

CHIEF JUSTICE VANDEWALLE— CELEBRATING THIRTY YEARS ON THE BENCH

PART ONE— EARLY EDUCATION AND HIS “ONE-YEAR” ASSIGNMENT TO THE ATTORNEY GENERAL’S OFFICE

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On a dare.

It was a dare from a friend that provided the impetus to First Assistant Attorney General Jerry VandeWalle to put his name in for the seat on the Supreme Court being vacated by Justice Robert Vogel.

Jerry VandeWalle was approaching his twentieth anniversary working at the Attorney General’s Office, rising to the rank of First Assistant Deputy. He was of course aware of the judicial opening, and he was also aware of the individuals who had already applied for the position. He believed he was as qualified as any of those who had applied, but he was reluctant. He liked his job at the Attorney General’s office. He liked the camaraderie. He liked the challenges. And he liked his boss.

Jerry VandeWalle also liked to play bridge. As the application deadline drew near, Jerry traveled to Fargo for a bridge tournament with three other people. During a break, one of his friends asked him if he would be putting his name in for Justice Vogel’s spot. Jerry said he doubted it, but he had not really thought much about it. That was when Jerry’s friend suggested he did not have the guts to do it.

You can say many things about Jerry VandeWalle, almost all of them quite good, but a coward he is not. So, incensed by his friend’s statement, upon returning to Bismarck on Sunday, Jerry drafted his letter of application and submitted it the next day. The rest, as they say, is history.

On August 15, 2008, Chief Justice VandeWalle turns seventy-five. He also will celebrate his thirtieth year on the bench, first as Justice Gerald W. VandeWalle from 1978 until 1992, and then as Chief Justice Gerald W. VandeWalle. The meandering steps that finally led him to this lofty post touch upon a myriad of accidents of history, recognized ability, and simple small-town expectations. Even the date he assumed office, on his forty-fifth birthday, was a quirk of fate.

Jerry VandeWalle's father, Jules, came to the United States from Belgium with his father and oldest sister just before World War I broke out. The rest of his family was soon to follow, but after the outbreak of the War the VandeWalle house was confiscated by the Germans and was used as a place to quarter soldiers while the VandeWalles were allowed to still remain in the home. Leaving the country and taking any possessions out of the country was against the law. The family sold everything they could, converting the property into diamonds and other jewels, and came out through the underground.

Jules entered the service underage, either by lying about his age or by obtaining his mother's permission. He served throughout Europe, eventually being awarded the Silver Star for heroism. In 1918 he returned to Noonan, ND, where he married a school teacher named Blanche. They had their first son, Virgil, and then six years later had Jerry. In 1927 the VandeWalles purchased an existing dairy farm.

Young Jerry VandeWalle attended school in Noonan, in which one building had the first eight grades, with combined classes. An adjacent building housed the high school, from which Jerry graduated as valedictorian in May 1951, the first out of ten fellow students. He had been active in sports, playing basketball until his freshman year. He participated in every play that was put on in Noonan throughout his four years of high school, developing a lifelong passion for theater and the arts.

Although the VandeWalles had a hired man to do a lot of the work in the barn, the children helped out, too. Jerry's assignment was cleaning and sterilizing 200 to 300 milk bottles every day. His older brother Virgil, six years Jerry's senior, had left for college, so throughout high school Jerry VandeWalle assisted by cleaning bottles and delivering milk throughout the Noonan community, until such time as the general stores purchased refrigeration systems that would allow the milk to be purchased in the stores.

The small-town value most steadfastly inculcated in young Jerry VandeWalle's mind was the concept of expectation; the expectation of his parents, aunts, grandparents, and all the people of the Noonan community was that you were to behave, get educated, and do well in whatever you chose to do. Jerry also observed on a day-to-day basis the hard work of his father and his mother, Blanche. Although Jerry does not know how far his father went through school, he assumes he received the equivalent of a high school education before coming to the United States. His father spoke four languages, Flemish, English, French, and German, primarily due to the necessity of the situation in Belgium, where those languages were spoken in various areas of the country. At home, his father would only speak English, and Jerry never did pick up on his father's language skills.

