

**Summary of Opinions  
By Roger L. Dell**

Majority Opinions.....	181
Dissenting Opinions .....	14
Concurring Opinions .....	8
Concurring in Part/Dissenting in Part .....	0
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Total .....	203

# **Topical Summary of Opinions by Roger L. Dell**

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<b>Antitrust and Trade Regulation .....</b>	<b>1</b>
<b>Appeal and Error .....</b>	<b>13</b>
<b>Arrest.....</b>	<b>1</b>
<b>Automobiles.....</b>	<b>19</b>
<b>Bailment .....</b>	<b>1</b>
<b>Beneficial Associations .....</b>	<b>2</b>
<b>Boundaries.....</b>	<b>1</b>
<b>Breach of Marriage Promise .....</b>	<b>1</b>
<b>Brokers .....</b>	<b>1</b>
<b>Carriers.....</b>	<b>1</b>
<b>Child Custody .....</b>	<b>1</b>
<b>Child Support.....</b>	<b>1</b>
<b>Constitutional Law.....</b>	<b>3</b>
<b>Contracts.....</b>	<b>6</b>
<b>Corporations .....</b>	<b>1</b>
<b>Courts .....</b>	<b>5</b>
<b>Criminal Law .....</b>	<b>11</b>
<b>Damages.....</b>	<b>1</b>
<b>Death.....</b>	<b>1</b>
<b>Deeds.....</b>	<b>2</b>
<b>Descent and Distribution .....</b>	<b>1</b>
<b>Disorderly Conduct .....</b>	<b>1</b>
<b>Divorce .....</b>	<b>3</b>
<b>Drains .....</b>	<b>2</b>

<b>Elections.....</b>	<b>3</b>
<b>Eminent Domain .....</b>	<b>1</b>
<b>Evidence.....</b>	<b>4</b>
<b>Executors and Administrators .....</b>	<b>1</b>
<b>False Pretenses .....</b>	<b>1</b>
<b>Forgery .....</b>	<b>1</b>
<b>Fraud.....</b>	<b>2</b>
<b>Gas.....</b>	<b>1</b>
<b>Guaranty.....</b>	<b>1</b>
<b>Habeas Corpus .....</b>	<b>6</b>
<b>Homicide .....</b>	<b>2</b>
<b>Husband and Wife .....</b>	<b>1</b>
<b>Indemnity.....</b>	<b>1</b>
<b>Indictment and Information .....</b>	<b>1</b>
<b>Injunction .....</b>	<b>1</b>
<b>Insurance.....</b>	<b>4</b>
<b>Judges .....</b>	<b>1</b>
<b>Judgment .....</b>	<b>3</b>
<b>Labor and Employment.....</b>	<b>2</b>
<b>Landlord and Tenant .....</b>	<b>2</b>
<b>Licenses .....</b>	<b>1</b>
<b>Liens .....</b>	<b>1</b>
<b>Mandamus.....</b>	<b>2</b>
<b>Mechanics' Liens .....</b>	<b>1</b>
<b>Mental Health .....</b>	<b>1</b>
<b>Municipal Corporations.....</b>	<b>6</b>
<b>Negligence .....</b>	<b>4</b>
<b>Partnership.....</b>	<b>1</b>

