

EIGHTH CIRCUIT READING LIST

Judge Myron Bright's recent publication of his memoirs, *Goodbye Mike, Hello Judge: My Journey for Justice* (North Dakota Institute for Regional Studies 2015), is a wonderful contribution to an extensive and rich reading list about the history of the federal courts and federal judges within the Eighth Circuit.

As many readers know, Professor Jeffrey Brandon Morris published a full-length history of the Eighth Circuit a few years ago entitled, *Establishing Justice in Middle America: A History of the United States Court of Appeals for the Eighth Circuit* (University of Minnesota Press 2007). Professor Morris' book provided a valuable expansion from the earlier history that Theodore J. Fetter had written, *A History of the United States Court of Appeals for the Eighth Circuit* (1977), which had been published under the auspices of the Bicentennial Committee of the Judicial Conference of the United States.

There are also many fine histories of the federal district courts in the Eighth Circuit that have published, including the most recent such history by Burton A. Boxerman, *And Justice For All: A History of the Federal District Court of Eastern Missouri* (Southeast Missouri State University Press 2014), and Professor Lawrence H. Larsen's earlier book, *Federal Justice in Western Missouri: The Judges, The Cases and The Times* (University of Minnesota Press 1994).

George Mills and Richard W. Peterson collaborated to write, *No One Is Above The Law: The Story of Southern Iowa's Federal Court* (South Side Press of the Midlands 1988), and Richard W. Peterson also wrote, *The Court Moves West: A Study of the United States Supreme Court Decisions of Appeals from the United States Circuit and District Court of Iowa, 1846–1882* (South Side Press of the Midlands 1988). Peggy J. Teslow wrote the *History of the United States District Court for the District of South Dakota* (West 1991), and Ardell Tharaldson contributed a wonderful book entitled, *Patronage: Histories and Biographies of North Dakota's Federal Judges* (Northern Lights Press 2002).

There are a number of very good biographies of Eighth Circuit judges who have gone on to serve on the United States Supreme Court, such as Justice Harry A. Blackmun who was the subject of Linda Greenhouse's book, *Becoming Justice Blackmun* (Times Books 2005), and Professor Tinsley Yarbrough's biography, *Harry A. Blackmun: The Outsider Justice* (Oxford University Press 2008). Craig Alan Smith published a fascinating study of Justice Charles E. Whittaker entitled, *Failing Justice: Charles Evans Whittaker on the Supreme Court* (McFarland & Co., Inc. 2005). And Michael J. Brodhead wrote, *David J. Brewer: The Life of a Supreme Court Justice 1837-1910* (Southern Illinois University Press 1994).

Several years ago, Judge Bright's good friend and long-time colleague on the Eighth Circuit, Judge Donald P. Lay, wrote a book about his experiences as a lawyer and later as a judge which was entitled, *Law: A Human Process* (West Publishing Co. 1996). Polly J. Price has published a wonderful biography of the late Judge Richard S. Arnold entitled, *Judge Richard S. Arnold: A Legacy of Justice on the Federal Bench* (Prometheus Books 2009). And Walter H. Nunn wrote, *Arkansas' Judge Pat Mehaffy* (Parkin Print & Stationary Co. 1977).

There have been several books written by federal district judges who have served in the Eighth Circuit, including most recently the Eastern District of Missouri's Judge Charles A. Shaw whose memoir is entitled, *Watch Everything: A Judicial Memoir with a Point of View* (iUniverse 2013); and the District of Nebraska's Judge Warren K. Urbom who has written his autobiography, *Called to Justice: The Life of a Federal Trial Judge* (University of Nebraska Press 2012).

There are also several biographical articles about the federal judges who have served in the Eighth Circuit, such as the late Judge Gerald W. Heaney's article about the Eighth Circuit's Judge Martin Van Oosterhout in, *Judge Martin Donald Van Oosterhout: The Big Judge From Orange City, Iowa*, 79 Iowa L. Rev. 1 (1993) (with forward by Harry A. Blackmun), as well as his article on the life and career of the Eastern District of Arkansas' Judge Jacob Trieber entitled, *Jacob Trieber: Lawyer, Politician, Judge*, 8 UALR L.J. 421 (1986). Judge C. Arlen Beam published, *Chief Judge Harvey M. Johnsen - A Profit With Honor*, 20 Creighton L. Rev. 1949 (1987), about the District of Nebraska's and Eighth Circuit's Judge Harvey Johnson. Finally, Thomas H. Boyd wrote a piece on Judge John B. Sanborn, Jr., *The Life and Career of the Honorable John B. Sanborn, Jr.*, 23 Wm. Mitchell L. Rev. 203 (1997), who had served on the District of Minnesota and the Eighth Circuit.

