

1  
2 CEREMONIAL SESSION  
3 ON THE TAKING OF THE OATH OF OFFICE BY

4 ROBERT V. DENNEY

5  
6 AS UNITED STATES DISTRICT JUDGE,

7 DISTRICT OF NEBRASKA.

8  
9 In Court Room No. 1, United States Court House, Omaha,  
10 Nebraska, on March 19, 1971, at 2:00 p.m.

11  
12 HONORABLE HARVEY M. JOHNSEN,  
Senior Circuit Judge, Eighth Circuit.

13 HONORABLE RICHARD E. ROBINSON,  
14 Chief Judge, United States District Court,  
District of Nebraska.

15 HONORABLE ROBERT VAN PELT,  
16 United States District Judge,  
District of Nebraska.

17 HONORABLE JOHN W. DELEHANT,  
18 United States District Judge,  
District of Nebraska.

19 HONORABLE WARREN K. URBOM,  
20 United States District Judge,  
District of Nebraska.

21  
22 THE MARSHAL: Hear Ye! Hear Ye!

23 Hear Ye! This ceremonial sitting of the Federal Judges  
24 of the Eighth Circuit will now be in session. God save  
25 the United States and its Courts.

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**JUDGE ROBINSON:** Good afternoon, Ladies and  
Gentlemen.

The Court is convened this afternoon for the  
solemn, and none-the-less happy, occasion for the taking of  
the oath of a judge of this court. As the proceedings will be  
distinctly judicial, I am sure you will appreciate that any  
exhibition of applause or demonstration would be inappropriate.

I am advised that the Honorable Robert V.  
Denney has been appointed as a judge of this court. Am I  
correct in that assumption, Mr. Denney?

**MR. DENNEY:** You are right, sir.

**JUDGE ROBINSON:** Do you have with you your formal  
commission?

**MR. DENNEY:** The Clerk has it.

**JUDGE ROBINSON:** Mr. Clerk, would you read the  
formal commission?

**MR. RICHARD C. PECK, Clerk, United States District  
Court, District of Nebraska:**

The Commission is as follows:

**RICHARD NIXON**  
President of the United States of America  
To all who shall see these Presents, Greeting:  
KNOW YE: That reposing special trust and confidence  
in the Wisdom, Uprightness, and Learning of

**ROBERT V. DENNEY**

1  
2 of Nebraska, I have nominated, and, by and with the  
3 advice and consent of the Senate, do appoint him  
4 United States District Judge for the District of  
5 Nebraska, and do authorize and empower him to  
6 execute and fulfil the duties of that Office according  
7 to the Constitution and Laws of the said United States,  
8 and to Have and to Hold the said Office, with all the  
9 powers, privileges and emoluments to the same of  
10 right appertaining, and unto Him, the said Robert  
11 V. Denney during his good behavior.

12 In testimony whereof, I have caused these  
13 letters to be made patent and the seal of the  
14 Department of Justice to be hereunto affixed.

15 Done at the City of Washington this 5th  
16 day of March, in the year of our Lord One  
17 Thousand Nine-Hundred and Seventy-One, and of  
18 the Independence of the United States of America  
19 the 195th.

20 Signed - Richard Nixon.

21 Counter-signed - John Mitchell,

22 Attorney General.

23  
24 JUDGE ROBINSON: I now inquire, Mr. Denney,  
25 if you are prepared to take the oath appropriate to your office?

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**MR. DENNEY: I am, Your Honor.**

**JUDGE ROBINSON: Very well.**

**Will everyone in the courtroom rise?**

**If you will raise your right hand and repeat after me:**

**I, Robert V. Denney, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as United States District Judge according to the best of my abilities and understanding, agreeably to the Constitution and the laws of the United States; that I will support and defend the Constitution of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter.**

**SO HELP ME GOD.**

**JUDGE ROBINSON: You may now don your robe assisted by your brother and father.**

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You may be seated.

The Marshal will now escort you to your place upon the bench.

Judge Denney, My Colleagues on the Bench, Distinguished Guests, Ladies and Gentlemen:

This is a rather historic occasion today in the sense that Judge Robert Denney is assuming the judgeship created at the last session of the Congress.

In 1907, a new judgeship was created, to which Judge Thomas C. Munger of this court was appointed.

It might be of interest to recall the judges who have served in the United States District Court for the District of Nebraska since the organization of the state.

Judge Elmer S. Dundy served from April 9, 1868, to October 28, 1896.

Judge Elmer D. McHugh served from November 20, 1896, to February 18, 1897.

