

PROCEEDINGS

In Memory Of

CHIEF JUSTICES HENRY M. GALLAGHER, CHARLES LORING, AND ROGER L. DELL, AND ASSOCIATE JUSTICES LEROY E. MATSON AND CLARENCE R. MAGNEY.

On May 31, 1966, at 2 p. m., the Court being assembled in the courtroom in the State Capitol, Chief Justice Oscar R. Knutson said:
The Court recognizes the president of the Minnesota State Bar Association, Mr. James E. Montague.

MR. MONTAGUE then said:

May it please the Court:

The Minnesota State Bar Association comprising more than 4,000 members of the Bar of this State is honored to participate in this proceeding to commemorate the memories of departed justices of this court who have died since proceedings in memory of departed justices were last held in this room. Since that time five justices have gone to their ultimate reward. Three of them were chief justices of this court and two were associate justices. All left their imprint on the law, on the profession, and on the state. In order that there may be a record of their lives, their personal characteristics, and their achievements, we ask the Court at this time to recognize members of the Bar of this State who will deliver memorials to these departed justices. The Honorable Robert J. Sheran, an associate justice of this Court, will deliver the memorial honoring Chief Justice Henry M. Gallagher. Mr. William K. Montague of Duluth will deliver the memorial honoring Chief Justice Charles M. Loring. The Honorable Chester Rosengren of Fergus Falls, a Judge of the District Court, will deliver the memorial honoring Chief Justice Roger L. Dell. Mr. Arthur Sund Nelson of Minneapolis will deliver the memorial honoring Associate Justice LeRoy E. Matson, and the Honorable Edwin J. Kenny of Duluth, a Judge of the District Court, will deliver the memorial honoring Associate Justice Clarence R. Magney.

CHIEF JUSTICE KNUTSON then said:

The Court will now recognize the Honorable Edwin Kenny, who will deliver the memorial for Associate Justice Magney.

ASSOCIATE JUSTICE CLARENCE R. MAGNEY

JUDGE KENNY then presented the following memorial:

My nearly twenty years of association with Judge Magney on the Bench of the Eleventh District and my rather close personal contacts with him through the years were such a rewarding experience that I am grateful for this opportunity to present this memorial and to have entered in the records of this Court a sincere, if inadequate, portrayal of his life and career.

Clarence R. Magney, of Swedish ancestry, was born to Reverend Jonas and Hilda Magney, in the Town of Trenton, Pierce County, Wisconsin. His family lived at various places

in the St. Croix River area, where his father served different pastorates. His father was the first student enrolled at Gustavus Adolphus College at St. Peter. Clarence received his early education at Bayport, and later entered and pursued his academic studies at Gustavus Adolphus, where he received the degree of Bachelor of Arts. He attended the Harvard Law School and received his Bachelor of Law Degree in 1908. He thus had fine academic and legal training. He studied law under such masters as Williston, Beale, Ames, and Roscoe Pound. Combined with his natural ability, this training fitted him to become what he was—a good lawyer and a good judge.

Upon graduation from law school and after passing the state bar examination he went to Duluth and entered the law office of Jenswold & Jenswold. He remained there until 1917. In the meantime he had taken an active interest in civic affairs, always taking an independent and courageous stand on controversial issues such as local option on the liquor traffic and municipal ownership of public utilities. He ran for and was elected to the office of mayor in 1917 at the age of 34. His term of office as mayor embraced the duration of World War I, which created some problems not ordinarily arising in peace time. One of these problems was that of controlling the liquor traffic which was affecting defense work at the steel plant and shipyards. Minnesota had set up a state commission with wide powers which prohibited the sale of liquor within a certain distance of a defense plant, but the liquor establishments at Oliver, just across the St. Louis River, but in Wisconsin, flourished in the absence of such regulation. Mayor Magney made a special trip to Washington and through his efforts a Federal law or regulation was adopted which controlled the situation on the Wisconsin side. During his term as mayor he was especially active in developing the city's park system, assuming the duties of park commissioner himself for a time. All in all, he was one of the best mayors, if not the best, in the city's history.

He entered the primary election for nomination as a candidate for election in 1920 to succeed retiring Judge J. D. Ensign as Judge of the District Court of the Eleventh District. Upon his nomination, he resigned as mayor, and was elected to that position, taking office in January, 1921. During his tenure as such judge, he exhibited all of the qualities usually considered characteristic of a good judge; so much so that he easily ranked with earlier and contemporaneous judges of that court who gave the bench of that district the reputation of being outstanding, notably Judges Cant, Dibell, Hughes, Fesler, and Freeman. He had a good sense of humor and enjoyed a good joke, even if it was on himself, and many a time the corridor in the Court House rang with his hearty laughter. The work of the District Court involves a continual parade before it of all kinds of people, a great variety of controversies, and close contact with the lawyers, and I know that Judge Magney enjoyed all that.

