

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In the Matter of the Presentation
of Picture Portraits of Past and
Present Judges of the above Court.

THE ABOVE-ENTITLED MATTER CAME ON BEFORE THE
HONORABLE HARRY BLACKMUN, JUDGE EIGHTH CIRCUIT
COURT OF APPEALS, HONORABLE GUNNAR H. NORDBYE,
HONORABLE DENNIS F. DONOVAN, HONORABLE EDWARD J.
DEVITT, AND HONORABLE EARL R. LARSON, JUDGES OF
THE ABOVE-ENTITLED COURT, AT MINNEAPOLIS,
MINNESOTA, COMMENCING AT 10:00 O'CLOCK A.M.,
SEPTEMBER 14, 1965.

JUDGE DEVITT: This special session of the United States District Court has been called for the purpose of receiving picture portraits of the past and present judges of the court. Seventeen persons have served in that capacity since the District of Minnesota was created by an Act of Congress in 1858.

We warmly welcome you all to this ceremony, an event which gives us an opportunity to afford for posterity a record in writing and in picture of the federal judiciary of the District of Minnesota.

We express our appreciation for the company of our confrere from the Court of Appeals, the Honorable Harry Blackmun of Rochester. We acknowledge the presence of official delegations representing the Minnesota State Bar Association, headed by its president elect, Sheldon Larson, by its immediate past president, Charles Murnane, and other past and present officers, and also the Hennepin County Bar Association headed by Donald E. Nelson, its president and other past and present officers. We are happy to have present the relatives and family members of several judges whose portraits will be presented this morning.

Now, this program has been arranged by a committee of which our very competent clerk, Mr. Frank Massey, is chairman. Other members are Mr. Lee Slater, the president of the West Publishing Company, Mr. George Heisey and Kenneth Owens, Referees in Bankruptcy, who have been responsible for acquiring the pictures and directing their uniform reproduction as portraits, and Mr. Joseph Maun who has arranged for the financial gifts making possible the acquisition of portraits of the former judges of the court.

We express our appreciation to each of the members of the Committee.

The court now recognizes Mr. George Heisey who will present the portraits.

Mr. Heisey.

MR. HEISEY: May it please the Court, the judges of our United States District Court and Judge Blackmun of our

United States Court of Appeals and the members of the Bar and all other persons assembled here today:

As Judge Devitt has said, since the forepart of the year 1858 to the present time, 17 District Court judges have been appointed to and have served on the United States District Court for this district. Four of them, as you know, are presiding at the present time, namely, according to seniority: The Honorable Gunnar H. Nordbye, the Honorable Dennis F. Donovan, the Honorable Edward J. Devitt and the Honorable Earl R. Larson.

Portraits of the 17 judges have been produced and on yesterday evening were placed in the corridor of this, the sixth floor, of the United States Court House here in Minneapolis.

With the indulgence of the Court, the biographical sketches to be presented on this occasion will be limited to the 13 judges who have become a part of the past and in view of the time element here involved, these 13 sketches must necessarily be brief.

However, with respect to the two judges who served alone, one succeeding the other in the very early formative period of this State, may the indulgence of the Court be granted if the sketches concerning each of the two judges mentioned are at somewhat greater length.

Altogether too soon matters that should be legendary are lost. Men have lived and served who deserve better than to be forgotten in the cover of the careless winds of time, men who in their lifetimes have rendered signal service to the state, the country and the people. More than any other tribunal, the federal courts have stood and stand as a monument with respect to law observance and the due administration of justice and as the bulwark of all of the rights and liberties of the people.

The means afforded by this portrait project may furnish assurance that the federal judges who have served in the District of Minnesota, who have disappeared into the past, may not be entirely forgotten.

The first of the federal judges was Judge Rensselaer R. Nelson. He was born in 1826 in Cooperstown, New York. He was the "pioneer Federal judge" of this district and has

been characterized as the worthy son of a noble father, Samuel Nelson, who for 50 years served as a judge of the state courts in the State of New York, attaining the chief judgeship of the New York Supreme Court and later being appointed as an associate justice of the United States Supreme Court where he served for 27 years.

Judge Rensselaer Nelson graduated from Yale University in 1846 at the age of 20. In 1849 he was admitted to the New York bar. In 1850 at the age of 24 years he came to St. Paul, arriving there by steamboat. The then population of St. Paul was about 600 persons and it is written that about 50 of them were lawyers, mostly starving,

At that time the territory of Minnesota was almost wholly undeveloped, was sparsely populated and its future was uncertain.