<b>Pensions.....</b>	<b>1</b>
<b>Pleading.....</b>	<b>1</b>
<b>Pretrial Procedure.....</b>	<b>1</b>
<b>Principal and Agent.....</b>	<b>1</b>
<b>Products Liability.....</b>	<b>1</b>
<b>Prohibition.....</b>	<b>2</b>
<b>Prostitution.....</b>	<b>1</b>
<b>Public Amusement and Entertainment.....</b>	<b>1</b>
<b>Public Utilities.....</b>	<b>1</b>
<b>Railroads.....</b>	<b>2</b>
<b>Rape.....</b>	<b>1</b>
<b>Replevin.....</b>	<b>1</b>
<b>Sales.....</b>	<b>3</b>
<b>Schools.....</b>	<b>2</b>
<b>Securities Regulation.....</b>	<b>1</b>
<b>Social Security and Public Welfare.....</b>	<b>1</b>
<b>Specific Performance.....</b>	<b>1</b>
<b>States.....</b>	<b>1</b>
<b>Statutes.....</b>	<b>2</b>
<b>Taxation.....</b>	<b>5</b>
<b>Trial.....</b>	<b>2</b>
<b>Trusts.....</b>	<b>2</b>
<b>Unemployment Compensation.....</b>	<b>5</b>
<b>Usury.....</b>	<b>1</b>
<b>Vendor and Purchaser.....</b>	<b>3</b>
<b>Venue.....</b>	<b>1</b>
<b>Wills.....</b>	<b>1</b>
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# Opinions by Roger L. Dell

## Adverse Possession

Engquist v. Wirtjes, 68 N.W.2d 412 (1955)  
Miller v. Martin, 106 N.W.2d 549 (1960)

## Affidavits

Saturnini v. Saturnini, 110 N.W.2d 480 (1961)

## Antitrust and Trade Regulation

State by Clark v. Wolkoff, 85 N.W.2d 401 (1957)

## Appeal and Error

Country Club Oil Co. v. Lee, 58 N.W.2d 247 (1953)  
Von Bank v. Mayer, 59 N.W.2d 307 (1953)  
Graphic Arts Educational Foundation, Inc. v. State, 59 N.W.2d 841 (1953)  
Bubar v. Dizdar, 60 N.W.2d 77 (1953)  
Cameron v. Evans, 62 N.W.2d 793 (1954)  
Thayer v. Duffy, 63 N.W.2d 28 (1953)  
Royal Realty Co. v. Levin, 66 N.W.2d 5 (1954)  
Patton v. Minneapolis Street R. Co., 71 N.W.2d 861 (1955)  
Bartl v. New Ulm, 72 N.W.2d 303 (1955)  
Larson v. Degner, 78 N.W.2d 333 (1956)  
Anderson v. Jennie, 80 N.W.2d 41 (1956)  
Lesewski v. Nielsen, 95 N.W.2d 13 (1959) (CONCURRING OPINION)  
Lambach v. Northwestern Refining Co., 111 N.W.2d 345 (1961) (CONCURRING OPINION)

## Arrest

Smith v. Hubbard, 91 N.W.2d 756 (1958)

## Automobiles

Swanson v. La Fontaine, 57 N.W.2d 262 (1953)  
Schleuder v. Soltow, 59 N.W.2d 320 (1953)  
Ryan v. Griffin, 62 N.W.2d 504 (1954)  
Wilson Storage & Transfer Co. v. Geurkink, 64 N.W.2d 9 (1954)  
Carpenter v. Birkholm, 65 N.W.2d 250 (1954)  
Schubitzke v. Minneapolis, S. P. & S. S. M. R. Co., 69 N.W.2d 104 (1955)  
Brady v. Kroll, 70 N.W.2d 354 (1955)  
Jablinske v. Eckstrom, 76 N.W.2d 654 (1956)  
Faust v. Przybilla, 77 N.W.2d 737 (1956)  
Alex v. Jozelich, 78 N.W.2d 440 (1956)  
Kollodge v. F. & L. Appliances, Inc., 80 N.W.2d 62 (1956)  
Norby v. Klukow, 81 N.W.2d 776 (1957)  
Dahling v. Dammann, 87 N.W.2d 25 (1957) (CONCURRING OPINION)  
Tollefson v. Ehlers, 90 N.W.2d 205 (1958)  
Floen v. Sund, 96 N.W.2d 563 (1959)  
Wilson v. Sorge, 97 N.W.2d 477 (1959)  
Besco v. Franken, 101 N.W.2d 431 (1960)  
Malecha v. Keeney, 106 N.W.2d 911 (1960) (CONCURRING OPINION)  
Krafft v. Hirt, 110 N.W.2d 14 (1961)

