

NATIONAL HISTORIC LANDMARK NOMINATION

NPS Form 10-900

USDI/NPS NRHP Registration Form (Rev. 8-86)

OMB No. 1024-0018

FIELD HOUSE

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United States Department of the Interior, National Park Service

National Register of Historic Places Registration Form

1. NAME OF PROPERTY

Historic Name: Field House

Other Name/Site Number: Field, Eugene, House

2. LOCATION

Street & Number: 634 South Broadway

Not for publication: ___

City/Town: St. Louis

Vicinity: ___

State: MO

County: St. Louis

Code: 510

Zip Code: 63102

3. CLASSIFICATION

Ownership of Property

Private: X

Public-Local: ___

Public-State: ___

Public-Federal: ___

Category of Property

Building(s): X

District: ___

Site: ___

Structure: ___

Object: ___

Number of Resources within Property

Contributing

1

1

Noncontributing

___ buildings

___ sites

1 structures

___ objects

1 Total

Number of Contributing Resources Previously Listed in the National Register: 1

Name of Related Multiple Property Listing:

Designated a
National Historic Landmark

MAR 29 2007

by the
Secretary of the Interior

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4. STATE/FEDERAL AGENCY CERTIFICATION

As the designated authority under the National Historic Preservation Act of 1966, as amended, I hereby certify that this ___ nomination ___ request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property ___ meets ___ does not meet the National Register Criteria.

Signature of Certifying Official

Date

State or Federal Agency and Bureau

In my opinion, the property ___ meets ___ does not meet the National Register criteria.

Signature of Commenting or Other Official

Date

State or Federal Agency and Bureau

5. NATIONAL PARK SERVICE CERTIFICATION

I hereby certify that this property is:

- Entered in the National Register
- Determined eligible for the National Register
- Determined not eligible for the National Register
- Removed from the National Register
- Other (explain): _____

Signature of Keeper

Date of Action

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6. FUNCTION OR USE

Historic: Domestic

Sub: Single dwelling

Current: Recreation and Culture

Sub: Museum

7. DESCRIPTION

ARCHITECTURAL CLASSIFICATION: Greek Revival

MATERIALS:

Foundation: Stone

Walls: Brick

Roof: Copper

Other:

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Summary

The Field House is significant as the home of Roswell Field, attorney for the slave Dred Scott, whose case, *Scott v. Sandford* (1857), was the most controversial Supreme Court case of the nineteenth century, and remains one of the most significant cases in the history of the U.S. Supreme Court. Field formulated the legal strategy that placed Scott's suit for freedom before the Court. The Court declared that no slave could be a U.S. citizen and furthermore found unconstitutional the Missouri Compromise of 1820 that abolished slavery in the territories. The *Scott* decision widened the political gap between North and South and helped precipitate the Civil War.

Describe Present and Historic Physical Appearance¹

The Field House, once part of a fashionable residential neighborhood, is located in a heavily commercialized and industrialized area of St. Louis. Roswell Field resided at what was then 5 South Fifth Street. Today the Field House is the sole survivor of Walsh's Row, a block of red brick Greek Revival row houses that were built circa 1845 as rental units. The house was saved from demolition in 1934 due to its significance as the early boyhood home of Eugene Field, the "Children's Poet" and Roswell Field's son. The house was originally built as the second unit (lot number 11 out of 12) from the south end of the block. A walled-in garden now occupies the southern-most lot (#12), the rear portion of lot number 11, and the majority of lot number 10. Between the rear wall and the original brick-paved alley is a parking area. The rest of the lots that once comprised Walsh's Row, (lots 1 to 9) are vacant. A brick sidewalk runs along the front and southern side of the house. Across the street, to the west, is public parking where row houses once stood, and to the south (across Cerre Street) is a historic building used as a restaurant.

The Field House is a rare survivor of a type of urban row house once common in downtown St. Louis. Similar to row houses in many other Upper South and mid-Atlantic American cities of the mid-nineteenth century, the Field House was an ample residence with lofty ceilings and handsome detailing, yet economical with space designed to appeal to well-to-do renters of the mid-nineteenth century.

Exterior

The three-bay, three-story house measures 25'6" x 38.' Brick work is laid in a running bond pattern. Copper on the low-pitched gable roof has replaced the original wood shingles. All windows are wood six-over-six double-hung sash and are painted black.

Front

The three-bay front (west) façade features a Greek Revival frontispiece with pilasters and entablature in the left (north) bay. Five stone steps rise from the sidewalk to a recessed vestibule that features pilasters and a six-paneled door flanked by four-light sidelights and topped by a seven-light transom. Side railings on the steps were added at a later date. Symmetrically placed windows are arranged with two on the first floor and three each on the second and third floors. All windows are identical with limestone lintels and sills. Fancy cast brick crowns the façade at the cornice, with brick dentil molding between a five-brick banding below, and three

¹ Portions of this description obtained from Nancy B. Breme, "Field, Eugene, House," National Register of Historic Places Inventory—Nomination Form, (Washington, D.C.: U.S. Department of the Interior, National Park Service, 1975); Historic American Buildings Survey, "Eugene Field House," HABS Survey No. MO-31-3, documented 1934, Library of Congress, Prints and Photographs Division, http://memory.loc.gov/ammem/collections/habs_haer/; William Seale, "The Eugene Field House: Walsh's Row, St. Louis, Missouri," report prepared for Field House Foundation, January 2002.

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corbelled rows above. Two three-light basement windows are visible in the stone foundation. A marker on the front of the house unveiled by Mark Twain in 1902 reads: "Here was born Eugene Field, the poet, 1850-1895."²

Sides

The north and south parapet side walls were rebuilt between 1934 and 1936 following demolition of the neighboring row houses. Four windows on the side walls salvaged from the neighboring row houses have brick lintels and sills; one each on the first and third floor on the north side, and two on the third floor on the south side. Both side walls contain a round vented louver in the apex's gable. The south wall contains two end chimneys. Metal fire escape stairs on the south wall extend from the third floor window to the ground.

Rear

The rear (east) side of the house is three bays wide and contains windows on all three levels, entrances on the first floor and basement levels, and a four-course brick frieze of stretchers at the cornice. Noticeable on the northernmost end is an area which originally contained a three-story service wing that was removed prior to 1920. The wing appears in perspective in an 1875 topographical survey.³ According to the 1903 Sanborn Insurance map, the earliest available, the three-story wing was intact and a two-story porch ran the full-width of the house and perhaps connected the two. This wing may have contained a kitchen and dining room, a washroom, and servants' rooms. Access between the house and wing was through the connecting porch from the rear door on the first floor and a door on the stairway landing between the first and second floors. Access to the third story may either have been through a door on the stairway landing between the second and third floors or by stairs located on the porch. Windows in the former second and third floor doorways contain brick lintels and sills and a small two-pane rectangular window is located above these windows close to the cornice. The remaining portion of the rear façade is comprised of two windows each on all three floors. A single-story porch, built in 2000, provides access to the first floor rear door and covers the basement entrance.

Present Interior

Overall, while the main floor is slightly more decorative, these are simple interior spaces. Woodworking includes massive "shouldered" door surrounds and high wash or baseboards. A restoration in 2003 reproduced an oak painted wood graining found on woodwork on all three floors. Layers of paint and wallpaper were removed to reveal the plaster, much of which is original, and includes plaster mixed with horse hair from the nineteenth century. The woodwork is covered with many layers of paint. Tack marks suggest that the dwelling's tongue-and-groove floors were covered with either matting or carpeting, or both. Some rooms have been restored in this manner.

Basement

The full basement has stone walls and a concrete floor and appears not to have been finished for more than storage space. A straight wood stairway in the northeast corner provides access to the first floor hallway. These stairs would have been unnecessary in the original house and are clearly a later addition, after the loss of the wing. The 1934 Historic American Buildings Survey (HABS) basement drawing shows a coal room under the sidewalk directly outside from the main entrance, but the area past the first step was blocked off at a later date.

² Plaque reference cited in Breme, "Field, Eugene, House," section 8, p. 1.

³ Camille N. Dry and Richard J. Compton, *Pictorial St. Louis: The Great Metropolis of the Mississippi, A Topographical Survey Drawn in Perspective 1875* (St. Louis: Compton and Company, 1876).

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First Floor

The first floor has a ceiling height of 11'3" and is comprised of a hallway and two rooms. The entrance hall extends along the north side of the house and the ceiling features a molded plaster ring with a suspended lamp. The area below the stairs leading to the second floor has been enclosed to conceal steps to the basement. Separate entrances from the hall lead to the rooms on the south side. These rooms, separated by pocket doors as shown in the 1934 HABS floor plan and restored in 2003, were intended to be either a parlor in the front and dining room behind or twin parlors. An inventory of another house in the row describes the latter arrangement, and the space available with the former rear service wing would allow for such a ceremonial ensemble.

Fireplaces with matching wood mantels once had cast iron inserts. The faux marble finish found on these mantels was reproduced in 2003. This main floor seems otherwise to be perfectly intact, with early window sash, doors, and floors. Wallpapered plaster walls occur throughout. Some of the original plaster seems to be present, although the vast amount of it is twentieth century. All rooms contain wood baseboards and wood dado panels are under the windows. None of the light fixtures, though old, are as early as the house. The U-shaped stairway in the northeast corner has landings midway and is ornamented by turned balusters and fancy end brackets that are seen in the 1934 HABS drawings.

Second Floor

The second floor contains a hall, a bedroom, and a study or library with fireplaces and original wood mantels with a restored faux marble finish. Ceiling height on this level is 9'9". The front room spans the full-width of the house. The north-south running wall separating the two rooms contains the entrance from the hall to the front room on the northern end, a closet for the front room, and a doorway to the rear room. The 1934 HABS floor plan shows another closet, for use in the rear room, on the southern end of the wall that has been enclosed to conceal ductwork.

Third Floor

The third floor has two bedrooms and a trunk or storage room (HABS referred to as a hall room) at the front of the house with a ceiling height of 10'. An original attic stairway is located between the bedrooms. There were no fireplaces on this floor, as the rooms were heated with stoves. Closets separate the bedrooms. The closet in the rear room contains an access door to the space under the attic stairs. Prior to 1975 this floor was converted to an administrator's live-in apartment, with bathroom and kitchen facilities, and even later converted into museum display and program rooms. All of these alterations were removed in 2003, and the floor currently contains a gift shop and exhibit space.

The interior of the Field House has survived intact. The shouldered door trim, the long-paneled doors, and all fine joinery for the nineteenth century are changed only by layers of paint and an absence of original morticed jamb-locks and knobs, all of which were reproduced in 2003. All the mantels appear complete. Stairs, pine floors, some of the hearths, and many of the sash to the windows appear original. The most significant exterior brick and stone work prevail, having been cleaned, repaired, and, where appropriate, painted in the 2000 exterior restoration.

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Current Interior Restoration

The interior restoration of the house, started in 2003 and nearly complete, is based on an assessment provided by William Seale, noted White House historian, to return the house and contents to 1850-1864 when Roswell Field rented the property. Overall, the work has entailed repairing plaster, stripping and faux finishing of woodwork to reflect the graining found under subsequent layers of paint, installing period wallpaper, adding reproduction oil cloth (early linoleum), straw matting, and/or carpeting on the floors, mounting accurate lighting fixtures, and installing period furnishings. First floor restoration includes restoring the proper double parlor and the dividing pocket doors. The second floor restoration includes restoring the master bedroom, and converting the current exhibit room into Roswell Field's library. Third floor restoration includes removal of all evidence of the former apartment and repairing and finishing the plaster walls and wood trim.

Known Changes and Events Between 1845 and 2006

1845 – Edward Walsh leased land from the school system to build row houses, with revenues going to support the city schools.

1850 – Roswell Field rents home.

1857 – Home becomes Field's secondary residence until 1864.

1919 - Derelict conditions required the removal of the rear three-story wing, which was replaced by a two-story frame wing that was removed in 1935 after it deteriorated. Also removed at some point were a rear two-story porch (shown on the 1903 Sanborn Map), and a rear one-story porch (shown on the 1934 HABS drawing).

1934 – Surrounding row houses were demolished. A local campaign saved the Field House.

1934-36 – Restoration of the house included the following:

- Rebuilding of the north and south walls necessitated by demolition of adjoining buildings.
- Addition of four windows, two to the north side hallway on the first and third floors, and two to the third floor south side to allow better lighting for caretaker's quarters.
- Addition of an automatic sprinkler.
- Installation of a central heating system.
- Installation of electrical wiring throughout.
- Replacement of the stairway balustrade with one salvaged from an adjoining rowhouse.⁴
- Renovation of the third floor rear room to accommodate a caretaker (including a bathroom, removed before 1975).
- Creation of the enclosed garden.

1936-1968 - The house was dedicated as the Eugene Field House and opened as a museum with maintenance undertaken by the St. Louis Board of Education.

1968 – Landmarks Association of St. Louis, Inc. takes over maintenance.

⁴ Breme, "Field, Eugene, House."

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19?? - Iron coal grates removed from the fireplaces, light fixtures replaced with twentieth-century pieces, plaster repaired in twentieth-century style.

1969 - Addition of a fire escape on the south side. Installation of a new heating and air conditioning system. A second floor closet was probably enclosed at this time (for furnace duct work).

Pre-1975 - Other alterations per the National Register nomination (no dates available):

- Construction of new access to the rear entrance.
- Tuck-pointing of north façade.
- Conversion of third floor first to a site administrator's live-in apartment and later to additional museum rooms and a children's party room (addition of bathroom and kitchen facilities, addition of a closet in the hall).