He remained in the law practice in St. Paul for about four years. In 1854 he removed to Douglas County, Wisconsin, a newly formed county. He served as district attorney for that county with offices in Superior. He returned to St. Paul in 1855 and resumed the practice of the law.

On April 23, 1857 he was appointed as one of three justices of the Supreme Court of the territory of Minnesota. For about a year he served on that court with Justices Welch and Flandreau. During that year Judge Nelson heard and decided the celebrated case involving an act of the territorial legislature designed to move the capitol from St. Paul to St. Peter. An application for a writ of mandamus was presented to Judge Nelson to compel all territorial officers to move their offices to St. Peter. Judge Nelson denied the application. His opinion is not reported in the Federal Reporter system but is to be found in the records of the State Historical Society.

In 1858 Minnesota became a state and in May, 1858 Judge Nelson was appointed and immediately confirmed as the first United States District Judge for the District of Minnesota. He held terms of court semi-annually in St. Paul and in Preston until 1861 and then, in addition, in Mankato from 1861 to 1866, and in Winona during the period 1866 to 1890. The mode of transportation in those early days was mainly by steamboat on the Minnesota and Mississippi Rivers.

Judge Nelson watched the State of Minnesota mature. His Federal court calendar of business matured from a mere dozen or so cases in 1858 to hundreds of cases in 1896. Between 1875 and 1896, the criminal cases alone increased from 22 to 162.

On May 16, 1896, at the age of 70, Judge Nelson resigned his Federal Judgeship after 38 years of service. His death occurred eight years later in St. Paul.

Judge William Lochren also served alone as United States District Judge for the District of Minnesota.

What has been written about Judge Nelson and Judge Lochren clearly indicates that they were widely proclaimed as excellent jurists.

Several days after the retirement of Judge Nelson, Judge Lochren was appointed and immediately confirmed as the second United States District Judge to serve in the District of Minnesota.

He was born in Ireland in 1832. After his father's death, his mother brought her offspring to America and settled in Vermont in 1834. In 1856, Judge Lochren was admitted to the Vermont bar and then came to Minnesota, entering upon the practice of the law in St. Anthony which became his home.

He remained in the practice in St. Anthony until the beginning of the Civil War when he enlisted as a private in Company E, First Minnesota Infantry. In the service he attained the rank of second lieutenant. His military service ended in December, 1863 due to campaign hardships and resultant ill health. He participated in all the battles the First Minnesota Infantry engaged in, including the battle of Gettysburg and was one of the few members of his company who survived.

After returning to his law practice in St. Anthony, he became a Minnesota State Senator and in 1881 a state judge serving in the judicial district which included Minneapolis.

On May 18, 1896, he was appointed to succeed Judge Nelson and served as a federal judge in this district for approximately twelve years, resigning April 3, 1908 at the

age of 76. Incidentally, he was the first Minneapolis lawyer to be honored with a Federal Judicial appointment.

The third Federal Judge was Judge Page Morris who became a United States District Judge for this district on July 1, 1903.

He served with Judge Lochren until the latter's resignation in April, 1908. Judge Morris continued to serve until June 30, 1923, retiring on his 70th birthday after twenty years of Federal judicial service.

Judge Morris was a native of the State of Virginia, where he was an instructor in mathematics in several colleges. In 1886 he established residence in Duluth where he practiced law. Successively, between the years 1889 and 1903, he served as judge of the municipal court in Duluth, as Duluth City attorney, as a state judge in the 11th judicial district of this state, and thereafter as a congress man for a number of terms until his appointment in 1903 as a United States District Judge.

Running the risk of being dated, and while this may be wholly collateral, the speaker was initiated as a trier of Federal cases before His Honor Judge Page Morris in September, 1922, 43 years ago. Judge Morris was a real Virginia gentleman. Toward younger members of the bar he was most kindly.

The next Federal Judge to be appointed was Milton D. Purdy who graduated from the University of Minnesota law school in 1892. He practiced law in Minneapolis and served as United States attorney for this district during 1901 and 1902 and thereafter served as a member of the staff of the Attorney General of the United States.

On July 6, 1908, he received an interim appointment as a United States District Judge for the District of Minnesota and as such appointee served for approximately ten months, resigning in May, 1909. Thereafter he was appointed Judge of the United States Court in Shanghai, China, serving as such of or the period of ten years.

