

Nebraska Supreme Court

In Memoriam

JUSTICE JOHN F. WRIGHT

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State Capitol
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Proceedings before:

SUPREME COURT

Chief Justice Pro Tem Lindsey Miller-Lerman

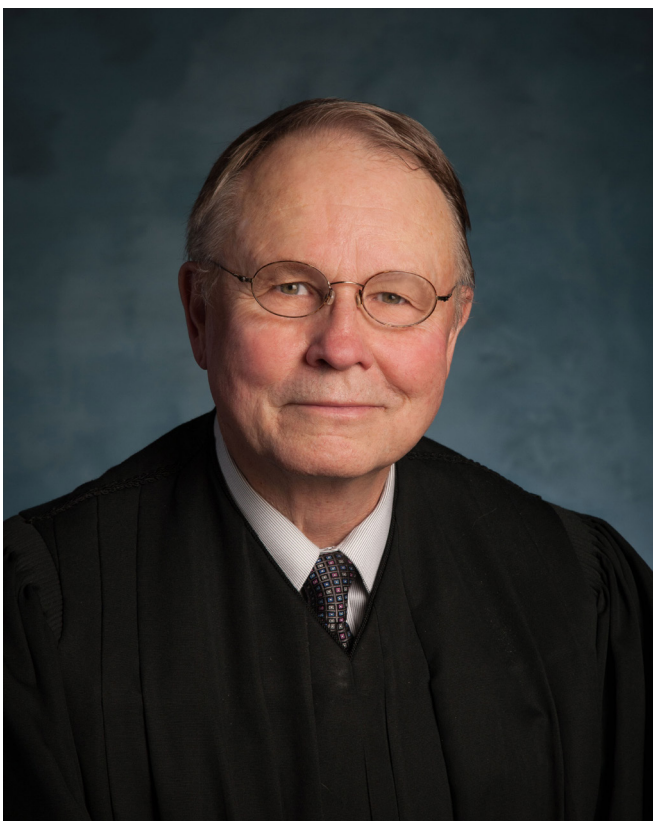
Justice William B. Cassel

Justice Stephanie F. Stacy

Justice Jeffrey J. Funke

Justice Jonathan J. Papik

Justice John R. Freudenberg



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Proceedings

JUSTICE MILLER-LERMAN: Good afternoon and welcome to everyone. The Nebraska Supreme Court is meeting in a special session on this 24th day of September, 2018, to honor the life and memory of Supreme Court Justice John F. Wright, and to note his many contributions to the legal profession.

I'm Lindsey Miller-Lerman, a Justice on the Nebraska Supreme Court, and because Chief Justice Heavican could not be here today, I'm serving as the Justice Pro Tem. And Chief Justice Heavican sends his regards and his deep respect for Justice Wright.

I would like to start this afternoon by introducing my colleagues who are here with me on the bench. To my immediate left is Justice William Cassel from O'Neill. And to his left is Jeff Funke from Nebraska City. And to his right is John Freudenberg of Rushville. And to my right is Justice Stephanie Stacy from Lincoln. And to her right is Justice Jonathan Papik from Omaha.

And it's our honor to introduce the members of the Court of Appeals. And we'll start with Chief Judge Frankie Moore, Judge Mike Pirtle, Judge Francie Riedmann, Judge Riko Bishop, Judge David Arterburn, and Judge Larry Welch.

The Court further acknowledges presence of the Wright family. And, first up, of course, is Justice Wright's wife, Debbie. Would you kindly stand? Thank you very much. And the rest of the family can now stand as a group. And present are Charlie Wright, at the counsel table, who will be sharing remarks; Jane Wright Jones from Madison, and her husband, Brian, who's able to be with us; John Wright from Texas. John's wife, Kristina, and the children are not able to join us today. And Ellen Wright in from Vermont. Thank you very much to the family. You all may be seated. Thank you very much for working with the Court on today's ceremony.

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I'd also like to recognize former members of the Nebraska Supreme Court and members of the Nebraska Court of Appeals who are here with us today. Other members of the judiciary, members of the Bar, and other guests, welcome to you all. Forgive me for not naming names. That's where you always go wrong.

(Laughter.)

At this time, the Court recognizes Nebraska Court of Appeals Judge Riko Bishop. Although former Chief Judge Dick Sievers had prepared and shared today's event, he wasn't able to join us. And, of course, he sends his regards and deep respect. And Judge Bishop has graciously agreed to step in.

JUDGE BISHOP: It's my pleasure. Thank you.

Chief Justice Pro Tem Miller-Lerman and Justices of the Nebraska Supreme Court, my colleagues on the Nebraska Court of Appeals, Debbie Wright and the Wright family members, retired justices and judges, distinguished guests, and all guests joining us today to honor Justice John Flavel Wright. Again, thank you for the honor of letting me serve in Judge Sievers' place.

May it please the Court, we have five speakers and, I understand, maybe a sixth speaker presenting this afternoon — I was just notified of that — here to honor Justice John Flavel Wright. And our first speaker is Mr. Gary Young of Keating, O'Gara, Nedved, and Peter Law Offices.

Mr. Young.

JUSTICE MILLER-LERMAN: Welcome.

MR. YOUNG: Welcome. Thank you.

May it please the Court, to all the distinguished guests, to Debbie Wright and her children and family, my name is Gary Young. I'm appearing at the request of family. It is a great honor to speak today under these circumstances. I was one of the many who had the great fortune to work for Judge Wright as a law clerk. I graduated in 1995. Worked two terms with the Judge, from 1995 to '97. I refer to him a little bit informally as — maybe, as “the Judge,” but that is what we all called him. And I think Sandi called him that too.

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I will talk about working for him more in a bit, but, out of the gate, I want Debbie and the children to know, I am one lawyer that he gave much to. And I have unending gratitude for him and his influence on my career and my life during the 22 years I've been a lawyer. I've had two jobs since graduating from law school: first, working for Judge Wright; and then, second, working at my current firm, a firm that Judge Wright insisted that I go practice in. It was because of him I turned down an offer to work for a judge on the Seventh Circuit Court of Appeals. It was on his advice that I, at one point, pursued a judicial position myself; and it was his counsel that comforted me most when I was not selected. I cannot tell you how grateful I am for him.

