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# HISTORY OF THE MINNESOTA SUPREME COURT

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For those who have never visited the State Capitol, or have never attended a session of the supreme court, a description may prove helpful in picturing for them the setting of the court, the arrangement of the justices, and the method and manner in which cases coming before this court are handled.

The supreme court room occupies a large chamber on the second floor in the east wing of the state capitol building. The wide marble stairway beginning on the east side of the rotunda leads directly up to it from the first floor.

Above the entrance to the court room is a painting called 'The Contemplative Spirit of the East'. It is said that the intention of the artist was to symbolize the East as a land of contemplation and stability as contrasted to the West, a land of progress and activity. Contemplation, a brooding figure, sits in the middle in an attitude of deep thought. Law and Letters sit on either side. Letters reads from a great book; Law holds the scepter of Power and the bridle of Control. This painting is an introduction to the paintings in the supreme court chamber which depict to a degree the development of law. On either side of this 'Contemplative' painting are three lunettes, symbolically picturing Minnesota's pioneer industries.

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On entering the supreme court chamber one is impressed by the solemn dignity and calm implacableness pervading the room. One becomes aware of deep, rich colors softly blending -- dull, glowing reds -- mahogany with a depth that gives it irradiance -- melting creamy buffs.

Four large paintings are in the room: 'The Moral and Divine Law' is directly over the supreme court bench; 'The Adjustment of Conflicting Interests' is on the right wall; 'The Recording of Precedents' [-1-] is on the left; 'The Relation of the Individual to the State' is directly over the entrance inside the chamber. These paintings are by Le Farge, and are now valued at $200,000 -- five times their cost!

At the back of the chamber, facing the entrance, is the high court bench behind which sit the judges. Slightly in front of this, and to the far right when viewed from the entrance, is the desk of the clerk of supreme court, where he sits when in attendance upon the court; and to the far left of the justices' bench, directly across the room from the clerk's desk, is the desk of the court marshal.

Immediately in front of the justices' bench is a long table before which the counsel stands when pleading. To either side rests a smaller table, one for appellant's attorney, and one for respondent's. This court room proper is slightly sunken from the rest of the chamber and is separated from the spectators' seats, which are to either side of the entrance, by a

low railing. From the entrance a wide aisle, dividing the space provided for the spectators into two even sections, leads down into the court room.

Lined up in back of the justices' bench are seven massive chairs. The middle one, slightly taller than the others, seats Chief Justice Gallagher. Alternating from right to the left of the chief justice, the other justices are seated according to their length of service on the bench. This places Justice Holt, who, as before mentioned, has served the court longer than any other justice, on the chief's right. Justice Stone, the next oldest judge in years of service, is seated on the chief's left. Justice Hilton follows Justice Holt, and Justice Loring follows Justice Stone. Justice Olson sits next to Justice Hilton, and Justice Peterson next to Justice Loring.

The arrangement given is the one used at present when all the justices are in attendance. The chief justice is empowered to appoint any one of the remaining justices to sit in his stead at a ses- [-2-] sion from which he may be absent. However, here too, the custom which favors the next oldest justice in point of service acting as chief is favored. Because length of service governs the seating position of the associate justices, changes often occur due to absences, retirements, and the addition of new members.

Directly behind the supreme court chamber is the judges' consultation room, an exact reproduction of Independence

Hall in Philadelphia. To the side of this room and along the long hall paralleling the right wall of the chamber, are the judges' offices.

Previous to the hearing of a case the court marshal sets everything in readiness. He places copies of the cases to be heard that day on the bench, one before each judge's chair. Pencils and pads are placed within reach of each judge, also a filled glass of water. Then at five minutes before nine the marshal advises each judge of the time, and soon afterward the judges go to the consultation room.

Sharply at nine o'clock the court marshal standing at his desk raps smartly with the gavel, and everyone stands up. The marshal speaks aloud: "The Honorable Justices of the Supreme Court of the State of Minnesota!"

At that moment the judges, wearing their long flowing robes, emerge from the retirement room in single file, lead by the chief justice, and take their places behind their seats. The marshal again strikes with the gavel, the judges take their seats, and the others in the room do likewise. Court is now opened, and the first case is called. At the end of the session for that day the marshal closes it, stating the time of the next opening. The judges then rise, and in reversed order from their entrance, file out to the consultation room.

After the judges have consulted among themselves and have arrived at a decision, a written opinion is prepared by one of

them setting forth the facts in the case, the points brought out by both parties, and the line of reasoning followed in arriving at their deci- [-3-] sion. The selection of the judge who is to write the opinion is relatively unimportant, the decision being the majority opinion of them all. It may be pointed out that on the whole the writing of the great majority of opinions is fairly well divided among the judges. In allotting the writing of the opinions among the several judges, the amount of work before each judge, conveniency and expediency, and such factors all are considered.

There are also handed down decisions in which the written opinion is given by the court and, consequently, the name of no one judge appears on it. These opinions are handed down either as "Per Curiam" or "By the Court". In the early history of the court the phrase "By the Court" was used solely; today the Latin equivalent, "Per Curiam" is favored by most of the judges.

There are a number of reasons that an opinion is sometimes handed down as "Per Curiam". Sometimes it is used on cases of minor importance, and occasionally it may so happen for reasons known to the court, among which might be the obliteration of any attendant embarrassment, that it better serves the general purpose for an opinion to be written "Per Curiam" rather than carry the name of the individual judge who happens to write it. In addition to these instances, it is the practice in very nearly all disbarment proceedings reaching the supreme court to hand down "Per Curiam" opinions.

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While the name of the judge who writes a "Per Curiam" opinion remains unknown, the opinion may, and occasionally does, carry a dissent; and this dissent, of course, bears the name of the dissenting judge or judges. However most "Per Curiam" opinions carry appended dissents only infrequently.

There are often instances where the difference of opinion among the judges is not sufficient to warrant the writing of a dissent [-4-] by any one of them. Again, in other cases, the difference is so wide and sharp, and deemed of such importance, that the reason for this disagreement with the majority verdict is set forth in writing and appended to the written opinion. This dissent may be by one or more of the minority judges.

Again, a certain judge may agree with the findings -- the majority decision -- but his agreement may rest upon entirely different reasons than those set forth in the opinion. In these instances the judge may write and append a paragraph or two to the majority opinion setting forth how his line of reasoning differs from the others in arriving at the same conclusion. This is called a "Concurring Opinion". It means, simply, that it concurs in the findings, but state other reasons for doing so.

Now, finished with the writing of the opinion, the justices take up other cases, turn their attention to other matters pending, and generally keep themselves very busy, whether or not court is in session.

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To some the routine will seem an endless and unchanging one. Yet in back of what the public has long looked upon as the somber and cloistered state supreme court there lies an everchanging human drama, indirectly touching the lives of all of us who live in Minnesota. And so it has been since the territorial days. [-5-]