On July 1, 1943, Judge Magney was appointed an Associate Justice of the Supreme Court. He continued as such until his retirement at the age of 70 in 1953. Upon retirement, he was appointed a Commissioner of the Supreme Court and served actively as such a part of each year until his death on May 14, 1962. His wife, the former Lillian Lundgren of Center City, having predeceased him, he left surviving three children: Mrs. Mary Miller, of San Antonio, Texas; two sons, John H., residing in Minneapolis, and Charles, residing at Hopkins; one sister, Edla Magney, of Minneapolis; two brothers, Gottlieb, a well-known Minneapolis architect, and Dr. F. H. Magney, of Duluth.

As for his work on the Supreme Court, the other members of the Court, of course, were familiar with his industry and habits of work. But for others, the opinions written by him reflect very well his characteristics. Those opinions are, for the most part, short, concise, clear, and

directly to the point. We all know that it requires skill and laborious work to epitomize long records and briefs and to express their substance and the court's conclusions in a fairly short opinion, and Judge Magney had the ability and disposition to do that. One of his associates has told me that he was a prodigious and meticulous worker, that he wrote all his opinions in longhand in the first instance, in order, as he expressed it, to keep them short and to keep from saying something he did not intend to say simply because it was easier to say too much than just enough.

He had deep sympathy for the unfortunate and a kindly understanding of the failings of his fellow man that often lies at the bottom of litigation that reaches the high court. He was a deeply religious man and had an innate and inflexible standard of what is right and what is wrong. At the same time he had a profound respect for law and the necessity of upholding it in order that there might be stability in the rules by which we live. He performed his supreme court duties with the realization that all the cases that come to that court are of importance to the people involved and consequently were entitled to the best and most conscientious consideration the members of the court can give it.

So much for Judge Magney's professional career as lawyer and judge. The proper limits to a memorial address such as this do not permit as lengthy a review of his other interests and accomplishments as one might desire. But he was a many-sided man and pursued many activities.

He was a great out-of-doors man and particularly loved the area along the north shore of Lake Superior and adjacent thereto. I think he knew it better than any other person. But he was not content to enjoy it himself but took an active interest in preserving its natural advantages and making them available to the public. He was largely responsible for bringing about the acquisition by the state of many tracts of land which have been made into public state parks. One of these is at the mouth of the Brule River, which by act of the legislature in 1963 was named after him. A director of the state historical society has said that he was one of the nation's foremost park conservationists.

He was a great lover of beauty. This observation is not prompted by a comment which I am told a newspaper made in reporting the decision of the Supreme Court in an action wherein a young woman had sought and obtained a recovery because of the alleged loss of her good looks due to the use of a deleterious cosmetic preparation by a beautician. Judge Magney wrote the opinion sustaining the award, and the newspaper headline, I am told, read; "Judge Magney votes for beauty." But he did have an unusual aesthetic sense—an appreciation of beauty in nature and in art. Upon the walls of his chambers here there were hung many beautiful colored pictures of places in the north country. His beautiful home at the mouth of the Caribou River contained many fine art objects, including numerous native African wood carvings.

He was a world traveler. He shunned the beaten paths of tourists and took unusual trips. A visit to a brother, a missionary in Tanganyika in East Africa, stimulated his interest in Africa and he made six subsequent trips there. On one occasion he took a trip 1500 miles up the Congo on a freight boat. He evidently sensed the change which is now focusing attention on the emerging nations of that continent. He was in Capetown when he was stricken with the disease which caused his death shortly thereafter.

Having in mind this record of his life it is small wonder that in a popular poll conducted by the Minnesota Junior Chamber of Commerce in connection with the Centennial Celebration of the organization of the territorial government of the state Judge Magney was named as one of the greatest living Minnesotans.

In conclusion let me say that Judge Magney was a fine character, an inspiration and example to bench and bar, and a splendid public servant to whom the people of the state are indebted for his contribution to their welfare.

CHIEF JUSTICE KNUTSON then said:

It is proper that we hold these memorial services for those who have served on this Court. Some of us have had the privilege of serving with most of those whom we honor today. All of them have served with distinction and have added much to the jurisprudence of this state and this nation. While the opinions they have written, which are to be found in our *Minnesota Reports*, are the best testimonial to their ability—their intellectual integrity—and their devotion to their work, it is fitting that we who survive them express our appreciation for what they have done. These memorials written by men who have been closely associated with our departed brethren on the bench will be spread on the Minutes of the Court and will be contained in an early copy of the *Minnesota Reports*—there to remain as a permanent testimonial to the high regard we have for all of them.