed *First National Bank of Montgomery v. Jerome Daly* to district court, the bank's attorney, Theodore Mellby, as he had most likely done previously and because it was a routine matter, filed his unlawful detainer action with a Justice of the Peace in Scott County. When affidavits of prejudice were filed against two justices and a third refused the case it was transferred to Justice Martin V. Mahoney's court in Credit River Township (Scott County). Why the transfer was made to Mahoney is unknown but Mellby, the bank's attorney, did not object.

³ Montgomery is a town of about 2,500 people located in LeSueur County about 30 miles south of Prior Lake, and near New Prague. It claims to be the “Kolacky (a Polish or Hungarian pastry) Capital of the World.”

⁴ Unlawful detainer is typically used in landlord/tenant relations to evict a tenant. See also Affidavit of Theodore Mellby, (*First National Bank of Montgomery vs. Jerome Daly*, June 11, 1969.) (MLL)

The trial was held on the bitterly cold morning of December 7, 1968 in a general store/saloon. In addition to Justice Mahoney the court included William Drexler, an attorney, who represented that he was present as an Associate Justice whose role was to assist Justice Mahoney. In Drexler's own written account, he attended the trial because he was asked to participate via a phone call he received a week earlier from Oscar Knutson, Chief Justice of the Minnesota Supreme Court. Knutson, Drexler said, wanted his assistance because Justice Mahoney had never presided over a jury trial. Drexler agreed, drove to the general store where the trial was to be held in a storage room, and helped to light a wood stove. His duties that morning, he said, consisted of helping Justice Mahoney select the jury and restraining Daly and Mellby from a fist fight.⁵

A jury of twelve was impaneled. But when Mellby, who had not previously been told that his routine case was to be tried by a jury, asked to see a list of jurors the court was unable to furnish it or to explain how the prospective jurors were selected. Mellby then challenged the jury selection but was denied. During the preliminary examination of the jurors to determine their impartiality and fitness (*voir dire*) Mellby challenged for cause one William Wildinger who Mellby knew to have worked as a handyman for Daly. That challenge was accepted. However, when Mellby then discovered that another juror had been a client of Daly's and moved to strike him for cause, Drexler told Mellby that motions to strike for cause were not allowed in a justice court. Mellby protested and cited Minnesota law to no avail. Similarly, Drexler denied Mellby's motions regarding peremptory challenges.⁶

When the trial got underway, bank President Lawrence V. Morgan testified to the mortgage loan, Daly's default, and the

⁵ Several websites reprint Drexler's account. Interested readers might begin with <https://1776reloaded.org/joomla30/index.php/unlearn/507-the-credit-river-decisionhttp://te>

⁶ Affidavit of Theodore Mellby, *First National Bank of Montgomery vs. Jerome Daly*, June 11, 1969. (MLL)

bank's foreclosure. Under cross examination, Daly raised the issue of whether the consideration given by the bank for the mortgage, which was a contract between Daly and the Bank, was lawful. Daly had committed property worth at least \$14,000. What had the bank given as consideration that equaled Daly's mortgage? The banker answered that the bank had created the "money" and credit used as consideration as a bookkeeping entry upon its own books. He added that this was standard banking practice in cooperation with the Federal Reserve Bank of Minneapolis (a private bank), that he knew of no statute that authorized this practice, and that Daly, by making payments on the note had waived any right to complain and was estopped from doing so.⁷

As William Drexler put it, when the bank admitted it had created money by simple bookkeeping entry or out of "thin air" he was in "complete disbelief." And when Justice Mahoney heard this, according to Drexler, he said, "It sounds like fraud to me!" With no further testimony the case was handed to the jury which in ten minutes returned a unanimous verdict for Daly, the defendant. Jerome Daly, again according to Drexler, "had taken on the banks, the Federal Reserve Banking System, and the money lenders, and had won. Both Jerome Daly and . . . Mahoney are truly the greatest men that I have ever had the pleasure to meet. The Credit River Decision was and still is the most important legal decision ever decided by a jury."⁸

Within two days of the trial Justice Mahoney wrote a Judgment and Decree and a Memorandum of Law. In the first, Mahoney recites the circumstances of the trial and declares that Daly was entitled to recover his property because of the failure of

⁷ Although Drexler's account suggests that Daly's defense came as a "bombshell" to the courtroom (there is no transcript and justice court decisions were not reported), Mellby was aware in advance of Daly's argument. See Jerome Daly, Answer and Counterclaim, November 30, 1968.(MLL)

⁸ See <https://1776reloaded.org/joomla30/index.php/unlearn/507-the-credit-river-decisionhttp://te>

lawful consideration for Daly's note and mortgage. Then, in his memorandum, Mahoney justified his complete and final jurisdiction in the matter:

“Nothing in the Constitution of the United States limits the jurisdiction of this Court, which is one of original Jurisdiction with right of trial by Jury guaranteed. This is a Common Law action. Minnesota cannot limit or impair the power of this Court to render Complete Justice between the parties. And provisions in the Constitution and law of Minnesota which attempt to do so is repugnant to the Constitution of the United States and void. No question as to the Jurisdiction of this Court was raised by either party at the trial. Both parties were given complete liberty to submit any and all facts to the Jury, at least in so far as they saw fit.”⁹

As discussed below, this claim of absolute jurisdiction for Mahoney's Justice of the Peace court was not an issue laid to rest by Martin V. Mahoney's assertion. Nor, as numerous websites assert, should *Credit River*, because it was decided by a jury, be regarded as the “law of the land.” First, however, let's learn more about the key participants.

Cast of Characters

Our first character is the judge. Well, not exactly a judge—Martin V. Mahoney was the Credit River Township (it's located in Scott County just south of Prior Lake) Justice of the Peace. Mahoney was a farmer, then about 55 years old, who, as reported later, ran for the job because no one else seemed to want it. He was also reported to have often held court in his drafty barn where his “bench” was an overturned milk can and his “gavel” a horseshoe.¹⁰ He was not an attorney nor did he have any legal training¹¹ but he

⁹ Judgment and Decree, December 9, 1968. (MLL)

¹⁰ Bob Lundegaard, “High Court Sets Hearing for Peace Justice,” *Minneapolis Tribune*, August 19, 1969, 18.

¹¹ *Ibid.* At the time there were 409 Justices of the Peace in Minnesota townships of whom only 8 were attorneys.

was, apparently, sympathetic to “hard money” theories and a critic of the Federal Reserve Banks. He was described by Jerome Daly as:

“ . . . a dirt farmer and a carpenter who is not dependent upon the fraudulent Federal Reserve Mob for his sustenance; thus he was able to view the whole fraud, which is Global in scope, with a mind in the settled calmness of impartiality, disinterestedness, and fairness. . . .”¹²

It is also likely he knew the defendant, Jerome Daly, prior to the trial. It is also probable, as bank attorney Theodore Mellby charged in a later affidavit that Daly wrote Mahoney’s Judgment and Decree and Memorandum.¹³ That subsequent appeal memoranda, letters, and documents signed by Mahoney were also written by Daly is equally credible.

Jerome Daly, the defendant, was born in Ramsey County in 1926 and graduated from the St. Paul College of Law (now Mitchell-Hamline School of Law). He received scant attention in 1962 when he ran in the 1st District DFL congressional primary and was soundly defeated by Albert Lea attorney David Graven.¹⁴ Daly next ran for Governor in the 1966 DFL primary, won by Karl Rolvaag, where he received a few hundred votes.¹⁵ He filed next for Congress in the 5th District (in which he wasn’t a resident) in the 1968 DFL primary.¹⁶ In that race we do have some notion of his views--full investigation of the JFK assassination and ending the Viet Nam wars, for example. Other views, a strong anti-government

¹² Letter, Jerome Daly to Patrick Foley, December 27, 1968. (MLL)

¹³ Theodore R. Mellby, Affidavit, June 11, 1969.(MLL)

¹⁴ Graven defeated Daly 25,744 votes to Daly’s 8,536. Graven was subsequently defeated by the Republican incumbent, Albert Quie.

¹⁵ “Daly, Fourth DFL Candidate, Files,” *Minneapolis Tribune*, July 14, 1966,10.

