

PROCEEDINGS

In Memory Of

ASSOCIATE JUSTICES CHARLES LUNDY LEWIS, CHARLES BURKE ELLIOTT, AND THOMAS DILLON O'BRIEN.

In the afternoon of November 25, 1936, at two o'clock, the court being assembled at the court room in the State Capitol, Chief Justice John P. Devaney called upon Michael J. Doherty, president of the Minnesota State Bar Association.

Mr, Doherty then said:

May it please the Court:

The bar of Minnesota asks leave at this time to join with the court in honoring the memory of three men who have passed from this life since this court last convened for a similar purpose. Each of these three men was during his lifetime a leader of the bar of this state and a distinguished member of this court. The Honorable Charles L. Lewis died February 11, 1936. The Honorable Charles B. Elliott died September 18, 1935. The Honorable Thomas D. O'Brien died September 3, 1935. In order that a brief biography of each of these men and an expression of the sentiment toward them of their contemporaries be preserved in a lasting form, we ask that the memorials and the addresses which are to follow be when given inscribed upon the permanent records of this court. The bar is represented by Mr. Frank Crassweller, Mr. Hugh J. McClearn, Mr. A. L. Agatin, and Mr. John B. Richards, who will present a memorial of the Honorable Charles L. Lewis; by Mr. James D. Shearer, Mr. Fred B. Snyder, and Mr. Willard R. Cray, who will present a memorial of the Honorable Charles B. Elliott; and by Mr. Charles Donnelly, the Honorable Frederick N. Dickson, Mr. James D. Shearer, and the Honorable Pierce Butler, who will present a memorial on behalf of the Honorable Thomas D. O'Brien. Although the last mentioned of this group has for some years occupied a high judicial position, he is still, I think it is safe to say, in spirit, a member of the bar of Minnesota.

ASSOCIATE JUSTICE CHARLES BURKE ELLIOTT.

Chief Justice Devaney then said; Mr. Shearer,

Mr. James D. Shearer then presented the following

MEMORIAL

Charles Burke Elliott was born on a small farm in Morgan County, Ohio, on January 6, 1861. His father, a gentle Quaker, was a man of limited education who had married Angeline Kinsey, the daughter of a neighboring farmer and a descendant of a celebrated Pennsylvania family of lawyers, one of whom was the first chief justice of that state.

Before he was 15 years old young Elliott had mastered all that the country school teachers of the community could teach him. For a few years he alternately taught school and worked on his father's farm, saving his money to pay for additional schooling at nearby Marietta

Academy and College. He attended that institution for a year or more and then accompanied his family when they removed to Iowa. In the fall of 1879 he entered the law school of the University of Iowa, and was graduated in June, 1881. Not yet being of age, he could not be admitted to the bar, and for a period of six months he worked as a clerk in the office of a law firm in Muscatine. Shortly after being admitted in Iowa he removed to Aberdeen, South Dakota, and was engaged as legal representative of a land company. In 1884 he removed to Minneapolis, and in the spring of the same year he was married in Muscatine to Edith Winslow, daughter of Charles C. Winslow, who had come to Iowa from Maine before the Civil War.

Judge Elliott's early years in Minneapolis were filled with desperately hard work in his struggle to become established as a lawyer. His diaries for the years between 1884 and 1890 are interesting records of his grim determination to succeed in spite of discouragements. He worked at a terrific rate during the day, and work or study into the night was the usual thing. In 1887 he earned his first academic distinction, being granted by the University of Minnesota the first degree of Doctor of Philosophy ever conferred by that institution. His excellent doctoral thesis, "The United States and the Northeastern Fisheries," published by the University of Minnesota, brought him immediately to the attention of scores of distinguished public men in this country and in Europe. The paper remains today an outstanding disquisition on the subject. During the period from 1890 to 1899 he was professor of Corporation and International Law in the University of Minnesota.

In 1890 Judge Elliott was appointed by Governor Merriam to the municipal bench of Minneapolis. He was then only 29 years old, but quickly demonstrated his fitness for the position, and on January 4, 1894, he was advanced to a place on the district bench, being appointed by Governor Knute Nelson. He remained there until October 3, 1905, when he was appointed to the supreme bench by Governor Johnson. The Republican State Convention of the same year nominated him as candidate for justice of the supreme court, to which he was elected without serious opposition. His decisions while a member of the supreme court mark him as a jurist of unusual learning, great industry, sound judgment, and superior understanding of humanity.

Judge Elliott, always the scholar and analyst, was deeply interested in history and international law. His grasp of international affairs early became recognized through his addresses and contributions to legal and historical publications. It was doubtless in recognition of these unusual qualifications that President Taft, himself a great lawyer and jurist, in 1909 appointed Judge Elliott Associate Justice of the Supreme Court of the Philippine Islands. Two years later he was asked to accept the portfolio of Secretary of Commerce and Police in the Philippine Commission, it being understood that this appointment was made in order that the Commission might embrace an outstanding lawyer who was in sympathy with the President's legal policies as to the government of the Philippines. Following the success of the Democratic party in the election of 1912, the entire Philippine Commission was replaced, and Judge Elliott resumed the practice of law in Minneapolis.

Almost equally well as a jurist, Judge Elliott was known to the legal profession as an author and publicist. He wrote with great industry and exactitude a number of well known legal works, his principal books being those on the Law of Private Corporations, the Law of Municipal Corporations, the Law of Insurance, and an early work on Minnesota Practice and Procedure, which was supplemented and supplanted by his more recent work. In addition to these, he found time to compose a two-volume history of the Government of the Philippine Islands, a work which gave evidence of his capacity as a historical scholar and which received wide praise.

