

## U.S. Supreme Court refuses Nebraska case

By Kathryn Haugstatter

The U.S. Supreme Court Monday refused to hear a case contesting the constitutionality of a new amendment to the Nebraska state constitution.

Article one, section nine of the constitution permits denial of bail on charges of first degree sexual assault when proof is evident or presumption of guilt is great.

Acceptance by four of the nine justices is necessary for a case to be heard before the Supreme Court. Only three, Thurgood Marshall, William Brennan and Harry Blackmun, agreed to hear it.

The appeal stemmed from Parker vs. Roth, in which Terry Parker of Omaha was suing Richard Roth, sheriff of Douglas County. Parker had been of first degree sexual assault and was held without bail for 77 days by the sheriff's office.

The Nebraska State Supreme Court heard the case earlier this year. It upheld the denial of bail and the constitutionality of the amendment.

Bennett Hornstein, chief of the appeals division of the Douglas County Public Defender's Office, appealed the case to the U.S. Supreme Court.

In the meantime, Hornstein said, a problem with the evidence arose. There was doubt that the victim would testify, so Parker was allowed to plead guilty to third degree sexual assault, a misdemeanor, Hornstein said.

SINCE THE AMENDMENT only covers first degree sexual assault, Hornstein said, this meant that the Parker case was no longer a good test case.

Hornstein said his office still intends to contest the amendment. He said the Douglas County Public Defenders office has the biggest criminal defense practice in the state, so it has the best chance of getting another case to bring before the court.

The circumstances of this case would have to be similar to the Parker case in that there should be no dispute over

guilt, Hornstein said, since the denial of bail rests on the presumption of guilt.

He said since the state supreme court had ruled the amendment constitutional, the next case would go directly to the federal courts.

Hornstein said he was surprised that Justice Blackmun had agreed to hear the case since, he said, Blackmun was one of the most conservative justices on the Supreme Court.

THE AMENDMENT BEGAN as LB 533 during the 1978 legislative session. It was sponsored by Herb Duis, the former senator from district 39.

When it appeared on the ballot last November, the voters passed it 355,949 to 79,179.

Duis said he originated the bill because of two cases of rape and murder that occurred in his district.

"I hoped it would be effective in deterring one of the most horrible crimes there is. It's worse than murder in some ways. There is a horrifying aftermath for the girl involved," Duis said.

He said the amendment has been found constitutional by the state courts, so the only avenue the opposition has is to go to the federal courts.

IF THE U.S. SUPREME Court has turned it down, he said, then they think there is no reason to hear the case and it will have to be dropped.

"I'm not a crusader," Duis said, "I just want to be sure these girls have something that works as a deterrent."

According to Marilyn Kumm, statistical analyst for the Nebraska Commission on Law Enforcement and Criminal Justice, there were 120 reported cases of forcible rape in Nebraska from January to June 1978.

From January to June 1979, during the time the amendment has been in effect, Kumm said there were 126 reported cases.

Kumm said all crimes have increased in Nebraska in the first six months of this year.

## No verdict in Simants case

By Val Swinton

The jury in the Erwin Charles Simants murder trial failed to reach a verdict after three hours of deliberation yesterday, and returned to Lancaster County Court at 8 a.m. today.

The jury got the case shortly after 2 p.m. yesterday. The jury has five verdicts to choose from: guilty of first degree murder, second degree murder, manslaughter, innocent by reason of insanity or innocent.

Erwin Charles Simants was a man with sexual hangups and the murders of six members of a Sutherland family began as an attempt to have sex with a young girl, according to the prosecutor in Simants' trial.

Marvin Holscher, Lincoln County chief deputy attorney, said that Simants feared women; "so the next best thing was a young girl."

Simants was arrested Oct. 19, 1975, the day after six members of a family who lived next door to him were found shot in their heads.

James Henry Kellie, his wife, Audrey, 57, his son, David, 32, and three grandchildren, Florence, 10; Daniel Leroy, 5; and Deanna Lynn, 7, were found shot in the head at the Kellie home on Oct. 18, 1975.

Mrs. Kellie and the two girls had been sexually molested.

The defense had contended that Simants had intended to take his own life, but suffered a "psychotic break" and killed the Kellies instead.

Instead, Holscher said, Simants went next door with the intent of having sex with one of the girls. He took a loaded caliber rifle, Holscher told the jury, in case the girl refused to cooperate.

"Then Henry walked in," Holscher said, asking the jury to try and imagine the fear Kellie must have felt when Kellie saw what Simants had done to his granddaughter.

Kellie was shot in the head by Simants, Holscher said. "Each person who walked through that door is another threat to him," Holscher said, telling the jury Simants shot them all to conceal the crime.