Judge William H. Munger served from February 18, 1897, to August 11, 1915.

Judge Thomas C. Munger served from March 1, 1907, to July 31, 1941.

Judge Joseph W. Woodrough served from April 3, 1916, to April 11, 1933.

Judge James A. Donohoe served from April 27, 1933, to February 26, 1956.

1 Judge John W. Delehant served from  
2 February 13, 1942, and is still in active service.

3 And myself, from July 3, 1956.

4 Judge Robert Van Pelt from June 13, 1957.

5 Judge Warren K. Urbom from April 24, 1970.

6 It is interesting to note that all those judges  
7 named were appointed, with the exception of Judge Dundy and  
8 Judge Thomas C. Munger, to succeed judges before them.

9 I should not want to pass this opportunity  
10 to acknowledge on behalf of my colleagues this court's  
11 appreciation to the Congressional delegation for the many  
12 things they have done for this court over the years. As  
13 Judge Delehant so well will recall, with the able help of the  
14 then United States Attorney, Donald W. Ross, now Judge Ross  
15 of the Circuit Court of Appeals of this Circuit, legislation  
16 was passed which enabled us to do away with the various  
17 divisions of holding court in the District of Nebraska, with  
18 the end result that Nebraska is now one district with three  
19 places of holding court; namely, Omaha, Lincoln and North  
20 Platte, and at such other places as may be designated from  
21 time to time. Obviously, this has resulted in a great saving  
22 of judicial time and the taxpayer's money. For that, and  
23 for the aid and assistance in creating a long overdue new  
24 judgeship in this district, we are indebted to the Congressional  
25 delegation, and particularly to Senators Roman Hruska and

1 Carl Curtis for their foresight in this matter, and for their  
2 help, without which the judgeship that we are filling today  
3 would not have been created. Indeed, we are grateful and  
4 thankful.

5 At this time I should like to introduce my  
6 colleagues on the bench.

7 To my far left is the Honorable Robert  
8 Van Pelt.

9 Of course, you know our distinguished  
10 colleague sitting next to him, the Honorable Robert V. Denney.

11 Next to me on my left is the Honorable  
12 Warren K. Urbom.

13 On my far right is the Honorable John W.  
14 Delehant, who has been in service these many years.

15 Judge Denney, I can only say to you that as we  
16 think back to April 9, 1868, when Judge Dundy was appointed,  
17 many changes have taken place. We have had wars. The  
18 state, in character, I understand, is now changed from one  
19 that was predominantly rural in those days to one which is  
20 predominantly urban in these days. Of course, along with  
21 the changes that have come in other areas, so have changes  
22 come in the courts, as you will soon come to know, if you  
23 don't already know.

24 I am reminded of the young man who stood  
25 before the court arguing very earnestly and very persuasively

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a point of law. He was interrupted by the judge, who said,  
"Young man, do you mean to tell me that that is the law in  
this case?"

"Well," he said, "If your Honor please, it  
was until your Honor spoke."

I can only hope for you, Judge Denney, that  
fifteen years hence you may look back with the same  
appreciation, satisfaction and gratification that I have had  
in my service. I think you will find that the Bar in the state of  
Nebraska is second to none. I am sure as you approach your new  
status, your new office, and your new work, you will find that  
the Bar will indeed be helpful and cooperative.

Ladies and Gentlemen, I shall now call upon  
one of the great judges of our circuit who for a long time was  
the Chief Judge of the Eighth Circuit Court of Appeals. While  
in the practice, he was known as a lawyer's lawyer, and I  
think it may be said that as a judge, he was known as a judge's  
judge, our beloved Harvey Johnsen.

JUDGE JOHNSEN: Chief Judge Robinson, Judge  
Denney, my other Brethren of the Bench, both State and Federal,  
Distinguished Guests, and Friends of Judge Denney:

It is a pleasure for me, Judge Denney, to join  
in this occasion both to express to you and to the members of  
your family my personal congratulations, and further to extend  
to you the good wishes of the circuit judges -- that is the judges



1 of the Court of Appeals -- as you now become a member of the  
2 federal judiciary.

3 I am sure that for Chief Judge Robinson,  
4 Judge Delehant, Judge Van Felt and Judge Urbom, the feeling  
5 of this occasion is akin to the happy inner one which lawyers  
6 have when a fine new partner is added to their law organization.