When I was a third-year law student about to graduate the spring of '95, I had been recommended to Justice Gerrard, who had just been appointed to the Court and, because of timing, was desperate to find clerks. By accident, though, Judge Gerrard and I had a scheduling problem. I did not get in to see him in time. He had already hired a clerk. But Judge Gerrard called me to tell me he filled his spot, but he had a friend down the hall who was a little slow in hiring clerks. He needed a hand. It was Judge Wright. I bashfully say it today, Judge Gerrard, but I'm glad that you had already hired your last clerk.

Pretty soon, I was hearing from Sandi and heading down that quiet hallway and sitting in his great big office. I showed up in a dark green suit, the only one I had, and he must have thought I looked totally ridiculous.

(Laughter.)

I was all ready to talk about my grades or my writing and law review and all of that, but he did not want to talk about any of that. He'd called around, as I'm sure he always did, and I'd worked at the firm of his brother, and so I know he had plenty of dirt on me. Instead, we talked about baseball and we talked about fly fishing. Talked about funny trial stories he had and the Snake River and on and on. It went — I was there for something like three or four hours. I told him I grew

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up goose hunting on the Platte River with my grandfather, and he knew the river and he actually knew where our blind was. So, he told me a funny story about him and his brother catching a poacher shooting a great big white swan in one of those blinds during goose season. We laughed about what bad luck it had to be to be shooting a bird illegally from a blind up the river where, sitting, was a member of the Game and Parks Commission and a sitting Judge of the Nebraska Supreme Court.

(Laughter.)

He hired me that afternoon. I was very grateful to have a job, but I really had no clue about how great a thing I had actually stumbled into. While I love the practice, I love my firm and my partners and so on, the two years, again, that I worked with Judge Wright really was the best years of my legal life. We cranked out cases, of course, and he assigned me some really interesting ones. At the time, it was a very tumultuous period of time with the Nebraska Supreme Court. Judge Wright had been a lone dissenter on a series of cases involving second degree murder. And I showed up just about the time it was — it seemed like there was a case on this issue every month. Those of you who may remember that issue, those were ca— those cases had an extremely high profile. Judges were being personally attacked, at the time, in the media and politically attacked as well. It was a fascinating time, on one hand, but it was also very hard, and Judge Wright did not appreciate the way the judges were being treated at that time.

It was also a difficult time because the Attorney General was actively pressing for executions for the first time in a very long time. The death penalty cases were appearing often. I worked there when significant litigation occurred involving cases of John Joubert and Robert Williams, Michael Ryan. Judge Wright was certainly committed to law and justice and he was never one to shirk his duties. There is no doubt. But I also know from personal conversations, the gravity of these cases, both from the violence involved and, also, the heavy reality of their penalties, were very hard on him personally.

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Of course, we worked on many important and interesting cases. And what everybody has said about Judge Wright since he's passed is certainly true: He was very smart; he was imminently sensible; he was always the most personally prepared judge or, at least, it seemed that way to us law clerks. Andy Davis and I were his clerks in the first year I was his clerk, and all the second degree murder cases were very active at that time. We loved watching him work in the courtroom. The poor public defenders that were called to argue these cases were faced with having a winning case at trial but being forced to deal with Judge Wright as he slowly and deliberately took on that issue case-by-case.

When we attended arguments at that time, Judge Wright was something to watch. He was certainly the hot judge, as we clerks referred to them, most, if not all, the days of arguments that I saw him. He was always extremely well prepared. If he cared about an issue and he didn't necessarily agree with a lawyer on it, you could just kind of see him — his mind start to work like he was timing a fast ball. I would hear a lawyer start heading down some dangerous line of argument and then I would see him start to perk up on his chair a little bit. He would dig in a little and lean forward, and Andy and I would look over at each other and kind of mutually cringe. We knew what was coming. He was fair, though. He would start with mercy by giving the foolish lawyer the puzzled Judge Wright look you all surely remember. And then, only if they persisted, he would fillet this lawyer slowly like a trout.

(Laughter.)

He would deliberately and politely hone in on a salient point with such skill, one of two things would happen: the lawyer would be reduced to a judicial puddle or, in a few cases I can remember, the Judge would look over at us and kind of perk up his eyebrows being impressed. Maybe he was persuaded.

I got to where I knew him so well that, after the Clerk of the Court passed out the briefs each month, I would be reading along and something in the brief, maybe totally ridiculous, from some lawyer; and then, I would look over at the phone;

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and it would ring on schedule. Here's what he would say. "Gary, this is John Wright," as if I didn't know.

(Laughter.)

"Have you read this yet? Come down here." So, I would go down there, and he would have turned the whole thing upside-down and inside-out and he would give me that puzzled look, and that was all I needed to know. Most of the time though, I think, I just enjoyed being around him and I know he loved being around his clerks.

Two things I wanted to mention to the family about Judge Wright that really mattered to me, and then I will sit down. First, during the spring of 1997 while I was working for Judge Wright, my younger brother, who was 27 at the time, died suddenly and tragically. I had been working for Judge Wright almost two years, and I was on the job market and about to leave him. My wife was pregnant with our first child. I cannot express to the family how empathetic Judge Wright was with me at that time. When we learned about my brother's death, he called me when he learned about it. He asked about my father. He told me to take whatever time off I needed, of course. And then, about 15 minutes later, there was a knock on my door at our little house on C Street. It was Judge Wright. He came in and just sat down with us. He didn't say anything. He just told me he was sorry. About a half-an-hour later, he left quietly. He expressed such care for me at that hard time, I can still feel the impact of it as I stand here many years later.

Secondly, he had a pivotal influence on my career. When I was finishing my second year with him, I was still trying to find my way to becoming a law professor. This career option was something Judge Wright never really understood.

(Laughter.)