The next in point of time was Charles A. Willard who came to Minnesota from Vermont in 1882, leaving a law practice in that state and opening a law office in St. Paul. He moved to Minneapolis in 1885. He lectured at the Univer-

sity of Minnesota law school during the period 1887 to 1901. In 1901, he was appointed associate justice of the Supreme Court in Manila, Philippine Islands, where he remained for three years, returning to Minneapolis in 1904, where he remained for a year. He then accepted another associate justiceship in the Philippines where he remained until 1909.

On May 18, 1909, he was appointed to the United States District Court for this district and served on that court until March 13, 1914, the date of his death.

In sequence in point of time Judge Wilbur F. Booth was appointed a United States District Judge for this district on May 4, 1914 to succeed Judge Willard.

Judge Booth was born in Seymour, Connecticut in 1861. He attended the public schools in Connecticut, and later attended the Military School of Cheshire where he prepared for college. In the fall of 1880 he entered Yale College, graduating in 1884 and in 1886 he entered Yale Law School, graduating in 1888. He was admitted to the bar of the State of Connecticut in 1888 and in the fall of that year moved to Minnesota, where he was admitted to the bar in January, 1889. He practiced law in St. Paul until the fall of 1890 when he joined the law department of the M. & St. L. railroad. In the spring of 1898 he re-entered the general practice of the law in Minneapolis and remained in practice until May, 1909, when he was appointed judge of the Hennepin County District Court, sitting in Minneapolis, [then] serving as judge of the United States District Court for the District of Minnesota, serving as such until May, 1925 when he was appointed to the United States Court of Appeals for this the Eighth Circuit. Judge Booth passed away July 7, 1944 at the age of 83 years.

Next in point of time is John F. McGee who was appointed as United States District Judge for this district on March 7, 1923. He served until February 15, 1925, the date of his death.

Judge McGee was born in Amboy, Illinois, January 1, 1861. He was admitted to the bar in 1882 at the age of 21 years. He settled in Minneapolis in 1887, and practiced law in this city, and in 1897, was appointed as a judge of the Hennepin County District Court where he served until the year 1902 when he again returned to the law practice. He

continued in the law practice in Minneapolis until his appointment to the Federal bench in March, 1923.

The Honorable William A. Cant was next appointed in the succession, and Judge Cant served as a United States District Judge for this district from July 1, 1923 until January 12, 1933, the date of his death; his federal judicial service extending over a period of ten years.

Judge Cant was born in Wisconsin in 1863. He came to Duluth in April, 1886 and entered upon the practice of the law in that city. He served as a member of the State Legislature and as the Duluth City attorney. Thereafter he served as a judge of the State district court for the 11th Judicial District from 1896 to 1923 when he ascended the federal bench.

The next appointment in point of time is that of the Honorable Joseph W. Molyneaux who was appointed March 18, 1925 and served until February 28, 1937 when he retired.

Judge Molyneaux was born in Kentucky. Later, in his early years, the Molycaux family lived in Oxford, Ohio. He attended Miami University in Oxford and later attended the University of Cincinnati law school, graduating in 1884. In that year he came to Minneapolis and entered upon the practice of law. In 1913 he was appointed as a judge of the State District Court and served as such in Minneapolis until 1926 when he was appointed as a judge of the United States District Court for the District of Minnesota.

Next in succession was the Honorable John B. Sanborn who was born in St. Paul, the son of General John B. Sanborn, a lawyer and civil war veteran.

Judge Sanborn was a graduate of the University of Minnesota and of the St. Paul College of law. He entered upon the practice of the law in St. Paul. He served as a member of the Minnesota Legislature, later as insurance commissioner of this state and subsequently as a member of the Minnesota Tax Commission. He served as a Judge of the Ramsey County District Court for approximately three years until his appointment to the Federal bench for this district on March 27, 1925 where he served as a United States District Judge for approximately seven years, then being appointed to the United States Court of Appeals for this Eighth Circuit in January, 1932, retiring as a judge

of our Court of Appeals in June, 1959. Thereafter, as a retired judge of the Court of Appeals, he continued to serve on the Court of Appeals until his death in March, 1964.

Next in point of time is the Honorable Matthew M. Joyce who was appointed February 11, 1932 and served until October 11, 1954, the date of his retirement.

Judge Joyce was born in 1877 in Emmetsburg, Iowa. His father died nine years later and his mother and her five children moved to Fort Dodge, Iowa where Judge Joyce attended the public schools. Thereafter he attended the University of Michigan Law School. After completing three years at the University, he passed the Iowa bar examinations in 1900 and being short of funds did not return to the University to complete his final law school year. However, in June, 1954 prior to his retirement, Judge Joyce, upon the recommendation of the faculty of the University of Michigan Law School, was awarded the degree of bachelor of laws as of the class of 1901.