1981 - Home turned over to Eugene Field House Foundation.

1983 - A storm damages the roof revealing the original hand-sawn cedar shingles and subsequent six roofs. A replacement standing seam copper roof was completed in 1984.

1999-2000 - Exterior restoration including cleaning, tuck-pointing, and stabilization of brick and stonework.

2000 - Single-story porch built for access to the first-floor rear door.

2001 - Eugene Field House Foundation acquired land where the adjoining row houses to the north once stood for future expansion. A new building is planned here for permanent and temporary exhibits focusing on the main themes of Roswell Field's career and involvement in the Dred Scott decision, and Eugene Field's life and literature, including his love for toys that inspired the extensive collection now held by the Eugene Field House and St. Louis Toy Museum. Administrative offices, collections, museum shop, and event space will also be in the new building, allowing for the complete restoration of the Field House to the 1850-1864 time period, and better protection of the house and artifacts in both spaces.

2003 - Full interior restoration began.

2006 - Interior restoration is nearly complete. Although the potential may exist for archeological work on the property, no work has been done as of this time. Short-term plans include using Roswell Field's study to create a compelling permanent exhibit to interpret his role in the Dred Scott decision.

Integrity Assessment

Changes to the Field House and surrounding area have affected the building's setting and design. Chief among these is the demolition of the neighborhood rowhouses that has altered the house's original setting within a fashionable rowhouse neighborhood. Other changes to the setting include a brick walled-in garden (noncontributing resource) that extends from the south side of the house to the cross street, across the back of the house, and around to the north side of the house. The parking area is located between the rear wall and the alleyway. On the house itself, demolition of the rear three-story service wing detracts from how the Field House originally functioned, and windows were introduced into the side walls that once served as the row house dividing walls. Despite these changes, and based on recent restoration work, the building retains those essential physical features associated with its original location, materials, design, workmanship, and association that convey its sense as an 1850s urban dwelling of a person of means.

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8. STATEMENT OF SIGNIFICANCE

Certifying official has considered the significance of this property in relation to other properties:

Nationally: X Statewide: Locally: Applicable National
Register Criteria:A B X C DCriteria Considerations
(Exceptions):A B C D E F G

NHL Criteria:

2

NHL Theme(s):

IV. Shaping the Political Landscape
4. political ideas, cultures, and theories

Areas of Significance:

Law
Politics and Government

Period(s) of Significance:

1853-1857

Significant Dates:

April term, 1854 (U.S. Circuit Court ruling and trial) and March 6, 1857 (U.S. Supreme Court decision)

Significant Person(s):

Roswell Field

Cultural Affiliation:

N/A

Architect/Builder:

Unknown

Historic Contexts:

V. Political and Military Affairs, 1783-1860
J. The Rise of Sectionalism, 1840-1859
XXVIII. The Law
A. The Development of Principles in the Legal Specialties
D. Scholars, Judges, and Lawyers

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State Significance of Property, and Justify Criteria, Criteria Considerations, and Areas and Periods of Significance Noted Above.**Summary Statement of Significance**

The Field House is significant as the home of Roswell Field while he was legal counsel for the slave Dred Scott, who sued for his freedom in one of the most significant cases in American constitutional history, *Scott v. Sandford* (1857). In its decision, the U.S. Supreme Court ruled that because Scott was black he was not a citizen of the United States and was thus unable to sue, and the Court declared unconstitutional the Missouri Compromise of 1820 that forbade slavery in the territories. The decision in this case was central to the crisis of the Union and the coming of the Civil War. Roswell Field's legal strategy provided the foundation for the case to reach the U.S. Supreme Court.

Overview⁵

The Field House is being nominated under National Historic Landmark Criterion 2 for its association with Roswell Martin Field, who resided here from 1850 to 1857, and was one of the lawyers who represented the slave Dred Scott in his eleven-year quest for freedom.⁶ It is because of Field that the case became a landmark Supreme Court decision, and one of the most important Supreme Court decisions in our history.

Dred Scott had initially sued for his freedom in the state courts. He won his freedom in jury trial but in *Scott v. Emerson* (1852) the Missouri Supreme Court overturned the decision. Because the status of a person in antebellum America almost invariably was determined by state law, this seemed to be the end of Scott's case. However, around the time of this decision Scott's owner, Mrs. Irene Emerson (nee Sanford) transferred ownership of Scott to her brother, John F. A. Sanford. Although a southern by birth with strong business interests in St. Louis, at the time Sanford was living in New York City, and was considered a resident of New York State.

Roswell seized on this situation to find a legal theory that would allow Scott to test his freedom in federal courts. The U.S. constitution allowed citizens of one state to sue citizens of another state in federal court. This type of suit was known as a "diversity" suit – from the notion that there was a diversity of state citizenship between the two parties. Roswell concluded that if Dred Scott was free, then he should be able to sue Sanford in federal court. This was the first instance where a black person ever used diversity jurisdiction to sue someone in federal court. The theory that Field developed went to the central meaning of American citizenship. Could a black man with ancestral slaves be a citizen of a state and a citizen of the United States, and thus sue in federal court?

At the initial trial in St. Louis, United States District Judge Robert W. Wells agreed with Field. If Scott was free, then he could sue. Wells allowed the case to go forward but on the merits of Scott's claim, the jury found in favor of Sanford, and Scott remained a slave. This decision, however, allowed Scott to appeal to the U.S. Supreme Court, setting the stage for Chief Justice Roger B. Taney's opinion in *Dred Scott v. Sandford* (60 U.S. 393, the official reporter for the Supreme Court misspelled the defendant's name).

⁵ Overview excerpted or paraphrased from Paul Finkelman to Susan Salvatore, National Park Service, e-mail correspondence, October 18, 2003.

⁶ The Field House was previously listed on the National Register of Historic Places (Field, Eugene, House) in 1975 for its association with Roswell Martin Field and his son, Eugene Field, the "Children's Poet," and as the only surviving unit of a row of twelve Federal-style buildings known as Walsh's Row.

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Many northerners rejected the validity of Taney's decision. Anger over *Dred Scott* energized the Republican Party while Abraham Lincoln's incisive critique of Chief Justice Taney's opinion helped propel him onto the national political stage and into the White House. Without Field's novel legal theory – which of course became the law of the land with the adoption of the Fourteenth Amendment in 1868 – *Dred Scott*'s case may never have reached the Supreme Court. Under this great contribution to the history of American law, Roswell Field became the first lawyer to argue that a slave should be considered a "citizen" and a citizen of the U.S. able to sue in federal court.

Building History⁷

The land on which "Walsh's Row" was developed, and that contained the Field House, was once owned by Pierre Laclede, founder of St. Louis. At his death, Laclede's estate sold the property to Auguste Chouteau, Laclede's associate. Following Chouteau's death in 1820, the land was conveyed to the City of St. Louis with the provision that revenue from its use be spent for public schools.⁸

Walsh's Row, developed in the 1840s by Edward Walsh, was comprised of twelve identical three-story row houses. At that time, it was considered one of St. Louis' most fashionable residential neighborhoods. Its close proximity to the riverfront business district made it a convenient place for lawyers, doctors, and merchants to live within walking distance of their business establishments. With the decay of the riverfront section of St. Louis, the house, along with the rest of the row, fell into disrepair and long stood abandoned.⁹

In 1934, when the row was about to be torn down to save taxes and provide space for a parking lot, public-spirited citizens, along with school children, lobbied for the preservation of the house where Eugene Field was born.¹⁰ An offer by insurance agents, Jesse P. Henry and Carl P. Daniel, to bear the expense of preserving the birthplace was unanimously accepted by the St. Louis Board of Education.¹¹ Under Henry's leadership, the house was restored and opened to the public on December 18, 1936, as a shrine to the "children's poet."¹² The Board of Education maintained the house until 1968 when it transferred that function to the Landmarks Association of St. Louis, Inc., that oversaw the house until 1981 when the Eugene Field House Foundation took over.

Roswell Martin Field

Roswell M. Field was born in Newfane, Vermont, on February 22, 1807, the third of four children. His childhood in Newfane was comfortable—his family was educated and sufficiently well off for Roswell to pursue artistic interests as well as a good education. His parents shared an avid interest in books and reading, and his father fancied himself an amateur scientist. Field's parents doted on their children,¹³ and instilled in

⁷ Building history is taken verbatim from Breme, "Field, Eugene, House," section 8.

⁸ *Printed Words* (St. Louis: Von Hoffmann, 1950); *A St. Louis Heritage: Six Historic Homes* (Southwestern Bell Telephone, 1967), 37.

⁹ *St. Louis Heritage*, 37; Elinor Maartineau Coyle, *Old St. Louis Homes (1790-1865): The Stories They Tell* (St. Louis: Folkstone, 1964) 74.

¹⁰ *Printed Words*; Coyle, *Old St. Louis Homes*, 74; "Notes and Comments," *Missouri Historical Review* 28, no. 3 (April 1934): 234, citing from *St. Louis Post-Dispatch*, February 2, 1934, 3A.

¹¹ "Notes and Comments," *Missouri Historical Review* 29, no. 1 (October 1934): 59, citing from the *St. Louis Post-Dispatch*, June 12, 1934, 1D; and Toni Flannery, *History Trail* (St. Louis: Landmarks Association of St. Louis, Inc., 1973), 7.

¹² *St. Louis Post-Dispatch*, December 19, 1936, 1C; and *St. Louis Globe Democrat*, December 19, 1936, 5A.

¹³ Kenneth C. Kaufman, *Dred Scott's Advocate: A Biography of Roswell M. Field* (Columbia, MO: University of Missouri Press, 1996), 17-18.

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them a strong sense of self-reliance and a drive for personal achievement. Roswell would later demonstrate these character traits in his practice of law.¹⁴

Roswell graduated from Middlebury College in August 1822, and subsequently began to study law under his uncle, Daniel Kellog, an attorney in Windham County, Vermont. He studied with Kellog for three years, and in the fall of 1825, at the age of eighteen, gained admission to the bar.¹⁵ The newly-minted lawyer then returned to his parents' home where he worked in his father's law office. His earliest cases were neither momentous nor challenging, but did serve as good experience for the young attorney. He was a quick study, and became known for his ability to avail himself of "every obsolete technicality, quirk, and precedent of the law."¹⁶ He also served in the state legislature at the age of 28.¹⁷

In 1839, at the age of 32, he left Vermont for St. Louis, immediately following a brief marriage to a young woman who was actually betrothed to another; the marriage was later annulled.¹⁸ By the time of his departure, he was considered a learned scholar and could read Greek, Latin, French, German, and Spanish, as well as speak German and French fluently.¹⁹ However, at the time of Field's arrival in St. Louis he knew very little about slave law.²⁰ Slavery was central to the economic structure of Missouri and led to enormous amounts of litigation in the state.²¹ Perhaps because of his linguistic skills, Field initially specialized in cases involving land claims, especially complicated Spanish land claims.²² Real estate law soon became the primary focus of his legal work in St. Louis, a good specialty in the bustling city.²³

Field's early years in St. Louis were spent in a boardinghouse. Boardinghouses were common in St. Louis at the time as hotels were of poor quality and expensive. It was also quite common for single men to live in boardinghouses until they married. Field lived in this boardinghouse for about eight years.²⁴

In 1848, Roswell married Frances Maria Reed, a woman he met in St. Louis but who was also from New England. Roswell and Frances took a small house on Collins Street in downtown St. Louis as their first home. Their first son, Theodore, died within a year of his birth during the cholera epidemic that swept the city in 1848 and 1849.²⁵ Their second son, Eugene, was born on September 2, 1850, at the Field's rented row house at 5 South Fifth Street, now known as South Broadway.²⁶ At that time the street was called Fifth Street. This

¹⁴ *Vermont Historical Gazetteer* (Brandon, Vt.: Mrs. Carrie E. H. Page, 1891), 5:137.

¹⁵ Kaufman, *Dred Scott's Advocate*, 34-35.

¹⁶ Slason Thompson, *Eugene Field: A Study in Heredity and Contradictions* (New York: Charles Scribner's Sons, 1901), 10.

¹⁷ Vermont Secretary of State Archives, *A List of the Members of the General Assembly for the Year 1835* (Montpelier, Vt.: 1835), 76:34.

¹⁸ Thompson, *Eugene Field*, 12.

¹⁹ *Centennial Proceedings and Other Historical Facts and Incidents Relating to Newfane* (Battleboro, Vt.: D. Leonard Steam Job Printer, 1877), 47.

²⁰ Kaufman, *Dred Scott's Advocate*, 94.

²¹ For example, between 1821 and 1861 the Missouri Supreme Court heard 464 cases in which slavery or slaves are mentioned. This was just under ten percent of the total number of cases (4,695) decided by the court in that period. By contrast the court in this period decided 97 cases involving railroads, 112 cases in which the word murder appeared in an opinion, and 316 cases in which the word steamboat appeared. This is based on a Lexis search, conducted Feb. 29, 2004. Helen T. Catterall, ed., *Judicial Cases Concerning American Slavery and the Negro*, 5 vols. (Washington: Carnegie Institution, 1926, rep., Westport, Conn., Negro Universities Press, 1968), 5:123-215, found over 280 significant slave cases before the Missouri Supreme Court.

²² Thomas J. Scharf, *History of St. Louis City and County* (Philadelphia: Louis H. Everts, 1882), 1450.

²³ A. J. D. Stewart, ed., *History of the Bench and Bar of Missouri* (St. Louis, Mo.: Legal Publishing, 1898), 113.

