

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 Chester Rosengren, who will deliver the memorial for the former Chief Justice Dell.

CHIEF JUSTICE ROGER L. DELL

JUDGE ROSENGREN then presented the following memorial:

It is with mixed emotions that I present this memorial in behalf of Roger L. Dell, formerly Associate Justice and also Chief Justice of this Court. I am grateful for being accorded the privilege of presenting the same, but simultaneously I mourn the death of my dear friend, my intimate adviser, and former partner.

Roger L. Dell was born July 19, 1897, at the Village of Bird Island, Minnesota, his parents being August T. and Ellen Dell. He attended school both in Bird Island and Shakopee,

graduating from the High School of the latter city with the Class of 1916. Without attending any college or university for pre-law preparation, he enrolled in the St. Paul College of Law, graduating from that school in 1920.

He was admitted to the Bar of the State of Minnesota on October 7, 1920, and immediately commenced the practice of law at Fergus Falls, Minnesota, as an associate of one James E. Brown, subsequently becoming a partner of the latter, the firm being known as Brown and Dell. Mr. Brown died a short time thereafter and Judge Dell continued to practice alone or with part-time associates or assistants until April of 1933 when Chester G. Rosengren became associated with him, they subsequently becoming partners, the firm being known as Dell and Rosengren. They were joined by Gerald S. Rufer in January, 1947, who also subsequently became a partner, the firm name being changed to Dell, Rosengren and Rufer. Judge Dell remained the senior member of this firm until his appointment to this Court as Associate Justice on January 12, 1953. He was appointed Chief Justice of this Court on July 16, 1953. He terminated his tenure of such office in 1962 for personal reasons.

He was married twice, both wives predeceasing him. They were respectively, Marjory Webber Dell who died August 18, 1934, and Agnes Collier Dell who died December 17, 1964. Two brothers, Harold Dell and Kenneth Dell, both of whom were lawyers, also predeceased him. He had no children. He left surviving him, a brother, Thomas Dell of New York City, New York, and a sister, Dorothy Graeber of Tulsa, Oklahoma.

He served briefly with the Armed Forces during World War I being located at Field Artillery Central Officers Training School at Camp Zachary at Louisville, Kentucky.

The Bench and Bar of our state recognizes that Judge Dell was one of the last of the great advocates who practiced in our trial courts when the art of advocacy reached its zenith prior to the adoption of the Rules of Procedure designed to prevent surprise and to reduce the advantage of the ability and ingenuity of counsel. During this period he was recognized as a giant among the giants of the trial lawyers, both in the civil and the criminal field, and some of his trials and exploits are now legendary. Because of his tremendous success as a trial lawyer, many of his admirers failed to credit him with his legal ability, judicial mind, and rare lucidity of legal analysis and thinking. Having almost literally lived with him for twenty years as a partner, and through subsequent association, I can personally attest to the latter better than anyone else. However, his abilities other than as an advocate were immediately recognized after he became a member of this Court, and I think that his colleagues on this Court would be the first to acknowledge his outstanding judicial ability and temperament, his legal stature and capacity, his clarity of scholarly reasoning, and his complete judicial honesty.

Judge Dell was blessed with innate ability and keen legal mind, but these assets were abetted by a tremendous capacity for work. Time meant nothing to him in the preparation of his files and in representing clients. He was an indefatigable laborer in all phases of his profession. And when he became a member of this Court he brought all of those rare qualities with him, and immediately the Court and its functions became the object of his all-consuming interest and pride.

While a member of this Court he became one of our fine jurists and leaders. Under his aegis as Chief Justice the Court never had greater unity and solidarity. As a writer of opinions he was remarkable for his power of exposition, recognized for his erudition, respected for his conservative leadership, accepted for his courage, and followed because of his common sense approach to problems. He was strong in his philosophy that the Court should not invade the province of the legislature, should not remake the common law, or should not revise the

constitution. But he did recognize that imperceptible changes in conditions and mores necessarily made the law living and flexible. Coinciding with that philosophy was an amazing basic feeling and intuition for what the law should be. In retrospect, I remember innumerable times when a new factual situation was presented to him concerning which he had never read or heard any decision law. And his reasoned reaction under these circumstances was always, "I think this should be the answer"; and, inevitably research would either disclose the answer or it would appear in later decisions and sometimes many years later. He was a true disciple of Blackstone, by nature, training, and dedication.

Having worked hard all of his early life and later being entirely dedicated to his profession and busy with the management of his personal estate, he really never learned to play and relax. Almost his sole recreation, other than reading, and he was a voracious reader, was shooting, either for game or as a competitive sport. He did not have much time to spend with this type of recreation but nevertheless he brought to this sport the same concentration that characterized everything he did, and he enjoyed an enviable reputation for his shooting prowess on both a state and national level.

Niggardly as he was of his own time for personal relaxation and recreation, he was generous with both time and money in various philanthropic organizations and in connection with the affairs of the Episcopal Church and served without hesitation when requested. His death was a great loss to his church.

After his retirement from the Bench, he continued until the day of his death actively taking care of his personal affairs. With wonderful business acumen he alone amassed an estate large even by present standards. But he was not content to simply enjoy financial independence. Instead he embarked on what could be generally described as a one man urban renewal project of the business area of Fergus Falls, Minnesota, well knowing that in the course of his ordinary anticipated span of life he would never receive a return of more than a fraction of his investment. But this again was consistent with the personality that made him an outstanding trial lawyer, a splendid jurist, and a leader of men.

The community in which he elected to practice his profession, the Bench and Bar of our great state, and the State of Minnesota suffered a great loss with his death but they can profit from his memory and the contributions tangible and intangible which he made. He was the type of man envisioned by James Oliver when he wrote, "The world is blessed most by men who do things, and not by those who merely talk about them." Such is the memorial I now offer in behalf of the Honorable Roger L. Dell, deceased.

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.