Jerry VandeWalle attended the University of North Dakota, without any thought of going to law school. He took a traditional four-year degree in commerce, majoring in accounting. He was active in numerous fraternities at UND, including fraternities relating to commerce, accounting, theater, and honors. He graduated in 1955 from UND, and due to the enjoyment of his business law courses, decided to attend UND Law School.

To no one's surprise, Jerry VandeWalle did exceedingly well in Law School. He was the first in his class, Order of the Coif, and editor-in-chief of the Law Review. He had verbally accepted a position with a well-respected Williston law firm, with the expectation of specializing in oil and gas law. But fate intervened in the person of Dean Olaf H. Thormodsgard. Jerry VandeWalle was called into the Dean's office, where the Dean informed Jerry that traditionally UND always sent one graduating student to the Eighth Circuit, one to the Federal District Court Judge, and one to the Attorney General's office. The selection of the other two persons having already been made, the Dean advised Jerry that he needed to take the paid traditional position at the Attorney General's office, and he could wait a year to begin his private practice in Williston. The Dean apparently had already contacted the Williston firm, and the firm had approved his waiting a year before coming to Williston. According to Justice VandeWalle, it did not occur to him to do anything other than what the Dean had arranged: "I was rather passive about it; the decision had been made, and I just went along with it."

Thus, in July of 1958, the young Jerry VandeWalle, first in his class, began his first full-time job as an Assistant Attorney General. At that time, the Attorney General's office had eight or nine attorneys, including the Attorney General himself, Leslie R. Burgum. Two of the assistants were Helgi Johanneson and Paul Sand, who later rose to the positions of Attorney General and First Assistant Attorney General.

Jerry had found his home. There was great camaraderie, the work was interesting, and the politics were left to the Attorney General himself. Jerry VandeWalle was allowed to work on the oil and gas issues, which is what his primary interest was at that time. All the files relating to oil and gas were kept at the Governor's office at that time, and Jerry got to know each of the governors quite well, since he was at the Governor's office on a regular basis working on oil and gas issues.

In 1959 Jerry VandeWalle observed his first legislative session. Although he was frightened by the legislature to some extent and tried to stay as clear of it as possible, he nonetheless spent a fair amount of his time observing the Senate. He concluded that many of the senators truly had a breadth of knowledge about numerous important issues, despite their

seemingly pedestrian backgrounds. Some of the senators he observed and with whom he developed a working relationship included Ralph Erickstad, who later preceded Jerry as Chief Justice, Senator George Longmire, Representative Ralph Beade, and Representative Art Link, who later as Governor would appoint Jerry to the Supreme Court.

Soon Jerry VandeWalle was being invited to the “third house,” which at that time was a conglomerate of staffers, lobbyists, and others in town for the legislative session, and which organized numerous social occasions and parties which everyone attended. Jerry especially enjoyed the evening sessions of the Senate that followed the dinner hour, noting it was clear that many of the legislators had done something at dinner that resulted in a less inhibited discussion and an occasional exuberance of oratory skills.

Fate once again intervened when the Attorney General requested an insert in the budget allowing the addition of another Assistant Attorney General focusing on oil and gas law. The legislature approved the additional position, and it was offered to Jerry, who decided against returning closer to home, where he would always be known as “the VandeWalle boy.” Instead, he took the position, becoming the newest Assistant Attorney General.

According to Justice Sandstrom, at this time the Attorney General’s office was quite small, with only five or six assistants. Thus, when an Attorney General’s opinion was circulated in the office, the process was quite similar to the process Jerry would later employ as a judge: “The process at the AG’s office was open, friendly, and cooperative. Each of us would add any comments or suggestions, and through a cooperative effort a consensus usually would be reached, very much like here at the Supreme Court. But the attorney general had the final word.”

Justice Sandstrom recalls quite vividly Jerry VandeWalle sitting at his desk, typing away on his electric typewriter, usually smoking. “He was very approachable, a good mentor, a friend rather than a boss. He told me when I was first hired that he had been hired as the ‘baby assistant,’ and now I was the new baby assistant AG!”

As a judge, the Chief works to build a consensus. Again, Justice Sandstrom states: “He tries to be a commonsense judge, always focused on the need for the law to make sense. Also, the Chief’s experience working with the legislature—now some fifty years’ worth—has been very helpful. In the days when he worked at the AG’s office legislators and others would bring ideas for legislation to that office, so the assistants were very involved in drafting legislation.”