²⁴ W. V. N. Bay, *Reminiscences of the Bench and Bar of Missouri* (St. Louis, Mo.: F. H. Thomas, 1878), 237; Charles K. Field to his wife, 19 May 1848, Field Collection, Jones Library.

²⁵ Kaufman, *Dred Scott's Advocate*, 152, 154.

²⁶ Jesse Powell Henry to Rufus Jackson, St. Louis City Postmaster, 25 June 1938, Archives, Eugene Field House, St. Louis.

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property was considered removed from the heart of the city, in a quiet residential neighborhood, which was especially attractive to the Fields who sought respite after witnessing the horrible effects of a citywide epidemic. By this time Field was a successful attorney respected in his field and reasonably prosperous.

Missouri Freedom Suits

In addition to the many cases involving the business law of slavery, some slaves were able to challenge their own status through litigation. These attempts to gain emancipation through the courts were collectively known as "freedom suits." Freedom suits usually took the form of a civil suit for assault, battery, or false imprisonment. The slave claimed the master had committed battery on him. The master's response was that he had a right to do so, given the plaintiff was a slave. The plaintiff would then respond by asserting a claim to freedom. Such claims could be based on an assertion that the person was actually the child of a free woman, that the plaintiff had been legally emancipated, that some will existed freeing the slave, or that the slave had gained freedom by traveling through or living in a free state.

Freedom suits based on free state residence or sojourn were reasonably common in St. Louis. A recent project at Washington University in St. Louis has identified nearly 300 such suits in the St. Louis Circuit Court – the court where Dred Scott initially brought his action.²⁷ This was the kind of suit Dred Scott brought in 1846. Typically, these cases involved slaves who had been taken to non-slave jurisdictions by their masters. These were not runaway slaves who had left Missouri or some other slave jurisdiction against the will of the master. Rather, they were slaves whose masters had voluntarily brought them into a free state.

As early as 1772 the Court of King's Bench in England had ruled in *Somerset v. Stewart*, that a slave became free if taken into a free jurisdiction. The English rule, set out in that case, was that slavery was such an unusual condition, and so antithetical to the common law, that it could only be enforced by positive or statutory law. In *Somerset*, Lord Mansfield, Chief Justice of the Court of King's Bench, declared that:

So high an act of dominion [as the enslavement of a human being] must be recognized by the law of the country where it is used. . . . The state of slavery is of such a nature, that it is incapable of being introduced on any reasons, moral or political; . . . it's so odious, that nothing can be suffered to support it, but positive law.²⁸

In the first decades of the nineteenth century a number of southern states accepted this principle.²⁹ The Missouri Supreme Court adopted this position in *Winn v. Whitesides* (1824) and maintained it until 1852.³⁰ During this period the Supreme Court upheld freedom claims of a number of slaves based on residence or sojourn in a free state. Hundreds of other slaves gained their freedom in lower court decisions, which were not appealed. Some masters doubtless acquiesced to demands for freedom when lawyers representing slaves threatened to sue.

²⁷ St. Louis Circuit Court Historical Records Project, www.stlcourtrecords.wustl.edu. The Missouri State Historic Preservation Office points out that Roswell Field tried another freedom suit case, *Martha Ann v. Hirman Cordell* (1844), which may have affected ideas and strategies he used in *Scott v. Sandford*. Mark A. Miles to Dr. John W. Roberts, 6 October 2006.

²⁸ *Somerset v. Stewart*, 1 Lofft (G.B.) 1 (1772). For a full discussion of *Somerset* see William M. Wiecek, "Somerset: Lord Mansfield and the Legitimacy of Slavery in the Anglo-American World," 42 *University of Chicago Law Review* 86 (1974), reprinted in Paul Finkelman, ed., "Articles on American Slavery," vol. 11, *Law, the Constitution, and Slavery* (New York: Garland, 1989), 570; William M. Wiecek, *The Sources of Antislavery Constitutionalism in America, 1760-1848* (Ithaca: Cornell University Press, 1978); and David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1770-1823* (Ithaca: Cornell University Press, 1975). On the history of the application of *Somerset* in the United States see Paul Finkelman, *An Imperfect Union: Slavery, Federalism, and Comity* (Chapel Hill: University of North Carolina Press, 1981).

²⁹ For a full history of this issue see Finkelman, *An Imperfect Union*.

³⁰ *Winn v. Whitesides*, 1 Mo. 472 (1824).

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Many of the slaves who won these freedom suits had been brought to Missouri by masters who migrated through Indiana and Illinois. Mere passage through these states would not have been enough to free the slaves. But, masters who often stopped long enough to plant a field of corn, or even for a shorter period of time, would jeopardize their property interest in their slave. From the mid-1820s until 1852 the Missouri courts consistently emancipated slaves whose masters had sojourned with them in free states. Such sojourns led to freedom, because, as the Missouri court explained in 1828, bringing a slave into Illinois or Indiana "against the express terms of the [Northwest] ordinance" would free the slave.³¹

By the 1840s the settled law in Missouri favored freedom where slaves had lived in free jurisdictions. Even military officers were not exempt from the rule. In *Rachael v. Walker* (1836) the Missouri court freed a slave whose owner, an army officer, had brought her to Fort Snelling (where Dred Scott would later reside) and to a fort at Prairie du Chien, Michigan.³² The Missouri court dismissed the idea that a military officer was somehow immune from the general rule that slaves could not be kept in a free state. The court wrote:

Shall it be said, that because an officer of the army owns slaves in Virginia, that when as officer and soldier, he is required to take command of a post in the non slave holding States or territories, he thereby has a right to take with him as many slaves, as will suit his interests or convenience? It surely cannot be the law . . . that the convenience or supposed convenience of the officer, repeals as to him and others who have the same character, the [Northwest] ordinance and the act of 1821 admitting Missouri into the Union, and also the prohibitions of the several laws and constitutions of the non slave holding States.³³

This then, was the legal background to Dred Scott's case.

Dred Scott and his Quest for Freedom

Dred Scott was born a slave in Virginia around 1800.³⁴ In 1818 Scott's master, Peter Blow, moved from Southampton County, Virginia, to Alabama and then in 1830 relocated to St. Louis, Missouri. Blow took his property--Dred Scott--with him as he migrated west. Blow died in 1832, and by the late fall of 1833 Dr. John Emerson, a surgeon in the United States Army, had purchased Scott. At the time, Emerson was stationed at Jefferson Barracks in St. Louis, but from December 1, 1833, until May 4, 1836, Emerson served as the post physician at Fort Armstrong, which was located in Illinois near the present-day city of Rock Island. Throughout this period Scott also lived at the fort.³⁵ When the Army closed the fort, Emerson was reassigned to Fort Snelling in what was then the Wisconsin Territory and later became Minnesota.³⁶ Slavery was prohibited in this region under the Missouri Compromise of 1820. While living at Fort Snelling, Scott married Harriet Robinson, who was also a slave.³⁷ They later had four children; two daughters survived infancy - Eliza and Lizzie.³⁸ In

³¹ *La Grange v. Chouteau*, 2 Mo. 19 (1828), quoted at 22.

³² *Rachel v. Walker*, 4 Mo. 350 (1836).

³³ *Ibid.*, at 354.

³⁴ Scott is listed in an 1818 property tax record as being "over sixteen years old." Paul McStallworth, "Scott, Dred," in Rayford W. Logan and Michael R. Winston, eds., *Dictionary of American Negro Biography* (New York: W. W. Norton, 1982), 548. Most scholars agree he was probably born between 1795 and 1805.

³⁵ Walter Ehrlich's *They Have No Rights: Dred Scott's Struggle for Freedom* (Westport, Conn.: Greenwood Press, 1979) is the best study of Scott's life and the complicated facts surrounding the case. The most important and comprehensive book on the case itself and its political impact is Don E. Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics* (New York: Oxford University Press, 1978).

³⁶ John Davison Lawson, ed., *American State Trials: A Collection of the Important and Interesting Criminal Trials Which Have Taken Place in the United States* (St. Louis, Mo.: Thomas Law Book Company, 1921), 13:228.

³⁷ Jeffrey A. Hess, "Dred Scott: from Fort Snelling to Freedom," *Historic Fort Snelling Chronicles*, no. 2 (St. Paul, Minn.: Minnesota Historical Society, 1975), 2.

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1840, the Scotts returned to St. Louis with Mrs. Emerson.³⁹ In 1843, Dr. Emerson died, after which Mrs. Emerson hired out Scott and his family to work for other families.⁴⁰

On April 6, 1846, Dred Scott and his wife Harriet filed suit against Irene Emerson for their freedom on the grounds that they had once lived in free territory.⁴¹ The Blow family, Dred Scott's original owners, provided financial assistance to Scott for some of his legal expenses.⁴² Although the lower court in St. Louis found for Scott in his case for freedom, Mrs. Emerson appealed the case to the Missouri Supreme Court. In *Scott v. Emerson* (1852) the Supreme Court of Missouri ruled against Scott. The summary of this decision, in the first headnote to this case, accurately and clearly states the court's holding: "The voluntary removal of a slave, by his master, to a State, Territory, or Country, in which slavery is prohibited, with a view to a residence there, does not entitle the slave to sue for his freedom, in the courts of this State."⁴³ The decision was frankly political. It was made not on the basis of legal precedent but because of popular prejudice. Chief Justice William Scott stated:

Times are not now as they were when the former decisions on this subject were made. Since then, not only individuals but States have been possessed with a dark and fell spirit in relation to slavery, whose gratification is sought in the pursuit of measures, whose inevitable consequence must be the overthrow and destruction of our Government. Under such circumstances, it does not behoove the State of Missouri to show the least countenance to any measure which might gratify this spirit. She is willing to assume her full responsibility for the existence of slavery within her limits, nor does she seek to share or divide it with others.⁴⁴

Thus, Chief Justice Scott overturned twenty-eight years of Missouri precedents.

By this time, five attorneys had worked the case. The first attorney was Francis Murdoch, who moved to California in 1846, the same year the circuit court case was filed. Charles Drake then took over the case, but moved to Cincinnati in 1847, leaving Samuel Mansfield Bay to take the case. Later that year, Alexander Field and David N. Hall became the Scotts' attorneys.⁴⁵ By 1852, however, Hall died and Alexander Field moved to Louisiana.⁴⁶ With no lawyer to help him and his appeals to the state courts exhausted, Dred Scott's quest for freedom seemed at an end. Ironically, however, it was about to enter a new phase.

By 1852 Scott's lawyers were not the only ones who had left St. Louis. In late 1849 or 1850 Irene Emerson left Missouri for Springfield, Massachusetts. In November 1850 she married Dr. Calvin C. Chaffee, a Springfield physician with antislavery leanings, who later became a Republican congressman. Although no longer in Missouri, Irene Emerson remained the defendant in Dred Scott's freedom suit before the Missouri state courts. Her brother, John F. A. Sanford, continued to act on her behalf in defending the case. Sanford, a prosperous New York merchant with strong personal and professional ties to St. Louis, actually spelled his name with only one "d." However the Supreme Court reporter mistakenly thought his name was Sandford. Hence, the case would eventually be called *Scott v. Sandford*.

³⁸ Ehrlich, *They Have No Rights*, 24; Kaufman, *Dred Scott's Advocate*, 140.

³⁹ Kaufman, *Dred Scott's Advocate*, 117.

⁴⁰ *St. Louis Daily Evening News*, 3 April 1857.

⁴¹ *St. Louis Reveille*, 6 April 1846.

⁴² Fehrenbacher, *Dred Scott Case*, 241.

⁴³ Missouri Supreme Court, *15th Missouri Report*, 577-592 (St. Louis, Mo.: 1852), at 577.

⁴⁴ *Scott v. Emerson*, 15 Mo. 576, at 586 (1852).

⁴⁵ Ehrlich, *They Have No Rights*, 37-39.

⁴⁶ Fehrenbacher, *Dred Scott Case*, 267-268.

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Sometime between 1850 and 1853 Irene Emerson transferred ownership of Scott to her brother. While John Sanford had business interests in St. Louis, he had become a resident of New York. This set the stage for a new attorney, Roswell Field (no relation to Alexander Field), to discover a new legal theory that might yet lead to Scott's freedom.

Charles Edmund LaBeaume, a friend and associate of Roswell Field, had also been a benefactor of Scott during his litigation, and sought the advice of Roswell in the spring of 1852, just after the Missouri Supreme Court decision. Roswell took the case without fee. He recognized an opportunity in the fact that Dred's new owner was a resident of New York. That opportunity would pave the way to the U.S. Supreme Court to "bring it to a hearing and decision by the court, [so that] the cause of humanity may perhaps be subserved: at all events a much disputed question would be settled by the highest court in the nation."⁴⁷

Roswell Field's strategy was to sue for Scott's freedom in federal court under what is known as "diversity jurisdiction." Diversity jurisdiction occurs when the parties to a lawsuit – in this case Dred Scott and John Sanford – are citizens of different states. Thus what would normally have been a case in state court – Dred Scott's suit for assault, battery, and false imprisonment – could become a lawsuit in a federal court.

Up until this time no black person had ever used diversity jurisdiction to sue someone in federal court. The theory that Field developed raised questions far beyond Dred Scott's status as a slave or a free man. His challenge went to the central meaning of American citizenship. Could a black man, whose ancestors were slaves, be a citizen of a state and a citizen of the United States, and thus sue in federal court?

This was Roswell Field's great contribution to this case and to the history of American law. He became the first lawyer to argue that a slave should be considered a "citizen" of a state for the purpose of federal jurisdiction. This theory brought Scott's freedom suit in the United States Circuit Court in St. Louis.