So, after I had worked for him a while, he never stopped encouraging me to go into practice. And, as I found out only later, he was reaching out to all sorts of firms he knew for me. He called Judge Sievers, who was a judge on the Court of Appeals at the time and had been a partner at the firm I'm at now. They had offered me a job and were kind of waiting on

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me to decide what I wanted to do when I grew up. But here I was, thinking I wanted to go build my law professor résumé by serving for a federal judge as a clerk. So, one day, Judge Wright called me into his office and he sat me down. He said, “I just talked to Judge Manion on the Seventh Circuit. He wants to offer you a job, but he asked me if you could write. I told him you were a good guy, but not really a writer.”

(Laughter.)

“That’s a problem. You need to be a tax lawyer or something.” Then, he gave me a grin. “No, I didn’t tell him that.”

(Laughter.)

But then, he spoke to me very candidly about how much he loved the actual practice of law, the rough and tumble, how he missed it being on the bench. He thought I would love it too. “You have to do what you want,” he said. “You think you won’t like the practice, but I know that you are wrong.” But he didn’t know at that time that I was kind of coming around to his way of thinking. My wife didn’t want to move. And I felt like Judge Wright really knew me and knew what was best for me. And so, that was it. I called my contact in Judge Sievers’ old firm that afternoon and took the job.

In sum, I am very grateful for my time with Judge Wright on this Court. And to Debbie and the children, I am very grateful for your husband and your father’s life. Thank you.

JUSTICE MILLER-LERMAN: Thank you so much.

JUDGE BISHOP: Our next speaker is the Honorable William Connolly, retired Justice of the Nebraska Supreme Court.

JUSTICE MILLER-LERMAN: Thank you so much.

JUSTICE CONNOLLY: Justice Miller-Lerman and members of the Court, Debbie, family, friends, distinguished guests, I’m delighted to be here today to say a few words about my friend and colleague, John Wright. I served with John for almost 24 years. I first met John when Governor Ben Nelson appointed both of us to the Nebraska — newly created Nebraska Court of Appeals. I had heard of his reputation. I knew he was a seasoned, experienced trial lawyer from Scottsbluff. I knew that he was a — from a distinguished legal family.

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I soon learned that he was tireless worker. Because, at that time, if you remember, the judges that are here, when we first came onto the Court of Appeals, it was to alleviate the backlog of the Supreme Court. So, we were writing five to seven opinions a month, and that's a lot of opinions. And John soon demonstrated that he had a quick, a disciplined legal mind. He was a key contributor to the success of the Nebraska Court of Appeals, and they're basking in that success right now.

John served on the Court of Appeals about two years and then Governor Nelson appointed him to the Supreme Court. And then, I followed him in about eight months later. He made the transition easy for me, transitioning from the Court of Appeals to the Supreme Court. As you know, there's a lot of difference in the internal organization, administrative duties. John helped immensely getting me acquainted and up to speed on the organization and the internal workings of the Court. He also — I could observe that he earned the respect of the other sitting members of the Court at that time by his work product; his work ethic; and, of course, by his keen sense of humor and quick wit.

As Gary said, John was a great conversationalist. He was well-read, he took an interest in a lot of subjects, and he could discuss a lot of subjects. He could — if you asked him what time it was, John would tell you how the watch was built.

(Laughter.)

He, early on in his career, mastered the principles and the nuances of DNA. I think he was self-educated on that issue and, luckily he did, because, at that time, the DNA issues was trickling up through the trial courts to the appellate level. And he was an immense help, to me and the Court, in figuring out this new phenomenon of DNA.

But he was also a good listener. John would take his afternoon walks for exercise, and I don't think he got much walking done because he was always talking to somebody in the rotunda.

(Laughter.)

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He was a good listener. I think everybody liked him except a cleaning lady. John told me of the incident in — when he was assigned a criminal case, pornography, and it was adult films. And he had the task of writing the opinion. And the author judge always has the heavy oars in the water, and so he had to view this — these adult films, the pornography. And so, after hours, after five o'clock, John was viewing — put the disc into the machine and was observing the TV when the cleaning lady walked in.

(Laughter.)

The cleaning lady took a look at the TV, gasped, looked at John, and immediately fled the room.

(Laughter.)

Now, I don't know if John ever had the opportunity to tell the cleaning lady what his role and what the purpose of him viewing the film, but I wonder if she'd even believe it if he did try to tell her.

It is said that a judge's decisions and opinions are the product of the judge's personality and character and training before they go on the bench and, also, what they observe — absorb after reaching the bench. Let me tell you, John absorbed the substantive and procedural aspects of the law like a sponge. He had that ability to cut through the legal fog and could carve out the real, substantial issue in the case early in the process. He often said — if I heard it once, I heard it 20 times, he would say, "The author judge has to frame the issue. Don't let the trial lawyers, the briefs. Don't follow their rabbit tracks; don't get into the weeds with them." His theory was, if you — if the judge framed the issue early, then the opinion would write itself. And I came to believe in that theory, and John was right.

In writing his opinions, John wrote like he spoke: concisely, clearly, persuasively, and decisively. He told me, at one time anyway, that he imagined his audience was a 12th grade senior class and that he would think of them when he was writing the opinion. And he had an uncanny ability to reduce complex issues to simple concepts and could write about it. He shunned

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legalese and Latin phrases. His writings were very clear and direct, and they were clarity of expression and thought.

It has been said that an appellate — 80 percent of an appellate judge's cases are routine. By routine, I mean they are readily apparent as to the result. The other 20 percent is where the judge, as you now know, you judges, they are — you earn your pay. John, in those difficult cases, could make the difficult decisions and sometimes unpopular decisions. He had the moral courage to follow his convictions. He could not be pushed. John could not be pushed. And this steadfastness, this — sometimes described as stubbornness, this steadfastness was his guiding principle in seeking justice, whether it be for a member of the oppressed or a Fortune 500 company.

Of course, we know that judges disagree; and the law is complex, statutes can be muddy, the law can not be clear, and reasonable minds can differ. And John had the ability that, when he dis— he had the ability to disagree, but not be disagreeable. He would come in, if he had a point to make and he wasn't in agreement with the opinion that I was writing, he would politely tell me where he thought that the law should go and where I was incorrect. John had that sense or that ability to attack positions not people.

