

CHIEF JUSTICE VANDEWALLE— CELEBRATING THIRTY YEARS ON THE BENCH

PART TWO— ATTORNEY GENERAL'S OFFICE TO BECOMING JUSTICE VANDEWALLE

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Initially sent to work at the Office of the Attorney General for just one year, Jerry Vandewalle was asked to stay on as an Assistant Attorney General in the newly funded position working with oil and gas issues.

In the next nineteen years with the Attorney General, Jerry Vandewalle handled not only the oil and gas issues, but also two other major portfolios, education and the state retirement system. He eventually rose to First Assistant Attorney General, where he could be found behind his constantly messy desk, either chain smoking or discussing issues with his foot on his desk.

Jerry continued to have no political ambitions and provided no indication of any of his political leanings. In 1960 when Governor Guy did not have an attorney in his office, Jerry Vandewalle was assigned to advise the Governor on numerous issues until the Governor had a staff to assist him.

Because the oil and gas files were kept in the Governor's Office, in the 1970s Jerry Vandewalle had numerous occasions to visit with Governor Link, as well as all the members of the Industrial Commission. When Jerry finally applied for Justice Robert Vogel's open position, he had a relatively cursory interview with Governor Link, who already knew Jerry Vandewalle well. He walked out of the interview not knowing whether he would be selected, but within a few days Jerry received a telephone call at 6:30 in the morning from Governor Link, waking him up and telling him the Governor had decided to appoint him to take Robert Vogel's position. The groggy Jerry Vandewalle was not sure whether indeed the Governor had called until later that day when he had woken up enough to replay the conversation in his mind. On July 7, 1978, Governor Link submitted to Chief Justice Ralph Erickstad a letter officially informing him that he had appointed Gerald W. Vandewalle as Justice of the North Dakota Supreme Court, effective August 15, 1978.

In actuality, the appointment had previously been made, and was effective upon the resignation of then-Justice Robert Vogel. Justice Vogel had planned on retiring on August 1, and that was the date on which Justice VandeWalle was to have assumed his position. However, fate again lent a hand. The workload at the Supreme Court was massive at that time, and Justice Vogel was having difficulty finishing all his opinions by August 1. He called Jerry and asked him if it would be okay if he stayed on until the middle of the month to finish up his opinions, and of course Jerry VandeWalle agreed. The decision was then made to have the resignation dated August 15, 1978, which happened to be Justice VandeWalle's forty-fifth birthday.

The investiture of Justice VandeWalle occurred on August 25, 1978, at the House Chamber. Vern Neff, as President of the State Bar Association, presented Justice VandeWalle his robe, representing "the long tradition and the full majesty of the law." Lieutenant Governor Wayne Sanstead spoke on behalf of Governor Link, commenting that he and the Governor "see in this man a professional attitude about law [and] appreciation for our citizens and for the rule of law."

Attorney General Allen Olson opined about what makes a good judge, quoting from Martin Mayer's book: "In the end, what counts is temperament, a sense of fairness, a willingness to decide, the personality of the judge." Attorney General Olson also quoted the philosopher Uban Erlich, who said, "There is no guarantee of justice except the personality of the judge. The greatest task that can be given to a man to discharge—justice—requires a standard of mental and moral greatness far above the common average." With regard to his own personal observations, the Attorney General noted:

I have known and admired him for some twenty-one years. The last six years, he has worked with me in the office of the Attorney General. Through this long association, I have noted another quality as important as those previously mentioned. It is a sense of people and place. . . . His heart and his voting residence are still in the Noonan area, where he returns frequently to family, friends, and farm. This strong appreciation of his heritage perhaps explains how he managed through twenty years in the office to give equal attention to everyone who sought his help, regardless of their position or problem.

Justice VandeWalle thanked the presenters and spoke about the need for Divine guidance and the assistance of others, and that he is a product of rural education and the North Dakota education system. He also spoke of

his time at the Attorney General's office, serving under three different attorneys general, all of whom had "provided an environment in which young attorneys could grow and develop and express their ideas without fear of political repercussions." Justice VandeWalle stated, "I leave that office with regret, because I did enjoy the work so much," but nonetheless provided a not-so-subtle warning: "I hasten to add, however, that in any case in which the Attorney General or his staff are before the Court, they should be prepared to prove their points or suffer the consequences."

Justice VandeWalle concluded his remarks by stating "I will do my very best to justify your confidence." He thanked Governor Link, his supporters (known and unknown), and of course his family: "I knew if I went astray I would answer not only to my parents but to the family as a unit. I suspect things will be no different now that I am a member of the judiciary."

By this time Jules VandeWalle had passed away (in 1962). Following Jules's death, Jerry's mother, Blanche, spent the winter months in Bismarck but continued to live on the farm until macular degeneration limited her ability to drive and read, and she then moved to Bismarck to live with Jerry. Blanche passed away on February 13, 2006, at the age of 102.

Under North Dakota Law in 1978, a Justice appointed by the Governor had to run at the next election. Thus, after assuming the position of Justice on August 15, 1978, Jerry VandeWalle had to run in the primary in September, and in the general election in November. He of course organized a committee to support him, with many notable members. His opponents raised the issue that there were already two or three "government lawyers" on the North Dakota Supreme Court and they did not need one more "cloistered" individual from the Attorney General's office assuming the bench. The individual running against Justice VandeWalle was a trial lawyer with numerous connections to the rural electric cooperatives, and he therefore had his own substantial power base and means of generating support. On the other hand, unbeknownst to Jerry VandeWalle, many of the individuals who he had assisted in the education issues were quietly supporting him. Only later did he find out the extent of that support. Justice VandeWalle gave speeches throughout the state, though not many, since he had to fulfill his role on the court. The court was, and still is, required to take every case submitted, and the policy at that time was to argue every case as soon as it was ready, thereby resulting in oral arguments sometimes occurring four and five times a day, Monday through Friday, until each pending case had been heard.

Justice VandeWalle's first and only contested election for the court managed to generate a case of its own, that ended up in the Supreme Court.

When Justice VandeWalle assumed the bench, he considered it appropriate that his picture be taken wearing his robe in the Supreme Court, and that picture (as well as video) was used throughout his election campaign. A supporter of Jerry's opponent argued that the election should be invalidated (after Jerry had won decisively), because Justice VandeWalle had improperly used government property to get elected, referring to the bench in the court where the pictures were taken, and the electricity used for the video camera for his television advertisements. Justice VandeWalle's fellow justices recused themselves from hearing the case, and a panel of district court judges, acting as the Supreme Court, rejected the argument, specifically finding that there was no violation of the Corrupt Practices Act.¹

Justice VandeWalle has run unopposed ever since.

Former Justice Bill Neumann describes Jerry VandeWalle as:

An excellent, gentle leader and a wonderful diplomat. Jerry understands the complexity of the position of a Chief Justice who is responsible for many things, but is really only a first among equals. He realizes he is an elected leader, who must be able to bring his supporters with him. To be effective, he has to keep that in mind, and he does.

Congratulations, Chief Justice VandeWalle, on thirty years on the bench. Yours is a remarkable record of exemplary service to the people of the State of North Dakota as a fine lawyer, an able jurist, and an exceptional leader. Your family, Noonan, Divide County, and all of North Dakota are justifiably proud of all you have done for us.

1. *Saefke v. VandeWalle*, 279 N.W.2d 415 (N.D. 1979).