¹⁶ As a result of the 1960 census Minnesota was redistricted and a new 5th Congressional District was created. In 1962 Donald Fraser defeated Dr. Walter Judd, an anti-communist Republican incumbent and a “China Hand” for that seat. As a result, when Daly ran in the 5th District DFL primary in 1968 he ran against DFL incumbent Fraser. In the primary, Daly lost to Fraser 1,700 votes to Fraser’s 31,500. University of Minnesota Professor Grover Maxwell, a strong anti-war candidate, received 4,600 votes.

skepticism along with a conspiratorial critique of the Federal Reserve Banks, hard “real” money convictions, and his own refusal to pay income taxes, by then were a Daly fixation. When Daly acquired his opinions about money is uncertain. Most likely, however, they were triggered by President John F. Kennedy’s Executive Order 11110 which ended the convertibility of Silver Certificates to silver dollars or silver bullion; an action that came about because the industrial price of silver had risen well above the government’s fixed silver price and led to a precipitous decline in U.S. silver reserves.¹⁷

In 1966 and 1967 Daly argued in cases dismissed as frivolous by both state and federal district courts against the Federal Reserve and the legitimacy of its notes as “money.”¹⁸ When Daly put forward the same arguments in federal district court in 1968 the defendant, Northwestern State Bank of Appleton, moved to dismiss the case and asked for a restraining order against Alfred Joyce, the plaintiff, and Daly, his attorney. The judge, Roy Stephenson, dismissed the case and “permanently enjoined and restrained [Joyce and Daly] from continuing, commencing or prosecuting any suit, action or proceeding, either in this Court or in any court, state or federal, . . . regarding unlawful creation of money and credit. . . .”¹⁹ Daly ignored the order.

By that time Daly had garnered some notoriety for his involvement with and defense of Bloomington substitute teacher

¹⁷ Kennedy’s Executive Order was issued in November, 1961. Redemption of Silver Certificates for silver dollars ended in March, 1964 and redemption for silver bullion ended in June, 1968. American use of gold for domestic transactions ended during the New Deal but international convertibility of U.S. dollars for gold continued until 1971 when it was ended by the Nixon administration due to Vietnam War expenditures and a growing unfavorable balance of payments.

¹⁸ Daly represented Bloomington resident Leo Zurn in a suit to declare Federal Reserve Notes worthless and to enjoin the Federal Reserve from issuing those notes. The suit was dismissed as a nuisance. “Money No Good, Suit Says,” *Minneapolis Star*, February 8, 1965, 5; “Kroman’s Request Studied,” *Minneapolis Star*, May 9, 1967, 6c.

¹⁹ Permanent Injunction. *Alfred M. Joyce vs. Northwestern State Bank of Appleton, et. al.* June 20, 1968.

Gerda Koch. Koch was an uncompromising, to say the least, anti-communist who saw Reds hiding even or perhaps especially in plain sight. Koch's organization, Christian Research Inc., published a newsletter and sponsored public forums whose purpose was to alert the public as to imminent communist dangers. Daly, who was described by Koch as a "constitutional lawyer," participated. Panelists asserted, among a wide range of charges, that John F. Kennedy was a Communist who had failed his masters and was therefore assassinated by them. The Warren Commission, it was said, was a part of that conspiracy. Although plausible theories regarding Kennedy's murder were already widespread, the panelists' notions seem entirely unhinged.²⁰

Koch's newsletter, *Facts for Action*, then attacked University of Minnesota sociologist Arnold Rose as being a Communist. That charge stemmed from Rose's participation in research for Swedish sociologist and economist Gunnar Myrdahl's book, *An American Dilemma: The Negro Problem and Modern Democracy* (1940) and from public lectures and appearances Rose had made under the auspices of the University's World Affairs Center. In at least one instance Rose appeared with University political scientist Mulford Q. Sibley who had sustained heavy right-wing fire for his leftist views.²¹ Myrdahl, according to Koch, was a well-known Communist. Thus Rose, she claimed, was one also. Rose then sued Koch for libel demanding \$100,000 in damages and arguing that although he had once been in the Minnesota legislature he was a private citizen, not a public official, that he was no Communist and that Koch's accusations were malicious.²²

²⁰ "Panel to Discuss Warren Board," *Minneapolis Star*, February 21, 1964, 16; Jane Brody, "Warren Probe Called Red Conspiracy," *Minneapolis Star*, February 22, 1964, 14.

²¹ Gordon Slovit, "Probe of Two 'U' Professors Ordered," *Minneapolis Star*, December 3, 1963, 13.

²² The original suit also included eleven fundamentalist/anti-communist pastors including the very public anti-communist Dr. Paul Rader of the River-Lake Gospel Tabernacle. Undoubtedly Koch's newsletter was distributed widely through such

Daly defended Koch. When his attempt before Judge Donald T. Barbeau to dismiss the suit²³ based upon his contention that Rose was a public official failed, Daly tried to prove by assertion (truth as a defense against libel) that Rose was a “Marxist Socialist who. . . advocates Communist ideas whenever he can.”²⁴ To Daly, the battle was “between atheism and a belief in God. . . [and] free enterprise. . .and an attempt to shut up my client.”²⁵ Daly also put forth numerous conspiracy and monetary theories of his own for which he was repeatedly reprimanded for introducing irrelevant arguments, reports, and articles.²⁶ After a three-week trial at which many prominent witnesses appeared on Rose’s behalf, Rose won a \$20,000 judgment.²⁷ Afterwards, Daly argued for a new trial, which Judge Barbeau refused to grant, noting specifically that Daly’s defense had been a “many-headed monster of racial, religious and economic prejudices . . . in the form of propaganda snowballs and slanted curves that painted a picture of grotesque distortion, prejudice and self interest.”²⁸

At about the same time Daly defended Gerta Koch he and attorney William Drexler (about whom more will be said) represented a Minnesota physician, Palmer A. Peterson, in his

congregations. Those charges were dropped as the trial began. See Al Woodruff, “Rose is Awarded \$20,000 in Suit,” *Minneapolis Star*, November 24, 1965, 13.

²³ “Dismissal of Rose’s Libel Suit Refused,” *Minneapolis Star*, March 31, 1964, 52.

²⁴ “Gerda Koch Takes Stand in Rose Case,” *Minneapolis Tribune*, November 13, 1965, 14.

²⁵ Jim Parsons, “Defense Attorney Sums Up Rose Case,” *Minneapolis Tribune*, November 23, 1965, 14. Daly also leveled criticism at the Supreme Court for its school desegregation decision in *Brown v. Board of Education of Topeka* (1954) which cited Myrdahl’s book as influencing its decision.

²⁶ “HUAC Data Barred in Rose Case,” *Minneapolis Star*, November 15, 1965, 9.

²⁷ Al Woodruff, “Rose is Awarded \$20,000 in Suit,” *Minneapolis Star*, November 24, 1965, 13.

²⁸ “New Trial is Denied in Rose Libel Suit,” *Minneapolis Tribune*, April 26, 1966, 22. Ultimately the case was heard on appeal by the Minnesota Supreme Court which reversed and remanded it for a new trial because Rose was considered a “public figure.” See *Rose v. Koch*, 154 N.W. 2d 409 (1967). Following the case Rose, who died in 1968, published *Libel and Academic Freedoms: A Lawsuit Against Political Extremists* (Minneapolis: University of Minnesota Press, 1968).

divorce proceedings. Normally such a mundane matter wouldn't have attracted attention. But the Peterson case was newsworthy, notorious, and long-running. The circumstances were straightforward. In the divorce decree, Dr. Peterson, who had ample income, was obliged to divide assets with and pay alimony to his ex-wife. Instead, Dr. Peterson concealed income and assets in order to avoid payment. What made the case infamous was that Dr. Peterson, for a time, fled Minnesota and that his attorneys, Daly and Drexler, abetted his efforts to avoid financial obligations. In one instance, Drexler opened a post office box at the Minneapolis-St. Paul airport, in his own name, to which Dr. Peterson then directed his patients to submit payment for services.²⁹

Other bad behavior included the misuse of trust funds, check forgery, and a secret Swiss bank account. For their participation Daly and Drexler drew criminal contempt of court citations, \$250 fines, and six month sentences in the county workhouse from Hennepin County District Court Judge Rolf Fosseen. In sentencing them, Judge Fosseen spewed his contempt for the two attorneys who he said had “wantonly, nefariously, reprehensibly, and unlawfully disobeyed lawful orders, judgments and mandates of this court.”³⁰ Daly and Drexler escaped the workhouse when the Minnesota Supreme Court reversed the contempt citation because the offense occurred outside the courtroom. Three years later, however, Daly and Drexler each received judgments against them of over \$35,000 (which were later reversed on procedural grounds) in a civil suit brought by Dr. Peterson's ex-wife, Faye. Although Daly and Drexler escaped the judgment, Dr. Peterson did not. He was ordered to make prior support and trust fund payments and was given a six month workhouse sentence.³¹

²⁹ Al Woodruff, “Court Gets Mail in Divorce Case,” *Minneapolis Star*, February 18, 1965, 44.