Unfortunately, in 2010, the first round of cancer attacked John. I saw he was away from the Court for some months. I wondered, at times, whether he would ever return. But with the — after a long period of rehabilitation and with the help of Debbie, his soul mate and medical advocate — and he certainly needed a medical advocate at that time — John came back like a lion and he served with distinction until his death in March of 2018.

In the early 60s, the national media coined a phrase about the early astronauts, a phrase that captured their essence, their quiet competence, their quiet courage, their grace under fire. And they said or described it, a term, the right stuff. John Wright had the right stuff. And if Shakespeare is correct that a man's character is the soul — is the jewel of his soul, John's soul shines brightly. Thank you.

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JUSTICE MILLER-LERMAN: Thank you so much.

JUDGE BISHOP: Our next speaker is Mr. David Domina of Domina Law Group.

Mr. Domina.

JUSTICE MILLER-LERMAN: Good afternoon. Thank you.

MR. DOMINA: Mrs. Wright and family members, members of the Supreme Court, and the people of Nebraska, John F. Wright commenced his career in the law upon admission to the Bar in 1970. At the time, this Court was writing Volume 185 of the Nebraska Reports. When Justice Wright's death ended his career, the Court was writing Volume [2]99 and the Nebraska Court of Appeals was writing its 25th volume. John Wright's career in the law spanned 43 percent of the published appellate literature of this state.

The records of this Court disclose that John Wright was here as an advocate in the practice of law 22 times. His first trip from Scottsbluff was a child support case. He turned that case into something. He found an issue and he made his first appearance here an issue of first impression. A decade later, he was back here for a farmer who couldn't get to his farm because he needed a bridge to get over an irrigation canal. John found an obscure statute to help that farmer and this Court agreed.

The Court of Appeals made John Wright Judge Wright. That happened in early 19[9]2, and several here share the distinction that was his to be on the Court of Appeals at its inception. Judge Wright joined Justice Miller-Lerman and author Judge Sievers to write a case called *1733 Estates Association v. Randolph*, published at 1 Neb. App. 1. Twenty-one pages later, Judge Wright was a author judge in a case in which a criminal conviction was under review. Writing for a unanimous three-member panel, Judge Wright, in his first published appellate opinion, taught. He spoke to the sentencing district judge, who had said when pronouncing sentence in the case that he had a sentencing policy, and that sentencing policy turned into the way that he sentenced criminals before him in certain kinds of cases. Judge Wright allowed as how the Nebraska Court of Appeals, in its third published opinion, would tell the district

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court bench that it disapproved because, “Such a policy suggests the absence of the exercise of discretion and renders the presentence investigation or the recommendation concerning probation meaningless. Mandatory sentences may be imposed only by legislative act, not by the judicial policy of a trial judge.” Judgments like that made Nebraska judges sit up and take notice.

Westlaw reveals about 60 opinions by Judge Wright on the Court of Appeals. One displays the facile mind of a person who could understand physical things, as well as the metaphysical things, of the law. It was a sales tax exemption dispute involving one of Nebraska’s largest industries. Judge Wright found Nucor’s mill rolls and billet guides are used as scrap and become component parts of Nucor’s steel only when their usefulness at making steel is exhausted. The mill rolls and billet guides are not purchased for their value as scrap, but for their use in making steel. The purchase price of the mill rolls and guides is not exempt from taxation. Judgments like that make Nebraska’s treasury safe.

In *State v. Bennett* in 1993, the Court was asked to consider a criminal sentence for an assailant who snatched a purse and drove off with the owner of the purse, trying to retrieve it, entangled in a seat belt and dragged 1.6 miles dangling from the side of the car. The man we remember affirming the sentence, which was within statutory limits, wrote, “The senseless nature of these crimes leads us to find it nearly inconceivable that Bennett would claim his sentences are excessive. Similar to the cowboy who was dragged behind the horse over rocks and cactus, the helpless victim was dragged by an automobile over concrete and asphalt.” Judgments like this make Nebraskans safe.

Judge Wright became Justice John F. Wright when this Court was writing Volume 245 of the Nebraska Reports. Justice Wright wrote first for the Court in *Lawyers Title Insurance Company v. Hoffman*. In that case, a subsequent surveyor brought suit against the original surveyor alleging that the first surveyor had misplaced pins on a boundary line and was

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negligent and liable to the second surveyor because he should have known the second surveyor would depend on him for putting the pins in the right place. But Justice Wright saw through that and held against the lazy second surveyor. Judgments like that keep Nebraskans grounded.

In *City of Ralston v. Balka*, the majority of the Supreme Court struck the State lottery statute as contrary to Nebraska Constitution, Article III, Section 24. Article III, Section 24, was the sole ground for the majority's opinion for striking down the lottery. Focused, in dissent, Justice Wright wrote, "I respectfully dissent from the majority's opinion that L.B. 795 is unconstitutional. The question of whether this law violates Article III, Section 24 is not before this Court. The parties didn't raise it in argument, the district court didn't rule on it, and I express no opinion on the subject." Dissents like this purely keep the Supreme Court reminded that it's right because it's final, but it's not always final because it's right.

In *State v. Grimes*, Justice Wright wrote a 3,000 word dissent arguing that the Court was wrong in holding that malice was an element of Nebraska's second degree murder statute. Justice Wright maintained his position on that issue throughout more than a dozen dissents. Finally, in *State v. Burlison*, the Court spoke, per curiam. In one paragraph, it overruled and vacated 18 previously affirmed murder convictions. It wrote, in its per curiam opinion, "Upon further consideration, we determine that our prior decisions interpreting Section 28-304 to include malice as a necessary element of the crime of second degree murder were clearly erroneous and they're overruled." The author judge in *Burlison* is not known, but the opinion appears to be lifted from a 3,000 word dissent by a man from Scottsbluff. Judgments like this keep the law itself safe.

