

RESOLUTION

**UNITED STATES COURT OF APPEALS
for the
EIGHTH CIRCUIT**

**Adopted
Eighth Circuit Judicial Conference
St. Louis, Missouri
July 14, 1988**

RESOLUTION

IN MEMORIAM

of

THE HONORABLE ROBERT VAN PELT

United States Senior District Judge
District of Nebraska

Presented by: The Honorable Lyle E. Strom
Chief Judge
United States District Court
District of Nebraska

Prepared by: The Honorable Warren K. Urbom
United States District Judge
District of Nebraska

We remember Robert Van Pelt.

First, we remember his style.

He was natty, courteous, dignified, friendly, modest, and salty.

The first four of those words need no explanation. Perhaps "modest" and "salty" do.

Compliments seemed to embarrass him and he was a master at intercepting them. To get past his guard, a compliment had to be hurled at him when he least expected it and it had to be done swiftly in, say, eight or ten words. Otherwise, he was likely to interrupt and change the subject. He was modest.

He was also salty. When he was asked by a newspaper reporter about an opinion that was said by some to be angry but was lauded editorially for "laying the facts on the line," he said he didn't feel angry when he wrote it. Instead, he said, "I hope I will always tell it like it is and call a spade a spade, not necessarily calling it a damned dirty shovel."

Second, we remember his philosophy.

What he believed was forged from broad experience and interest. He had sold insurance and taught school; had been an assistant to a county treasurer, a Sunday school teacher, a catcher on a baseball team, a collegiate half-miler, and a debater. He was active in politics, pushed for REA, fought for water control and served higher education, the YMCA, Rotary, bar associations, and the Chamber of Commerce. He was a 33rd Degree Mason, a blue rock marksman, a bird watcher, a churchman, a committed husband, father, and grandfather, a lawyer and a judge.

His own words reveal his philosophy, including a realistic view of the foibles and fortes of people.

On the occasion of receiving in 1959 an honorary Doctor of Laws degree from Doane College, the first of three such degrees, he said:

“[A] civilization that produces minds which can devise instruments of destruction can also devise procedures that will keep nations at peace.”

At another time he told the press:

“Most people are very honest. There are only a few who are fundamentally bad.”

At his assuming the bench in 1957 upon appointment by President Eisenhower he paraphrased the prophet Micah for his personal credo:

“[W]hat doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?”

In 1965 he spoke factually but proudly of his having presided over 98 jury trials in eight and one-third years. He said, “I am a great believer in the jury system.”

In 1960 when six young men with ducktail haircuts were charged with breaking into a railway car and taking seven kegs of beer, Judge Van Pelt instructed them to get to a barber. He later explained that ducktails “tend to make criminals out of fellows like these” and that the ducktail “is a badge of ‘smart alecks’.”

He wrote of personal responsibility in 1953:

“. . . [P]ersecution and injustice can be ended only when it is ended in hearts of men and women as individuals.”

Another time he listed as one of the four instruments of world peace a “[g]reater appreciation of individual moral responsibility in matters dealing with human destruction.”

This theme of individual responsibility was a constant perhaps for a particular reason. A year after he was born, his mother and father were divorced. Later Judge Van Pelt made short shrift of courtroom arguments that a life of crime is the result of a broken home. “That,” he said more than once, “is an excuse without merit.”

Third, we remember his equanimity.

Shortly before his 90th birthday, he told of his conversation with a young boy:

“Are you old?”

“Yes,” replied the judge, “I am old.”

“Were you with Noah in the Ark?”

“No, I was not with Noah in the Ark.”

“Then why weren’t you drowned?”

The matter of age, like about everything else, was accepted by Robert Van Pelt with balance. He was rarely, if ever, bent out of shape about anything.

This past year was one of celebration. It saw the passing of his 30th year on the federal trial bench, the celebrating of his 90th birthday at a reception at the old federal courtroom graced so long by his presiding, his receiving of the Distinguished Nebraskan Award by The Nebraska Society of Washington, D.C., his receiving of the first Nebraskan of the Year Award by the Lincoln Downtown Rotary Club, and his being honored by the Nebraska members of the American College of Trial Lawyers. These accolades, as with many earlier ones, were hardly gratuitous. He got them the old fashioned way: he earned them.

His impact on the nation's legal community began sixty-seven years ago, a year after being graduated from Doane College cum laude and a year before receiving his law degree from the University of Nebraska. From then until 1957 he had a lively general practice in Lincoln, interspersed with a term as Assistant United States Attorney, and a bevy of civic, charitable and political activities.

After thirteen years as an active United States District Judge, he took senior status in 1970. In the ensuing 18 years he was occupied almost continuously as a special master by appointment of the Chief Justice of the United States to resolve boundary disputes between contesting states. First, *Texas vs. Louisiana*; then, *California vs. Nevada*; next, *Ohio vs. Kentucky*; then, *Kentucky vs. Indiana*; and, last, *Illinois vs. Kentucky*, which was interrupted only by his death on April 27, 1988.

Who can forget his engaging year-in-review discussion of evidence cases presented to this Conference every year, except perhaps two, from 1959 to 1987?

In 1984 and 1986 the Nebraska State Bar Association polled the lawyers of the state for evaluations of all the judicial officers in the state. Both times Robert Van Pelt received the highest rating of all. He stood at the top of the hill, even in the dusk of his radiant career. When asked about the poll, he said, "I'm not asking for a recount."

His service to the legal profession at large by way of committees of the Judicial Conference of the United States was notable: the Advisory Committee on Rules of Evidence, 1965-75; the Committee on the Administration of the Magistrates System, 1968-75; the Advisory Committee on Judicial Activities, 1969-79; the Joint Committee on the Code of Judicial Conduct, 1972-79; and the Advisory Committee on Codes of Conduct from 1979 until his death.

Dominant interests in his life were always his family—his mother, Sarah; his wife, Mildred; his children, Bobby, who died at age 6½, Margery and Samuel and their families; First Plymouth Congregational Church of Lincoln; Doane College; and the law.

Innumerable phrases have been used about him: "moderation in all things save one—success," "integrity beyond question," "meticulous concern for fairness," "dignity in public and private life," "towering intellect and reputation," "the epitome of a judge," "a model for us all," "a truly giant of a man in life and law," "a phenomenon," "just the best."

What is to be said of a man about whom so much has been said? The poet Carl Sandburg offers a thought:

"What is a judge? The perfect judge is austere,
 impersonal, impartial, marking the line of right
 and wrong by a hairsbreadth."

Before him, bow humbly, bow low, be a pilgrim,
 light a candle

For he is a *rara avis*, a rare bird, a white blackbird,
 a snowwhite crow.

* * *

What is a judge?

He is a man.

Yes, after all, and no matter what,
 and beyond all procedures and investitures,
 a judge is nothing more nor less than a man—
 one man having his one-man path, his one-
 man circle and orbit among other men
 each of whom is one man."

We remember, then, Robert Van Pelt—a *rara avis*, a rare bird, a white blackbird, a snowwhite crow; one man with a one-man path; one man whose style attracted us, whose philosophy inspired us, whose equanimity reassured us.

He was what the rest of us would like to be.

Mr. Chairman, I move the adoption of this resolution and request that a copy be spread upon the minutes of this meeting, and that a copy be sent also to each member of his family.