Field's argument was complicated. He argued that *if* Dred Scott was free, then he must be a citizen of some place, and since he lived in Missouri, he must be a citizen of Missouri. At the time citizenship did not carry with it all the rights and privileges that it does today. For example, not all citizens could vote and not all voters were citizens. Thus, Field was not arguing that a free black in Missouri was entitled to all the rights of a white citizen. Rather, he made the more narrow argument that for purposes of a federal lawsuit, a free black should be considered a "citizen" in the state where he lived.

It is important to note that in the mid-nineteenth century, slavery had become a major source of contention for Americans, both North and South. Questions abounded: would slavery be allowed in the territories, would new states be free or slave, what would become of slaves who move to and from states, what would be done with runaways, etc. Questions about slavery were becoming a factor in politics and socio-economic policies. There were many attempts to quell the problem, such as the 1820 Missouri Compromise, which banned slavery north of 36°30' and its repeal in 1854 by the Kansas-Nebraska Act, and the 1850 Fugitive Slave Act, which required people in northern free states to return runaway southern slaves to their owners. Yet, these laws were increasingly called into question because none resolved the substantive and increasingly controversial issue of black slavery and how it related to the territories. Unlike today's government, states in the 1850s held considerable power, and the federal government was still very small and had not been tested as to its ultimate

⁴⁷ Roswell Field to Montgomery Blair, 24 December 1854, Dred Scott Collection, Missouri Historical Society (hereafter cited as Scott Collection, MHS), St. Louis.

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authority over states' rights; it was either unknown or undeclared what the power of Congress was over the territory of the United States.⁴⁸

Roswell Field filed the federal suit in November 1853. In response to Field's suit, lawyers for John F. A. Sanford entered a plea in abatement, arguing that the case should be dismissed because no black could be considered a citizen of a state. Thus, even if Dred Scott were free, he had no right to sue Sanford in federal court. The case was tried in April 1854, in a building in downtown St. Louis on Papin Street. United States District Judge Robert W. Wells quickly rejected Sanford's plea in abatement, asserting that *if* Scott was free, then he could sue Sanford in diversity, as a "citizen" of Missouri. Thus, the case could go forward on the legal fiction that Scott was a "free citizen" of Missouri. Wells believed that his position had important legal implications. In a letter to Montgomery Blair (Scott's future lawyer) on the eve of the U.S. Supreme Court argument, Wells noted that *if* free blacks could not sue in federal court this would also make them exempt from being sued. This would perhaps give some free blacks a "privilege" that whites did not have. Furthermore, he noted the irony that a free black from England, the British Empire, or some other place, such as Haiti, would be able to sue in federal court as a citizen of a foreign nation but a free black in the United States would not have this right.⁴⁹

This procedural victory was the last legal victory Dred Scott would ever achieve. After ruling that the case could go forward, Judge Wells concluded that Scott's status did not turn on federal law, but on state law. He based this on the Supreme Court's 1851 decision in *Strader v. Graham*. That case had also involved the status of Kentucky slaves who had been allowed to work in the free states of Indiana and Ohio. However, the case involved a lawsuit by a slave owner trying to recover the value of his own slaves who had escaped to freedom. The case was not brought by a black and did not involve the right of a black to sue for freedom in a federal court. In *Strader* the Supreme Court ruled that the status of blacks – whether free or slave – should be determined by the relevant state law. So, if the slaves in *Strader* had sued in Ohio, and been declared free, then they would be free. But, since the litigation was in Kentucky the status of the slaves would be based on Kentucky law. The implications of this case for Dred Scott were clear. If he had sued for freedom in Illinois or Minnesota, he might have been free under the laws of those places. Now, however, his status was to be determined by the state law, and the federal courts would defer to the states on this issue. The Missouri Supreme Court had already decided that Scott was not free, and Judge Wells applied that ruling to the case in federal court.

However, in reaching this result Judge Wells ignored, or at least finessed, one of Roswell Field's most important legal arguments. This argument focused on the *federal* law in the case. The issue is complicated, and might seem highly abstract, but in reality it was fundamentally important to American law and politics.

Strader v. Graham had involved the status of slaves under Ohio and Indiana law. The Supreme Court ruled that Kentucky had the right to reject, or accept, the Ohio or Indiana law. By the same argument, Dred Scott could claim his freedom because he lived in Illinois, and Missouri was free to accept, or reject, the force of Illinois. Thus, Judge Wells, who was personally sympathetic to Scott's desire to be free,⁵⁰ felt he was bound to follow the lead of the Missouri Supreme Court which had ruled that Scott did not become free by living in Illinois. This was reasonable. Judge Wells also applied the logic of this ruling to Dred Scott's residence at Fort Snelling. This, however, was a different issue.

⁴⁸ Fehrenbacher, *Dred Scott Case*, 11-187, 372-373.

⁴⁹ Judge Robert Wells to Montgomery Blair, 12 February 1856, MHS.

⁵⁰ *Ibid.* Here Wells wrote: "I may say to you, however, that my feelings were deeply interested in favor of the poor fellow, and I wish the law was in favor of his freedom."

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Roswell Field had argued that the federal court should recognize Dred Scott's freedom because it was based on his residence in a *federal* territory, and that his freedom had been created by a federal statute – the Missouri Compromise – which had declared that there could be no slavery in the federal territories north of the Missouri. Judge Wells ignored this point.

Dred Scott was now in a position to bring his case to the U.S. Supreme Court. The issue he wanted to raise involved the enforcement of the federal ban on slavery in the territories north of Missouri. In his appeal neither side raised the issue of a black's right to sue in federal court. Dred Scott had won on this question and so he was not interested in asking the Supreme Court to reconsider it. Sanford had won the entire case and so he did not see any reason to appeal this procedural question, since the outcome had not harmed his case in the long run. Thus, Dred Scott wanted to bring before the Supreme Court the narrow issue – raised by Roswell Field – that the Missouri Compromise had banned slavery in the territory where Scott had lived and that Missouri was obligated to recognize the force of that federal law.

When Judge Wells ruled against Scott, Field unsuccessfully moved for a new trial. He filed a bill of exceptions, the next step toward the case advancing to the U.S. Supreme Court.⁵¹

Before the Court could hear the case, however, Scott had to find an attorney to argue it. Field was perfectly competent to argue the case in the lower federal court in Missouri. Indeed, he had developed the entire federal argument that allowed Scott to bring his case, and he had won on the important issue of whether a black, if free, could sue in federal court. A case before the Supreme Court raised legal and logistical issues that required a new attorney. Most cases before the Supreme Court at this time were argued by a small group of Washington lawyers often assisted by members of Congress. Lawyers from the west rarely traveled to Washington to argue a case. The costs were huge, and it made much more sense to have a lawyer with Supreme Court experience, or political connections, or both, take such a case. Field had so far taken Scott's case for free. He simply could not absorb the vast cost of an appeal to the U.S. Supreme Court. But, as Scott's lawyer he felt an obligation to find a lawyer in Washington, D.C. to take the case.

Dred Scott's Case in the U.S. Supreme Court

On July 4, 1854, Field and Charles LeBeaume circulated a 12-page pamphlet in an effort to obtain national compassion and volunteer attorneys to help pursue the case in Washington. Signed with an "X" for Dred Scott, it reads, in part:

"The judge said that, according to these laws, while I was in Illinois and Wisconsin, I was a free man - just as good as my master, - and that I had as much right to make a slave of a white man, as a white man to make a slave of me. I was sorry nobody ever told me that while I was there. Yet, I was glad to hear the judge talk so, for I thought he would set me free. But, after a little while, the judge said that as soon as my master got me back this side of the line of Missouri, my right to be free was gone; and that I and my wife and my children became nothing but so many pieces of property. I thought it hard that white men should draw a line of their own on the face of the earth, on one side of which a black man was to become no man at all, and never say a word to the black man about it until they had got him on that side of the line. So, I appealed to the Supreme Court of the United States... I have no money to pay anybody at Washington to speak for me... My fellow men can any of you help me in my day of trial! Will nobody speak for me at Washington..."⁵²

⁵¹ Fehrenbacher, *Dred Scott Case*, 270-272.

⁵² Roswell M. Field, Charles E. LeBeaume, *The Case of Dred Scott in the Supreme Court of the United States*, Pamphlet Preface,

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This passionate plea was followed by the entire proceedings from the federal case.

No one answered "Dred's" call for help. Roswell Field later explained that it was sent to many people in the eastern states, but did not receive any attention.⁵³ On Christmas Eve, 1854, Field wrote colleague Montgomery Blair, whose family was well-known for its deep opposition to slavery, asking if he or another professional gentleman would be interested in taking on the case to settle a "much disputed question."⁵⁴ Between then and January 7, 1855, Blair must have written back as Field wrote another letter on January 7 delighted that Blair found the case "interesting enough to call for gratuitous assistance from our profession." Field provided detailed information about his strategy in the case, beginning with the issue of citizenship "Supposing Dred had any capacity to sue in the United States Court, the proceeding is certainly perfectly regular."⁵⁵

Field continued to outline the case, exploring the various arguments for and against citizenship of blacks. In the federal case, Sanford's attorney, Hugh Garland, declared, "The plaintiff was not a citizen because he was a Negro of African descent."⁵⁶ While this was overruled by Judge Wells allowing the case to proceed, Roswell writes to Blair:

You will not fail to see the importance of the question involved here. If in fact, as Judge Wells had decided, a black man may sue his master in the Federal courts, the right of a trial by jury is still left to the slave in an action at common law which if brought in the Federal courts may be enforced in the judgment throughout the Union. And this jurisdiction, if it exists at all, exists by force of the constitution that no act of Congress can impair.⁵⁷

On February 7, 1856, Montgomery Blair filed a brief before the U. S. Supreme Court in *Scott v. Sandford*, the name forever misspelled in history. The case began to attract attention and speculation built on the motive behind it, including suspicion of politicking by pro-slavery groups. Outstanding defense attorneys were secured for Sanford - Reverdy Johnson, a former senator and attorney general of the United States, and Missouri Senator Henry S. Geyer, who ironically lived two doors up from Field. The case was heard several days later with Blair arguing the case on Roswell's two dominant issues of citizenship and black slavery. The justices declared the need for further argument.⁵⁸ In this interim period, Blair sent Roswell Field his brief as well as two letters related to it, as Field replied on March 12, 1856, with new suggestions on strategy and information concerning preceding cases.

On December 15, 1856, attorneys exchanged oral arguments on the case. At hand was not so much the issue of slavery. The question was whether Congress or state legislatures had the power to outlaw slavery or determine what constituted citizenship. On March 6, 1857, the unprecedented opinion was delivered. Chief Justice Roger B. Taney delivered the majority opinion of the Court. Seven of the nine justices agreed that Dred Scott should remain a slave, but Chief Justice Taney's opinion went further declaring, that free or slave, blacks were not citizens and therefore could not sue in federal court.⁵⁹ This could have a tremendous impact on the more than

4 July 1854, St. Louis Old Court House Archives, St. Louis.

⁵³ Roswell Field to Montgomery Blair, 7 January 1855, Scott Collection, MHS.

⁵⁴ Field to Blair, 24 December 1854, Scott Collection, MHS.

⁵⁵ Field to Blair, 7 January 1855, Scott Collection, MHS.

⁵⁶ Federal Circuit Court of Eastern Missouri, *John Sanford's Plea of Abatement*, 7 April 1854, Scott Collection, MHS.

⁵⁷ Field to Blair, 7 January 1855, Scott Collection, MHS.

⁵⁸ Kaufman, *Dred Scott's Advocate*, 207-209.

⁵⁹ United States Supreme Court, *Chief Justice Taney's Report on the Decision in the Scott v. Sandford Case* (Washington, D.C., 1857), Missouri Historical Society.

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400,000⁶⁰ free people of color, many of whom owned land, were voting, and paying taxes, were suing, buying and selling goods, and participating in society as citizens.⁶¹

Seeking to put to rest the issues plaguing the union, Taney went on with an even more sweeping judgment on other issues such as slavery in the territories and declared that because a slave was private property, he/she could be taken into any territory and legally held there.⁶² Furthermore, Taney declared that the Missouri Compromise had been unconstitutional from the onset because "Congress had no power to prohibit slavery from the territories," regardless of what the territorial legislatures themselves might want.⁶³

Average citizens and historians alike have provided countless analysis of Taney's remarkable decision. Perhaps the most thorough analysis is Don Fehrenbacher's 1979 Pulitzer Prize-winning book, in which he states:

Taney's opinion proves to be a work of unmitigated partisanship, polemical in spirit though judicial in its language, and more like an ultimatum than a formula for sectional accommodation. Peace on Taney's terms resembled the peace implicit in a demand for unconditional surrender.⁶⁴

Historian Paul Finkelman discusses the dissents on the Court:

As Justices Curtis and McLean demonstrated in their dissents, to settle the slavery issues in favor of the South, Taney ignored precedent, deliberately misread the Constitution, and rewrote history. Taking sides in the sectional crisis of the 1850s, Taney wrote a proslavery, pro-South decision that gave nothing to the North or freedom.⁶⁵

The authoritative *Oxford Companion to the Supreme Court of the United States* stresses the importance of the decision:

American legal and constitutional scholars consider the Dred Scott decision to be the worst ever rendered by the Supreme Court. Historians have abundantly documented its role in crystallizing attitudes that led to war. Taney's opinion stands as a model of censurable judicial craft and failed judicial statesmanship. It took the Civil War and the Civil War Amendments to overturn the Dred Scott decision.