Justice Wright was here when this Court sat in trial in articles of impeachment in 2006. He was here in 2017 when three same-sex couples won a case to enjoin the governor from refusing to consider same-gender couples as foster or adoptive parents. In *Stewart v. Heineman*, Justice Wright wrote for the unanimous Nebraska Supreme Court, "The harm the plaintiffs

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wish to avoid is not just the possible, ultimate inability to foster state wards; it is the discriminatory stigma and unequal treatment that homosexual foster applicants and licensees must suffer if they wish to participate in the foster care system.” The imminent inquiry — the imminent injury was “the plaintiffs’ inability to be treated on an equal footing with heterosexual applicants.” “We find no merit in the defendants’ narrow view that the action presented only a hypothetical harm because the plaintiffs have not shown an ultimate inability to become foster parents.” Decisions like that make all Nebraskans equal.

Two more opinions of Justice Wright must be mentioned. His final published opinion was a dissent in *Waldron v. Roark* less than a year ago. He and a colleague refused to extend police immunity to what he saw as untenable facts. Justice Wright wrote, “I respectfully dissent. In my opinion, no reasonable law enforcement officer would believe that it is lawful to forcibly enter a residence while in plain clothes to arrest a resident without providing any evidence of authority to do so.” As Marilyn Waldron, aged 78, answered her door one evening, a stranger shoved his way past her, into her home, his gun drawn. Another stranger soon followed. They were looking for her grandson. They claimed to be law enforcement officers, but were not in uniform. They were unable to produce a badge or a warrant to justify their intrusion. And, as instructed by her late husband, a captain of the Nebraska State Patrol, Waldron demanded to see a badge or a warrant. Dissents like this remind us how precious life is outside a police state.

Justice Wright’s final majority opinion was for the unanimous Nebraska Supreme Court in *Kozal v. Nebraska Liquor Control Commission*, Justice Wright knew he was writing a decision that would mark history, though the opinion had to rest solely on rules of civil procedure. He wrote, “The often unremarkable process of renewing a liquor license has involved considerable controversy These retailers are located in the unincorporated border town of Whiteclay . . . just across the line from the Pine Ridge Indian Reservation in South Dakota, where the sale and consumption of alcohol is

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prohibited.” With this decision, Justice Wright for the Supreme Court ended an historic stain that extended beyond the presidency of Chester Arthur and occupied the personal attention of four of President Arthur’s successors in the presidency of the United States. With decisions like this comes hope for people who need hope.

I want to speak now, Madame Presiding Justice, to the people of Nebraska just a moment. I want to say that, in memory of Justice Wright, we must all be challenged to ever affirm words expressed in the Enabling Act of 1864, signed by President Lincoln, that set the stage for the United States to add Nebraska to the roll of states three years later. In that enabling act, we were required to do certain things, including to adopt a constitution. That enabling act says, paraphrased only slightly, we are people of Nebraska, a state with a constitution is not repugnant to the Constitution of the United States and the principles of the Declaration of Independence, and provided further that our constitution does provide by an article forever irrevocable without the consent of the Congress of the United States, first, that slavery or involuntary servitude shall be forever prohibited in this state and, second, that perfect toleration of religious sentiment shall be secured and no inhabitant of this state shall ever be molested in person or property on account of his or her religious worship.

Finally, Madame Presiding Justice and present and former appellate justices, may I provide Volume 1 of the Reports of the Nebraska Court of Appeals and request that each of you present and former appellate jurists here today sign it legibly, or print after your signature, if you must. And on behalf of the practicing Bar that appears before this Court, Madame Presiding Justice, I move the Court for an order tendering this volume to Mrs. Wright and her family as a memento of our moments together today.

JUSTICE MILLER-LERMAN: That request is granted, and I’m sure Debbie will treasure it. Thank you.

JUDGE BISHOP: Chief Justice Pro Tem Miller-Lerman, a request has been made to modify the program. Former Chief

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Justice John Hendry would like to come up and make a few remarks with your permission.

JUSTICE MILLER-LERMAN: Yes, of course.

Welcome, Chief Justice Hendry.

FORMER CHIEF JUSTICE HENDRY: May it please the Court.

JUSTICE MILLER-LERMAN: Thank you for joining the ceremonies.

FORMER CHIEF JUSTICE HENDRY: You're welcome.

Thank you, Debbie, for giving me — sending me out a notice to say a few words. I was just so lost coming here and not being able to tell everyone how I feel about Justice Wright.

May it please the Court, my name is John Hendry and I served as Chief Justice of this Court from October 1st, 1998, to October 2nd, 2006. Judge Wright was a senior member of the Court my entire eight years as Chief Justice. I am extremely saddened by Judge Wright's passing. Judge Wright was an outstanding jurist but, even more, and outstanding person. The eight years I served with Judge Wright as Chief Justice was the most enjoyable of my entire legal career. The joy was, in large measure, due to the members of the Court and how well we enjoyed each other's company, both on an academic and personal level. Judge Wright was always an integral component of any legal decision. His keen mind and ability to express his views in both a congenial yet professional manner was a great asset to the Court and often enhanced the quality of the Court's opinions. When Justice Wright talked, the Court listened. His mind and congeniality will surely be missed by the Supreme Court.

On a personal level, I will miss Judge Wright a great deal. We started almost identical — we shared almost identical political views, and it was always a joy to discuss them with him. Later, after my retirement, we continued that dialogue while walking a track together at Madonna Fitness Center. How I enjoyed those walks and discussions, and Debbie Wright would often join us. I always felt better after these

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walks and the sharing of our respective views on the current and social landscape. I will always remember Judge Wright's smile every time I went to his office and the discussion ultimately turned to his children, whom he was so very, very proud of. Standing here, speaking to the Court and those gathered here this afternoon brings both sadness at Judge Wright's passing, yet joy for the privilege of serving with Judge Wright and the happiness he brought to the Court and to me. I will miss him dearly. Thank you.

JUSTICE MILLER-LERMAN: Thank you.