## **Bailment**

Central Mut. Ins. Co. v. Whetstone, 81 N.W.2d 849 (1957)

## **Beneficial Associations**

Peters v. Minnesota Department of Ladies of G. A. of R., 58 N.W.2d 58 (1953)

Peters v. Minnesota Department of Ladies of G. A. R., 73 N.W.2d 621 (1955)

## **Boundaries**

Erickson v. Turnquist, 77 N.W.2d 740 (1956)

## **Breach of Marriage Promise**

Meemken v. O'Hara, 66 N.W.2d 601 (1954)

## **Brokers**

Hentges v. Wolff, 61 N.W.2d 748 (1953)

## **Carriers**

Patton v. Minneapolis Street R. Co., 77 N.W.2d 433 (1956)

## **Child Custody**

Molto v. Molto, 64 N.W.2d 154 (1954)

## **Child Support**

Larkin v. Larkin, 113 N.W.2d 75 (1962) (DISSENTING OPINION)

## **Constitutional Law**

Minnesota Baptist Convention v. Pillsbury Academy, 74 N.W.2d 286 (1955)

State ex rel. McGinnis v. Police Civil Service Commission, 91 N.W.2d 154 (1958)

State v. Finn, 100 N.W.2d 508 (1960)

## **Contracts**

Wells v. Layne-Minnesota Co., 60 N.W.2d 621 (1953)

Dietz v. Dietz, 70 N.W.2d 281 (1955)

Kuhlmann v. Educational Publishers, 71 N.W.2d 889 (1955)

Hentges v. Schuttler, 77 N.W.2d 743 (1956)

Haugland v. Canton, 84 N.W.2d 274 (1957)

King v. Dalton Motors, Inc., 109 N.W.2d 51 (1961)

## **Corporations**

Kopio's, Inc. v. Bridgeman Creameries, Inc., 79 N.W.2d 921 (1956)

## **Courts**

Love v. Anderson, 61 N.W.2d 419 (1953)

Johnson v. Chicago, B. & Q. R. Co., 66 N.W.2d 763 (1954) (CONCURRING OPINION)

Ramsey v. Chicago G. W. R. Co., 77 N.W.2d 176 (1956) (CONCURRING OPINION)

Maynard v. Chicago & N. W. R. Co., 77 N.W.2d 183 (1956) (CONCURRING OPINION)

Sommers v. Thomas, 88 N.W.2d 191 (1958)

## **Criminal Law**

State v. Rasmussen, 63 N.W.2d 1 (1954)  
Anderson v. Grasberg, 78 N.W.2d 450 (1956) (DISSENTING OPINION)  
State v. Axilrod, 79 N.W.2d 677 (1956)  
State v. Haynes, 80 N.W.2d 859 (1957)  
State v. Star, 81 N.W.2d 94 (1957) (DISSENTING OPINION)  
State v. Sandefur, 82 N.W.2d 623 (1957) (DISSENTING OPINION)  
State ex rel. Barness v. County of Hennepin, 89 N.W.2d 166 (1958)  
State v. Warren, 89 N.W.2d 702 (1958) (DISSENTING OPINION)  
State v. Larkin, 98 N.W.2d 70 (1959)  
State v. McCarthy, 104 N.W.2d 673 (1960) (DISSENTING OPINION)  
State v. Holscher, 113 N.W.2d 94 (1962)

## **Damages**

Carpenter v. Nelson, 101 N.W.2d 918 (1960)

## **Death**

Shumway v. Nelson, 107 N.W.2d 531 (1961)

## **Deeds**

Consolidated School District v. Walter, 66 N.W.2d 881 (1954)  
McCarthy's St. Louis Park Cafe, Inc. v. Minneapolis Baseball & Athletic, 104 N.W.2d 895 (1960)

## **Descent and Distribution**

Van Devere v. Moore, 67 N.W.2d 664 (1954)

## **Disorderly Conduct**

St. Paul v. Morris, 104 N.W.2d 902 (1960)