With the intrusion of the Court in the slavery issue, many felt that any compromise over slavery was now impossible, and the North and the South moved inexorably toward civil war.⁶⁶

After the U.S. Supreme Court's decision, Scott finally obtained his freedom after his former master's (Peter Blow) sons purchased Scott and his wife and set them free. Dred Scott lived only another nine months.⁶⁷

⁶⁰ University of Virginia Geospatial and Statistical Data Center, "1850 Census," *United States Historical Census Data Browser*, 1998, <http://fisher.lib.virginia.edu/census/> (accessed 27 February 2003).

⁶¹ *Gentleman's Magazine* 34 (1864): 261; *Annals of Congress*, 8th Cong., 1st sess., 1574-1576.

⁶² Ehrlich, *They Have No Rights*, 149.

⁶³ Fehrenbacher, *Dred Scott Case*, 322.

⁶⁴ *Ibid.*, 3.

⁶⁵ Paul Finkelman, *Dred Scott v. Sanford: A Brief History with Documents* (Boston: Bedford Books, 1977), 47.

⁶⁶ Walter Ehrlich, "Scott v. Sandford," in Kermit Hall, ed., *Oxford Companion to the Supreme Court of the United States* (New York: Oxford University Press, 1992), 761.

⁶⁷ Wikipedia, "Dred Scott v. Sandford," http://en.wikipedia.org/wiki/Dred_Scott_v._Sandford (accessed 7 August 2006).

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The Field House in Historical Perspective

During the six years Roswell Field lived in the Fifth Street home, much of his time was spent under trying conditions. His wife was often ill, recovering, or preparing for the births of five children. One boy was born in their first home and died there. Four funerals were held in the Fifth Street house. The funerals were those of three of the children and Mrs. Field.⁶⁸

Roswell's wife died in November 1856. Their infant daughter died a month later on December 21st. In 1857, after the deaths of most of his family, Roswell Field sent his two remaining sons, Eugene and Roswell Jr., to live with his sister in Vermont.⁶⁹ He himself seemed to have moved from the family home on Fifth Street into rooms over his law office. However, he maintained the family home, where his sons visited each summer, and continued to rent it up until about 1864.⁷⁰

Roswell's son, Eugene, became famous in his own right as the "Children's Poet," as an accomplished newspaper columnist, and editor. He honed his skills at what has been called a special Eugene Field province—the journalization of literature.⁷¹ Many historians and journalism scholars consider Eugene Field as one of the fathers of the personal newspaper column. He also wrote many short stories and tales for children which his publishers readily accepted for publication in book form. It is, however, his poems which he said he "began suddenly to write very frequently" when he was about 40 years old that brought him fame.⁷² Eugene was also an avid collector of toys, some of which are on display in the Field House.

It is believed that Roswell Field's last few years were spent in his rented office on Chestnut Street, until his death in 1869 at the age of 62.⁷³ In his obituary, the *St. Louis Democrat* noted that Roswell Field was "Endowed with talents of the highest order, and enriched with various and profound learning, not only in the science of jurisprudence, but in mathematical, metaphysical and classical studies, his active and disciplined mind enabled him to master and elucidate the most abstruse questions which arise in the application of legal principles to the complicated affairs of life."⁷⁴

Field had pursued the Dred Scott case with tenacity and cunning ability, which ensured that the case would be heard before the U.S. Supreme Court. Indeed, he was the individual upon which the Dred Scott case turned. His expertise and legal strategy, set in the context of his anti-slavery beliefs, and the historical timing of the litigation, set the stage for the Civil War.

Historian Walter Ehrlich discusses Roswell's significance in the case:

"...There is no doubt about Field's motives. The first was to determine whether a slave state could revive the status of slavery once an erstwhile slave had been emancipated by residence in a free state or territory. The second was to ensure that the Supreme Court did not evade that substantive issue by falling back on *Strader v. Graham*. Both could be achieved by a new case in the lower federal court. Once Dred Scott came to Field's attention, he and LaBeaume...said and did things that clearly indicate

⁶⁸ Charles Kellogg Field III, *A Genealogical, and Biographical History of the Field Family of Massachusetts and Vermont and the French-Henry Families of Virginia and Texas* (Baltimore, Md.: Gateway, 1985), 54-60.

⁶⁹ *Missouri Republican*, November 18 and December 23, 1856.

⁷⁰ Seale, "The Eugene Field House," 24; *Missouri Republican*, November 18, 1856.

⁷¹ Thompson, *Eugene Field*, n.p.

⁷² *Printed Words* (St. Louis: Von Hoffmann, 1950), quoted in Breme, *Eugene Field House*, section 8, p. 1.

⁷³ Field, *A Genealogical and Biographical History of the Field Family*, 54.

⁷⁴ Obituaries, *St. Louis Democrat*, 15 July 1869.

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Dred Scott's freedom or the preservation of Mrs. Emerson's or Sanford's property rights no longer was the sole or even the primary motive in prosecuting or defending the suit. When that transition occurred, the case inexorably became the cause célèbre that made it so important in American history."⁷⁵

Marshall Hier, history editor of the *St. Louis Bar Journal*, states:

Ironically, in his failure to persuade the courts to accord an aging black man, his wife and daughters the most elemental of human rights, freedom, Roswell Field set in motion a struggle that would eventually lead to full rights being accorded to an entire race.⁷⁶

Property Comparison

Properties other than the Field House associated with the legal strategy for the Dred Scott case include the Old Courthouse in St. Louis, the Papin Building in St. Louis, Roswell's law office, and the Blair House in Washington, D.C. The Old Courthouse in St. Louis (now part of the Jefferson National Expansion Memorial, part of the National Park System) commemorates the Dred Scott case and while Roswell tried many cases in the Old Courthouse, he did not try the Scott case there. Because of lack of room at the Old Courthouse, the federal case was tried in rented rooms in the Papin Building. The site is now underneath the north leg of the Gateway Arch. The Historic Sites Committee of the Young Men's Division of the Chamber of Commerce many years ago erected a plaque on the Papin building. The location of the plaque is unknown. The plaque read:

After Dred Scott's suit was brought in St. Louis County Court in 1845 and tried twice in Old Courthouse as a State case, it was tried in a Federal District Court in an upstairs room of this building in May 1854. From here, the case went to the U.S. Supreme Court and the historic Dred Scott Decision of 1857.⁷⁷

Roswell's rented office in the building on Chestnut Street has long been demolished. It is believed that a collection of his papers was inherited by son Eugene, but was unfortunately burned during a fire in Eugene's rooms in Galesburg, Illinois. The Field House remains the only property associated with Roswell Field's productive life.

The Blair House is associated with Montgomery Blair, the attorney who tried the *Scott* case in the U.S. Supreme Court. Blair became Postmaster General and adviser to Lincoln. This house was designated a National Historic Landmark in 1973 for its significance as a place where a great number of nationally prominent dignitaries resided and were received. It has served as the federal government's official guest residence since 1942. The building no longer retains integrity to the 1850s primarily due to the addition of two upper stories.

Conclusion

Roswell Field made unique and important arguments about race and fundamental rights under the Constitution. His arguments were powerful enough to force Chief Justice Taney to answer them with what can only be described as massive judicial overkill. That opinion was in part forced by Field's arguments in the federal court in St. Louis.

⁷⁵ Ehrlich, *They Have No Rights*, 81.

⁷⁶ Marshall Hier to The Eugene Field House Board of Directors, 28 March 2001.

⁷⁷ Undated photograph, Roswell Field Collection, Eugene Field House Archives, St. Louis.

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Historians and legal scholars agree that the decision in this case was central to the crisis of the Union and the coming of the Civil War. As historian Walter Ehrlich describes, the *Scott v. Sandford* decision “played a major role in precipitating the Civil War; it provided a basis for far-reaching interpretations of substantive due process; and it stirred deep-seated emotions in the saga of race relation in the United States.”⁷⁸ The most effective critic of the decision was Abraham Lincoln, a relatively unknown Illinois lawyer, whose brilliant attacks on the case thrust him onto the national political scene. The case was the central decision of the antebellum crisis that energized the Republican Party and led the nation’s first antislavery political party to victory in 1860.

By asserting the right of a black to sue for his freedom in federal court – a right never before claimed – Field had influenced the country’s political and legal landscape. Roswell Field’s representation of the slave Dred Scott in the United States Circuit Court in Missouri set the stage for the Supreme Court opinion. Indeed, Field’s legal strategy in the case provided the foundation for the case to reach the highest court in the nation.

⁷⁸ Ehrlich, *Scott v. Sandford*, 759.

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Previous documentation on file (NPS):

- Preliminary Determination of Individual Listing (36 CFR 67) has been requested.
 Previously Listed in the National Register.
 Previously Determined Eligible by the National Register.
 Designated a National Historic Landmark.
 Recorded by Historic American Buildings Survey: # HABS MO-31-3
 Recorded by Historic American Engineering Record: #

Primary Location of Additional Data:

- State Historic Preservation Office
 Other State Agency
 Federal Agency
 Local Government
 University
 Other (Specify Repository):

10. GEOGRAPHICAL DATA

Acreage of Property: Less than one acre

UTM References: **Zone Easting Northing**
 15 744500 4278130

Verbal Boundary Description:

A lot in Block 109 of the City of St. Louis and being described as follows: Beginning at a point in the North line of Cerre Street with its intersection with the West line of Broadway, thence North 62 feet along the West line of Broadway to a point; then Eastwardly 97 feet to a point; thence Southwardly 62 feet to the North line of Cerre Street; thence Westwardly 97 feet to the place of beginning. Known as the Eugene Field House.

Boundary Justification:

This boundary is the lot historically associated with the Field House and the adjoining land containing the brick walled area.

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11. FORM PREPARED BY

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Date: September 5, 2006

Edited by: Susan Cianci Salvatore
National Park Service
National Historic Landmarks Program
1849 C St., N.W. (2280)
Washington, DC 20240

Telephone: (202) 354-2210

DESIGNATED A NATIONAL HISTORIC LANDMARK
March 29, 2007

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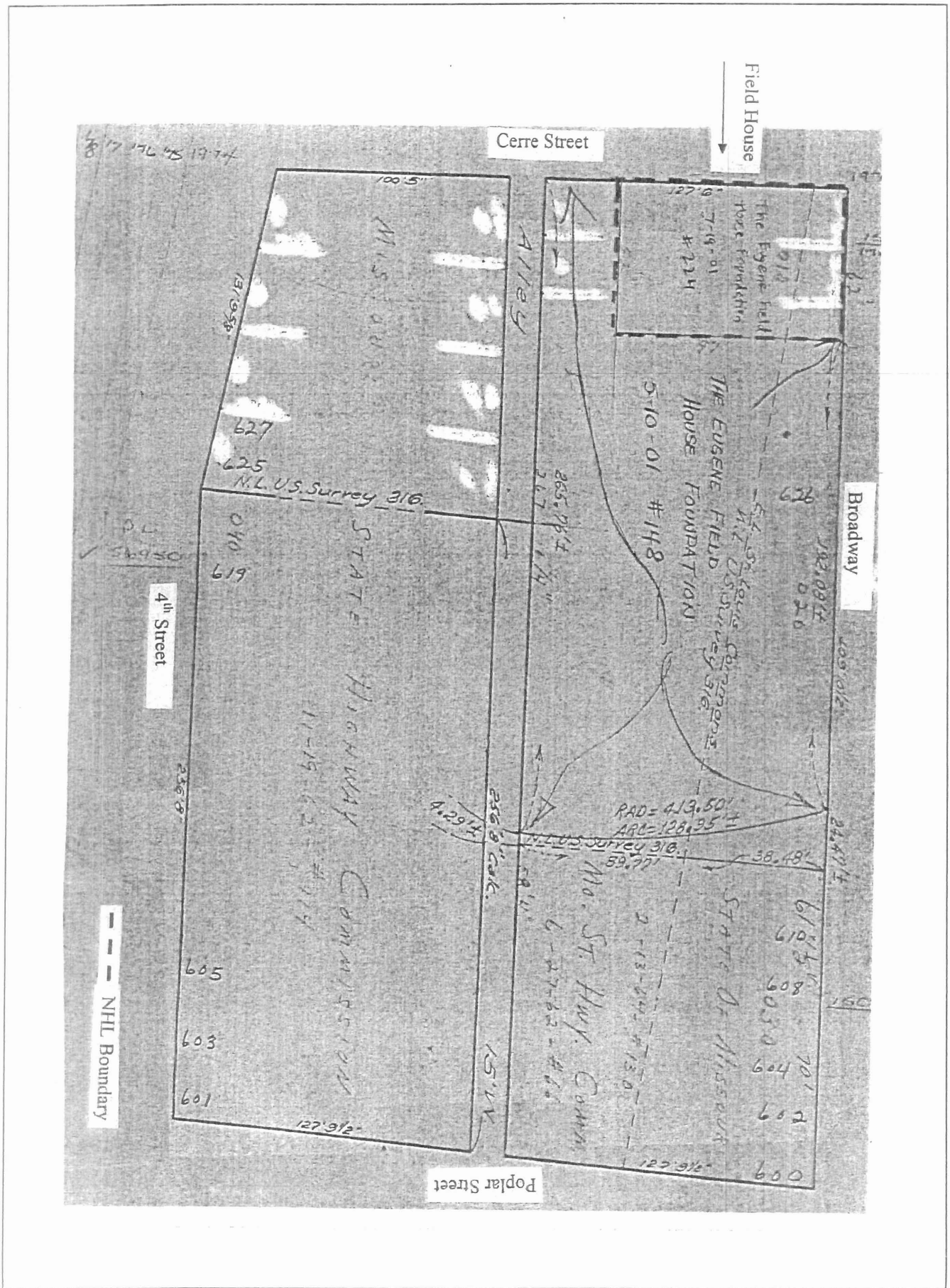