7 As to us appellate judges, Chief Judge  
8 Matthes, who is unable to be here today, and the other circuit  
9 judges, including Judge Lay, Judge Ross and myself, I suspect  
10 that there are those who would impishly suggest that the  
11 occasion is one of gleeful satisfaction to us at having acquired  
12 another district judge victim into whom we can droolingly  
13 thrust our reversal fangs.

14 But turning to the hard judicial  
15 significance of the occasion, I feel certain that it cannot have  
16 escaped your thoughts, Judge Denney, that in the creation of the  
17 additional district judgeship for Nebraska, which you are today  
18 assuming, you will be facing the expectation and responsibility,  
19 together with Judge Robinson and Judge Urbom, of bringing and  
20 keeping the docket of the federal district court for Nebraska into  
21 the most current position of all the 89 districts throughout the  
22 nation. I am sure that this challenge is one which you will  
23 welcome and to which you will most dedicatedly respond.

24 I shall not dwell upon the great satisfaction  
25 which I know will come to you in your judicial work. This is

1 something that I think is unique in its particular character of  
2 experience to the judicial institution. I wish for you, and I am  
3 sure you will have, the full measure of that satisfaction.

4 One of the most significant ingredients in  
5 that satisfaction is the opportunity which you will have to know,  
6 associate with, and exchange views on judicial problems with,  
7 the other members of the federal judiciary, extending outward  
8 from this circuit through the entire country.

9 As you will discover, there is a common and  
10 sustaining bond among all the judges of the federal judicial  
11 system, because what they are doing is not of mere local or  
12 provincial effect, but of national consequence in these times  
13 of emotional fist-shaking or of anarchistic sniping at our entire  
14 American institutional system.

15 I would add a note of local incidence to the  
16 occasion. This is an age of facts and figures. Indeed,  
17 statistics seem to have become both our physical and our  
18 spiritual mode of life, even though most often these things  
19 are so wrong and deficient as, when swallowed, to produce  
20 mental dyspepsia. But the fact to which I would call your  
21 attention, Judge Denney, is to me the pleasant one, to which  
22 your installation here today makes addition -- the substantial  
23 colony of federal judges which now exists in Omaha. I do not  
24 believe that there is any city in the country which can boast  
25 of a larger colony of such judges in relation to its size than

1 Omaha. Three district judges, Chief Judge Robinson, Judge  
2 Delehant and yourself; four circuit judges, counting Judge  
3 Woodrough, whose official station still exists upon the judicial  
4 records in Washington as Omaha, together with Judge Lay,  
5 Judge Ross and myself, or a total of seven Omaha federal judges.  
6 Adding to these Judge Van Pelt and Judge Urbom from Lincoln,  
7 it makes the total of Nebraska federal judges nine in number.  
8 I believe this fact, and the community of feeling which you will  
9 come to experience from it, will add an element to the  
10 pleasantness and satisfaction of your judicial work.

11 I repeat my good wishes to you in your  
12 challenging duties; in the pleasure and satisfaction which you  
13 will derive from the work you will have to do; and in the  
14 association with federal judiciary generally, both locally and  
15 throughout the country, which will be open to you.

16 Again, in fullest measure and in every  
17 respect, Judge Denney, congratulations and good wishes to  
18 you.

19 I might add in an aside or as a footnote  
20 (against the current wholesale use of which in judicial opinions  
21 I have a personal phobia) that I have deliberately used the  
22 title "Judge" in relation to your name a sufficient number of  
23 times so that when you leave the bench today you will feel fully  
24 at ease with it, since it is a designation to which you will now  
25 have to reconcile yourself for the rest of your life.

1 Welcome, Judge Denney.

2 JUDGE ROBINSON: I should now like to call upon Judge  
3 Urbom, who will respond for our court.

4 JUDGE URBOM: Thank you, Chief Judge Robinson.

5 Judge Denney, Fellows of the Bench, Friends:

6 Judge Denney, I now have served in this  
7 district for 330 days. As a result of that, I think I am qualified  
8 to give you advice, and on the strength of that advice to welcome  
9 you into the ranks of those of us who sit as United States District  
10 Judges for the District of Nebraska. I am inclined to think there  
11 are some things you will experience if your next 330 days are  
12 parallel with mine. I shall suggest them to you because I have  
13 experienced them, and I have no reason to think you will not  
14 feel their impact, also.

15 First, I suggest that you will find that the  
16 dignity of this office will elevate you. That idea is affirmed  
17 by and probably exists because of your and my predecessors.  
18 We are the beneficiaries of a judicial atmosphere which has  
19 been made fresh and exhilarating by the lives of the judges of  
20 this district who preceded us.