EIGHTH CIRCUIT READING LIST—PART II

As seems to be the case with all such compilations, the ink was not even dry on the Eighth Circuit Reading List that was published in the last newsletter before it became apparent that there had been several omissions of a number of very fine books and articles about the history of the federal courts and federal judges of and in the Eighth Circuit.

One such book that was hiding in plain sight is Judge Scott O. Wright's autobiography, *Never in Doubt: Memoirs of an Uncommon Judge*, which he co-authored with Larry M. Schumaker and published in 2007 through the Kansas City Star Books. This book covers Judge Wright's youth and early career; some of the significant litigation over which he presided, including many of Kansas City's highest-profile cases from the Mafia to the Hyatt disaster; and his opinions on a variety of important societal issues.

Another book that should have been on the list is *Judge Henry Clay Caldwell*, written by Larry Roeder and published through CreateSpace Independent Publishing Platform in 2011. This book covers the life and decisions of Judge Caldwell, the first chief judge of the Eighth Circuit. Judge Caldwell had also been the subject of an earlier article by the late Honorable Richard S. Arnold and George C. Freeman III entitled, *Judge Henry Clay Caldwell*, 23 U. Ark. Little Rock L. Rev. 317 (2001). Additionally, Judge Arnold and Michael B. Heister published an interesting historic study of *The Structure of the United States District Courts in Arkansas*, 56 Ark. L. Rev. 715 (2004).

The earlier reading list had included a couple of books by the late Honorable Richard W. Peterson. But we failed to mention *West of the Nishnabotna: The Experiences of Forty Years as a Part-Time Judicial Officer as United States Commissioner, Magistrate and Magistrate Judge 1958-1998*, which was published by South Side Press of the Midlands, Ltd. Following publication of this book, Judge Peterson served on recalled status as a magistrate judge, thus taking his service as a federal judicial officer into the 21st century! He was a dear friend and colleague

to all of the judges and attorneys in the Eighth Circuit, and an enthusiastic voice for preserving and celebrating the rich history of the courts of this Circuit.

The late Kenneth E. Tilsen published a fascinating look at federal district court jurisprudence involving the Selective Service Act cases during the Vietnam War in the District of Minnesota. The book is entitled, *Judging the Judges*, and was published by North Star Press of St. Cloud, Inc. in 2002. Tilsen's book carefully examines and contrasts the manner in which these draft cases were handled by the District's four then-active judges: Edward J. Devitt, Earl R. Larson, Miles W. Lord, and Phillip Neville.

There is another very unique study published about the process that eventually led to the appointment of Minnesota's first member on the United States Supreme Court, the Honorable Pierce Butler. *A Supreme Court Justice is Appointed* was authored by David J. Danelski and published by Random House in 1964. This was one of the earliest studies of a presidential appointment to the Supreme Court and continues to provide fascinating insights.

While Justice Butler has been largely overlooked by historians, the Honorable David Stras of the Minnesota Supreme Court has taken steps to rectify that through his article, *Pierce Butler: A Supreme Technician*, 62 *Vanderbilt L. Rev.* 695 (2009). Justice Stras' article reexamines Justice Butler's life and jurisprudence, providing a more positive assessment of his contributions to the development of American law as well as his philosophy as a jurist, and arguing that Justice Butler deserves to be regarded as more than just one of the "Four Horsemen."

Several federal judges of the Eighth Circuit are appropriately featured in *The Yale Biographical Dictionary of American Law*, which was edited by Roger K. Newman and published by Yale University in 2009. This excellent resource includes biographical vignettes on John Forrest Dillon, Walter Henry Sanborn, Justice Butler, Harry A. Blackmun, and Judge Arnold of the Eighth Circuit, as well as Charles Fremont Amidon of North Dakota, just to name a few.

In addition to these books and articles which are already in print, there is a great deal of excitement surrounding a forthcoming publication by the University of Arkansas Press entitled, *United States District Courts and Judges of Arkansas, 1836-1960*. This book has been edited by Professor Frances Mitchell Ross, a retired member of the University of Arkansas at Little Rock faculty, and it features biographical essays on the various individuals who have served on the Arkansas federal bench from the time of statehood up through the mid-20th century. The book is expected to be in print and available for purchase in May—just in time for the Eighth Circuit Judicial Conference.

*Prepared by Thomas H. Boyd, and originally printed in the Summer 2015 and Winter 2016 Newsletters of the Bar Association of the United States Court of Appeals for the Eighth Circuit.