³⁰ “Two Attorneys Draw Contempt Sentences,” *Minneapolis Star*, March 19, 1965, 3.

³¹ “High Court Reverses Contempt Sentences,” *Minneapolis Tribune*, October 28, 1967, 20; “2 Assessed \$35,500 in Assets Suit,” *Minneapolis Star*, May 7, 1968, 20B; “Doctor

William Drexler was a St. Paul attorney. He's important to *Credit River* primarily because his account of the trial survives and defines the case on numerous websites and even in some mentions of the case in more serious discussions of banking and the Federal Reserve. Drexler's account, however, is suspect. To begin, Jerome Daly and William Drexler had known one another for a number of years and were involved in the Peterson divorce. Given the charges leveled against both of them and with disbarment proceedings, for juror tampering, tax evasion, and other offenses, already probable against Drexler it is preposterous to believe, as Drexler claimed, that Minnesota Supreme Court Chief Judge Oscar Knutson asked Drexler to attend the trial to assist Martin Mahoney. That he did attend the trial and assisted Mahoney, who was clearly out of his element, in selecting the jury and conducting the trial is factual. That most certainly, however, was done at the request of Daly, who had two other roles that day—defendant and counsel for the defense—and not at Knutson's request. As we'll see, Drexler's later career continued to intersect with and parallel Daly's.

Finally, The First Bank of Montgomery was represented by the bank's president, Lawrence Morgan, a community banker who answered the questions directed to him straightforwardly, and by the bank's attorney, Theodore Mellby. Mellby is notable for two reasons. First, although he did not know before the trial that it would be decided by a jury, he did know in advance that Daly would argue that the lending practices of banks, in collusion with the Federal Reserve, rendered his mortgage and promissory note invalid.³² That he apparently presented no counter to Daly at trial

Gets 6 Months in Workhouse," *Minneapolis Star*, May 18, 1965, 11c. The judgment against Daly and Drexler was later reversed on procedural grounds. See *Peterson v. Bartels*, 284 Minn. 463. 170 N.W. 2d 572.

³² Jerome Daly, Answer and Counterclaim, November 30, 1968.(MLL) In his answer, Daly claimed that the bank was engaged "with the Federal Reserve system of creating unlawfully, money and credit by bookkeeping entry upon its books as it did in this case, all of which is unconstitutional and void in violation of laws relating to forgery and usury."

suggests that he believed a credible justice would find Daly's argument baseless. Second, it is because of Mellby's affidavits given during a protracted appeal that we have a believable narrative of the trial.

Appeal

Less than a week following *Credit River* Theodore Mellby, noting that the Minnesota appeals statute needed to be adhered to strictly in order for the district court to assume jurisdiction, filed a notice of appeal with Hugo Hentges, clerk of the 1st District Court in Shakopee. At the same time, Mellby sent Hentges a \$12 filing fee and noted that per the statute \$2 of that fee was to be remitted to Justice Mahoney.³³ Hentges then promptly sent Mahoney a Notice of Appeal along with two \$1 Federal Reserve Notes. In reply, Mahoney sent a Notice of Refusal to Allow Appeal or to provide required documents, including a trial transcript. He refused, Mahoney said, because the Federal Reserve notes were not "lawful" money within the "contemplation" of the Constitution nor were they redeemable in gold or silver. The bank could have its appeal only if it could prove the lawfulness of the two notes. Mahoney concluded with "TAKE NOTICE AND GOVERN YOURSELVES ACCORDINGLY."³⁴

Within days, at Mellby's request, District Court Judge Harold Flynn ordered Mahoney to appear in court to show cause why he should not file the case documents. Before that could happen, however, Daly filed an Affidavit of Prejudice against Judge Flynn who promptly moved the case to District Judge Arlo Haering in Glencoe. Mahoney then held a 7p.m. hearing on the appeal at which Daly appeared but the bank, which Mahoney said had been notified but did not request a continuance, did not. Based upon Daly's testimony Mahoney then sent to the District Court a new

³³ Letter, Theodore R. Mellby to Hugo L. Hentges, December 11, 1968. (MLL)

³⁴ Martin V. Mahoney to Hugo L. Hentges, January 6, 1969. (MLL) As with other Mahoney documents it was likely written by Daly for Mahoney's signature.

Findings of Fact and Conclusions of Law statement in which he restated the argument made by Daly in *Credit River* and referenced the United States Constitution, Article 1, Section 10 : “No *State* (emphasis added) shall . . . make any Thing but gold and silver Coin a Tender in Payment of Debts. . . .” He concluded by affirming that the Federal Reserve Notes he had received were not legal money and that the bank had therefore failed to comply with the requirement to deposit \$2 to his court within 10 days. As a result, he concluded, his refusal to allow the appeal was “absolute.”³⁵ Judge Haering responded with a new order to deliver the case documents and papers.³⁶ Daly then appealed that order only to have it dismissed by Minnesota Supreme Court Justice Walter Rogoschecke.³⁷

In June (1969) Judge Haering ordered Mahoney to appear in his court to show cause why he should not be held in contempt.³⁸ Mahoney failed to appear but instead provided a written response in which he said that Judge Haering’s hearing was not to be held in the proper county, that District Court had no Jurisdiction over Mahoney personally, and that his denial of the appeal was proper.³⁹ To that, bank attorney Mellby told Judge Haering, in addition to citing multiple Minnesota statutes showing Mahoney to be simply wrong, that Mahoney’s “conduct amounts to nothing less than neglect or violation of his duty. . . .”⁴⁰ and that the required transcript and documents had to be in the possession of Drexler, Mahoney, or Daly.⁴¹ Judge Haering then directed the sheriffs of Ramsey County (Drexler’s home county)⁴² and Scott County to

³⁵ Martin V. Mahoney, Findings of Fact, Conclusions of Law, and Judgment, January 23, 1969; Return on Order to Show Cause, January 24, 1969. MLL. As with other Mahoney documents, these were likely written by Daly.

³⁶ Order to Make Return on Appeal, January 30, 1969. MLL

³⁷ Dismissal date was April 4, 1969.

³⁸ Arlo Haering, Order to Show Cause, June 23, 1969. MLL

³⁹ Martin V. Mahoney, Return To Order to Show Cause, June 26, 1969. MLL

⁴⁰ Theodore R. Mellby to Honorable Arlo E. Haering, July 1, 1969. MLL

⁴¹ Theodore R. Mellby, Affidavit for Attachment, July 17, 1969. MLL

⁴² Drexler’s home county.

retrieve the required documents. Drexler denied that he possessed the documents; Mahoney said that Daly had them, and Daly told a deputy that he “refused to talk about the matter.”⁴³

Concurrences

While Daly and Mahoney stalled the *Credit River* appeal, Daly tried notable cases, two of which proved to be his professional undoing. In none of them did Daly respect Judge Stephenson’s federal order that he not raise the issue of the legitimacy of the money supply in any court—federal or state.⁴⁴ In the first case, Daly represented Earl Guy, 64, who, with others, was charged with counterfeiting Federal Reserve notes. The defense was pure Daly. Federal Reserve notes are not legal, constitutional money; therefore his client wasn’t guilty of a crime because the “money” he copied wasn’t money at all.⁴⁵ Not surprisingly, in a trial at which the judge rebuked Daly throughout, Mr. Guy was found guilty.⁴⁶

In the second, Daly represented Carl Anderson, a contractor who was developing property at 138th Street and Nicollet Avenues in Burnsville, a tract now the site of Fairview Ridges Hospital, Ebenezer Ridges retirement home, and Prince of Peace Lutheran Church. Anderson was accused of 23 counts of securities and mail fraud in the sale of \$1.5 million in project bonds which he claimed falsely had Lutheran backing and the diversion of at least \$500,000 from that sale for his own use. The bond issue collapsed when the project was unable to make bond interest payments.⁴⁷ Although Judge Miles Lord had issued a pre-trial order warning Daly that any

⁴³ Cyril W. Maxa (Deputy Sheriff of Scott County) Supplemental Return to Writ of Attachment, July 22, 1969; Letter, T.R. Mellby to Arlo Haering, September 3, 1969. MLL

⁴⁴ Permanent Injunction, *Alfred M. Joyce vs. Northwestern State Bank of Appleton, et al.* June 20, 1968.