21 Secondly, I think you will find that the gravity  
22 of the issues will sober you.

23 I am aware, Judge Denney, that in your practice  
24 of law and in your service in the United States Congress, you  
25 have wrestled with problems of great magnitude.

1 Appreciative of that, I am nevertheless  
2 convinced that you will find that there is here a new dimension.  
3 Not only is it true that the constitutional rights of individuals,  
4 the constitutional powers of the government, and the common  
5 law and statutory duties and rights of citizens will be before  
6 you constantly, but more pointedly, you will discover that the  
7 immediacy of what you do will be felt by more people than ever  
8 before in your life, for what you say and what you do will  
9 cause, not only the people who are immediately before you,  
10 but many others who are facing the same or similar issues and  
11 problems, to rearrange their lives on the basis of what you  
12 decide, subject only to the wisdom of the Court of Appeals.

13 I think, thirdly, that you will find your  
14 inexperience unsettling. I sat here a moment ago and watched  
15 for a full ten seconds while you tried to get the zipper on your  
16 robe in place. You can't blame that onto your brother. It is  
17 your robe, and you must bear the responsibility. It may be  
18 the first, but it will not be the last experience that you will  
19 find unsettling because of your inexperience.

20 The first time you see a man charged with a  
21 crime standing in front of you, you will get, I suggest to you,  
22 a hollow feeling about what is to be done next.

23 I remember the first time I came into the  
24 courtroom as a new judge. I came through this entrance,  
25 which is the judge's entrance, and stood for that dignified

1 moment when court opens. We had our hearing, and at the  
2 closing of the court, the Marshal rapped us to our feet and  
3 announced the closing of the court. I turned to find my way  
4 out, and I discovered that I couldn't find my way out. There  
5 I stood, with my dignity around my feet, until the Clerk  
6 pointed out to me that Judge Delehant had had the good  
7 judgment to have someone place a little yellow sticker on  
8 the door. If you press on that sticker, the door swings open,  
9 and the judge then has sense enough to get out of the courtroom.

10 The last thing I want to mention to you that  
11 you will discover is that the search for justice will inspire  
12 you. I don't know that it lasts forever, Judge Denney, but I  
13 can assure you that it lasts for 330 days, and that it is a  
14 most exciting, pressing and challenging undertaking.

15 I am delighted to welcome you, sir, to the  
16 ranks of the district judges of the state.

17 JUDGE ROBINSON: Many distinguished guests have  
18 come here today to pay honor to Judge Denney. A Committee  
19 of the Bar Association, chaired by Robert Kutak of the Bar of  
20 this court, was appointed as an Arrangements Committee. I  
21 now recognize that Committee and Mr. Kutak, and will now  
22 turn the program over to Mr. Kutak.

23 MR. KUTAK: May it please this Court:

24 It is my privilege first to introduce to the  
25 Court the family of Judge Denney.

1 Mrs. Robert Denney, his wife.

2 His daughter, Miss Debbie Denney.

3 Unable to be with us today, but properly to be  
4 mentioned are his three sons, Barrett, David and Michael.

5 Also with us are Mr. and Mrs. Arthur Denney,  
6 the Judge's father and mother.

7 Mrs. Conklin, Judge Denney's mother-in-law.

8 Mr. Max Denney and Mr. James Denney, the  
9 Judge's brothers.

10 Also present in the courtroom and to be  
11 recognized are Judge Donald Ross of the United States Court  
12 of Appeals, and Mrs. Ross.

13 The successor to Judge Denney in the House  
14 of Representatives, the Honorable Charles Thone, Congressman  
15 from the First District.

16 The Honorable John Y. McCollister,  
17 Congressman from the Second District.

18 Present also is Mrs. Robinson, Judge  
19 Robinson's wife.

20 I would now like to introduce the other  
21 "family" of Judge Denney:

22 Mr. Richard Peck, Clerk of the Court.

23 Mr. John Keriakedes, Chief Probation Officer.

24 Mr. Lloyd Grimm, United States Marshal.

25 Mrs. Dier, the wife of the United States

1 Attorney, who will be introduced later.

2 We have with us, also, Mrs. Hruska.

3 We have the Honorable Hale McCowan,  
4 Justice of the Supreme Court of Nebraska, and Mrs. McCowan.

5 We have with us, as well, Dean Doyle, Dean  
6 of Creighton Law School of which Judge Denney is an alumnus.

7 The next gentleman to be introduced is  
8 almost a traditional speaker on occasions of this kind, the  
9 Senior United States Senator, The Honorable Roman Hruska.