JUDGE BISHOP: May it please the Court, Justice John Flavel Wright loved to tell stories. As we remember and honor him, it appears appropriate to tell a few of our own. Let me begin with a love story. John and Debbie met in a Husker football ticket line. He was in law school; she was a junior in college. According to Debbie, John was the apple of any girl's eye. After John graduated from UNL's law college in 1970, he went into the Army and was stationed in Georgia for about half a year. The Army had a surplus of second lieutenants at the time, so John returned to Scottsbluff, registered for the Nebraska National Guard, and began practicing law at his father's law firm. Debbie was teaching in Omaha, but she and John managed to maintain their long-distance relationship until they wed on July 7th, 1972. Thus began their 45-year journey together.

Debbie soon discovered that John loved to make things and fix things. Ever enterprising, John found a way to blend his joy of hunting with his love of making things. Not too long after they were married, John told Debbie, "We're going to make portable duck blinds."

(Laughter.)

The city girl found herself in a garage with hay from an uncle's farm, chicken-coop wire, boards, and thick leather bands. Next thing she knew, she was stuck in a portable duck blind thinking to herself, "My true love has put me in a portable duck blind."

(Laughter.)

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Debbie had to admit though, John was kind of a genius at putting things together. And a perfectionist. He made 38 birdhouse kits at night, after work, in his white shirt, tie tucked in, out in the garage, 38 birdhouses — kits for Debbie's class at Elliott Elementary. He wanted to make sure every hole was perfect so the children would have no trouble putting those kits together.

After Debbie and John's children were born, they made a commitment that they would always have dinner together with their children. Even if John had to go back to work, he would come home and have face time and jolly times with the children. The dinner table was always funny, very engaging. Debbie said that, as funny as John was, their children became even funnier. Dad had passed the comedic baton to his children. John coached, attended sporting events and recitals. He clearly treasured his children and, in later years, his grandchildren.

John Wright leaves a strong legacy as a devoted husband, father, and grandfather. John enriched the lives of those around him. But John's life, too, was enriched by those close to him. His strong, intelligent, and witty wife and his bright, talented children, all contributed to the essence of John Wright, and we thank you all for that.

As mentioned earlier, in 1970, John began working with his father, Floyd Wright, at his firm in Scottsbluff until Floyd's death in the latter part of that decade. According to Debbie, John and his father were best friends. She said they would light up a room with conversation. After his father's death, John eventually opened his own firm on the fourth floor of a utility company. He later bought the building where his father's office had been and moved back to that location.

John practiced law in Scottsbluff for 21 years before becoming a judge. During that time, he was Chairman for the Board of Directors of the Panhandle Legal Services, President of the Western Bar Association. He also served two terms on the Scottsbluff Board of Education, was a member of the Coordinating Commission for Post-Secondary Education, and received the Friend of Education Award from the Scottsbluff

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Education Association. It is evident that John was passionate about education, was very devoted to his community, and felt strongly about public service. However, sometimes John's passion and vision for his community did not align with majority thinking. Apparently, there were schools in Scottsbluff where the children were either predominantly white or predominantly Hispanic. When John voiced his opinion that the schools should be integrated, there was an effort to have him recalled from the school board. He beat that vote, but his law practice suffered. No one came through his law office doors during that time. But that did not phase John Wright, because this was about principle and he knew how to stand firm. As Debbie said, "In spite of that negative fallout, we were a family that stood on principle and I loved him for that."

Debbie said that, all of John's life, he was a great fan of civil rights and social justice. And she stood by him, equally compelled and always supportive. After almost 100 years of Wright-family lawyers practicing in the Scottsbluff area, and after 21 years as a lawyer and champion of education and community growth in Scottsbluff, John Wright made the difficult decision to leave Scottsbluff to answer another calling in public service, to become one of six judges appointed by then governor, Ben Nelson, who is present today, to serve on our newly created Nebraska Court of Appeals.

Three of those original six Court of Appeals judges were subsequently appointed to the Nebraska Supreme Court. Justice John Wright was first and, as indicated by Justice Connolly, he was shortly thereafter, and our Chief Justice Pro Tem Lindsey Miller-Lerman thereafter. The three other original Court of Appeals Judges were retired Judge John Irwin, who is also present with us today; retired Judge Richard Sievers; and retired Judge Ed Hannon, who sadly passed away last year.

John Wright was 46 years old when he took his official oath of office in January 1992 to become one of the original six members of the Court of Appeals. The new judges were paid \$78,270, and a backlog of almost 1,000 cases were waiting for them. They began hearing cases the month after they

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were sworn in and, within the first year, they had disposed of about 1,600 cases. They were a highly productive and capable group of judges and much of the early opposition to the court — creation of this new intermediate-level court — diminished very quickly as a result of their dedication and high-quality work product.

At the time Judge Wright was appointed to the Court of Appeals, Jane was 15, Charlie 11, John Floyd 8, and Ellen 6. Judge Wright was quoted in an Omaha World Herald article as saying that he considered rearing his children to be his most important job. A year after his appointment to the Court of Appeals, Judge Wright emphasized that it was important for judges to remain in touch with their community. He said, “My idea about being a judge is you take your work very seriously, but you don’t take yourself seriously. You don’t isolate yourself. It’s very important to maintain contact with the community so you have a sense of awareness of what’s going on.” Judge Wright said his nighttime job as a father was as important to him as his daytime job as a judge. He said, “You can’t be happy and successful unless you do both well. I mean, you’re reading Supreme Court opinions in the daytime and nursery rhymes at night.” John Wright’s love for his job and his love for his family never wavered.

I met John Wright in that first year of the Court of Appeals when I worked as a judicial law clerk for then Chief Judge Richard Sievers. Being part of that inaugural court was an incredible experience. As Judge John Irwin said back in January 1992, “The Court’s six judges have started down a path with no footprints in front of them.” They were in uncharted territory. I was able to watch first-hand as they worked hard to develop efficient processes without sacrificing quality and to give the citizens of Nebraska faster access to having their appeals heard.

After I was appointed to the Court of Appeals five years ago, I had the great privilege to reconnect with Justice Wright when sitting as a substitute judge on the Supreme Court on a number of different occasions and, also, just chatting with

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him when I'd run into him in the cafeteria or the hallways of the Capitol building. He was still the same warm, kind, soft-spoken man I remembered from 1992. Still deeply intellectual and faithful to the law; still intensely curious about everything; still compassionate about people and fairness and equality; still devoted to his family. For all of us who were so lucky to have Justice John Wright touch our life, may we let his genuine goodness resonate within us always and compel us to model his generous and kind spirit.

