

## MINUTES

### The Historical Society of the United States Courts in the Eighth Circuit

#### Board Meeting Kansas City, Missouri

August 9, 2012

#### Directors and officers present:

Thomas H. Boyd  
Hon. H. David Young  
Douglas R. Oelschlaeger  
F. Richard Lyford, President  
Hon. John R. Tunheim  
Hon. E. Richard Webber  
Ann E. Buckley  
Hon. Brian C. Wimes  
Paul E. Donnelly  
Hon. Karen K. Klein  
Hon. Roberto A. Lange  
Donald P. Knudsen  
Ann Fessenden, Secretary  
Sheila Greenbaum, Treasurer

#### Branch

Court of Appeals  
Eastern District of Arkansas  
Northern District of Iowa  
Southern District of Iowa  
District of Minnesota  
Eastern District of Missouri  
Eastern District of Missouri  
Western District of Missouri  
Western District of Missouri  
District of North Dakota  
District of South Dakota  
District of South Dakota

#### Guests:

Hon. Celeste F. Bremer, Southern District of Iowa  
Hon. Fernando J. Gaitan, Jr., Western District of Missouri

Directors and officers absent were Hon. Morris S. Arnold (Court of Appeals), Frances Ross (Vice President, Eastern Arkansas), Hon. Jimm L. Hendren (Western Arkansas), Katherine C. Gay (Western Arkansas), Hon. Leonard T. Stand (Northern Iowa), Hon. Robert W. Pratt (Southern Iowa), Dulce Foster (Minnesota), Hon. Richard G. Kopf (Chair, Nebraska), Jeanette Stull (Nebraska), and M. Daniel Vogel (North Dakota).

#### Salute to the Sun

Reviving a mid-20<sup>th</sup> century Judicial Conference tradition once carried out by Minnesota's District Judge Gunnar Nordbye, Judge Tunheim recited a toast in Norwegian to mark the beginning of the conference. Past president Tom Boyd explained the background of the tradition before turning the floor over to Judge Tunheim for the toast itself. Mr. Boyd noted that Judge Tunheim, like Judge Nordbye, is of Norwegian heritage. Called "Salute to the Sun," the toast used to take place on the roof of the conference building at the break of dawn. This rendition took place in the Andy Kirk meeting room of the Kansas City Marriott Downtown just before the Historical Society board meeting began at 7 a.m.

## **Roll Call/Call to Order**

Historical Society President Richard Lyford called the breakfast meeting to order. He welcomed new board members present (Donald Oelschlaeger, IA ND; Judge Wimes, MO WD, and Judge Lange, SD) and then asked all attendees to introduce themselves. Following introductions, the minutes of the board's 2010 meeting were approved.

## **Secretary's Update**

Secretary Ann Fessenden asked attendees to update their contact information on the board member list that she passed around. She also mentioned that the Historical Society had coordinated the displays on the second floor of the conference hotel featuring a four-panel display of Judge Bright and two looping DVDs: one of Judge Bright's 2011 oral history and one of Judge Eisele's 2011 biographical documentary. She also mentioned that there was a Historical Society table where members could exhibit branch projects.

## **Treasurer's Report**

Treasurer Sheila Greenbaum reported the balance of the parent Society's account as \$14,096.50. She noted that \$6,500 of this amount had been received as donations from bar associations in the circuit to fund a reception honoring Judge Morris Arnold in November.

## **Reception of the American Society for Legal History**

President Lyford explained further about the reception honoring Judge Morris Sheppard Arnold. It will be the opening reception of the American Society for Legal History's (ASLH) 2012 meeting, to be held Thursday, November 8 in St. Louis' Thomas F. Eagleton U.S. Courthouse. ASLH approached the Historical Society about hosting the reception, and the Society's board voted in favor of supporting this at its 2010 meeting.

Mr. Lyford said that during the last year non-court members of the executive committee had raised \$6,500 in donations from bar associations to fund this event. This donated amount, however, was \$650 short of the \$7,150 needed to cover catering costs. The board then made and approved a motion for the Eighth Circuit Historical Society to donate the remaining \$650.

Mr. Lyford said that any members of the Eighth Circuit Historical Society may attend the reception and that ASLH president Bruce Mann and Judge Stroud, formerly of the Arkansas state judiciary, will make brief remarks at the event.

## **Election of Officers for 2012-2014**

As no new nominations were brought from the floor, the following slate of candidates was re-elected for a two year term:

President: Dick Lyford  
Vice President: Frances Ross

Treasurer: Sheila Greenbaum  
Secretary: Ann Fessenden

## **Branch Reports**

Before turning the floor over to the branch representatives for reports, President Lyford recommended the book *Mrs. Dred Scott* by University of Iowa law professor Lea VanderVelde for programming. He pointed out that the Scotts' cases were rooted in the Eighth Circuit.

### *Court of Appeals*

Tom Boyd said that the branch published a written history of the Eighth Circuit a few years ago, and was looking into new projects. Possibilities included updating materials on the Historical Society web site and gathering recollections of judges about past Eighth Circuit Judicial Conferences.

### *Arkansas Eastern*

Judge Young reported that the branch's project to publish biographical essays written by the judges was in the publishing phase.