10 SENATOR HRUSKA: May it please the Court, Ladies  
11 and Gentlemen:

12 A week ago there were held in Williamsburg,  
13 the colonial capital of the Dominion of Virginia, sessions of  
14 the National Conference on States Judiciary. It was a most  
15 notable and historic occasion because assembled was an  
16 audience of some 800 law enforcement officers from all over  
17 America, most of them judges, and a very notable delegation  
18 from the state of Nebraska, many of them school administrat-  
19 ors, some of them probation officers, and all the others who  
20 belong to that institution known as law enforcement. The  
21 President of the United States and the Chief Justice of the United  
22 States were present. There was a delegation of four from the  
23 legislative branch of the government, of which group I was  
24 privileged to be a member.

25 The occasion was to review and to set in some



1 perspective the future of the judiciary of the several states of  
2 the Union. If an occasion is to be judged as a success by reason  
3 of the tone set by each participant, certainly the Williamsburg  
4 conference had to be described so. The President delivered a  
5 very splendid speech. It was followed by the Chief Justice of  
6 the United States who presented virtually a working paper on  
7 methods to improve, to modernize and to revise, and then that  
8 all-inclusive term which sometimes conveys an unpopular  
9 connotation, to reform the states' judiciary.

10 The Congress has concerned itself with that  
11 subject from time to time. Chief Judge Robinson referred to  
12 two occasions of that kind. One was when the legislation was  
13 approved to eliminate divisions in Nebraska. The other was to  
14 create a new position, which is today filled. But it isn't enough  
15 to think in terms of adding judges for the purpose of improving  
16 the judiciary, although all of us will subscribe to the idea that  
17 Judge Denney will be a fine judge. It is not enough, and that was  
18 made plain in the presentations of President Nixon and of Chief  
19 Justice Burger because, after all, this is a time of flux. It is  
20 a time of turbulence. It is a time when the nation is seeking for  
21 new aspirations and forming, if possible, new priorities.  
22 There is a move in the country for vast changes. The judiciary  
23 must be a part of that movement.

24 In his new career, Judge Denney will find  
25 much comfort from the advice and counsel of his seniors on the

1 bench. There will be many times when the closest cooperation  
2 will be required to achieve the purposes and tasks set out in  
3 the working paper of the Chief Justice which he delivered at the  
4 conference. It is a time of challenge for a new judge but in the  
5 years ahead of us the tasks of the judiciary will assume even  
6 greater significance and greater gravity than ever before.

7 It is against that kind of a background that  
8 Judge Denney is starting his career, and yet, a consideration of  
9 his background and experience suggests that he is well-rooted,  
10 highly principled, and will reflect great credit upon the fine  
11 tradition of the bench that has been formulated by Nebraskans  
12 who have become members of it.

13 We wish him Godspeed, and we wish him  
14 every success, and a long, hard-working life.

15 MR. KUTAK: I now wish to introduce to the Court  
16 Senator Carl Curtis.

17 SENATOR CURTIS: May it please the Court, Ladies  
18 and Gentlemen:

19 Judge Johnson, when you referred to the fact  
20 that Nebraska now has nine federal judges, it gave me an idea.  
21 We have a court in Washington made up of nine federal judges.

22 In the course of debate in the House and in  
23 the Senate, oftentimes if one criticizes a particular institution  
24 or a particular proposal, someone will say, "Do you have  
25 anything better to offer?"

1 I must confess here that I have been guilty of  
2 criticizing the court down at Washington. If I ever do it again,  
3 and they ask me, "Do you have anything better to offer?" I now  
4 have an answer.

5 I am delighted that I could be here today and  
6 see the installation of Judge Denney. It is a happy day for many  
7 people, and I am so pleased that Mr. and Mrs. Arthur Denney  
8 are here today. One of the extra benefits that comes to those  
9 of us who serve in elective office is that we have the chance to  
10 meet and know the wonderful people that make up our communit-  
11 ies. In Jefferson County, Nebraska, the Denney family stand for  
12 everything fine and good that gives us such a wonderful state  
13 and wonderful nation. And Judge Denney comes from a  
14 distinguished family of lawyers.

15 Whenever I have an opportunity to suggest who  
16 should serve in our federal courts, I can't escape from thinking  
17 about the people who come before that court, the people whose  
18 lives and reputations, whose property, all that they possess,  
19 will be affected by the decisions rendered. It is with a great  
20 deal of satisfaction to know that in Judge Denney, as in the case  
21 of these other distinguished jurists with us here today, those  
22 people are in good hands.