I would now like to share a few final stories and comments about Justice Wright as told by other close to him. Scott Tollefsen, who I believe is here, he was Justice Wright's judicial law clerk from 1999 to 2001 and he shared Justice Wright's passion for Husker football. So, after a game weekend, he always looked forward to Monday morning when Justice Wright would give his, quote, very objective critique of the game.

(Laughter.)

This would include filling out numerous yellow sheets of paper with drawings of plays where he felt our coaches or players had fallen a bit short of what was needed to be successful. According to Scott, Justice Wright had a clear plan as to what our beloved Huskers needed to do to turn things around. Scott says, "Clerking for Justice Wright was a wonderful experience. I recall numerous times where he would remind me that, even in the most complex cases, the decision will ultimately turn on one issue. Being able to identify that issue and apply the law accordingly was our goal. To this day, I continue to apply that principle in my practice. Simply put, I could not have asked for a better mentor to begin my legal career. Justice Wright brought a razor-sharp legal mind to the bench. This trait, along with his unwavering care for people in need, made him truly a remarkable judge."

Now, a perfect example of how Justice Wright was inquisitive about everything and reveled in soaking up details. Brenda Luers served as judicial law clerk from 1996 to 1999 and, as his career law clerk in the recent couple of years. When she

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returned from a trip to Alaska and told Justice Wright how she had flown over glaciers in a small float plane, he wanted to know exactly what kind of float plane. Was it a Piper? A Cessna, maybe? A single-engine or a twin-engine? A monoplane or a biplane? How many seats did it have? What kind of cargo hold?

(Laughter.)

According to Brenda, he seemed a little sad when she told him she had no idea.

(Laughter.)

But Justice Wright soldiered on and, upon further questioning, managed to flush out that it was a single-engine biplane, six seats, and probably a Piper. Though learning about small aircraft was not a topic in which she had any particular interest, Brenda said Justice Wright's enthusiasm was infectious. Brenda said that sometimes when she would go see Justice Wright in his office, her co-clerk would quip, "See you in three hours."

(Laughter.)

She admits that was not entirely inaccurate. But no matter what they ended up talking about, Brenda said it was always time well spent.

Greg Ramirez clerked for Justice Wright from 2014 to '16 and considered him an old-school scholar with a traditional way of working. Greg never received an email from Justice Wright; rather, Justice Wright would call him into his office for face-to-face talks. Greg never saw Justice Wright's computer turned on.

(Laughter.)

Instead, his desk was covered in books and printed cases with notes written in the margins. In his second week of work, Justice Wright asked Greg to go to the law library and pull a treatise off the shelf. Greg said, "At that moment, I could have probably counted on one hand how many times in the prior decade I had to physically go to a library and pull a book off a shelf. This was a culture shock for a brand-new lawyer and millennial." Greg says, "In private practice now, the ever-changing

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technology, new programs, and software available to lawyers can, at times, be overwhelming. More than ever,” he says, “I appreciate the simplicity and honesty about Justice Wright’s methods and scholarship. Perhaps this is what made it so effective. Working for Justice Wright was a great honor. I will cherish my experience with him for the rest of my career.”

Daniel Cummings clerked for Justice Wright from 2016 to ’18. He also fondly remembers Justice Wright stories. Work discussions inevitably grew into stories about his time practicing law in Scottsbluff, his college and law school days at the University of Nebraska, Husker football, or his family. He would talk about the P-51 Mustang airplane or this or that aspect of some tank, artillery, or gun, and Daniel would nod along and pretend he had some clue about these things too. Justice Wright would talk about his time in the National Guard and about his uncle’s service in the Navy in World War II. Daniel says, “Justice Wright’s stories offered a glimpse of a life that was full and well-lived. Justice Wright’s stories” — excuse me. He said, “I didn’t just learn about law in my time from him, but I learned from his example of always treating people with respect and doing what he believed was right. He was a great judge, a great storyteller, and a great man.”

Justice Wright’s administrative assistant, Tracie McArdle, recalled Justice Wright telling her about a time he pulled into a grocery store parking lot, saw a gentleman walking down the street with four grocery bags, and Justice Wright told himself, if he sees him when he gets — comes back out of the grocery store, he was going to ask him if he needed a ride. And, sure enough, Justice Wright drove down the street, saw the man with the grocery bags. He looked a little disheveled, a little down on his luck. Justice Wright offered him a ride and the man accepted. Justice Wright drove about a mile and a half to an apartment complex where he dropped the man off. Tracie says, “This is just one example of how kind Justice Wright was to everyone. He loved to talk, but he was also a good listener. And he always tried to help someone if he could.” She said, “During the time I worked for Justice Wright, he showed

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over and over again what a great person he was in just the little things he did and said. He was a very unique and genuine person.”

Chief Justice Mike Heavican has described Justice Wright as kind-hearted and strong-willed, open-minded but decisive, collegial and courteous to other members of the Court. He had a model judicial temperament. Chief Justice Heavican said that Justice Wright’s loss leaves a great void as our longest-serving, most-experienced member of the bench. Justice Wright’s 24 years on the Supreme Court made him the third longest-serving justice of the Nebraska Supreme Court since its inception in 1854.

And how he loved his work on the Court. Debbie said that John loved studying the law. He loved the research. He loved to start at the outside and come into the bullseye. He loved that part of the law. And she said, “John never felt he was special; he was just a guy going to the office.”

Debbie, our many thanks to you and your family for sharing Justice John Wright with all of us in the judicial branch, the legal community, and the people of Nebraska. In addition to his legacy as a devoted husband, father, and grandfather, he leaves another strong legacy as an outstanding lawyer and jurist and as a genuinely good and kind man. Winston Churchill said, “We make a living by what we get; we make a life by what we give.” And, oh, what a life Justice John Wright made. He gave so much to so many in so many different ways. We will sorely miss his presence, but his essence will remain in our jurisprudence and in our hearts forever.

