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HISTORY OF THE MINNESOTA SUPREME COURT

BY

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Today, as always, the only link of contact between the state's highest tribunal and the public is the office of the clerk of supreme court -- a bridge over which there passes much of human interest.

But mostly, in what follows, an endeavor is made to explain the purpose of this office. About the part it plays. About its duties. About the newly enlarged scope of some of our services, one or two of which are provided by no other clerk's office in the Union; and about the outlines for the inauguration of others wholly new even to this office.

In short, then, aside from offering a friendly introduction to this office, about how we are striving through these new services, and the enlarged and broadened old ones, to make our office of general usefulness both to the supreme court and to the public.

In giving this somewhat detailed description I am prompted by the expectation that it will allow the public a clearer understanding of just what purpose the clerk's office serves -- how it fulfills this position as link between the court and public, a pass-gate through which enters all matter reaching the supreme court. By the telling should a quickened public interest follow, yet another purpose will have been served.

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I am aware this last will be the most difficult. The very nature of the clerk's office does not generously lend itself to the vivid and spectacular activities which, all humanly enough, so ingrain themselves upon public imagination. Yet, surprisingly, at times we do meet such incidents here.

But first let me mention a function which I am glad falls [-1-] outside the scope of this office. It has to do with an ancient custom.

The capitol guide in taking sight-seekers through the supreme court chamber, following a short talk on the court, always points out the four magnificent paintings previously referred to. He mentions that their aggregate cost was $40,000. Now I feel sure that this particular fact of cost is carried away in the minds of many...Yet to me the pictures have quite another significance.

They somehow recall to me, while not wholly depicting it in themselves, the administration of ancient law. Comparisons come to mind. I recall that during the time of Pompeius, Roman custom required that during the period of the trial the accused should appear in a state of 'squalor'; that is, with unshorn hair and beard, and with mourning apparel...Very plainly, at that time, accusation all too closely approached conviction.

Another thought follows. It concerns an incident you have all heard of Solon, according to Plutarch, when asked why he did not give the Athenians a better form of laws, answered that

he gave them the best they were fitted to receive...Happily, today, this gap between the intellectuals and the populace no longer exists. Indeed, many hold that the lawmakers now find difficulty in enacting sufficiently advanced legislation.

Again, the pictures prompt still another thought. And it so happens it isn't a pleasant one. From the inception of the Empire the penalty of death was carried out against the Roman citizen with continually increasing frequency. Unlike the Republican times it could not be escaped by voluntary exile. Execution by the ax after flogging; drowning by sewing one in a sack with a cock, ape, or serpent, and then tossed into the sea; death by fire -- all these were very common... And I suspect that the officer then serving in the capacity [-2-] of what today would be the clerk of supreme court took rather more than an active hand in making sure that all sentences were properly carried out!

As mentioned previously, most cases reach the supreme court by appeal from district courts, though a number are reviewed by order of writ of certiorari, and a few come up from certain municipal courts. The first step in the appealed cases reaching this court is the receipt in this office of a certified copy of "notice of appeal" from the district court. In all of these, other than those appealed by the state, the notice is accompanied by a ten-dollar filing fee. The record of this notice is then placed in a register of actions.

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In all cases coming up from district courts, 60 days from date of service on opposing counsel, the record and appellant's brief must be filed in this office, unless extension of time meanwhile has been provided; respondent's brief to be filed within 30 days.

In cases coming up from municipal courts, records and appellant's brief are due in 30 days, and respondent's in 20 days. In all cases, for appellant's reply brief 10 days are provided.

Then after the filing of record of appellant's brief, cases are prepared, about a month or more in advance, for the calendar, of which several may be prepared during the course of a year. In cases coming up for hearing no provision is made for oral argument in those involving $500 or less, unless granted on application in exceptional instances. Copies of these prepared calendars are now mailed out by our office to the attorneys of interested parties.

The cases, in the order appearing on the calendar, now come before the court for consideration. In each case the date of determination is, of course, unknown. As decisions are handed down [-3-] our office files for record an original copy. Many ditto copies are than made and these sent out to a specified list.

The opinions are released, as provided by law, once each week on Friday. Under the present law copies may be sent free only to the judges who tried the cases in lower courts, and to the

interested attorneys. Any others wishing copies are charged at the rate of 30 cents a sheet, approximating a $500 yearly cost of subscribing for all the opinions.

Personally, I have always maintained that this old practice which for years has remained unchanged, is both prohibitive and discriminative. It means that many of the district court judges and others who need and should have these opinions while still fresh are just not getting them.

Evidence of the urgent need of a change in method is plentiful and conclusive. A corrective measure which would permit this desirable change is embodied in a bill which I am actively sponsoring. If passed the measure will create a new method of releasing opinions.

Briefly, this proposal provides that once each week all the opinions handed down by the supreme court during the preceding six days would be arranged in some convenient form. Copies would be made by a printer and one would be sent free to every district court judge in the state. Attorneys and others would be invited to subscribe to them at an estimated rate of $5 yearly. Earnings from the subscriptions would be pooled in a fund to be used in reducing subsequent yearly appropriations, with the ultimate objective of making the service self-sustaining.

One of the new services already established by our office is the recently created file of information about all attorneys who have been admitted to practice before the supreme

court. And recently we have undertaken a study of the very considerable number admitted to practice by district court judges. [-4-]

During the time when district court admittances were numerous it would seem that not always a great deal of importance was attached to this swearing in of attorneys because occasionally records were not even kept of those admitted. Some years ago a diploma from a recognized law school and some one (very often it was a practicing attorney) to vouch for the applicant appears to have been all that was required to become a full-fledged attorney. Certainly the examinations, when any were given, were routine and perfunctory. And, again, sometimes no records were kept.

Incidentally, since then the rules governing these admissions have been made more stringent from time to time. Contrast the two year law course, once sufficient, to the three year course, and then to four, five and six year courses which followed.

As to these supreme court attorney admissions, here in the clerk's office we did have an index merely listing the name and date of admission of about one-half of the attorneys who had been admitted. Of those admitted in district courts we had, of course, but a very small percentage.

The urgent need of gathering these records, and all other obtainable information touching upon attorney admissions, into one centralized source of information was obvious. They

directly concerned the court. And this office should have been in position to supply much of the information that was constantly being requested of it in regard to the attorneys of the state.

Now this work is finished. We have a complete compilation of all supreme court attorney admissions. And the results of the survey now being made of district court admissions will soon be known. Truly, these records will be then complete. [-5-]