There has not been any question that Simants committed the murders. The issue during the eight-day trial has been his sanity at the time the murders were

committed.

Holscher said Simants' conduct before, during and after the murders was that of a rational man.

The prosecutor said that an hour and half before the murders, Simants worried how he would get to a new job when he had no drivers license.

That, said Holscher, was the act of a perfectly rational man.

"This was something the defendant volunteered on a night when he was supposed to be stark raving crazy," Holscher said.

After the murders, Holscher said, Simants continued to prove he was sane. The attorney said he hid in bushes behind the Kellie house, wiped blood off the floor and told his nephew, who he lived with, that he had committed the murders and then named each victim.

But defense attorney David Schroeder said Simants had left his home with the intent of committing suicide. The emotional pressures on Simants had been building, Schroeder said.

The birthday of Simants' infant daughter, who had died several years earlier, was just four days away. Schroeder said Simants was obsessed with his daughter's death; that Simants said once that he was afraid of going to the cemetery because he might not be able to stop himself from digging up his daughter's body.

He felt a need to hold the girl, Schroeder said.

Simants also believed he was going to die before his 30th birthday, Schroeder said. His 30th birthday was less than a month after the murders.

The defense attorney said Simants' family background and low IQ contributed to his insanity.

"There is no dispute that this is a dumb individual," Schroeder said, adding that Simants' IQ was 75 or 76; borderline on mentally retarded.

He came from an impoverished family, Schroeder said. "His needs were just not satisfied in the development stages."

The death of his daughter and brother contributed to his mental condition, according to Schroeder.

And the murders themselves pointed to an insane person, Schroeder told the jury.

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## Wobbly stock market stirs memories of Black Thursday

By Wayde Wrich

This month marks the 50th anniversary of the Stock Market crash of 1929. This anniversary, along with last weeks' 6 percent decline in the Dow Jones average, has brought fears of another depression in the next decade.

Fred D. Kalkstein, economist at Elkins, Stoud, Suplee & Co., said in Monday's Wall Street Journal that last week's decline is likely to be just the beginning of a larger decline.

Lynn Roper, a broker at Merrill, Lynch, Pierce, Fenner & Smith Inc., said most of the fears about the future are psychological.

"There are many opportunities for investment. The stock market has been able to absorb many shock waves like the Arab oil embargo in 1973," Roper said.

Roper also said that because of the laws made in the 1930s, a mass sell-out could not occur again as it did in 1929.

On Oct. 24, 1929, known as "Black Thursday," stocks on the New York Stock Exchange dropped significantly, causing the largest sell-out in United States history.

In the following months the nation's economy took a sharp downturn with unemployment rising to 25 percent, many banks closing, and a big drop in industrial production.

What followed was the largest and longest depression in history.

Before the crash, government regulation was limited. The stock market, banks, and industry practically were free to do what they pleased.

In the 1930s, many bills were passed to regulate the economy and safeguard against another crash.

The Securities Exchange Act of 1934 allowed government to oversee the stock exchange and formed the Securities and Exchange Commission allowing the

government to police investment markets.

The Glass-Steagall Act of 1933 was the most restrictive and wide-ranging law of the depression era. It separated commercial banking, involved in taking deposits and giving loans, from investment banking, which is underwriting and dealing with securities. The law also created the Federal Deposit Insurance Corporation which insures deposits up to \$40,000.

Recently, economists have been looking at the Kondratyev Wave theory. Nikolai Kondratyev, a Russian economist of the 1920s, theorized that business activity in major western nations follows a rhythmic wave pattern over long periods lasting about fifty years.

Jay W. Forrester, an economist professor at the Massachusetts Institute of Technology, said in *Technology Review* that tests with a computer model of the nation's economy clearly confirm the existence of a long-term (45 to 60 year) cycle in the economy.

The Wall Street Journal said the likely reason for the sudden interest in the Kondratyev cycle is the growing uneasiness about the general economic outlook, for reasons ranging from torrid inflation to a sagging stock market.

"Whether you buy Kondratyev or not," said a Chase Manhattan Bank analyst in the Wall Street Journal, "it's unnerving that, on top of all the other uncertainties, we happen to be around the point when the wave is scheduled to break and the long, deep slump sets in."

Roper, said the biggest problem is the foreign effects on the economy. "Our big problem right now is the cost of Arab oil and it's drain on our economy," she said.

The Wall Street Journal said that nobody can say for sure whether the 50 year cycle really exists but, with the wide-spread concern over the business outlook, the views of analysts who believe in the Kondratyev Wave can hardly be ignored.