We will now have a final presentation, a special reading by Charlie Wright, son of Justice John Wright and Debbie Wright.

JUSTICE MILLER-LERMAN: Thank you, Judge.

MR. CHARLES WRIGHT: Good afternoon. May it please the Court, I’m Charlie Wright. And on behalf of my loving mother, Debbie Wright, and my dear siblings, Jane Wright Jones, John Wright, and Ellen Wright, we extend our sincerest appreciation to those who could join us and those who put together this memorial service honoring my father, Judge John

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Wright, his extraordinary and honorable service to the state and the people of Nebraska.

My intention today was to read the speech he wrote and intended to deliver at a banquet for human rights. While my dad saw the importance of growing with society in one's interpretation of the law, he did not see the same importance in growing with the changing technologies.

(Laughter.)

So, what I have instead is a copy of his statement when he was being considered for appointment to the Supreme Court.

“Upon returning from the Army, I began the practice of law in 1970 with my father. He was my mentor and his standards of practice and opinions in the judicial system greatly influenced me in the practice and in my service on the Nebraska Court of Appeals. It was his opinion, and is mine, that judges should be pragmatic. The law should be written with clarity and in a manner that is understandable by the public. In many of life's occurrences when there has been a death or tragedy, we are not able to answer the basic fundamental question: Why? But in writing the law, the reason for the decision should be stated with brevity and clarity. What we are not able to understand we tend to shy away from and do not respect. By answering this question, why, the Court promotes respect for the law and the judicial system. I believe this principle is fundamental.

“All judges must be aware of the problems in society. Justice Learned Hand stated the following guideline: ‘Judges must be aware that there are before them more than verbal problems, more than final solutions cast in generalizations of universal applicability; they must be aware of the changing social tensions in every society which demand new schemata of adaptation which will disrupt if rigidly confined.’ Based upon this guideline, I am of the opinion that a judge must maintain contact with the concerns of the public. The courts and society have a continuing and ongoing dialogue about the law. What is decided by the Court has a direct bearing on the public and its respect and appreciation for the law. The Court must be able to adapt to the needs and requirements of

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society. The ability of the public to understand what the Court has decided and why it has done so clearly enhances the public trust in our system of being governed by laws and not by people, men or women.

“I see the position of a Supreme Court judge as an opportunity to continue to serve the people of Nebraska. Paramount is one’s personal and judicial integrity. There must be an absence of bias or prejudice by the judge. The qualifications for this position must necessarily include the ability to recognize and understand complex legal issues and to be able to simplify such issue into terms that can be understood by the litigants and the public who are affected by the decision. If communication between the courts and the public is to remain effective, the public must understand what the Court has decided. In the courts in which I practiced law, I very much appreciated the patience and temperament of those judges who listened fully to both sides of the issues and, therefore, enabled the lawyers to fully represent their clients.

“In oral arguments before the Court of Appeals, I have tried to challenge each side to present that argument which best supports this position of the Court. It has been my philosophy to indicate, during argument, how I feel” — excuse me — “how I view the case. It is my opinion that this approach gives the lawyers the opportunity to present their best arguments in the brief time that is allotted. This requires intense preparation, concentration, and the right judicial temperament.

“As an appellate judge, I recognize that I’m keenly aware that I am a public servant. In order to meet this task, a judge must be willing to earn the respect of the public that is served. This is done, not through judicial activism, but by pragmatically applying the law to the facts and by working hard to write clear and well-reasoned decisions. To successfully perform this task, one must have the characteristics that I have described and must strive to earn the respect of the public. I believe that service in this capacity is its own greatest reward and being given the opportunity to provide such service in a state where I’ve lived for 48 years would be an extreme honor

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and privilege. In standing here before you, I am asking for the opportunity to continue serving the people of Nebraska and to continue in our effort to foster and develop the public's respect for the law and the judicial system. I ask you for the chance to serve in this capacity as judge of the Nebraska Supreme Court and I thank you for your time and consideration."

I now leave you with a quote that embodies the philosophy he held close to his heart, that guided him through, not only his career, but throughout his life. The quote is inscribed on the headstone of the late, great Muhammed Ali and reads: "Service to others is the rent you pay for your room in heaven." Thank you.

JUSTICE MILLER-LERMAN: Thank you for those important words.

JUDGE BISHOP: May it please the Court, that completes the speakers presenting this afternoon. Thank you, Your Honors, for this appointment and for your attention at this special proceeding today.

JUSTICE MILLER-LERMAN: Thank you very much, Judge Bishop.

The Court notes the passing of Justice Wright, the passing of the first justice to have served on both the Nebraska Court of Appeals and the Nebraska Supreme Court. For the nearly 20 years that I've served on this Court until today, Justice Wright was always available to serve as the Justice Pro Tem, and I feel I'm just filling in for John and maybe he's gone to Marshall's to get a coat. He'll be back with a bargain soon.

(Laughter.)

In conclusion, I want to add that it's worth remembering that the survival and ennoblement of democracy depend on holding people in high office to high standards. Justice Wright indeed performed his duties with the highest of standards.

I take this final opportunity to note for those present that the entire proceedings have been televised and recorded. And, on the Court's own motion, the video and the written record of this memorial proceeding will be preserved in the permanent records of the Court and will be available on the Supreme

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Court's internet website. Now, in the old days, I would have said you can expect a bound volume and, on the spine, there will be a memorial indication. Copies of the televised proceeding will be provided to the family, along with a verbatim transcript of this proceeding.

On behalf of the Nebraska Supreme Court, I extend our appreciation to former Chief Judge Sievers, who was serving at the Memorial Committee Chair, and to Judge Bishop for so graciously filling in. And I want to thank all the presenters for your remarks today in the ceremonial session of the Supreme Court. The Court would encourage you now to stick around, meet and greet friends, acquaintances. And the Court is advised by the Court Administrator's Office that there's a reception, including refreshments, and it's been arranged in the library. And with that, the Court is adjourned. Thank you all very much.