## **Divorce**

Albertson v. Albertson, 67 N.W.2d 463 (1954)  
Rhein v. Rhein, 69 N.W.2d 657 (1955)  
Swenson v. Swenson, 101 N.W.2d 914 (1960)

## **Drains**

Petition of Brandt, 62 N.W.2d 816 (1954)  
Fischer v. Albin, 104 N.W.2d 32 (1960)

## **Elections**

Petersen v. Holm, 66 N.W.2d 15 (1954)  
Allen v. Holm, 66 N.W.2d 610 (1954)  
Buhl v. Joint Independent Consolidated School District, 82 N.W.2d 836 (1957) (DISSENTING OPINION)

## **Eminent Domain**

Volden v. Selke, 87 N.W.2d 696 (1958)

## **Evidence**

Greenberg v. Holfeltz, 69 N.W.2d 369 (1955)  
Hansen v. Proctor, 74 N.W.2d 281 (1955)

Swanson v. Minneapolis Street R. Co., 90 N.W.2d 514 (1958)  
Rosenthal v. Hill Top Riding Academy, Inc., 110 N.W.2d 854 (1961)

## **Executors and Administrators**

In re Estate of Weisberg, 72 N.W.2d 363 (1955)

## **False Pretenses**

State v. Cunningham, 99 N.W.2d 908 (1959)

## **Forgery**

State v. Higgin, 99 N.W.2d 902 (1959)

## **Fraud**

Royal Realty Co. v. Levin, 69 N.W.2d 667 (1955)  
L'Evesque v. Rognrud, 93 N.W.2d 672 (1958)

## **Gas**

Fabbrizi v. Hibbing, 66 N.W.2d 7 (1954)

## **Guaranty**

American Tobacco Co. v. Chalfen, 108 N.W.2d 702 (1961)

## **Habeas Corpus**

Breeding v. Utecht, 59 N.W.2d 314 (1953)  
State ex rel. Welper v. Rigg, 93 N.W.2d 198 (1958)  
State ex rel. Creagan v. Rigg, 97 N.W.2d 276 (1959)  
State ex rel. Petschen v. Rigg, 99 N.W.2d 669 (1959)  
State ex rel. White v. Tahash, 111 N.W.2d 523 (1961)  
State ex rel. Fife v. Tahash, 111 N.W.2d 619 (1961)

## **Homicide**

State v. Billington, 63 N.W.2d 387 (1954)  
State v. Keaton, 104 N.W.2d 650 (1960)

## **Husband and Wife**

Nelson v. Home Decorating Co., 109 N.W.2d 154 (1961)

## **Indemnity**

Lunderberg v. Bierman, 63 N.W.2d 355 (1954)

## **Indictment and Information**

State v. Mancino, 102 N.W.2d 504 (1960)

## **Injunction**

State v. Red Owl Stores, Inc., 92 N.W.2d 103 (1958) (DISSENTING OPINION)

## **Insurance**

Boxell v. Continental Casualty Co., 82 N.W.2d 223 (1957)  
Johnson v. Ostenso, 84 N.W.2d 269 (1957)

St. Paul Mercury Indemnity Co. v. Knoph, 87 N.W.2d 636 (1958)  
Danielson v. St. Paul Fire & Marine Insurance Co., 98 N.W.2d 72 (1959)

## **Judges**

Jones v. Jones, 64 N.W.2d 508 (1954)

## **Judgment**

Lindgren v. Sparks, 58 N.W.2d 317 (1953)  
Miller v. Simons, 59 N.W.2d 837 (1953)  
Gollner v. Cram, 102 N.W.2d 521 (1960)

## **Labor and Employment**

Dolmage v. Chicago, R. I. & P. R. Co., 63 N.W.2d 273 (1954) (DISSENTING OPINION)  
Urban v. Continental Convention & Show Management, Inc., 68 N.W.2d 633 (1955)

## **Landlord and Tenant**

Hill v. Gaertner, 92 N.W.2d 810 (1958)  
Johnson v. O'Brien, 105 N.W.2d 244 (1960) (DISSENTING OPINION)