Figure 4. Field House NHL Boundary Tax Map, City Block 109

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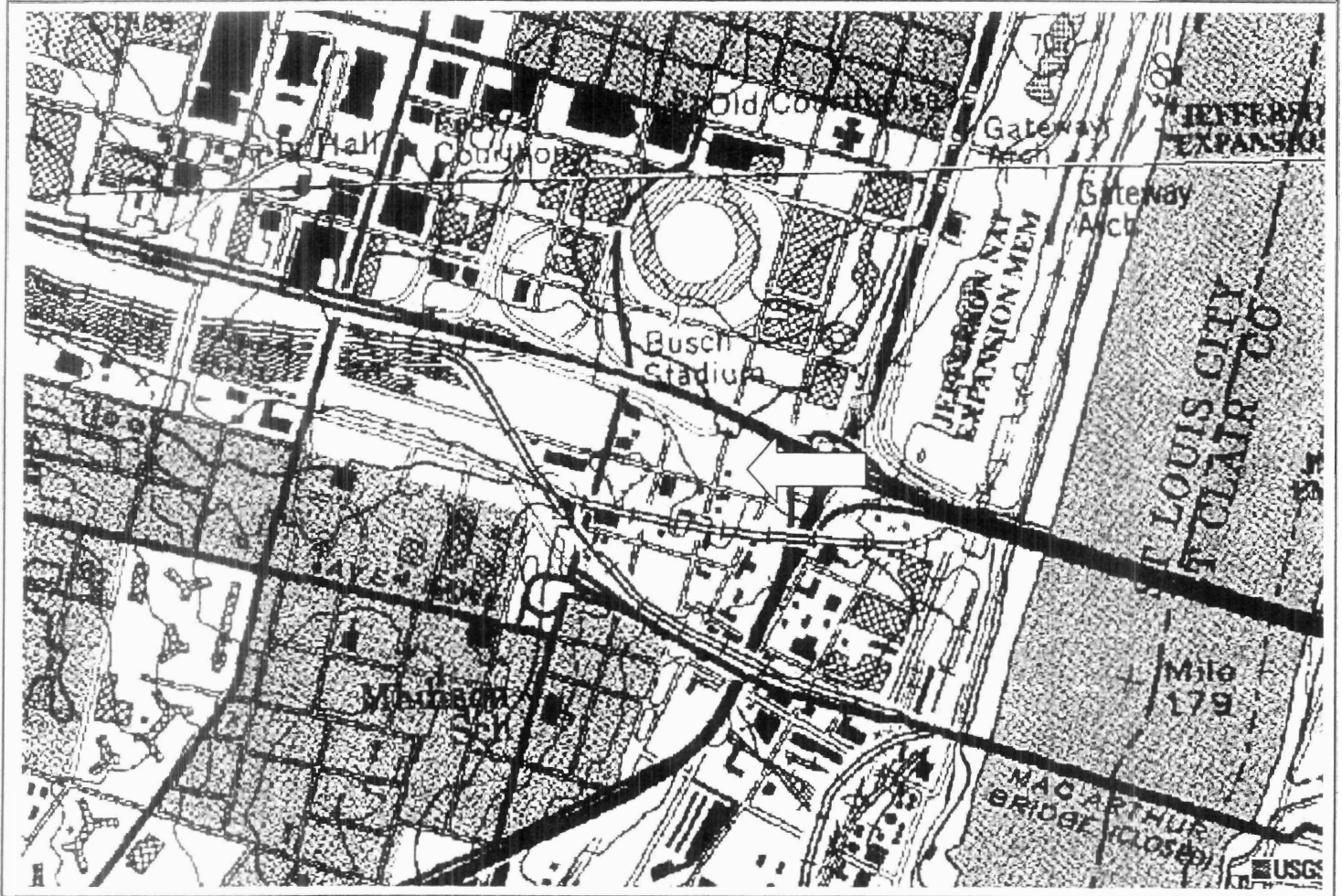


Figure 3. USGS "Cahokia" (1996)
Field House

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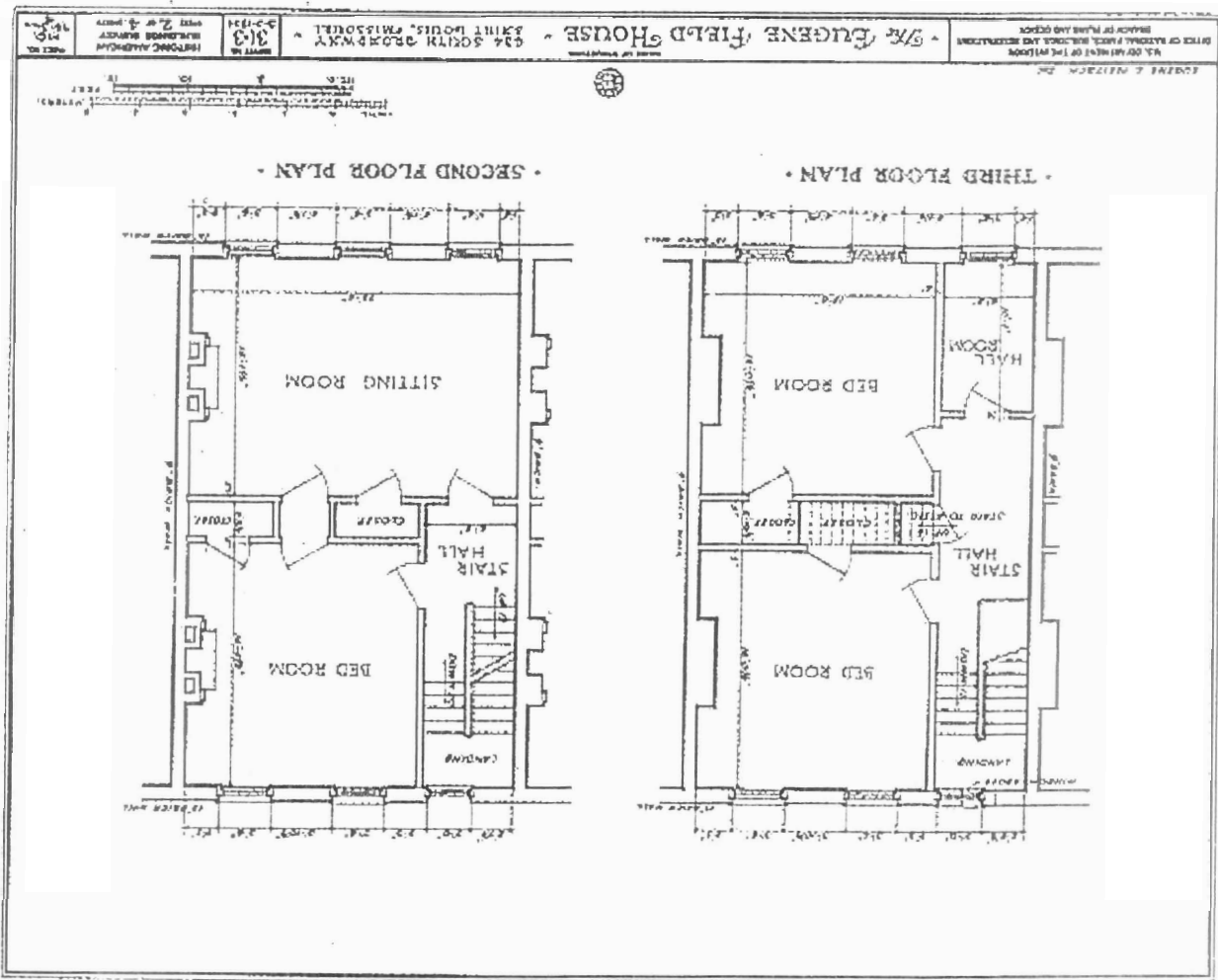


Figure 2. Eugene Field House Floor Plans - Second and Third Floors
Historic American Buildings Survey, 1934

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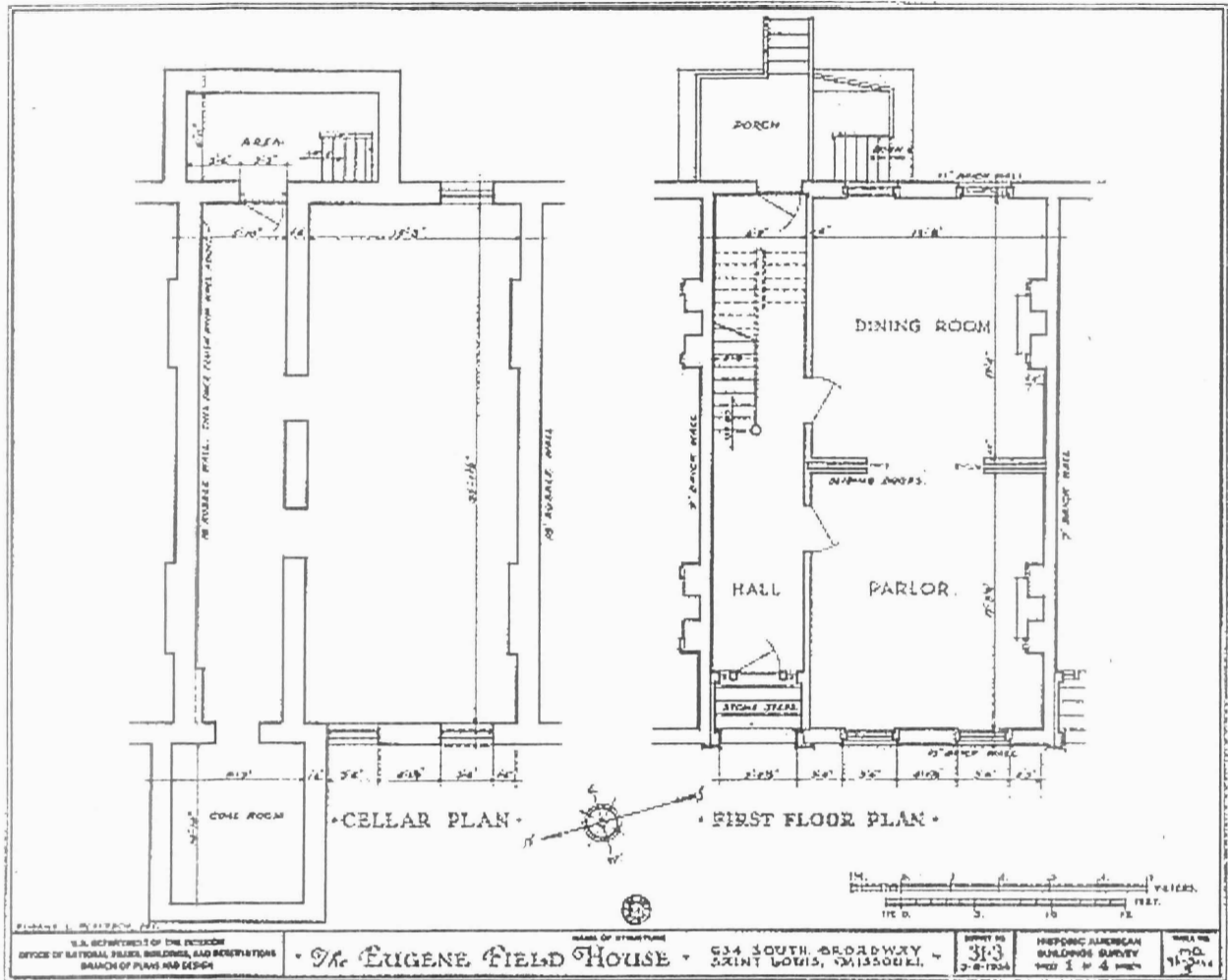


Figure 1. Eugene Field House Floor Plans – Cellar and First Floor
Historic American Buildings Survey, 1934