Seldom has a lawyer and jurist in the years of a busy professional life found time to perform so many varied and outstanding services to society. In 1911 Judge Elliott was designated to represent the Government of the Philippine Islands at the coronation ceremonies held in Hong Kong for King George V of England. He attended as head of an imposing group of officers and officials, among them General John J. Pershing. While in the Philippines he lectured on constitutional law at the University at Manila, and in 1911 he was president of the Philippine Industrial Exposition. During the Spanish-American War he was adjutant general of the state of Minnesota.

Judge Elliott served for a year as president of the American Branch of the International Law Association. In August, 1921, he attended the meeting of the International Law Association at The Hague, and was the sole American delegate to deliver an address at that meeting. In the Palace of Peace he delivered his address upon "The Relation of the Monroe Doctrine to American International Action" before a large congress of distinguished lawyers from all parts of the world, and was entertained at luncheon by Her Majesty the Queen of Holland. Before returning to America he had the pleasure of being invited to visit the late Rudyard Kipling, at his home at Burwash, where few Americans have been welcomed.

Judge Elliott was not one who "wore his heart upon his sleeve," but he was unostentatiously a religious man, believing that religion is the basis of civil society. He was a life-long member of the Episcopal Church, having been confirmed at Trinity Church in Minneapolis in 1884, and later attended St. Mark's Church. He was a member of the various bar associations, a member of the Minneapolis Club, a Shriner, a Knight Templar, an Odd Fellow, and a life member of the Minnesota Historical Society, as well as a member of numerous other societies and associations of a legal, historical, and scientific nature. His fraternities were Alpha Sigma Phi, of which he was Grand Senior President, Phi Beta Kappa, and Delta Chi. He held the following degrees: LL.B., University of Iowa, 1881; PH.D., University of Minnesota, 1887; LL.D., University of Iowa, 1895; and LL.D., Marietta College, 1904.

Judge Elliott was always more concerned with correcting wrongs and with matters intellectual and of wide interest than he was with personal material gain. He enjoyed the personal acquaintance and esteem of many leading lawyers, jurists, and others of high station in various parts of the world. To those who enjoyed his close association and companionship he was ever a source of pleasure and of intellectual benefit. His fairness and kindness matched his attainments in learning and his activities for good. Personally he was a man of great dignity, fine manners, kind and cordial, not lacking in humor, always serenely calm, always gentlemanly. His magnificent library, accumulated through years of discriminating selection, indicated his studious habits and elevation of thought. During the last ten years of his life he spent considerable time at his spacious country place on Long Lake, near Brainerd. In his family life he was eminently happy and contented until the death of his wife on the fiftieth anniversary of their union in marriage, May 13, 1934. After the death of his helpmate he evidenced a marked decline in health, and passed away September 18, 1935. Surviving him are four sons and one daughter.

WILLARD E. CRAY
FRED B. SNYDER
JAMES D. SHEARER

Chief Justice Devaney then said:

Gentlemen of the Bar:

Your memorial is a just and merited contribution to the learning and worth of Justice Elliott and expresses our own estimate of his sterling character and valued public service.

Justice Elliott came to this court shortly after the Spanish-American War. As a people we had achieved world-wide recognition for our industry and commerce. We had taken our place as a world power. Since then, in the span of one generation, we have seen a veritable social revolution occur. From a rural people and from a rural civilization, we have emerged in one generation with our urban population trebled and with a mechanized rural life. Overnight the thousand-year old rural and economic order and manner of living were supplanted by mass production and mass distribution. This has brought serious economic dislocations and vast social changes. In the midst of the confusion of a rapidly changing world, Justice Elliott came to this bench. His influence on the court and on the part that this court had in the social and economic changes of his time was great.

He was a superb artist and an accomplished scholar and jurist. Beyond his place as scholar and jurist, he will also be long remembered as a teacher and author. Prior to his appointment to this court, he served with distinction as a professor of corporation and international law at the University of Minnesota. He resigned from this court to accept the office of Associate Justice of the Supreme Court of the Philippine Islands. His interest was world-wide, his intellectual curiosity was great. He was not content to remain associate justice of this court, but moved on to a wider field of usefulness and activity and to the work of a pioneer jurist in the Philippine Islands.

As a teacher of law, as a lecturer, his fame was not confined to the state of Minnesota or to this country, but was international in scope. His connection with the World Court and its activities, his appearance before the World Court, marked him as one of the most distinguished jurists that this state has ever produced. I doubt if any member who ever sat on this court has reached a higher level as a lawyer and a jurist than was reached by Justice Elliott in his appearance before the World Court, where he was recognized as a jurist and scholar whom the whole world must note.

His books are many. He has written able texts on taxation and corporation law, and on the law of insurance. His text on Minnesota practice was an outstanding work and has been one of the most useful books ever placed in the hands of the lawyers of this state.

It is fitting that a man of his sterling character and great ability should be honored here today. His services have been of outstanding value to this court and to the state. The honors he won have reflected credit and distinction on this court and on the bar generally. It is proper that your memorial should be placed in the records of this court, there to remain a perpetual memorial to the work of this public spirited citizen. Jurist, scholar, teacher, Justice Charles Elliott will not soon be forgotten.

Chief Justice Devaney then said:

In response to the suggestion of the president of the bar association, it is ordered that these memorials be filed and become a part of the records of this court and that they be printed in the *Minnesota Reports*.