## **Licenses**

State ex rel. Gopher Sales Co. v. Austin, 75 N.W.2d 780 (1956)

## **Liens**

In re Estate of Eggert, 72 N.W.2d 360 (1955)

## **Mandamus**

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Minneapolis-Honeywell Regulator Co. v. Nadasdy, 76 N.W.2d 670 (1956)

## **Mechanics' Liens**

National Lumber Co. v. Farmer & Son, Inc., 87 N.W.2d 32 (1957)

## **Mental Health**

In re Estate of Williams, 95 N.W.2d 91 (1959)

## **Municipal Corporations**

Minneapolis by and through Board of Park Commissioners v. Norman, 57 N.W.2d 245 (1953)  
Pettinger v. Winnebago, 58 N.W.2d 325 (1953)  
Knox v. Granite Falls, 72 N.W.2d 67 (1955)  
Nissen v. Redelack, 74 N.W.2d 300 (1955) (CONCURRING OPINION)  
Rudd v. Lyceum Dramatic Productions, Inc., 85 N.W.2d 61 (1957)  
Hall v. Anoka, 109 N.W.2d 319 (1961)

## **Negligence**

Malmquist v. Leeds, 71 N.W.2d 863 (1955)  
De Losier v. Metcalf, 80 N.W.2d 57 (1956)  
Cayse v. Foley Bros., Inc., 96 N.W.2d 238 (1959)  
Henjum v. Bok, 110 N.W.2d 461 (1961)

## **Partnership**

Lentz v. Pearson, 74 N.W.2d 662 (1956)

## **Pensions**

Lano v. Rochester Germicide Co., 113 N.W.2d 460 (1962) (DISSENTING OPINION)

## **Pleading**

Roberge v. Cambridge Cooperative Creamery Co., 67 N.W.2d 400 (1954)

## **Pretrial Procedure**

Webster v. Schwartz, 81 N.W.2d 867 (1957)

## **Principal and Agent**

Derrick v. Drolson Co., 69 N.W.2d 124 (1955)

## **Products Liability**

Randall v. Goodrich-Gamble Co., 70 N.W.2d 261 (1955)

## **Prohibition**

Weidel v. Plummer, 68 N.W.2d 245 (1955)

Marine v. Whipple, 104 N.W.2d 657 (1960)

## **Prostitution**

State v. Poague, 72 N.W.2d 620 (1955)

## **Public Amusement and Entertainment**

Aldes v. St. Paul Ball Club, Inc., 88 N.W.2d 94 (1958)

## **Public Utilities**

Dahlen Transport, Inc. v. Hahne, 112 N.W.2d 630 (1961)

## **Railroads**

State v. Chicago & N. W. R. Co., 75 N.W.2d 411 (1956)

Cox v. Chicago, R. I. & P. R. Co., 84 N.W.2d 263 (1957)

## **Rape**

State v. Johnson, 67 N.W.2d 639 (1954)

## **Replevin**

Bogestad v. Bothum, 79 N.W.2d 371 (1956)

## **Sales**

Inland Products Corp. v. Donovan, Inc., 62 N.W.2d 211 (1953)

Luther v. Standard Conveyor Co., 89 N.W.2d 179 (1958)

Hughes v. Becker, 108 N.W.2d 781 (1961)

## **Schools**

Peterson v. Joint Independent Consolidated School District, 58 N.W.2d 465 (1953)  
State ex rel. Independent School District v. Johnson, 65 N.W.2d 668 (1954)

## **Securities Regulation**

Anderson v. Mikel Drilling Co., 102 N.W.2d 293 (1960)

## **Social Security and Public Welfare**

State ex rel. Hennepin County Welfare Board v. Fitzsimmons, 58 N.W.2d 882 (1953)

## **Specific Performance**

Als Dorf v. Svoboda, 57 N.W.2d 824 (1953)