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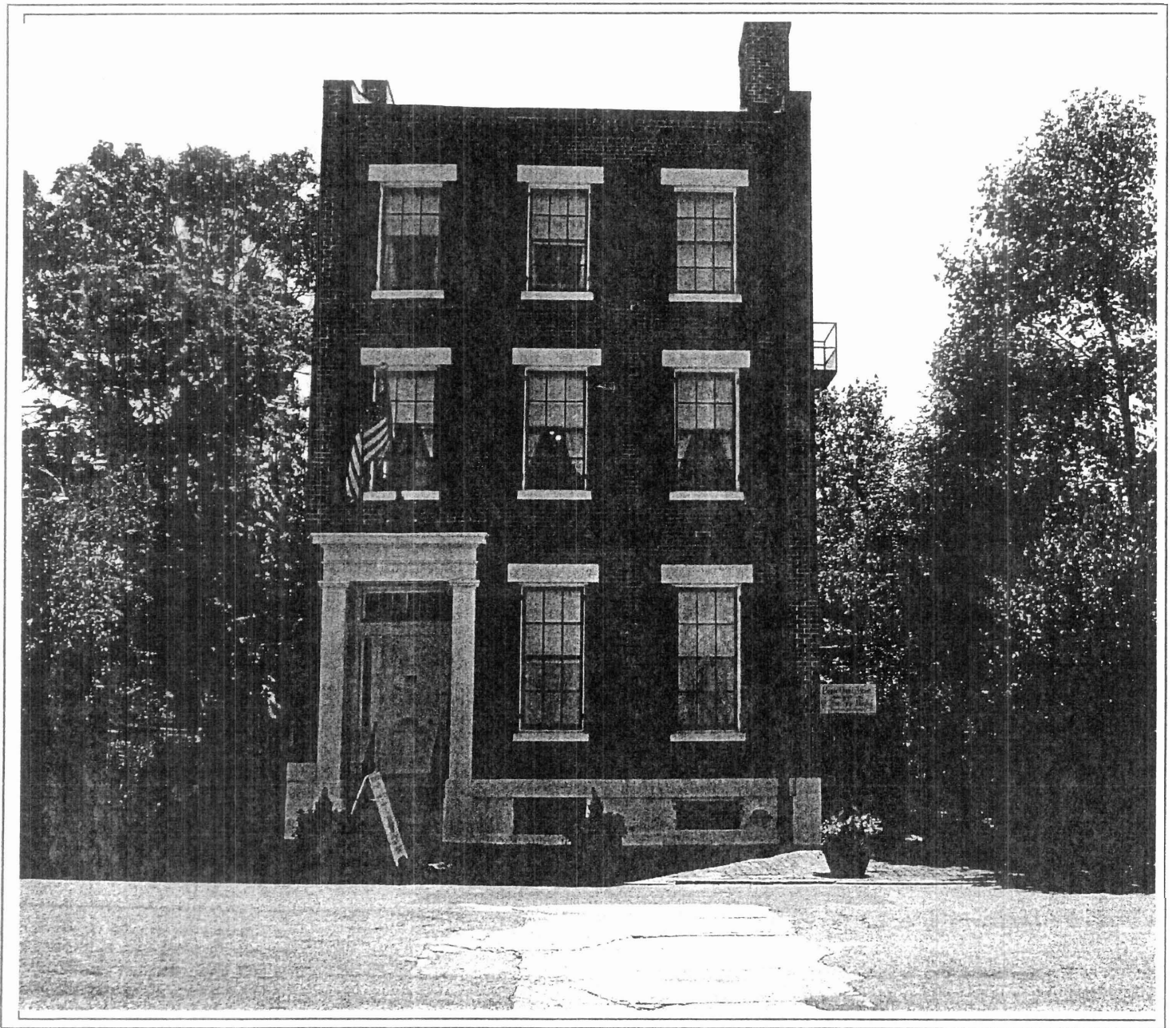


Photo 1. Field House, West (front) elevation

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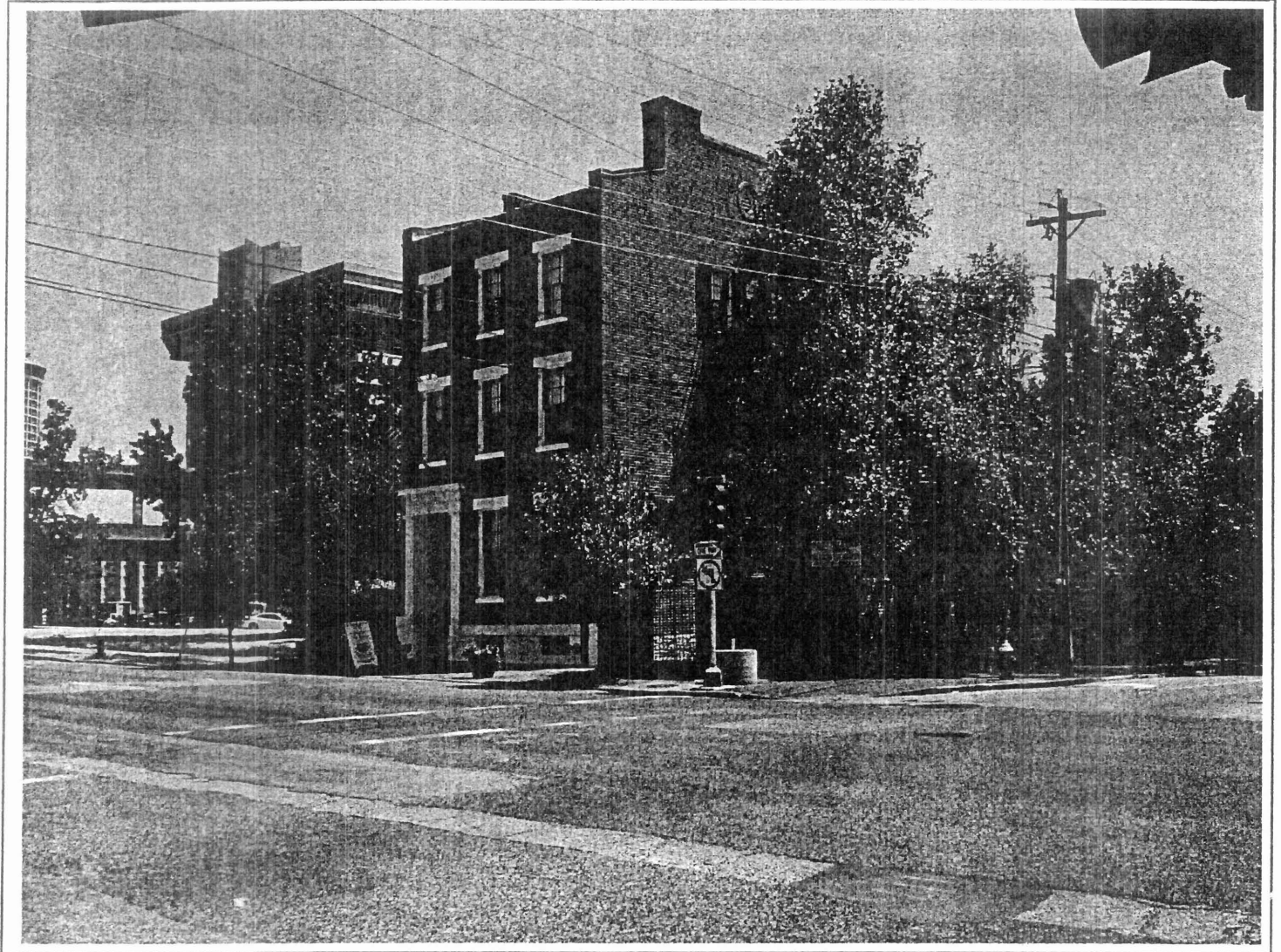


Photo 2. View of front and south side of Field House showing brick wall to the south and vacant land to the north.

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Photo 3. Partial rear (east) view of Field House

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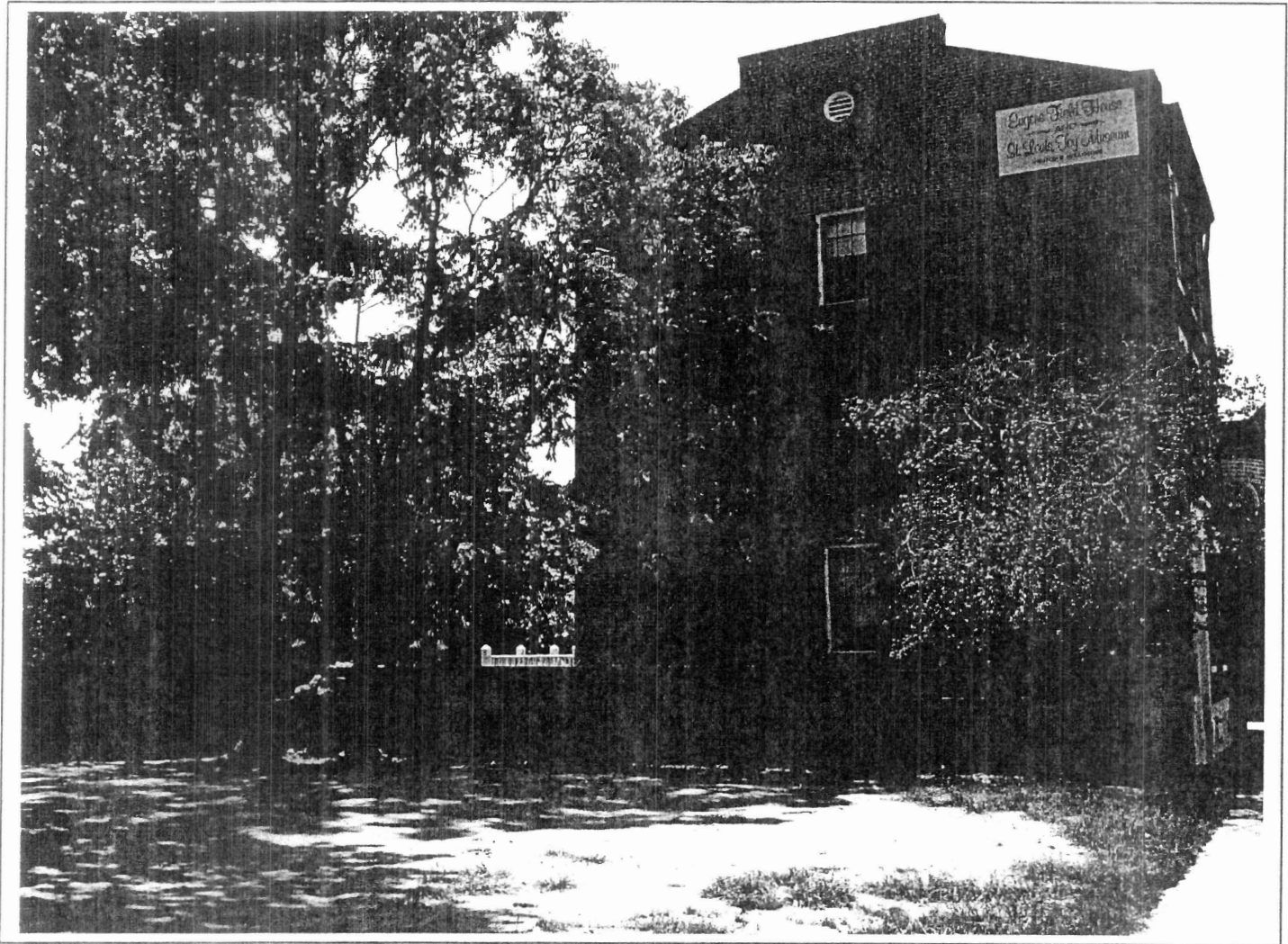


Photo 4. North view of Field House

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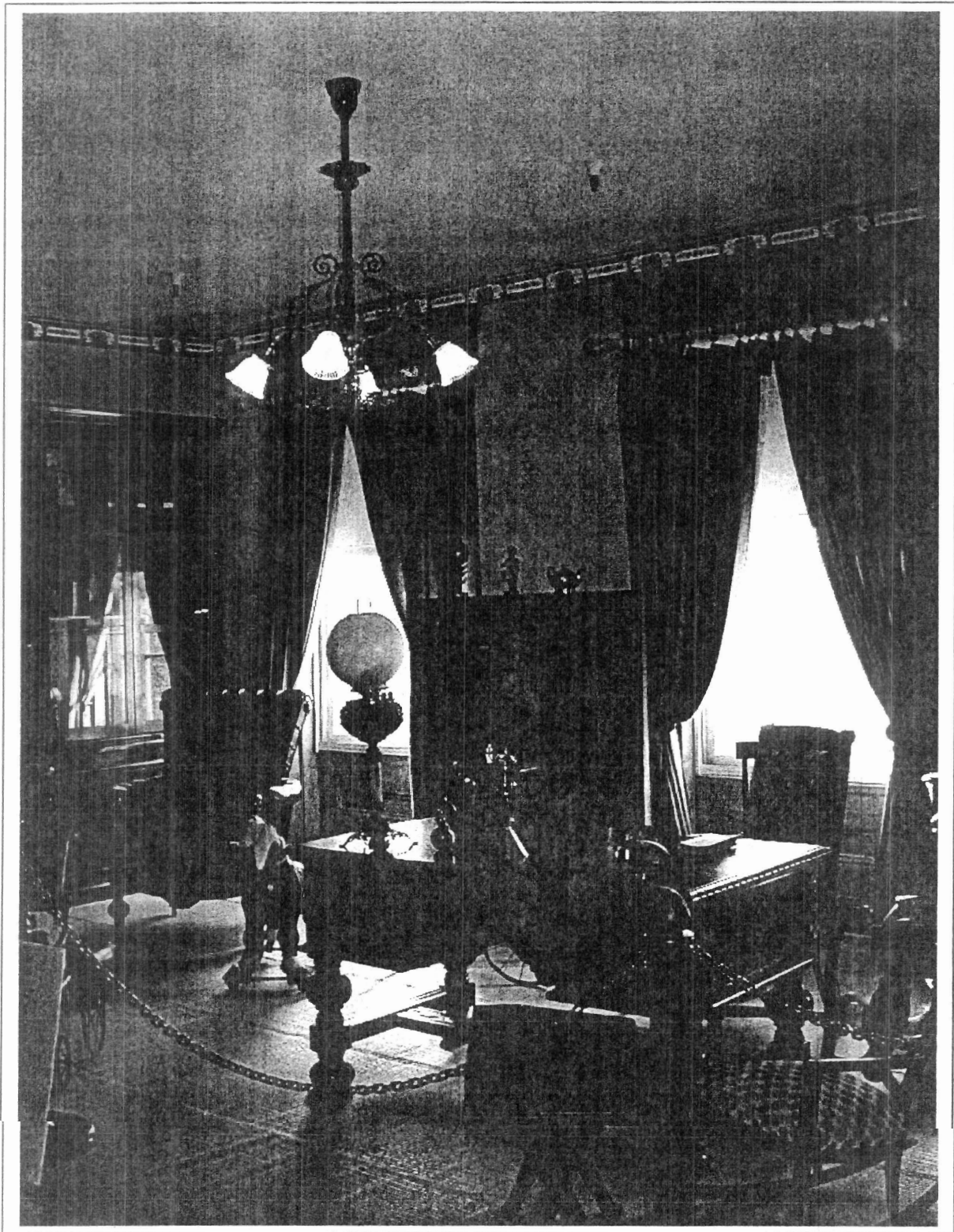