⁴⁵ “Reserve Notes Illegal, Defense Lawyer Says,” *Minneapolis Star*, April 1, 1969, 20b.

⁴⁶ “Bogus Money Case Headed for Jury,” *Minneapolis Tribune*, August 14, 1969). 28.

⁴⁷ Gwenyth Jones, “Defendant Charged With False Claims,” *Minneapolis Star*, April 23, 1969, 8.

arguments about the monetary system had to be in writing, Daly, early in the trial, asked a banker witness what he meant by the term “dollar.” Sensing where Daly was headed, U.S. District Attorney Patrick Foley objected. Judge Lord sustained the objection and told Daly that “the integrity of the American dollar is not at issue in this lawsuit.” When Daly persisted Foley objected again, saying (correctly) that Daly was violating a court order forbidding him from raising the issue in court.⁴⁸ Judge Lord agreed, dismissed the jury, read Daly his Miranda rights, issued a contempt citation, and directed a federal marshal to escort Daly to the Hennepin County Jail where he was held overnight without bail.⁴⁹

The next day Judge Lord suspended Daly’s citation provided he behave. Daly then sought to move the federal trial to Martin Mahoney’s court at Credit River which, he claimed, was a court closest to the people.⁵⁰ That motion, to no one’s surprise, failed and the trial proceeded.⁵¹ Although there was ample evidence to the contrary, Daly argued, unconvincingly, that there was no proof of Anderson’s wrongdoing. After an exhausting trial lasting over a month Anderson was found guilty.⁵² The conviction was appealed to the 8th U.S. District Court of Appeals where Daly argued that because the bondholders bought the bonds with worthless Federal Reserve notes Anderson owed them nothing. Anderson’s conviction

⁴⁸ Permanent Injunction. *Alfred M. Joyce vs. Northwestern State Bank of Appleton, et. al.* June 20, 1968.

⁴⁹ Bob Lundegaard, “Lawyer Cited in Attack on Dollar’s Base,” *Minneapolis Tribune*, April 23, 1969, 24.

⁵⁰ Following *Credit River* Daly made this same point explicitly in a letter to Patrick Foley, U.S. Attorney for Minnesota. In it, Daly said, “In truth and in fact the Justice of Peace Court is the highest Court in the land as it is the closest to the People. Every Judge who is dependent upon this fraudulent Federal Reserve, National and State Banking System for his sole support is disqualified because of self interest and has no jurisdiction to sit in review of this Judgment.” See Letter, Jerome Daly to Patrick Foley, December 27, 1968.MLL

⁵¹ “Trial Resumes After Contempt Citation,” *Minneapolis Tribune*, April 24, 1969, 26.

⁵² Bob Lundegaard, “Ex-Contractor Convicted on 23 Counts of Fraud,” *Minneapolis Tribune*, May 21, 1969, 18.

and sentence, 19 years in prison and a \$6,000 fine were, to no one's surprise, except possibly Daly and Anderson, affirmed.⁵³

Two additional cases began Daly's swirl into an eddy of legal trouble. In the first Daly filed suit in the Credit River justice court against the Savage State Bank for \$71.60. Daly had, he said, deposited that amount with the bank and wanted it returned in silver—which the bank couldn't produce. In that case the bank petitioned the Minnesota Supreme Court for a writ of prohibition ordering Martin Mahoney from further proceedings in the case. The court rejected that petition and instead declared all proceedings in the matter a nullity based upon the justice court's lack of jurisdiction.⁵⁴ The final case involved a \$680 claim by Leo Zurn, an auto mechanic, former client of Daly's, and a jury member in the *Credit River* case, against the Northwestern National Bank. The case was to be tried in Martin Mahoney's justice court. Undoubtedly knowing the hornet's nest that could ensnare a defendant before Mahoney, the bank successfully petitioned the Minnesota Supreme Court for a writ of prohibition to stop Mahoney from trying the case. The court soon thereafter ordered Mahoney and Daly to show cause why they should not be restrained from further proceedings pending a determination of the many questions raised by Northwestern Bank. In spite of the order, on the motion of Daly (Northwestern National Bank did not appear), Mahoney entered findings of fact, conclusions of law, and a judgment in favor of Zurn which was undoubtedly written by Daly.⁵⁵

Soon thereafter the Supreme Court directed Daly and Mahoney to appear and show cause why they should not be held in

⁵³ "Burnsville Man Loses Fraud Plea," *Minneapolis Star*, November 10, 1970, 18B.

⁵⁴ *Jerome Daly v. Savage State Bank and Another*, 171 N.W. 2D. 218, November 14, 1969. No. 42157.

⁵⁵ See <https://mn.gov/law-library/legal-topics/copy-of-credit-river-case.jsp>. July 15, 1969. See also *Leo Zurn v. Northwestern National Bank of Minneapolis and Another*, 170 N.W. 2d 600. September 5, 1969, Nos. 42088, 42117. As with the Savage State Bank case the Supreme Court declared the case a nullity on jurisdictional grounds.

contempt for their conduct.⁵⁶ On August 21, 1969 Daly appeared before the court. Mahoney did not appear but Daly told the court that he was authorized to represent him. At that hearing Daly admitted that he and Mahoney intentionally ignored the court's order because they didn't believe the Supreme Court had jurisdiction to order the stay nor had it been properly issued through a clerk, and because the bank should have first appeared before Mahoney and then appealed.⁵⁷

The following day, Martin Mahoney died in a fishing/boating mishap that has been described as having mysterious circumstances. Although conspiracy websites imply that bankers, the Federal Reserve, or other government-linked parties murdered Mahoney (some say by poisoning), neither proof nor a plausible theory has ever been advanced.⁵⁸ Whatever the cause, upon his death the proceedings against Mahoney became moot. Not so with Daly whose advice to Mahoney the court said was not justified "by fanciful notions that justice of the peace courts have a constitutional status giving them immunity from the jurisdiction of the supreme court of this state." What is more, the court listed numerous instances where justice courts such as Mahoney's lacked jurisdiction and where such actions were a nullity. As a result, Daly, whose behavior was judged a willful contempt of court was suspended from practice pending a hearing on his fitness and competence.⁵⁹ Thereupon the State Board of Law Examiners⁶⁰

⁵⁶ Bob Lundegaard, "High Court Sets Hearing for Peace Justice," *Minneapolis Tribune*, August 19, 1969, 18. Of the Minnesota Supreme Court action against him Mahoney was quoted as saying, "any judge who is on a salary paid by the illegal money and banking system is disabled by self-interest to the extent he has no jurisdiction."

⁵⁷ "Lawyer Says Court Acted 'Outside Law,'" *Minneapolis Star*, August 22, 1969; Bob Lundegaard, "Justice of Peace 'Defied High Court,'" *Minneapolis Tribune*, August 22, 1969, 19.

⁵⁸ See, for example, www.freedom-school.com/money/the-mahoney-case.html

⁵⁹ *In re Jerome Daly*, 180 N.W. 2d. 176 (September 5, 1969) No. 42174. 567ff.

Gwenyth Jones, "Top State Court Suspends Lawyer from Practice," *Minneapolis Star*, September 5, 1969, 11A.

⁶⁰ During the investigation State Board of Law Examiners functions were transferred to the State Board of Professional Responsibility.

undertook an inquiry and issued a petition for Daly's disbarment. The Supreme Court then referred that petition to a court-appointed referee, Sixth District Judge Donald C. Odden.⁶¹

Several months later, in February, 1970, Daly's hearing was held before Judge Odden. Although Daly swore he would "take the fifth" in a hearing which went on for eight days, he did no such thing. Rather, he raged about how, since the United States had stopped issuing silver certificates there was no legal tender and the Federal Reserve was itself unconstitutional. In other tirades he claimed that the entire hearing was a "fishing" expedition on behalf of the Internal Revenue Service (with whom Daly was also feuding over unpaid taxes) and then that the proceedings were part of an international conspiracy involving the Federal Reserve, the assassinations of JFK, RFK, and MLK, My Lai, the Pueblo incident, and other events. Daly called witnesses but most, including Hubert Humphrey, were quickly dismissed when it was clear Daly's questions had nothing to do with his fitness to practice law.⁶² In the end, Judge Odden sent the Supreme Court the 808 page verbatim transcript along with his findings, conclusions, and a recommendation for disbarment.⁶³

Credit River Appeal: Part II

Into the fall, 1969, Daly's delaying tactics, now without the assistance of the late Martin Mahoney, continued. Credit River, however, had a new Justice of the Peace, John Casey, who tried to be helpful. Casey first ordered Daly to turn over the documents.⁶⁴

⁶¹ *In re Jerome Daly*, 180 N.W. 2d. 176 (July 16, 1971) No. 42174. 291 Minnesota Reports, 488ff.