23 Judge Denney, we congratulate you.

24 MR. KUTAK: I now wish to present the United States  
25 Attorney for the District of Nebraska, Honorable Richard Dier.

1                   **MR. DIER: May it please this Court, Honorable**  
2                   **Members of the United States Congress, other Jurists present,**  
3                   **Ladies and Gentlemen:**

4                   **On behalf of Mr. Mitchell and the Department**  
5                   **of Justice, it is my great pleasure, Judge Denney, to welcome**  
6                   **you and to extend to you our sincere congratulations and our**  
7                   **best wishes to you for many years of service. As you know,**  
8                   **the office of the United States Attorney is frequently before the**  
9                   **court, and we welcome this coming association and the**  
10                   **opportunity to serve with you.**

11                   **MR. KUTAK: I now wish to present the President of**  
12                   **the Nebraska State Bar Association, Mr. Thomas M. Davies.**

13                   **MR. DAVIES: May it please the Court, Ladies and**  
14                   **Gentlemen:**

15                   **This has been a great week for Fairbury. Its**  
16                   **basketball team won the Class "B" Title, for those of you who**  
17                   **did not know. The announcer said that Judge Denney was there.**  
18                   **Here we have an even greater honor for the city of Fairbury,**  
19                   **to have one of its outstanding sons named to this bench.**

20                   **On behalf of the members of the Nebraska**  
21                   **State Bar Association, and for myself personally, we wish you**  
22                   **a long and challenging tenure as judge. We rejoice with the**  
23                   **members of your family, with your friends and your neighbors**  
24                   **on this very happy occasion.**

25                   **MR. KUTAK: I now wish to present the representative**

1 of the American Bar Association, Mr. Harold L. Rock.

2 MR. ROCK: May it please the Court:

3 I am grateful for the privilege granted me of  
4 addressing the court on this happy occasion. I appear as a  
5 representative of the American Bar Association, its president,  
6 Edward L. Wright, and on behalf of the Association's Standing  
7 Committee on the Federal Judiciary.

8 For those present who are not aware of the  
9 role of the Association's Standing Committee on the Federal  
10 Judiciary, they are sometimes, and of late always, called upon  
11 to advise the Attorney General, and later the Senate Committee  
12 on the Judiciary, as to the selection of judges. They do not  
13 propose or support candidates. They merely seek advice from  
14 the judges and attorneys with whom the candidate has practiced.

15 I am authorized to say from the Committee  
16 that the Committee has different standards by which it may  
17 recommend a judge. Judge Denney was recommended by the  
18 Committee, not only as qualified, but as well qualified.

19 We wish you every success, Judge Denney.

20 MR. KUTAK: I wish to present to the Court the  
21 President of the Omaha Bar Association, Mr. Thomas R. Burke.

22 MR. BURKE: May it please the Court, Judge Denney,  
23 Distinguished Members of the Bar, Ladies and Gentlemen:

24 As President of the Omaha Bar, it is my  
25 privilege to welcome you to the bench and to the bar of this

1 city, Bob. We expect you to partake of our activities over  
2 the coming years.

3 As each man has come to this podium, he has  
4 used the salutation: "May it please the Court." I thought it  
5 might be of interest if we took a look at that salutation for a  
6 moment, because from now on, Judge Denney, you will be  
7 hearing it very frequently. Countless controversies have been  
8 resolved since the first lawyer arose in a court of law and  
9 presented his case with that salutation. The time-honored  
10 salutation familiar to judges, lawyers and courts marks no  
11 fawning suppliant, nor does it indicate a role of an autocrat  
12 doling out or denying judicial favors. Rather, it suggests that  
13 the lawyer sought only that silent answer from the bench:

14  
15 No friends to favor -- no enemies to  
16 punish. This is a court of law.

17 Today, Judge Denny, as you leave the realm of the  
18 advocate and your Congressional friends, your clients and  
19 clientele, and your partners in the law, and you close away  
20 your participation from this side of the bench, and the drama  
21 that has been connected with it, you enter into another phase  
22 of the law partnership, this one between the lawyer and the  
23 judge, and each in his own field seeks the truth and the law.  
24 In our adversary system of jurisprudence, the lawyer and  
25 the judge, by the very nature of their duties, find daily

1 partnership in their quest for that which is true and its  
2 application to life.

