

Myron H. Bright, GOODBYE MIKE, HELLO JUDGE: MY JOURNEY FOR JUSTICE (North Dakota Institute for Regional Studies Press, Fargo, ND, 2014)

One of America's most important contributions to governance is its independent federal judiciary. In many ways, it is our jurists who, in an era of bitter and petty political conflict, who come closest to the model of statesmanship set by our Founding Fathers. Alas, most of our fellow-citizens are hard pressed to name any more than one or two federal judges and, if they can, are not likely to include the name of any judge of the lower federal courts. Yet, the contributions of a Frank Johnson, a John J. Sirica, a Skelly Wright to our polity have been profound.

The publication of Judge Myron Bright's reminiscences is well waiting for. The book is as sprightly and irrepressible as the man. Its publication also reminds of the contributions to jurisprudence of this man during a career that is lasted forty-six years on the bench; one of the longest careers of any American federal judge.

Writing in a conversational tone, Judge Bright tells us in his book about his background, career in law and politics and some of the opinions he is most proud of. This is a book that should be read by all those interested in understanding the contributions a caring judge can make to his fellow citizens.

As his book tells us, Judge Bright was born in 1919 to a Jewish couple in the Mesabi iron range. He was educated in Minnesota; served in the army during the Second World War and, after graduating from law school, moved to Fargo, North Dakota where he lived and practiced law with the preeminent Vogel firm. While in practice, he and his wife, Fritzie (Frances), to whom he was married for fifty-four years, became active in North Dakota politics with the Democratic Party. Bright served as county chairman of the state's largest county and contributed significantly to liberal politics in the state, making important contributions to the elections of Quentin Burdick to the U.S. Senate and William Guy as Governor.

Later, Senator Burdick promoted Bright's appointment to the U.S. Court of Appeals for the Eighth Circuit, a court embracing seven states in the center of the country from Minnesota and North Dakota southward to Arkansas.

President Lyndon Johnson made three appointments to the Eighth Circuit -- Donald Lay, Gerald Heaney and Bright -- who brought to that traditionally moderate conservative court, a liberal wing. Indeed, from 1968 into the Reagan years, the Eighth Circuit was made up of three liberal, four moderately conservative judges with an eighth judge more difficult to characterize, who stood somewhat closer to the liberal wing. During that period, the Eighth Circuit often rendered decisions sympathetic to individual rights. It also was an efficient and good tempered court. After Ronald Reagan became

President, even before the deaths of Lay and Heaney, Bright found himself in dissent in many important cases. However, far too warm and charming to be personally isolated, Bright not only made friendships with his new colleagues, but with judges, attorneys and legal academics throughout the country.

It is worth pointing to several details of Judge Bright's book, that particularly struck this observer. Growing up in the Mesabi Range, Bright was a Jew among Serbians and Slovenians, Italians and Finns. He tells us "I learned easily to understand and appreciate the diversity of my friends and their parents" (pg. 7). Such acceptance of the differences of others would produce a man of broad tolerance.

If we do not hear as much as I would like about Bright's career as an attorney, we are regaled with interesting tales about Bright's involvement in politics. Although North Dakota is a conservative state that rarely backs a Democratic presidential candidate, it nevertheless has a radical tradition and is a two-party state. Quentin Burdick was a liberal senator and he represented North Dakota in the United States Senate for thirty-two years. William Guy, also a Democrat, served longer as governor of North Dakota than anyone has. Amidst discussions about Burdick and Guy, tells interesting stories about national figures like John and Robert Kennedy who visited the state for their own campaigns, but also to help the state Democratic candidates.

Perhaps the most striking pages in the book are where Bright lists the "pieces of the puzzle" that had to have occurred for him to end up as judge of the Eighth Circuit (pgs. 104-05). It is a stunning indication of the role of serendipity in making a career, not just the career of a federal judge, but virtually any career. A few pages after that, there is a detailed account written by both Myron and Fritzie of their visit to the White House to visit Lyndon Johnson, who had made the appointment of Bright to the Court of Appeals. (pgs. 114-20).

In the latter third of the book, Bright describes of eight cases, eight interesting cases, which offer a clear idea of his jurisprudential philosophy, which has been marked by clear sympathy for underdogs and a willingness to dissent powerfully, but not personally.

Myron Bright has been a judicial liberal on the bench since his appointment. He has perceived the litigants before him not as abstractions, but as real people wrestling with life's difficulties. He has been a strong supporter of racial desegregation, of a real separation of church and state, of Native American rights and the constitutional rights of criminal defendants, as well as a very strong critic of guideline sentencing.

The cases Bright chooses to write about are significant ones. Among them are the Reserve Mining case involving, on the one hand, possibly the danger of serious pollution of Lake Superior on the one hand and the loss of thousands of jobs on the other. Bright wrote three opinions for the court successfully able to balance between these two extremely important goals. Bright writes about his role in Helm v. Solem, one of the very few cases where the Supreme Court has applied a principle of proportionality to punishment. There is Green v. McDonnell Douglas, perhaps his most influential decision. In order to avoid a rehearing of the decision of the three judge panel which first heard the case, Bright was wise enough to embrace the theory of his colleague, Donald Ross. The U.S. Supreme Court picked up that theory in Bright's lower court opinion and followed it, making Green v. McDonnell the leading case in employment discrimination. Bright gives the intellectual credit for the test to Judge Ross, as he should, but it was Bright who altered the panel opinion as Ross would have it, so the full court wouldn't agree to hear it en banc and reverse the panel. Finally, there is the extraordinary story of James Dean Walker, framed for a murder and finally, largely due to Bright's efforts, a free man.

This observer does not pretend to be a close observer of North Dakota's judges. He does, however, find it unusual that a generally conservative, relatively isolated and under-populated state, has given the nation three very able and courageous federal judges. Charles Amidon, the federal district judge for North Dakota in the early part of the Twentieth Century, was one of the tiny handful of judges to go against the intolerance of the First World War era and demonstrate profound sensitivity to individual rights. A second North Dakota District Judge, Ronald Davies who was given the manifestly uncomfortable job when sent to Little Rock as a visiting judge, to deal with the parties at the height of the battle over the desegregation of Central High School and performed magnificently. Finally we have Judge Bright who has stood tall for over forty-six years on the Court of Appeals.

To conclude: Goodbye Mike, Hello Judge is a very good read about an interesting and very valuable life. It tells you a great deal about Judge Bright and makes you think more than a little bit about what judges should do.

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