## **States**

Otto B. Ashbach & Sons, Inc. v. State, 78 N.W.2d 446 (1956)

## **Statutes**

Minneapolis-St. Paul Sanitary District v. St. Paul, 61 N.W.2d 533 (1953)  
Blue Diamond Poultry Farms, Inc. v. Commissioner of Taxation, 91 N.W.2d 595 (1958)

## **Taxation**

In re Estate of Bradley, 63 N.W.2d 374 (1954)  
Miller v. Commissioner of Taxation, 64 N.W.2d 1 (1954)  
In re Application of Land O'Lakes Creameries, 68 N.W.2d 256 (1955)  
Bodel Corp. v. State, 82 N.W.2d 703 (1957)  
Wagner v. Commissioner of Taxation, 104 N.W.2d 26 (1960)

## **Trial**

Fieve v. Emmeck, 78 N.W.2d 343 (1956)  
Department of Employment Security v. Minnesota Drug Products, Inc., 104 N.W.2d 640 (1960)

## **Trusts**

In re Bailey's Trust, 62 N.W.2d 829 (1954)  
In re Trusteeship Under Agreement With Mayo, 105 N.W.2d 900 (1960)

## **Unemployment Compensation**

Swanson v. Minneapolis-Honeywell Regulator Co., 61 N.W.2d 526 (1953)  
Nyberg v. R. N. Cardozo & Brother, Inc., 67 N.W.2d 821 (1954)  
Di Re v. Central Livestock Order Buying Co., 74 N.W.2d 518 (1956)  
Bergseth v. Zinsmaster Baking Co., 89 N.W.2d 172 (1958)  
Thompson v. Schraiber, 90 N.W.2d 915 (1958)

## **Usury**

Dahmes v. Industrial Credit Co., 110 N.W.2d 484 (1961)

## **Vendor and Purchaser**

Tompkins v. Sandeen, 67 N.W.2d 405 (1954)  
Johnson v. Quaal, 83 N.W.2d 796 (1957)  
Melco Investment Co. v. Gapp, 105 N.W.2d 907 (1960)

## **Venue**

Gulbrandson v. Empire Mut. Ins. Co., 75 N.W.2d 593 (1956)

## **Wills**

In re Estate of Healy, 76 N.W.2d 677 (1956)

## **Witnesses**

State ex rel. Butler v. Swenson, 66 N.W.2d 1 (1954)

## **Workers' Compensation**

Darvell v. Paul A. Laurence Co., 57 N.W.2d 831 (1953)

Petro v. Martin Baking Co., 58 N.W.2d 731 (1953) (DISSENTING OPINION)

Stephen v. Miles Const. Co., 60 N.W.2d 801 (1953)

Johnston v. State, 62 N.W.2d 347 (1954) (DISSENTING OPINION)

Chillstrom v. Trojan Seed Co., 65 N.W.2d 888 (1954)

Krause v. Trustees of Hamline University, 68 N.W.2d 124 (1955)

Peterson v. Thief River Falls Welding Co., 72 N.W.2d 75 (1955)

Sobczyk v. Duluth, 73 N.W.2d 795 (1955)

Gibson v. Moore Motor Freight Lines, 75 N.W.2d 212 (1956)

Koktavy v. New Prague, 75 N.W.2d 774 (1956)

Lahr v. St. Cloud, 76 N.W.2d 119 (1956)

Balow v. Kellogg Cooperative Creamery Association, 78 N.W.2d 430 (1956)

Kolbeck v. Myhra, 96 N.W.2d 633 (1959)

Pedersen v. Maple Island, Inc., 97 N.W.2d 285 (1959)

Lange v. Minneapolis-Saint Paul Metropolitan Airports Commission, 99 N.W.2d 915 (1959)

Cunning v. Hopkins, 103 N.W.2d 876 (1960) (DISSENTING OPINION)

Peterson v. Ruberoid Co., 113 N.W.2d 85 (1962)

## **Zoning and Planning**

Hawkins v. Talbot, 80 N.W.2d 863 (1957)