3 As a lawyer, in his training and in his  
4 tradition of service, and his obligation to defend the great  
5 principles of government, which you have done, you assume  
6 a great obligation. You become an interpreter of truth and a  
7 defender of the principles of human living. but as for the  
8 judge, not being one, I had to go to Judge Learned Hand for  
9 an opinion as to what your life will be like. This is what he  
10 said:

11 A judge's life, like every other,  
12 has in it much of drudgery, senseless bickering,  
13 stupid obstinancies, captious pettifogging, all  
14 disguising and obstructing the only purpose  
15 which can justify the whole endeavor.  
16 These take an inordinate part of his time.  
17 They harass and befog the unhappy wretch, and  
18 at times almost drive him from that bench  
19 where, like any other workman, he must do  
20 his work. If that were all, his life would be  
21 mere misery and he, a distracted arbitor between  
22 irreconcilable extremes. But there is something  
23 else that makes it, anyway to those curious  
24 creatures who persist in it, a delectable  
25

1                   quality, for when the case is all in, and the  
2                   turmoil stops, and after he is left alone,  
3                   things begin to take form from his pen or in  
4                   his head, slowly or swiftly, as his capacities  
5                   admit. Out of the murk the pattern emerges --  
6                   his pattern -- the expression of what he has  
7                   seen and what he has therefore made.

8  
9                   Judge Denney, we know that you now feel an  
10                  eagerness to answer the responsibility placed upon your  
11                  shoulders through this appointment and this installation, and  
12                  we of the Omaha Bar look forward to working with you in this  
13                  new partnership -- and -- "May it please the Court."

14                 MR. KUTAK: I wish to announce that there will be a  
15                 reception following the conclusion of these ceremonies in Judge  
16                 Denney's chambers.

17                 May it please the Court, this does conclude  
18                 the Committee's role in this proceeding.

19                 JUDGE ROBINSON: Thank you, Mr. Kutak.

20                 As the lawyers well know, and as perhaps  
21                 others present here today may know, in the trial of a lawsuit,  
22                 generally speaking the lawyer having the burden of proof has  
23                 the right to open and close the discussion in final arguments.  
24                 While this is a judicial proceeding today, yet in no sense a  
25                 trial, I would say that if there be any burden on Judge Denney



1 today, that burden has long since been met and carried.

2 However, Judge Denney, I shall now accord  
3 you the opportunity to make the last rebuttal response that you  
4 will probably be permitted to make from the bench.

5 JUDGE DENNEY: Thank you, Judge Robinson.

6 Colleagues of the Bench, of the State and  
7 Municipal Bench, all my friends out in the audience:

8 I would like to make one statement for the record.

9 I came down and prepared my case well  
10 yesterday. I practiced with this zipper five times, and it was  
11 one little thread that got in there, but at least I tried.

12 I believe that any man or woman who  
13 assumes the bench must remember in one way or another  
14 that old quotation that:

15 The court is the lengthened shadow of many men.

16  
17 Our judicial tradition and the precedences  
18 which have evolved over the years are so much a part of our  
19 American life today that every judge, municipal, state or  
20 federal, performs a function which has become increasingly  
21 vital to the survival of our institutions. I believe,  
22 consequently, that all judges must work hard at maintaining  
23 the credibility of the judicial heritage. Fortunately, this work  
24 and the talents of judges who have served in the past offer some  
25 instructive guidelines toward that goal.

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**As Justice Frankfurter once said:**

**No judge writes on a wholly clean slate.**

**I accept this federal judgeship in that spirit. Whatever talents or insights that I may possess, I pledge that I will fully utilize them in an attempt to strengthen and preserve our legal foundations.**

**In order for Theodore Roosevelt's statement:**

**No man is above the law, and no man is below the law**

**to be widely accepted in the future, we must demonstrate time and again to the average citizen of this nation that the laws are on the books to help all men and women of good will.**

**There is a possibility always for error to creep in, in our courts. As one great writer said one time:**

**The history of scholarship is a record of disagreements.**

**Charles Evans Hughes, I believe, wrote that, and then he said:**

**When we deal with questions relating to principles of law and their application, we do not suddenly rise into a stratosphere of icy certainty.**

1 I might add that unfortunately mistakes in the  
2 judiciary are often more difficult to correct. A bad piece of  
3 legislation is picked up by the opponent or by the press and is  
4 corrected. An unfortunate court decision, on the other hand,  
5 may sometimes stand simply because of lack of an appeal.  
6 This set of circumstances makes me believe that a judge  
7 absolutely must pay attention to the precedents and consider  
8 each case as if the survival of our entire judicial system  
9 depended upon the fairness of his decision.