In the fall of 1900, Judge Joyce went to Missoula, Montana and entered upon the practice of law there. He left Montana in 1905 and spent five years in New York City rendering legal services to a prominent engineer who had mining interests in Montana. Judge Joyce returned to Fort Dodge in 1910 where he remained until 1917 when he joined the legal department of the M & St. L. railroad, becoming its general counsel in 1923 and he served as such until his appointment to the Federal bench in February, 1932.

Next in succession was the Honorable Robert C. Bell who was appointed June 13, 1933 and served until May 1, 1961, when he retired after a period of 28 years as a United States District Judge for this district.

Judge Bell was born in Harrisonville, Missouri. He received his law degree from the University of Missouri in 1908 and entered upon the practice of the law in St. Joseph, Missouri. He came to Minneapolis in 1916 as a special assistant to the United States Attorney for the District of Minnesota to represent the Chippewa Indians on the White Earth Indiana Reservation in land fraud cases. Thereafter he became a member of the staff of the Attorney General of the United States in connection with Federal cases involving oil fraud scandals. He entered upon the

practice of the law in Detroit lakes, Minnesota, in 1921 and while there served as a member of the Minnesota Senate during the period 1931-1933. In 1933 he was appointed United States District Judge to succeed Judge Cant. At the time of his death Judge Bell was 83 years old.

Finally, the Honorable George F. Sullivan was appointed August 20, 1937, as United States District Judge for this district, and he served until April 14, 1944, the date of his death.

Judge Sullivan was born in Shakopee, Minnesota, January 30, 1886. He graduated from the public schools there and attended the University of Minnesota law school, graduating in 1908. He was admitted to practice the same year and practiced law in Jordan, Minnesota. In 1912 he became Jordan's city attorney and during the period 1912-1923 he served as Scott County attorney from 1923-1933, he was engaged in private practice in Jordan, being appointed United States Attorney for the District of Minnesota in September, 1933. He occupied that office until his appointment to the Federal Bench in August, 1937, his span of service on that bench embracing approximately eleven (sic) years.

Thus ends the original thirteen chapters relating to the Federal judiciary for the District of Minnesota, and here, with leave of the Court, all of these 13 portraits are respectfully presented,

JUDGE DEVITT: Thank you, Mr. Heisey.

The Honorable Gunnar H. Nordbye, Senior Judge of our Court, senior in service, senior in wisdom, and a veteran of almost 50 years of judicial service in this State, will receive the portraits for [the] Court — Judge Nordbye.

JUDGE NORDBYE: Judge Blackmun, Judge Devitt, and fellow judges and members of the bar, and ladies and gentlemen:

For some years there has been an embryonic plan to honor the memory of the past Judges of the United States District Court by arranging to have their photographs hung in the corridors of the United States Court Houses in Minneapolis and St. Paul. Up to this time, the only pictures of past Judges are to be found in the Duluth Court House, where there are paintings of Judge Morris and

Judge Cant, and in our library here, a portrait of Judge Lochren.

When Judge Lochren's portrait was presented to the Court by the late George B. Leonard in September, 1947, I stated, "It may not be amiss to suggest to the Bar Association of this City that it might be worthwhile for it to discuss ways and means for obtaining portraits of other Judges who have served this Court. There is no better way to keep their memory green, or to inspire those who follow them, than by having in our courtrooms the likenesses of Judges who have played such an important part in the judicial history of this State."

The plan was finally formalized by Judge Devitt, with the aid of the committee to whom reference has been made.

I should say at the outset that in the hanging of the pictures of the United States Judges on the walls of the corridors outside of these courtrooms, it was not intended that the members of the Bar or the public should be unduly impressed by the august presence of the pictures of the present or departed members of the Judiciary who have presided over the Federal Courts for over a hundred years. I think one may say that we present judges, at least, are entirely mindful that judges, after all, are merely so-called elevated lawyers, and we often remind ourselves of the statement once made by a southern judge who, in speaking of his brethren, warned them not to usurp legislative functions, stating that, "Judges are but men encompassed with error, fettered by fallibility and seasoned with sin."

I hope that we do not have the smugness of the old-time baseball umpire who when asked if in umpiring he called them as he saw them, replied, "No, I call them as they are."