Photo 5. Field House interior

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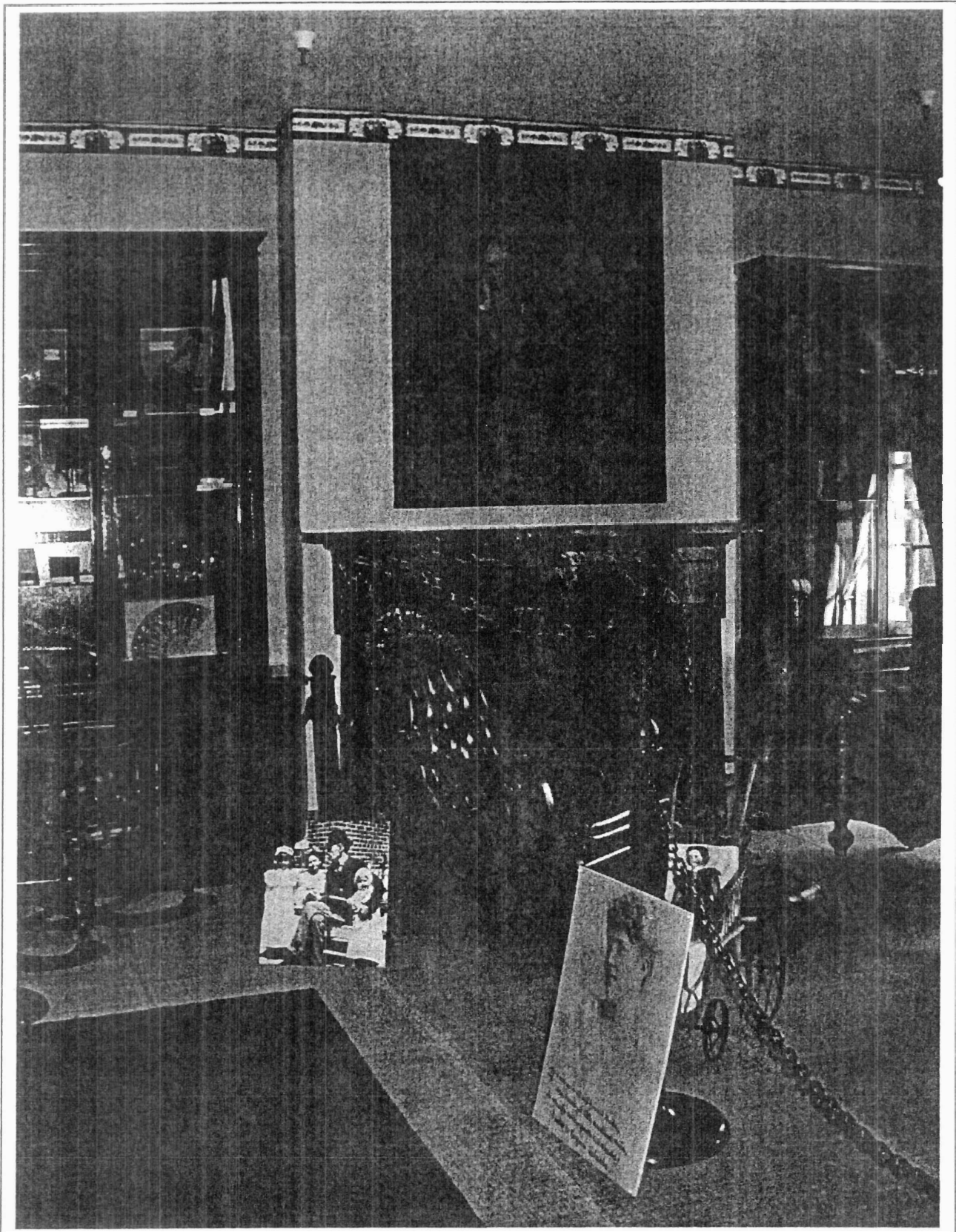


Photo 6. Field House Interior

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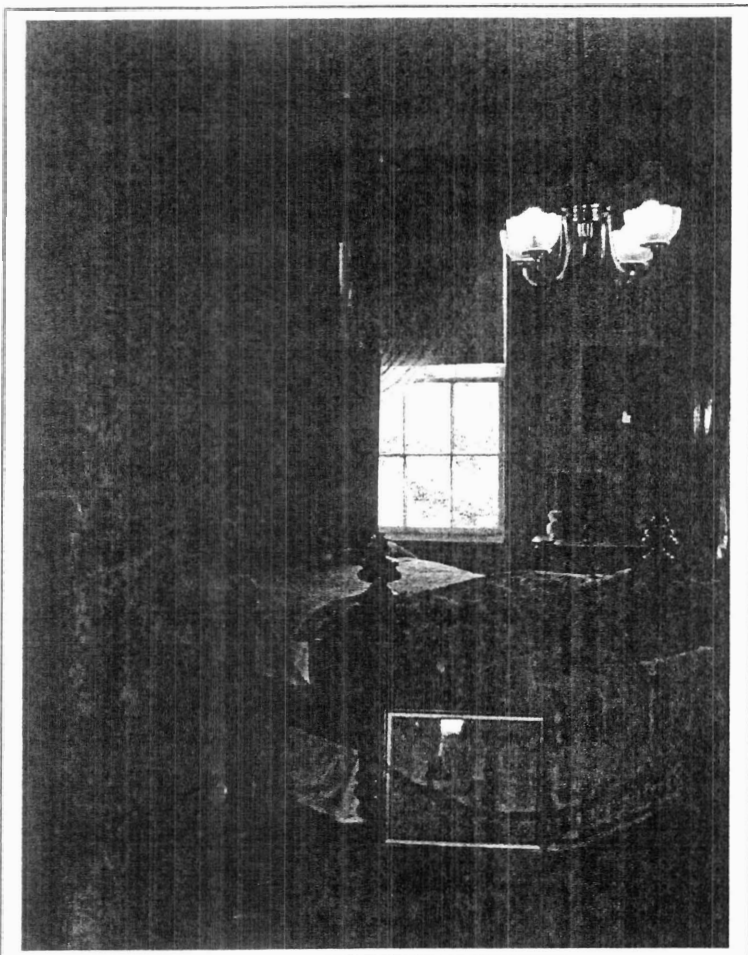


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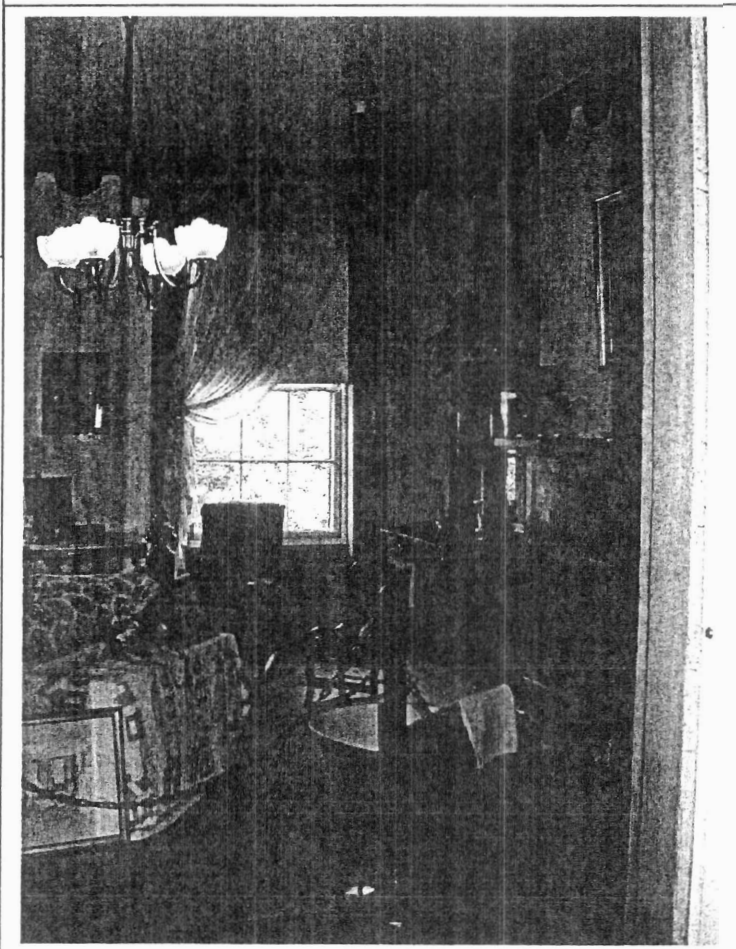


Photo 8.

Photos 7-8. Field House interior

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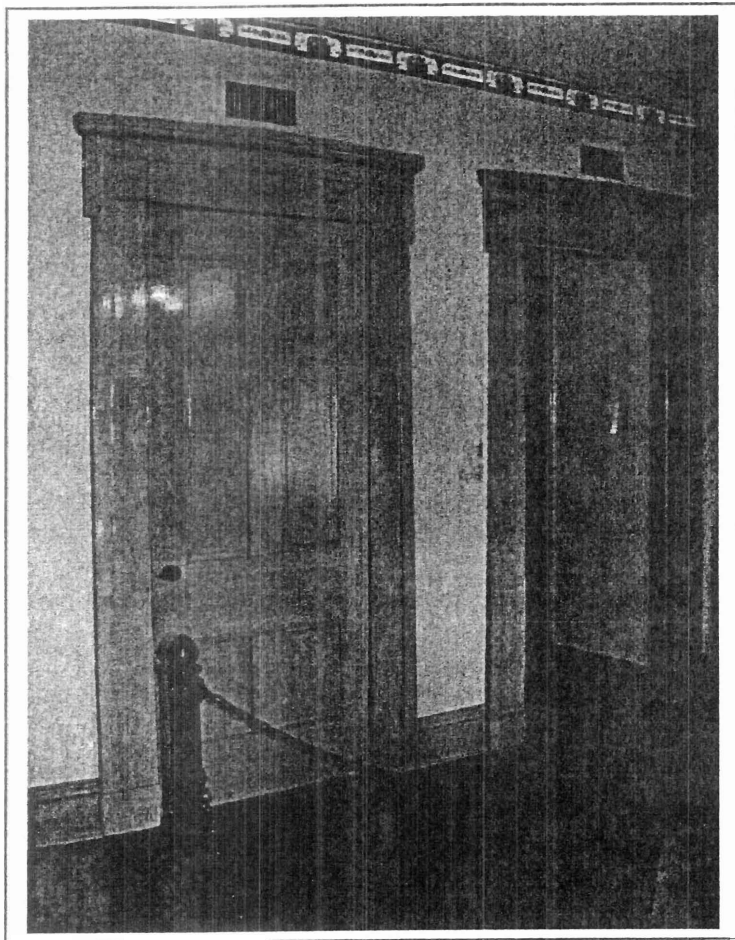


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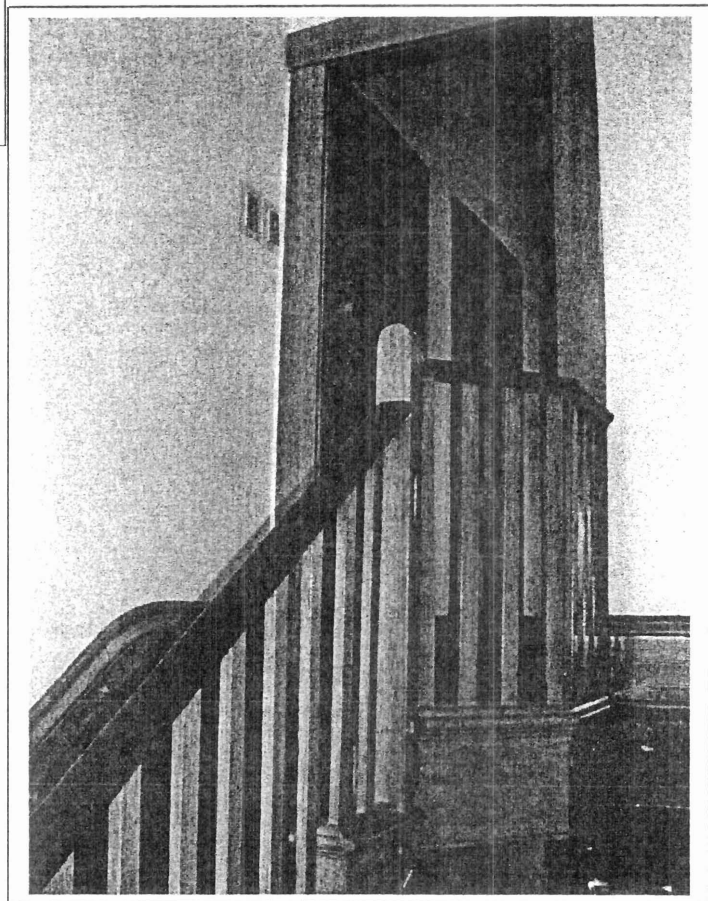


Photo 10.

Photos 9-10. Field House Interior