### *Iowa Northern*

Mr. Oelschlaeger reported on the branch's efforts to develop a History Center in the new federal courthouse being constructed in Cedar Rapids. The new courthouse is projected to open on November 5, 2012, and to be dedicated on December 7. No part of the funding for the courthouse was used towards this historical project, instead approximately \$200,000 of non-appropriated funds are being applied. The project is using Split Rock Studios, an award winning St. Paul firm with current projects across the nation from the Denali National Park in Alaska to the Ford Theater in Washington DC. The History Center will include significant cases, faces, and places and include an interactive display on the judges, trials, and courthouses of the Northern District of Iowa throughout history.

### *Iowa Southern*

Judge Bremer reported that outreach activities in the Southern District of Iowa include mock trials, with scripts posted on the district's web site. This year they undertook two cases: one involving children made orphans during the Civil War and another involving a World War II P.O.W. camp. The mock trials were held for middle and high school students, with 500 participating per day during the week presented. The performance runs about 25 minutes, followed by 10 minutes of discussion. The branch has worked on displays on the importance of jury trials and on Iowa cases that went on to the U.S. Supreme Court. The branch is looking into the possibility of making a display of Ding Darling editorial cartoons, held by the University of Iowa. The branch also updated its court history and is considering publishing it on the web.

### *Minnesota*

Mr. Boyd, on the Board for the Appeals branch and also very active in the Minnesota branch, reported that the branch's oral history bicentennial project to interview the Minnesota district judges has been continued to include judges new to the bench after the project was completed in 1988. Currently, two sets of interviews are conducted, one when the judge assumes the bench

and a second when the judge takes senior status. The branch's display on the Wilbur Foshay case is currently on exhibit in the Minneapolis courthouse lobby. Judge Tunheim added that the district's oral history videos had been transferred to DVD and were available for viewing by any lawyer. Judge Tunheim said the district is undergoing a courthouse renovation project in Duluth, and encouraged all branches to get involved with such projects that restore historical treasures, period furniture, and courtrooms as they looked in earlier days.

President Lyford commented on how important oral histories are in documenting court history. He encouraged all board members to pursue oral history projects, and to be persistent in obtaining permission to interview when met with resistance.

### *Missouri Eastern*

Judge Webber reported that the district's Judicial Learning Center in St. Louis, when created, was unique in that it was the only educational center in the United States devoted to the judicial process in the federal courts. It features interactive displays, as well as a TV monitor that plays oral histories of the district's judges. Judge Webber then described how the learning center in the Eagleton courthouse was developed. He said that the district's Federal Practice Memorial Trust Committee designated \$2,500 for each of the six planned oral histories. The branch hired Southeast Missouri State University's video arts department to record the interviews, which Judge Webber conducts. Five have been completed (Judges Hungate, Nangle, Filippine, Stohr, and Webster), and work on Judge Limbaugh Sr.'s interview is in progress. Mr. Burton Boxerman was hired to draft a written history of the district, and the manuscript is currently in the editing phase at Southeast Missouri State University Press. Publication is slated for spring 2013. The branch compiled a list of the 17 most significant cases decided in the district's history, all of which went on to the Supreme Court. A summary will be written for each, and attorneys involved with some of the cases will be interviewed. A film will be made on each case, with two finished to date.

When asked about the Eastern District of Missouri's Federal Practice Memorial Trust, Judge Webber replied that it was started at the suggestion of Judge Nangle years ago. It is a separate organization and board from the Eighth Circuit Historical Society or The Judicial Learning Center, and is funded by contributions from local law firms. The Judicial Learning Center, like the Federal Trust, is also a non-profit corporation funded by contributions from law firms for the purposes of education.

### *Missouri Western*

Mr. Donnelly reported that the branch is very active and has benefited greatly from Chief Judge Gaitan encouraging public use of the courthouse. The branch has continued its highly successful speaker series, hosting three events in the fall and three in the spring. The highlight speaker of the year was Noah Feldman, author of the award winning book, *Scorpion: The Battles and Triumphs of FDR's Great Supreme Court Justices*. This event was co-sponsored with the Truman Library Institute. Other presentations in the speaker series featured local historical cases, including two on the Kansas City desegregation case. Mr. Donnelly noted that completion of the permanent historical display in the Kansas City courthouse will open up opportunities for students to visit. Chief Judge Gaitan mentioned that the branch had completed *Moments in Time*, a project to record oral histories of judges in the district. He said that work on the Bell Room, the

historical permanent display, has been in progress during his tenure as chief judge, and commented that the speaker brown bags have been good for the bench and the bar.

*North Dakota*

Judge Klein reported that the branch was working with the U.S. Courts Library in St. Louis on a permanent display on Judge Rodney Webb for the Fargo courthouse. The branch continues to collect artifacts. Future projects may include producing essays on judges long past, possibly to be done by top graduate students.

*South Dakota*

Judge Lange reported that the branch had completed Judge Battey's oral history and planned to complete interviews of Judge Piersol and Judge Kornmann. Another project the branch plans to undertake is digitizing historical records in Pierre. The records are organized chronologically in bank boxes.

It was then moved, seconded, and approved that the meeting be adjourned.

  
Ann T. Fessenden,  
Secretary

Approved:

s/ Hon. Richard G. Kopf,  
Chairman of the Board

s/ F. Richard Lyford,  
President