⁶² Gwenyth Jones, "Lawyer Pleads His Case," *Minneapolis Star*, February 10, 1970, 18D; "Humphrey Testimony Cut Short," *Minneapolis Star*, February 19, 1970, 18B.

⁶³ *In re Jerome Daly*, 180 N.W. 2d. 176 (July 16, 1971) No. 42174. 291 Minnesota Reports, 488ff.

⁶⁴ Order, John F. Casey to Jerome Daly, October 1, 1969; Order to Show Cause, John F. Casey to Jerome Daly, October 9, 1969.MLL

Then, when Daly claimed he had returned the papers to Mahoney, Casey asked Mahoney's son, who lived at the family farm, to attempt to locate the documents. That search produced nothing. Indeed, Mahoney's son claimed that all of his father's Justice Court records which had kept in his truck had disappeared.⁶⁵ Finally, in November, bank attorney Mellby obtained certified copies of the key *Credit River* documents including the note and mortgage, foreclosure and sheriff's sale documents, Mahoney's judgment and decree and various other papers which Casey then sent to the Scott County Clerk of District Court.⁶⁶ Nearly a year after *Credit River* the Return on Appeal was at last made. Judge Haering then set a trial date for the appeal for February, 1970.⁶⁷

That trial, however, never occurred. Months later, in June, Daly and the bank reached a confidential settlement.⁶⁸ Although the terms of that agreement are unknown, it is impossible to believe that Daly, given the straightforward circumstances of the bank's case, the many irregularities of the justice court trial, Daly's unwarranted delay tactics, that Daly wanted a new trial. Indeed, whatever the exact terms of the settlement we can be sure that the Montgomery bank recovered its property.

Disbarment

While he awaited a Supreme Court decision on disbarment, Daly stayed busy. That included a 1970 primary challenge to incumbent Minnesota Supreme Court Chief Justice Oscar Knutson. Although Daly was unsurprisingly unsuccessful, he did receive 278,000 votes. While a long way from Knutson's 843,000 votes, the race may have demonstrated that tax protests were moving beyond

⁶⁵ Affidavit, John Mahoney, November 10, 1969; Affidavit, Theodore Mellby, December 1, 1969. MLL

⁶⁶ Letter, John F. Casey to Hugo P. Hentges, November 17, 1969. MLL

⁶⁷ Order, December 19, 1970. MLL

⁶⁸ Stipulation of Dismissal, June 19, 1970. MLL

a tiny fringe movement.⁶⁹ Daly also managed to convince about 15 former clients and assorted tax protestors to picket the capitol with placards demanding “Judges Hands off Daly” while handing out anti-Federal Reserve leaflets.⁷⁰ To make his case against fiat money, the Federal Reserve, and other assorted causes, Daly made the rounds, wherever and whenever possible, of the local talk radio stations. One of those appearances was on a WLOL call-in hosted by *Minneapolis Star* columnist Jim Klobuchar where Daly supporters were, according to Klobuchar, “impatient with my failure to see the clear logic of their arguments.” For his part, Daly piled on by referring to Klobuchar as “an enemy of the state.”⁷¹

Finally, in July, 1971, some seventeen months after his hearing before Judge Odden, Daly’s disbarment case was heard by the Minnesota Supreme Court. Obviously, as the court said in agreeing with Judge Odden’s recommendation, Daly’s actions in defiance of a Supreme Court and his misuse of a justice of the peace court, which for “numerous” reasons was beyond its jurisdiction, were paramount grounds for disbarment. Beyond that, the court noted that Daly’s beliefs, however unpopular, were not the issue. Rather, the court agreed with Judge Odden’s two main conclusions. The first was that Daly had “deliberately and intentionally disregarded . . . ethical principles in the conduct of his practice. . . [and] flaunted his disregard for the authority of Judges, Courts, Statutes, and the ethical rules governing conduct. . . and has offered no persuasive evidence or excuse for his conduct.” Indeed, Odden found, and the Supreme Court agreed, that Daly, rather than explaining his behavior as inadvertence or

⁶⁹ “Disbarred Layer Files as Candidate for Judge,” *Minneapolis Star*, July 21, 1970, 5C; “Canvassers Certify Election Result,” *Minneapolis Tribune*, November 18, 1970, 20. For results of elections to the Minnesota Supreme Court see Douglas Hedin, “Results of Elections of Justices to the Minnesota Supreme Court, 1857-2018, (Minnesota Legal History Project, 2019). The article may be found in Archives, Judicial Elections.

⁷⁰ “Capitol is Picketed on Court Edict,” *Minneapolis Star*, May 29, 1970, 10B.

⁷¹ Jim Klobuchar, (column) “Showdown at Credit River,” *Minneapolis Star*, March 17, 1971), 13A.

misconception used his hearing as a forum to propound his views on the validity of the Federal Reserve, the Constitution, and the Rules of Civil Procedure. Thus, by his conduct Daly had “demonstrated a perverted misconception of the role and function of an attorney and the necessity for strict regulation and accountability of attorneys or, at worst, a deliberate and defiant rejection of any judicial control of his professional activities.” Daly was disbarred.⁷²

In parallel proceedings, William Drexler, Daly’s compatriot in the Peterson divorce, tax avoidance, and *Credit River*, was also disbarred. As with Daly, the court found Drexler’s behavior “stemmed from a pattern of persistent and habitual misconduct.” The specifics, however, differed. Drexler’s key offenses (two dozen were charged) included delays in answering interrogatories, jury tampering, and misrepresenting documents and concealing and diverting assets in a divorce stipulation (Peterson). In his defense Drexler argued that none of the complaints involved infidelity or acts detrimental to his clients. To this the court said simply that, “we need not expand on this distorted and insensitive concept of the obligation he owed his profession, the courts, and the public.”⁷³

Daly, disbarred, was as determined as ever to forward his causes. For a time he associated himself with divorce reform and headed The Divorce Education Association and The American Constitutional Rights Protective Association. In the main, that movement was a protest against what some men believed was an unfair system of courts harnessing men with excessive alimony and support payments. Daly, in addition, challenged the Unauthorized Practice of Law statute on grounds that it denied freedom of speech, assembly and association. To Daly, parties to a divorce or other

⁷² *In re Jerome Daly*, 180 N.W. 2d. 176 (July 16, 1971) No. 42174. 291 Minnesota Reports, 491-2.

⁷³ *In re Drexler*, 188 N.W. 2d. 436 (June 18, 1971) No. 42153; Bob Lundegaard, “Attorney Released From Jail for Disbarment Arguments,” *Minneapolis Tribune*, May 15, 1971, 4B.

action should be free to choose anyone they pleased to represent them, licensed attorney or not.⁷⁴ To promote this notion both Daly and Drexler filed again in 1972 for seats on the Minnesota Supreme Court. “Whoa!” was the prompt reply from the State Attorney General. Holding a judicial seat required a person “learned in the law”⁷⁵ and that meant licensed to practice. No it didn’t said Daly. Yes it did said the Supreme Court citing numerous cases in several states. Daly was thwarted and with that his would-be judicial career died.⁷⁶

At the same time he was cast out from the Supreme Court race, Daly was forced to turn serious attention to fighting the IRS both on behalf of clients and himself. Although the battle raged for years, Daly did not fare well. Just as Daly himself had not paid taxes for several years using the argument that since the Federal Reserve did not issue “real” money he had not been paid in “real” money and that the Fifth Amendment sheltered him from providing information about his income, for \$100 per client he had advised others to do likewise. By mid-1972 those clients began to face tax troubles of their own when Minnesota brought a civil action against four of them. Their arguments were all found “frivolous and without merit.”⁷⁷

Daly, meanwhile, was indicted by a federal grand jury for failure to file tax returns for 1967 and 1968.⁷⁸ In the fall of 1972 Daly appeared in Federal District court where he agreed that for the

⁷⁴ “Challenge to State Law is Dismissed,” *Minneapolis Tribune*, February 17, 1972, 2B.