10 There is something else which might also be  
11 considered in the line with this judicial obligation to act fairly.  
12 That is the responsibility upon all judges to act within their  
13 limited powers. How tragic it would be if historians were to  
14 record decades from now that American courts, in their zeal  
15 to do what was desirable, totally abandoned the Constitution  
16 that they were sworn to uphold. The United States Constitution  
17 is a viable document, to be sure, but it is not a panacea for all  
18 ills of society now and forever. As experience dictates, we  
19 will want to continue the amendment process just such as began  
20 with the Bill of Rights. Until that time, when the changes are  
21 made, however, the judiciary, I believe, must resist the  
22 temptation to stretch a clause or a sentence in the Constitution  
23 to make it mean more than it was originally intended to mean.

24 In short, I hope that anyone who reviews my  
25 term on the bench after my retirement will be able to say that

1 Judge Denney fully realized that he was an appointive, not an  
2 elective official.

3 Justice Stone crystalized this point of view  
4 when he said:

5 While unconstitutional exercise of  
6 power by the executive and legislative branches  
7 of the government is subject to judicial restraint,  
8 the only check upon our exercise of power is our  
9 own sense of self-restraint.  
10

11 Ladies and Gentlemen, following, as I do,  
12 in the footsteps of a grandfather and a father whose integrity  
13 as lawyers, in my opinion, was absolutely above reproach,  
14 having been associated a number of years with a brother as  
15 a practicing attorney, and then watching for several years a  
16 nephew who is working in a large law firm back east, I take  
17 great pride and also a deep and tremendous sense of humility  
18 as a member of the Denney family of lawyers in accepting  
19 what I consider one of the highest appointments available to  
20 the legal profession. I accept this appointment with a great  
21 deal of pleasure and hope it will afford me the opportunity to  
22 better serve my fellowmen.

23 My friends, having been a practicing  
24 attorney for over thirty years, I am fully aware of the  
25 tremendous responsibility the office of federal district judge

1 places upon any individual who accepts such an appointment.  
2 However, I assure you that I shall strive my utmost to fulfil  
3 the qualities of credibility, compassion, pragmatism, humility,  
4 respect for, and a fundamental adherence to, the letter and  
5 the spirit of the law, which I sincerely believe combine to  
6 forge a successful judicial career.

7 Thank you.

8 JUDGE ROBINSON: Ladies and Gentlemen, that  
9 concludes this session.

10 Mr. Marshal, you may recess court.

11 MARSHAL GRIMM: This ceremonial session will  
12 now stand in adjournment.

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2                   **MR. KUTAK:** I now wish to present the Chief Justice  
3 of the Supreme Court of Nebraska, Honorable Paul White.

4                   **JUSTICE WHITE:** May it please the Court, Ladies and  
5 **Gentlemen:**

6                   I have appeared at a number of these  
7 ceremonies, and I have some formal remarks prepared that  
8 are in the nature of accolades of praise, and injunctions, of  
9 course, and advice coming down from almost twenty years  
10 now that I have been on the bench. I have only two things to  
11 say in that line today to Bob. I have known him long personally.  
12 We have been fellows in the law practice and fellows in political  
13 activity.

14                   As a lawyer, Bob, we knew you as the ideal of  
15 a fine student, a scholar and an advocate, and at the same time  
16 you elevated, together with the rest of your family, the  
17 community ideals of justice, good government and charity.  
18 We also knew you, Bob, as a human being, a man who always  
19 has, and always will bring, warmth and compassion and an  
20 intense human interest into the lives of your fellowmen.

21                   Representing the state judiciary of the state  
22 of Nebraska, I feel honored to be here to greet Bob into the  
23 great profession of the judiciary.

24                   As Senator Hruska pointed out, for reasons  
25 that are perhaps within our House, and not altogether from the

1 outside, we stand challenged both at the bench and the bar  
2 today, probably as the bench and bar have never been  
3 challenged in the history of America. For that reason, I  
4 have full confidence that in the selective process in which  
5 Bob Denney was selected, we have a man who can meet that  
6 challenge and carry forth the traditions.

7 I am also reminded, because I know them  
8 personally, it is well in America that we have great families  
9 that furnish the character, the discipline, the courage, the  
10 wisdom and the industry that the Denney family has. And a  
11 humble family. I suggest they have not been honored to the  
12 full extent that they should be. They are an important family  
13 in the state of Nebraska. Here, this afternoon, I think one  
14 of the finest honors that has been accorded them, and it will  
15 continue to be that, is your investiture as a federal district  
16 judge, Bob.

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