Many of you, I am sure, are acquainted with the writings of the eminent Italian Judge, Piero Calamandrei. He produced a small volume entitled "Eulogy of Judges." Among his many delightful aphorisms he stated that "a Judge does not need to be a man of superior intelligence. He must, however, be a man of superior moral attainments, in order to be able to forgive the lawyer for being more intelligent than he." In all of his writings, however, his appraisal of a Judge's attitude toward life is most

delightful. He wrote, "Just to divert themselves with exciting adventures, far removed from the monotonous routine of daily existence, the middle classes like to read detective stories or to see lurid melodrama, so the Judge seeks in the theatre or in novels, happenings which contrast sharply with his daily experience. He likes pictures of loving spouses superimposed on pink and blue backgrounds, brothers who amicably divide their inheritance, merchants who do not go bankrupt, and landowners who meet on their common boundary to express with tears in their eyes their mutual joy at being neighbors."

As I scanned the pictures of the seventeen Judges who have served on the United States Court in this District, it was a revelation to me that I have a rather vivid memory of all of these Judges except Judge Rensselaer Nelson, who was, of course the first United States District Judge.

I began with Judge Lochren, who was a familiar and stately figure on the East Side after he retired. My acquaintance with him, however, was only by sight. With all of the remaining Judges after Judge Lochren, I had at least a casual acquaintance. I had appeared before some of them as a young lawyer, and during my thirty-four years on the Federal Bench, I have associated with over half of them as a brother Judge. It illustrates how young our Court is, although it spans a century. It also illustrates that my long tenure as a State and Federal Judge — now nearly 43 years — has placed me in the same category as Maurice Chevalier, who when asked how he liked to reach the ripe old age of 77, said, "In view of the only alternative, I am very happy about it."

In considering these Judges who have gone on before, we may be tempted to compare them with their brother Judges of the same era or with those who have succeeded them, but it is hardly proper or profitable to make any comparison. As an eminent Judge said some years ago, "There are in each generation Judges who are accorded the ubiquitous 'adjectives' of which 'liberal', 'great', and 'brilliant' are perhaps the commonest. Fortunately, in the course of time, all of these are fitted into their proper niche." He continued by stating, "What then should a Judge wish to have said of his judicial work when he finally lays aside his robes?"

He said, "Above all things he would hope that his fellow Judges — that smaller brotherhood within the brotherhood of the Bar, the men best qualified to express an opinion in the matter — would set their seal of approval on his work. He would also hope that the members of the Bar would agree with such a judgment. More than that he would probably never ask."

In conducting this ceremony to commemorate the memory of our United States Judges by hanging of their pictures on the walls outside of this courtroom, we do so to honor these departed Judges and their memory as symbols of our Federal Judicial System in this District and as a tribute to the Bar in this State who have played such an important part in the maintenance of the high standards of our Federal Courts. We well recognize that the standards and ability of the Bar will determine the kind of Judges a community or a state will have.

If our present Federal Judges in Minnesota are serving their Government and the people thereof well, the credit belongs to the Judges who have gone before us. Their long service to this State has set a standard of judicial erudition, probity and devotion to duty that we hope to emulate.

We are proud of our heritage. May we so serve that those who follow us will think well of us. May these photographs of the departed Judges inspire us to carry on with the same dedicated zeal for justice, and may we ever bear in mind those word from Deuteronomy wherein an early Biblical writer set forth the qualifications and rules of conduct for Judges in these words,

"Hear the causes between your brethren and judge righteously between every man and his brother and the stranger that is with him. Ye shall not respect persons in judgment, but ye shall hear the small as well as the great; ye shall not be afraid of the face of man; for the judgment is God's."

JUDGE DEVITT: Thank you, Judge Nordbye. The people, and particularly the lawyers of Minnesota, are very fortunate in having had your judicial service for 43 years.

I forgot to acknowledge before, but I do now, the presence of several members of the Hennepin County Legal Historical and Philosophical Society headed by Mr. George MacKinnon, its president and Mr. Samuel Smilow, its secretary. We are glad to have all of you gentlemen here, too.

I should say to you that one set of these pictures has already been hung in the halls here; a second set, the one we have been using today will be placed in the Courthouse in St. Paul in early November at which time Mr. Joseph Maun will give us the historical background.

The court reporter is directed to record and transcribe these proceedings and to file the original with the clerk and to make a copy available to the Minnesota Historical Society and to furnish copies to each member of the Court.

Now, in keeping with the Scandinavian custom of this great state, members of the committee have provided coffee and doughnuts for you next door and you are all invited to come. Again I thank you all for coming and I hope you have enjoyed, as we have, this very interesting and historical occasion for the people of the State of Minnesota.

Court will now be in recess.

(Whereupon the proceedings came to a close.) ■

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