⁷⁵ Daly did have supporters. One wrote a strong letter to the *Star Tribune* complaining that judges typically ran unopposed because lawyers guarantee tenure to all but the most incompetent jurists. They do this, the writer said, because they are fearful of losing a case against a judge they opposed and because judges turn the courts into collection agencies for lawyers. See R.F. Doyle, LTE, *Minneapolis Star Tribune*, November 17, 1972, 10.

⁷⁶ “Top Court Orders 3 Disbarred Lawyers, Layman, Off Ballot for State Judgeships,” *Minneapolis Star*, September 8, 1972, 15A.

⁷⁷ “Fed Foes Told to File Tax Forms,” *Minneapolis Star*, September 20, 1972, 15C.

⁷⁸ Bob Lundegaard, “U.S. Indicts 3 for Pollution of State Rivers,” *Minneapolis Tribune*, June 28, 1972, 2B.

two years in question he had income of nearly \$30,000. But, he argued, the income tax code violates the constitutional prohibition against self-incrimination. As it did for his clients that argument fell on deaf ears and Daly was convicted of tax evasion.⁷⁹ After a pre-sentence investigation that included a psychiatric evaluation and a failed appeal to the 8th Circuit, Daly was finally sentenced to three years probation. Within two months, however, Daly was back in court on charges of leaving the state without permission and failure to pay past due taxes. Probation was revoked and Daly was sent to Sandstone federal prison for a year.⁸⁰

Biblical Inspiration

A year at Sandstone did not “reform” Jerome Daly. To the contrary. The tax protest movement in Minnesota and nationally was small but growing by the mid- 1970’s. And although some protestors continued to send the IRS copies of the Declaration of Independence, anti-communist tracts, and claims that the Fifth Amendment protected them, those assertions received no consideration from the IRS or in the courts.⁸¹ A new approach was clearly needed. The degree to which it was created by Daly and Drexler is unclear but both embraced it wholeheartedly. The new scheme was straightforward: create a church, put your property in that church’s name, and donate all of your income to the “church.” In the parlance of promoters the taxpayer, having taken a “vow of poverty,” became a taxpayer no more despite continuing to live exactly as before with the “church” paying living expenses. What’s

⁷⁹ “Attorney Guilty of Tax Evasion,” *Minneapolis Star*, October 12, 1972, 12A.

⁸⁰ “Psychiatric Tests Ordered for Convicted Savage Lawyer,” *Minneapolis Tribune*, December 19, 1972, 4B; “Tax Conviction of Daly Upheld,” *Minneapolis Star*, July 26, 1973, 1B; *United States of America (appellee) v. Jerome Daly (Appellant)* 481 F NW 2d. 28 (8th Cir. 1973); “Ex-Lawyer Gets Tax Case Probation,” *Minneapolis Star*, January 3, 1974, 2A; “Daly Ordered to Prison for Violating Parole,” *Minneapolis Tribune*, March 27, 1974, 10B. Meanwhile, William Drexler was also in court on tax evasion charges. Although he was found liable for unpaid taxes, a jury found him innocent of criminal intent.

⁸¹ Roberta Walburn, “Protesters Send Everything but Taxes to IRS,” *Minneapolis Tribune*, December 18, 1977, 1Aff.

more, this salubrious outcome occurred despite the long-established state and federal practice of taxing the personal income of religious employees as ordinary income and the value of church-provided housing (i.e. parsonages) and other benefits as in-kind income.

In the “vow of poverty” game, Daly, who acquired and became president of the Basic Bible Church, and Drexler, who moved to San Diego where he started the Life Science Church, were van leaders.⁸² Both offered seminars on how to proceed and for about \$1000 “ordained” a minister and wrote a church charter. Business, it appears, was brisk with Drexler at the time saying that he was offering about six seminars per month. Although the number of protest filers was small, there was no doubt the movement was growing. In Minnesota about 200 people paid \$10 per person to hear Arizonian Marvin Cooley hawk his superbly-titled book *Tax Slavery or Manhood*. Cooley touted several schemes but the crux of his message was political—as it was with many of the protestors. The government, Cooley claimed, wanted to confiscate all property and use the money they took in to finance collectivism.⁸³ That mindset also drove many of the protestors who in various degrees complained against the Federal Reserve, abortion,⁸⁴ the international banking conspiracy, Jews, welfare, and foreign aid. One local protestor, real-estate agent Norb Stelton from Avon in Stearns County, put it plainly. “The more we give them [the government] the faster communism takes over.” Others, it seems, took a more class-conscious position. One woman told the St. Cloud *Daily Times* that, “Our own Life Science Church is something

⁸² Both “churches” were given charitable tax-exempt status and part of the subsequent action against them was to revoke that status. Although initial grants of tax-exempt status by the IRS are a routine matter it is certain that Daly acquired the existing Basic Bible Church tax-exemption when he acquired the pre-existing church in 1976.

⁸³ Roberta Walburn, “Protesters Send Everything But Taxes to IRS,” *Minneapolis Tribune*, December 18, 1977, 1Aff.

⁸⁴ Justice Harry Blackmun’s opinion in *Roe v. Wade* was written in 1973.

like a trust. It's like what the Rockefellers and other rich people have."⁸⁵ And indeed they did.

The IRS at the time seemed unsure of how to proceed. There were far larger cases to pursue, trials were costly, most people paid when directly confronted, and there seemed to be uncertainty, even trepidation, of trampling "freedom of religion." Minnesota, however acted decisively. By spring, 1978 forty-four "vow of poverty" returns had been filed and the state expected more. Most were submitted by conservative farmers from Stearns County, a previous "hotbed" of Fifth Amendment returns, and most claimed a refund against withholding. "It's like laundering money through a church!" exclaimed Minnesota Revenue Commissioner Gerome Caufield when his department, in an effort to "nip it in the bud," initiated seven lawsuits. Minnesota, said Caufield, intended to pursue the matter vigorously including action against church leaders. The latter, however, proved difficult since none of the "vow of poverty" clients claimed they'd been defrauded.⁸⁶

By summer, 1978, the state had disallowed 100 "church" and "fifth-amendment" returns, and, although wary of how jurors perceive tax collectors, proceeded against those filers in Minnesota Tax Court. A typical case was that of Randall Fury, an accountant for the city of Fridley and a "church" filer. In that case and others, the state steered clear of the question of what constituted a church and instead focused on a simpler assertion—if you earn money and the benefits go to an individual it's not a church and tax must be paid. Second, although Daly's and Drexler's churches held tax-exempt status from the IRS the state claimed that they could not pass that exemption through to others by authorizing auxiliary

⁸⁵ Willmar Thorkelson, "44 Say Poverty Vows Give Tax Exemption," *Minneapolis Star*, July 21, 1978, 2B.

⁸⁶ Roberta Walburn, "Taxpayers Pass the Exemption Plate This Year," *Minneapolis Tribune*, April 12, 1978, 1Aff.

churches.⁸⁷ The State did not, however, take action against either Daly or Drexler.

Then, and over the next few years, Minnesota courts ruled consistently against the protesters. When the court said that it was clear Mr. Fury had set up his “church,” which he had renamed The Life Science Church of Unlimited Human Rights, solely to avoid taxes, Fury complained. The ruling against him was expected, he said, because the judge drew a salary from the state treasury. He was confident, however, that on appeal the Minnesota Supreme Court would uphold freedom of religion. His confidence was misplaced. Not only did the Supreme Court agree with the tax court decision, it didn’t bother to write an opinion of its own.⁸⁸ News headlines told the continuing story: “Tax Court Says Home Not Owned by Church” and “Court Rejects Claim that Man Gave All to His Church,” were typical.⁸⁹

Meanwhile, with the number of federal protest tax returns rising sharply from a few hundred to over 5500 in 1978 and then skyrocketing to 40,000 by 1982, the IRS was beginning to take the protesters seriously as well as those, especially Daly and Drexler, who promoted the schemes. In March, 1980 a federal court, probing the tax exemption of the Basic Bible Church, ordered Daly to turn over a raft of documents related to his church. Daly refused, appealed to the 8th circuit, and lost again. When he continued to resist the order Judge Donald Alsop had him jailed briefly.⁹⁰

⁸⁷ Gerry Nelson, “Tax Court to Rule on Mail-Order Church Business,” *Minneapolis Star*, August 16, 1978, 11B.

