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HISTORY OF THE MINNESOTA SUPREME COURT
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Following Justice Douglas' retirement, January 1, 1905, his seat on the supreme court bench was taken by Edwin A. Jaggard who had been elected the previous November. Judge Jaggard was born June 21, 1859 at Altoona, Pennsylvania. After attending the public schools he entered Dickinson College at Carlisle, Pennsylvania, graduating in 1879. He then enrolled in the Law School of the University of Pennsylvania, from which he was graduated three years later.

He came to Minnesota in 1882 and engaged in private practice in St. Paul. In 1898 he was elected to the Ramsey county district court bench, and served one term. In 1904, and while serving as district judge, he was elected an associate justice of the supreme court, and re-elected in November 1910, continuing to serve until his death February 13, 1911.

Judge Jaggard was a member of the faculty of the law department of the University of Minnesota. He was author of several books dealing with technical subjects: "Jaggard on Torts", "Jaggard on Taxation in Minnesota and the Dakotas", and "Taxation in Iowa". To his credit are also many legal papers and articles.

Judge Jaggard was a family man and took a lively interest in everything about him. Possessed of a charming manner he appealed to all types of people, and consequently his friends

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were numerous. He was fond of the outdoors, and spent much of his spare time hunting and fishing.

A story is told about a native fisherman in this state who had once accompanied Jaggard on a fishing expedition. Prior to this fishing trip the native had never been known to vote. Later that fall the native surprised every one by appearing at the polling place and demanding a ballot. "Where's Judge Jaggard's name?" he asked. The name was pointed out. "Now cross his name and fold the slip. No [-1-] that's enough! I don't care to vote for anyone else".

Jaggard was a member of the supreme court for a little over six years, and during this time he wrote 380 majority opinions and 49 dissents. They are preserved in volumes 94 to 114 of the Minnesota Reports.

Shortly after Jaggard had become a member of the court, a session was held in the "new" state capitol for the first time on April 4, 1905.

Later that fall Justice Lovely resigned from the bench. Four days later, on October 3, 1905, Charles B. Elliot was appointed to his place.

Elliot was born on a farm in Morgan county, Ohio, January 6, 1861, and died at his home in Minneapolis September 18, 1935. By the time he was fifteen, it is said of Judge Elliott, that he had mastered all that the country school teachers could teach him. For a few winters following he taught school, and

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during the summer worked on his father's farm. With part of the money thus earned he studied at Marietta Academy for a year, then moved with his parents to Iowa. Here he entered the Law School of the University in 1879, and was graduated in 1881. As he was yet under twenty-one, he could not gain immediate admission to the bar, so contented himself for the next six months by working as a clerk in a law office in Muscatine.

After being admitted to the bar in Iowa he soon moved to Aberdeen, South Dakota, where he acted as legal representative of a land company. In 1884 he moved to Minneapolis.

Here his struggles to establish himself as a lawyer were for a time intensified, but soon he began to attract public notice. In 1877 he earned the first degree of Doctor of Philosophy ever granted by the University of Minnesota. In 1890, at the age of twenty-nine, he was appointed by Governor Meriam to the municipal bench in Minneapolis. [-2-] Four years later he was elevated to the district bench, an appointment conferred by Governor Knute Nelson. Then on October 1, 1905 he was again moved up this time to a seat on the supreme court bench by appointment conferred by Governor Johnson. He followed this by winning an election to the seat the same year.

On September 1, 1909, Judge Elliott resigned from the bench to accept an appointment from President Taft as associate Justice of the supreme court of the Philippine Islands. Two years later he became secretary of Commerce and Police in the Philippine

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Commission, but was replaced following the Democratic victory of 1912, and he returned to Minneapolis where he resumed practice.

Judge Elliott was author of a number of law books and a two-volume history on "Government of the Philippines". While in the Philippines he lectured at the University of Manila, and performed many varied services, including his presidency of the Philippine Industrial Exposition. During the Spanish-American War he was adjutant general of Minnesota. He was president of the American Branch of the International Law Association, and was the sole American delegate to that association's meeting at The Hague in 1921. Here, before the World Court, he delivered his address on "The Relation of the Monroe Doctrine to American International Action". Judge Elliott held several degrees, four of them being doctorates. Following the death of his wife, May 13, 1934, his own health declined rapidly, terminating in his death in 1935.

During the four years that Judge Elliott was a member of the Minnesota supreme court he wrote 249 opinions and 20 dissents. They are contained in volumes 96 to 109 of the Minnesota Reports.

The court at the time Elliott ascended the bench was composed of the following: Charles M. Start, chief justice, Calvin L. Brown, Charles L. Lewis, Edwin A. Jaggard, and the newly appointed [-3-] Elliott, associate justices. C. A. Pidgeon was clerk, having succeeded Darius F. Reese January 5, 1903.

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The practice of granting citizenship was discontinued by the Minnesota supreme court in 1906. At this time this service was taken over by the district court and the United States district court, with both of these courts granting citizenship until July 1, 1929, at which time the power to grant citizenship became vested solely in the latter court.