⁸⁸ “Court Says Self-Styled Minister Must Pay Taxes,” *Minneapolis Star*, August 26, 1978, 6A; “Vow of Poverty,” *Minneapolis Star*, August 30, 1978, 17A; “Mail Order Church Tax Decision Upheld,” *Minneapolis Tribune*, June 15, 1979, 7C.

⁸⁹ “Tax Court Says Home Not Owned by Church,” *Minneapolis Tribune*, April 22, 1980; “Court Rejects Claim that Man Gave All to His Church,” *Minneapolis Tribune*, July 30, 1980, 8B.

⁹⁰ “Disbarred Lawyer Daly Jailed in IRS Probe,” *Minneapolis Tribune*, November 29, 1980, 8B.

Into the Weeds

In the same month, Daly compounded his growing legal problems when he was arrested for illegal possession of marijuana. It was no nickel-sack either. Indeed, it was over 300 pounds of weed with a street value of \$250,000 that Daly had a private pilot (who was also a “bishop” in Daly’s Basic Bible Church) fly to Minnesota from Florida. Due, they said, to tips, Drug Enforcement Administration agents arrested Daly and the pilot at Flying Cloud Airport as they off-loaded their cargo.⁹¹ At trial the following August, Daly argued that he had intended to distribute the marijuana to cancer patients in exchange for small donations to his church and added, gratuitously, that pot was also used as a holy sacrament in his church. Daly’s attorney, Doug Thompson, made an unconvincing case that although Daly’s scheme was “hare-brained” the motive was just and that his client should be convicted of no more than simple possession.⁹² But Daly and the pilot, Larry Pendell, were quickly found guilty on more serious intent-to-distribute charges. Daly received a four-year sentence (five years was maximum) and Pendell 30 months.⁹³ “You’ve gotta like the guy,” wrote *Minneapolis Tribune* columnist Robert T. Smith. “He gets convicted of trafficking in marijuana and he claims he was just being a medical missionary.” But that didn’t earn Smith’s accolade for displaying perhaps the greatest *chutzpa* of all time. Daly warranted that honor because within days of the trial he sued the government (unsuccessfully) for \$79,000—the wholesale value of the “illegally” seized marijuana which the DEA had allowed to “spoil” and become worthless.⁹⁴

⁹¹ “Disbarred Lawyer Arrested on Drug Possession Charge,” *Minneapolis Tribune*, November 21, 1980, 1B.

⁹² Ron Meador, “Ex-Lawyer With ‘Just-Motive’ Convicted of Drug Trafficking,” *Minneapolis Tribune*, August 12, 1981, 1A,

⁹³ “Man is Sentenced in Marijuana Case,” *Minneapolis Tribune*, October 21, 1981, 6B. On appeal, both sentences were affirmed by the 8th Circuit. “U.S. Court Affirms 2 Drug Convictions,” *Minneapolis Star Tribune*, August 20, 1982, 5C.

⁹⁴ Robert T. Smith (column), *Minneapolis Tribune*, August 17, 1981, 1B.

The Tax Man Cometh

As Daly fought marijuana charges the federal government moved against him and his tax scheme. In September, 1981, Daly was indicted in Ft. Worth, Texas on 19 violations of tax law. Charged with him were 10 Texas Braniff Airline pilot “clients” whose income ranged from \$35,000 to \$80,000 per year and who had used their “tax-free” income to stock up on luxury items including mink coats and Colorado ski condos. Among the charges, to which all defendants pleaded not-guilty, was a challenge to the Basic Bible Church’s tax-exempt status.⁹⁵ As Daly and the others awaited trial they must have sensed what was ahead. In California, after a 2½ year investigation and a six week trial, a jury found William Drexler, age 49, guilty of 26 counts of tax fraud and sentenced him to 5 years imprisonment and levied a \$50,000 fine.⁹⁶ After procedural delays, Daly’s and the pilots’ trial began in fall, 1982 and dragged on for 20 weeks—said to be the longest criminal tax trial in U.S. history up to that time. In the end, to no one’s surprise, the defendants were found guilty. The pilots were convicted of one count of conspiring to defraud the United States and various counts of willfully filing false returns. Daly, who did not himself file Basic Bible Church returns, was found guilty of 15 counts of willfully aiding in the preparation of false IRS returns and an additional count of making false statements. Daly received the harshest penalty—sixteen years in the federal prison where he was then serving his marijuana sentence.⁹⁷ Although the convictions were

⁹⁵ “Jerome Daly is Indicted in Church Tax Scheme,” *Minneapolis Tribune*, September 5, 1981, 6A.

⁹⁶ “Ex-St. Paul Lawyer Guilty of Tax-evasion in Church Scheme,” *Minneapolis Tribune*, November 28, 1981, 8A; “Man Who Sold Church Charters is Sentenced,” *Minneapolis Tribune*, January 5, 1982, 6B. After his conviction Drexler jumped bail and fled to Costa Rica with \$60,000 in gold. See “Ex-St. Paul Lawyer Indicted in California,” *Minneapolis Tribune*, June 27, 1982, 12B. Extradition may have been difficult inasmuch as the United States and Costa Rica concluded an extradition treaty in 1982 that did not take effect until 1991.

⁹⁷ “2 Area Men Convicted in Tax Violation Case,” *Minneapolis Tribune*, March 13, 1983, 9B.

appealed on numerous procedural grounds, notably that Daly's trial should have been severed from the other defendants, the Fifth Circuit Court of Appeals upheld all convictions in 1985.⁹⁸

A decade later Jerome Daly age 70, paroled, died in Martinez, California. In the years since tax refusal protesters have declined and banking and Federal Reserve conspiracy theories have subsided as well. The reason for that, however, may simply be because so many newer and outrageous conspiracy theories, i.e., birtherism and anti-vax, have sprung to life, been spread world-wide through social media, and shoved them aside.

Thoughts on *Credit River* and Jerome Daly

Credit River declared all private mortgages as well as state and federal bonds held by the Federal Reserve to be null and void. Proponents of the case pronounce it legally sound and never overturned and thus as valid today as it was in 1968. Are they correct? No.

To begin, although Mahoney's justice court likely had jurisdiction in a straightforward unlawful detainer, the case was tried by what can only be described as a "kangaroo" court that entrapped the bank's attorney. There were numerous procedural errors, the jury was plainly pre-selected, and William Drexler was just as clearly in attendance not at the behest of the Minnesota Supreme Court but to advance the charade. *Credit River* enthusiasts also argue that the case was never overturned and thus is legally binding. That's a "truth" without meaning because Justice court opinions, such as they were, were never precedent-setting simply because there were no lower courts to be bound by

⁹⁸ *United States of America, appellee, v. Jerome Daly, Daniel P. Hulsey, Coston Lee Whatley, Mathus G. Wilson, Jr. Stanley J. Klir, Jr., Wayne R. Chermack, Alfred A. Breath and Gerald S. Ross, appellants*, 756 F.2d 1076 (5th Cir. 1985)[Decided March 26, 1985].

them. What is more, had *Credit River* not been settled privately it is highly likely to have been overturned on appeal.

Finally, it's worth noting that in *Credit River* and his other cases, Daly was a constitutional originalist, case law to the contrary be damned. He argued repeatedly that the Constitution in Article 1, Section 10 specified that only gold or silver can be used as legal tender. That's true, but only insofar as it applies to the states. Article 1, Section 10's title is specific—Powers Denied to the States. Specifically it reads that no *state* may make anything but “gold or silver coin a tender in payment of debts.” Daly's objection was not an issue of constitutionality so much as it was a lack of reading comprehension.