A provision of the Laws of 1889 prohibited the publishing by newspapers of accounts of the execution of a criminal convicted of murder. An action growing out of the publication of such an account by the Pioneer Press reached the supreme court in 1906.

Only a limited number of persons were permitted to be present at these executions. The law provided that such executions be attended only by the sheriff and his assistants, the clergyman, not more than three persons designated by the prisoner, a physician selected by the sheriff, and other persons designated by the sheriff not exceeding six in number. It was stated that no person so admitted could be a newspaper reporter, and beyond the bare statement that such convict was duly executed on such day, no other detail was to be published.

The Press, it was charged, had printed a lengthy account of one execution in which the movements of the officers and convict were set forth from the time they left the jail until the body was removed to the undertaker's. The indictment of the lower

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court was affirmed by the supreme court in an opinion written by Justice Lewis and handed down February 21, 1907.

During this time increased railroad litigation was crowding before the court. From January 4, 1907, to April 12, a period of less than three and one-half months, no less than 16 decisions involving railroad litigation were handed down by the supreme court. These particular cases happened to be divided as follows: Great [-4-] Northern, 7; Minneapolis, St. Paul & Sault St. Marie, 4; The Pennsylvania, M. & St. L., Northern Pacific, Willmar & Sioux Falls, and Wisconsin Central, had one each.

On December 21, 1907, the court requested Governor Johnson, for the purpose of hearing and determining an action brought by the State Board of Law Examiners seeking disbarment of Francis B. Hart, to assign five district court judges to sit in their places.

The governor appointed, on January 2, 1908, Hon. Frank C. Brooks, special chief justice, and Hon. H. R. Brill, Hon. Nathan Kingsley, Hon. W. S. McClenahan, and Hon. Myron D. Taylor special associate justices.

The action under consideration grew out of criticism by Hart directed at the supreme court for decisions in several cases. Among other incidents Hart had sent a strongly worded letter to the chief justice. After review the special judges held:

- (1) That every citizen has the right to comment upon and criticize without any restriction the

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rulings of a judicial officer in any action which has been finally determined, and not be answerable therefor otherwise than in an action triable by a jury;

(2) That an attorney has such right, and can be disbarred for such comment or criticism, if at all, only when it is so base and vile as to establish clearly his bad character and his unfitness to remain a member of an honorable profession;

(3) That an attorney may not, however, insult the judicial officer by words written or spoken addressed to such officer personally because of the latter's official act, though a matter fully ended; and, if he does so, it may constitute a sufficient cause for his disbarment. [-5-]

The opinion, written by Special Chief Justice Brooks and handed down April 24, 1908, stated that in this last Hart had been guilty of professional misconduct, for which he was ordered suspended from practice for six months.

Justice Elliott's resignation became effective September 1, 1909, and to his seat Thomas D. O'Brien was appointed. The term expired January 2, 1911.

Thomas O'Brien was born at LaPointe, on Madeline Island, Wisconsin, near the head of Lake Superior, February 14,

1859, and died at his home in St. Paul seventy-seven years later on September 3, 1935.

When four years old, Thomas moved with his parents to Minneapolis, and two years later to St. Paul, where he remained a resident until his death, a period of seventy-one years.

In 1877 he entered the office of Young & Newell, acting as a clerk. In 1880 he was admitted to the bar and became clerk of the municipal court, a position he held for a year. In 1885 he was appointed assistant city attorney. Then followed a partnership with his brother, John D. O'Brien, which continued until 1888 when he joined with his brother C.D. O'Brien. In 1891 he was elected Ramsey county attorney, served one year and declined re-election.

In 1905 Governor Johnson appointed him insurance commissioner for the state, a position he held until 1907 when he resigned to organize the law firm of O'Brien & Stone. Then on September 1, 1909, he was appointed by Governor Johnson a justice of the supreme court. The term expired January 1, 1911, at which date he returned to private practice, organizing the firm O'Brien, Young & Stone, and later O'Brien, Horn & Stringer.

Judge O'Brien was one of the founders of the St. Paul College of Law. On organization of the St. Thomas college of Law he became its dean, and remained until its dissolution. [-6-]

While insurance commissioner he was appointed by President Theodore Roosevelt chairman of the committee on insurance

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commissioners. And in 1907 Governor Johnson sent him as a conciliator to the Iron Range when labor troubles threatened to break into open hostilities.

In the sixteen months that Judge O'Brien was a member of the supreme court he wrote 96 opinions and 7 dissents. They are recorded in volumes 109 to 113 of the Minnesota Reports.

About the time that Justice O'Brien was taking his seat, a change occurred in the clerk's office. On December 2, 1909, Carl A. Pidgeon, clerk of supreme court, resigned, being the first clerk ever to have done so, and the court appointed the deputy clerk, Irving A. Caswell, to succeed Pidgeon until the next regular election. Caswell won the next election, and by virtue of continuous re-election remained in office until January 1, 1919.

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