Nevertheless, *Credit River* is worthy of note and contemporary consideration. It is entirely possible that were the case to be tried today an impartial jury would be aghast to learn that banks can and do create money “out of thin air.” That's because to most Americans money and banking are entirely remote and arcane topics. And, there is a persistent notion that banking and the federal government should conduct their financial affairs as would any household. If any of us lend money to another the lender's account is diminished by the same amount credited to the lendee. But banks are not similarly constrained. When banks lend, no depositor's account is diminished even though the lendee's account is created or increased. What's more, through “fractional reserve” lending, the amount of bank loans outstanding are commonly several times the value of deposits. Indeed, it is through this process that most of the U.S. money supply is created. Indeed, if one takes a virtual tour via Google Earth of Credit River Township today, the virtual traveler will find a community of many rather large newer homes, most of which have undoubtedly been made possible by “money” created “out of thin air.” This system functions smoothly in significant measure because of the Federal Reserve Banks. Banks must balance their books and sometimes outflows

are greater than loan payments and other deposits. When that happens, very low interest Federal Reserve loans “cover” a bank so that its books “balance.”⁹⁹ Did Daly receive “consideration” from the bank? Of course. Simply put, the bank risked significant loss should Daly default, as he did.

None of this means we should dismiss criticism of this “system.” At its most basic level, bank loans must be repaid plus interest. The bank created the principal to be repaid, but not the interest. That must come from somewhere else. Thus, creating new “money” requires an ever-expanding economy in a resource-limited world. It is also a contributor to on-going inflation. And, most of all, it leads to ever-increasing wealth to the financial economy and thus inequality. What is more, due to the capitalist business cycle (a euphemism) when bank-lending contracts a “liquidity crisis,” i.e. recession/depression occurs. All of this happens in the private sector although it has far-reaching “public” implications for ordinary “main street” Americans.

Banking in the U.S. is private and exists to further private interests. The same may be said, as countless Americans do not recognize, of the Federal Reserve. Despite the many important and useful functions the “Fed” performs to help banking and the economy run smoothly (with colossal exceptions), it has since its beginning in 1913 been the subject of disparagement. One early condemnation, Charles A. Lindbergh Sr.’s *Banking and Currency and the Money Trust* had an obvious Minnesota connection.¹⁰⁰ And there’s been no respite. Although Daly’s denigration of the Federal Reserve was primarily from the right and based on hard money and

⁹⁹ Although given little attention by most Americans, there are several readable, important sources. See, for example Peter L. Bernstein, *A Primer on Money, Banking, and Gold* (New York: John Wiley & Sons, Inc., 1965) a book that has had many printings and remains highly relevant.

¹⁰⁰ Charles A. Lindbergh Sr., *Banking and Currency and the Money Trust* (Washington, D.C., National Capitol Press, 1913). The full text of Lindbergh’s book is available in the Economics & Business section of this (MLHP) website.

narrow constitutionalist notions, most serious recent criticism has come from the left. Readers may be interested, for example, in William Greider's *Secrets of the Temple: How the Federal Reserve Runs the Country* or several recent books by attorney Ellen Brown.¹⁰¹ The latest may be by Ralph Nader who has scorched the Fed in its response to the coronavirus pandemic. In addition to criticism of Fed secrecy and lack of accountability, Nader takes aim for its bailouts of "bubbles and binges," and encouragement of risky debt. It's not the printing of money that Nader sees as a problem, rather it's a matter of for whom the printing is done, to "juice" a speculative stock market or to enhance jobs and the real economy.¹⁰²

Some concluding thoughts on conspiracy theories also seem appropriate. Although they are often dismissed as simply the turf of assorted wackos, conspiracy theories and those who traffic them should not be lightly dismissed. Conspiracies exist. Just recall Julius Caesar. And, conspiracy theories can address real and serious issues. But too often they combine what people want to hear with so many hatreds, myths, half-truths, and reality that it's impossible to predict where it will lead. At the time of Jerome Daly's final tax trial in 1983 *Minneapolis Star Tribune* reporter Dave Anderson covered a meeting of The Wild River Patriot's Association in western Wisconsin. Although there was no call for direct violence, Anderson said there was a great deal of talk about semi-automatic weapons, bump stocks, and ammo. That combined with high level hostility directed against the IRS, Federal Reserve, public schools, secular humanism, the trilateral commission, Blacks,

¹⁰¹ See William Greider, *Secrets of the Temple: How the Federal Reserve Runs the Country* (New York: Touchstone Books, 1987). Ellen Brown's recent books include *The Public Bank Solution: From Austerity to Prosperity* (Baton Rouge, La.: Third Millennium Press, 2013) and *Banking on the People: Democratizing Money in the Digital Age* (Washington D.C.: The Democracy Collaborative, 2019)

¹⁰² Ralph Nader, "Fed Guarantees Unproductive Debt and Perilous Speculation," (www.counterpunch.org, July 27, 2020). On the matter of "hard" money vs, "fiat" money, readers may want to become familiar with Modern Monetary Theory.

Jews, and of course communists. And violence and loss of life did occur. At about the same time (1983) the Posse Comitatus movement led one believer, Gordon Kaul, to shoot and kill two U.S. Marshalls in North Dakota. A little over a decade later another conspiracy theorist and militia member, Timothy McVeigh, angered by government duplicity and aggression against the Branch Davidian compound in Waco, Texas blew up the Murrah federal building in Oklahoma City resulting in 168 deaths and nearly 700 injuries.

Indeed, although not universally, most conspiracies involve a distrust of government which was accelerating in Daly's time and has worsened. As the renowned independent reporter I.F. Stone noted years ago, "All governments lie. . . ." That truth is combined today with a media consolidation so intense that a handful of giant companies now control virtually all American newspapers, radio and television stations, and cable networks. Social media distortions, speculation, and unsubstantiated assertions go "viral" abetted, too often, by partisan officials who should know better.



A Note on Sources

This article relies on four primary sources. All of them are available on-line. The first is the Minnesota Law Library which is found at <https://mn.gov/law-library/legal-topics>. The legal documents regarding the Credit River case and Jerome Daly's further legal misadventures are largely available there by searching Jerome Daly, William Drexler, and Credit River. In the article, the Credit River case is simply referred to as *Credit River* (to distinguish it from Credit River Township) and footnotes referring to the case

have omitted the full citation of *First National Bank of Montgomery v. Jerome Daly* and simply noted the source as MLL. The second important resource is the archived *Minneapolis Star Tribune* newspaper which is now available for a reasonable monthly fee of about \$8 per month. See www.newspapers.com for access to this thorough and impressive site. Although the newspapers did not cover the Credit River case, much of Daly's career including his various cases and disbarment were reported upon extensively. A third source is Justia.com. This site primarily documents appealed cases both federal and state. Thus, for example, although Jerome Daly's federal district court conviction for having aided tax protestors is not included, the subsequent federal appeal summary and decision is. Finally, the Credit River case is touted on numerous, mostly politically rightist, websites. Here are some that have been visited for this article: www.freedomschool.com, www.abovetopsecret.com, www.educationcenter2000.com, www.sciforums.com, www.humanrightsireland.com, www.eraoflight.com, www.giftoftruth.file.wordpress.com, www.mainerepublicemailreport.com, www.stopthepirates.blogspot.com., www.1776reloaded.org.



The Author

Thomas L. Olson died on September 29, 2020, at age 78. He was born and grew up in Red Wing, Minnesota. He earned a bachelor's degree from Wisconsin State University at River Falls and a Ph.D. in American History from the University of Minnesota. He taught at Mankato State University and the University of Minnesota and then enjoyed a career in university administration and in philanthropic development for educational, arts, and health care organizations.

He is the author of “Blockbusters: Minnesota’s Movie Men Slug it out with Studio Moguls, 1938-1948,” one of the most frequently downloaded articles on the Minnesota Legal History Project website.

His book reviews of Sabine N. Meyer, *We Are What We Drink: The Temperance Battles in Minnesota*, Elaine Davis, *Minnesota 13: Stearns County’s ‘Wet’ Wild Prohibition Days*, Elizabeth Dorsey Hatle, *The Ku Klux Klan in Minnesota* and “Sex Ring: Revisiting the Jordan, Minnesota Child Abuse Cases of 1983-84, and a Review of Richard Beck, *We Believe the Children: A Moral Panic in the 1980’s*” are also posted on the MLHP.

His book, *Sheldon’s Gift: Music, Movies and Melodrama in the Desirable City* (North Star Press of St. Cloud, 2009) recounts the stormy history of show business in Red Wing, especially its iconic Sheldon Theater. More than local history, the book addresses the unique predicaments of entertainment enterprises, highbrow and low, in small cities. The book also has a good deal of courtroom drama in relating the story of movie-related lawsuits in the 1930’s and again in the 1950’s that challenged municipal theater ownership.



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