

RAMSEY COUNTY
History
A PUBLICATION OF THE RAMSEY COUNTY HISTORICAL SOCIETY

St. Paul's Distinct Leadership Tradition

A Century of The Sterling Club

JEREMIAH E. ELLIS, PAGE 11



William DeWitt Mitchell

The Other William Mitchell

THOMAS H. BOYD AND DOUGLAS R. HEIDENREICH, PAGE 1

Over The Years . . .**A century of notable leaders:*****Sterling Club members you've read about:***

- Lawyer and US Minister and Consul to Liberia William T. Francis
- Deputy Police Chief James S. Griffin
- Athlete and Sports Official Jimmy Lee
- Architect Clarence "Cap" Wigington

Sterling Club members you've heard of:

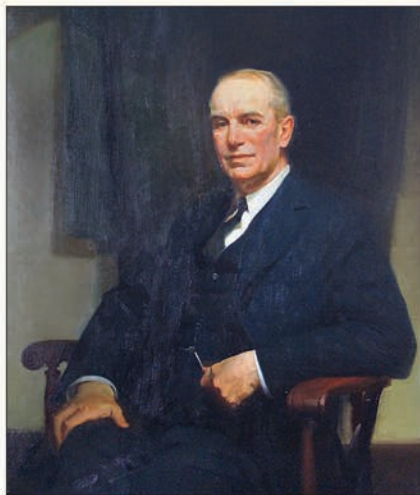
- Union Leader Frank Boyd
- Judge Stephen L. Maxwell
- Publisher Cecil Newman

Sterling Club members you've met:

- Former Police Chief William Finney
- Former School Superintendent Curman Gaines
- Former City Council President Bill Wilson

SOURCE: The Sterling Club Archives

One hundred years ago, thirteen talented gentlemen in St. Paul's African American community formed a social club to gather, celebrate, and stand strong against discrimination. Jeremiah E. Ellis shares this organization's long journey of engaging in civic action, creating social cohesion, managing through community upheaval, and acknowledging achievements in *St. Paul's Distinct Leadership Tradition: A Century of The Sterling Club*, beginning on page 11.

ON THE COVER

William DeWitt Mitchell served as the fifty-fourth Attorney General of the United States from 1929 to 1933. Danish artist John C. Johansen was commissioned to paint a portrait of Mitchell for the Department of Justice in 1935. He also painted likenesses of Georges Clemenceau, Ferdinand Foch, Herbert Hoover, Woodrow Wilson, and others. *Painting by John C. Johansen. Courtesy of United States Department of Justice.*

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The Aspirations of St. Paulite Ruth Cutler
JOHANNES ALLERT, M.A.

Message from the Editorial Board

One of the joys of publishing local history is uncovering stories that have escaped previous notice from historians. We have three of those stories this month. Thomas H. Boyd and Douglas R. Heidenreich explore the life of attorney William DeWitt Mitchell, the son of legendary Minnesota Supreme Court Justice William Bell Mitchell. The "Other William Mitchell" had a distinguished career in his own right as solicitor general and attorney general in Washington, D.C., and this article gives him well-deserved recognition. Jeremiah E. Ellis brings us the history of the Sterling Club, which was formed by a select group of men from St. Paul's African American community. For a century, the club has celebrated important milestones of community members and advanced civil rights as it provided a haven from pervasive discrimination in the city. Finally, Johannes Allert depicts the life of Ruth Cutler through her journals and letters. Cutler, a young woman born into upper-class St. Paul society, committed to Progressive ideals during World War I. Despite family responsibilities, she managed to join the American Red Cross and travel to France before she tragically lost her life in the flu epidemic. These stories remind us of individual lives and collective actions that showed incredible talent and resolve.

Anne Cowie
Chair, Editorial Board

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The Other William Mitchell

THOMAS H. BOYD AND DOUGLAS R. HEIDENREICH

Mitchell Hamline School of Law in St. Paul is named for the Honorable William Bell Mitchell, an associate justice on the Minnesota Supreme Court who earned a national reputation in the late nineteenth century as one of the country's foremost jurists.¹ But there was another William Mitchell of significant stature—namely, Justice Mitchell's son, William DeWitt Mitchell—who served as solicitor general in President Calvin Coolidge's administration and attorney general in President Herbert Hoover's administration. Known as one of the most accomplished and respected lawyers of his day, he rivals his father in terms of his stature and contributions on a national level. Like his father, he deserves recognition and respect for his extraordinary career.

Boyhood and Early Years

William DeWitt Mitchell was born September 9, 1874. He grew up at 72 Main Street² in Winona, Minnesota, near the Mississippi River, where he loved to hunt and fish. He was an excellent student and attended public schools before attending The Lawrenceville School in New Jersey.

He spent two years at Yale University in the Sheffield Scientific School, studying to be an electrical engineer. Despite excelling in mathematics and science, Mitchell decided to become a lawyer and transferred to the University of Minnesota. He took his undergraduate courses during the day and attended law classes at night. The registrar objected that Mitchell could work on both simultaneously but relented when the ambitious young man proved he was making the grades. Mitchell earned his bachelor's degree in 1895 and a law degree a year later.³

Early Law Practice and Service

Following law school, Mitchell clerked for Stringer & Seymour law firm in St. Paul before enlisting in the US Army during the Spanish-



William Bell Mitchell, the bewhiskered family patriarch and future Minnesota Supreme Court Justice, is surrounded by members of his extended family, including his son, William DeWitt Mitchell, the lad wearing the cap. *Front row (L-R):* Jenny Mitchell Staples, Two unnamed girls (daughters of Mary Mitchell Ewing), Billy Ewing (son of Judge Nathaniel Ewing), and Jessie Mitchell Hancock. *Middle row (L-R):* Helen Hancock Hardy, Frank Ames Hancock, Mary Mitchell Ewing, Judge William Mitchell, Unnamed daughter of Mary Mitchell Ewing, Kenneth Ewing. *Back row (L-R):* Judge Nathaniel Ewing, William Dewitt Mitchell. *Courtesy of Mitchell Hamline School of Law Archives.*

American War. He served as a second lieutenant in the Fifteenth Minnesota Volunteer Infantry from 1898-1899 and then as a captain and adjutant of the Fourth Regiment of the Minnesota National Guard.^{4,5}

After his father, Justice Mitchell, lost reelection to the Minnesota Supreme Court in 1898, the pair formed the law office of Mitchell & Mitchell. The firm was short lived, however, when Justice Mitchell died. Young Mitchell then joined Timothy R. Palmer and Joseph H. Beek to form Palmer, Beek & Mitchell, but before long, Palmer left for the Minnesota Mutual Life Insurance Company, and Beek went into business elsewhere.⁶ Next, the lawyer joined Jared How and Carl Taylor at How, Taylor & Mitchell. Taylor was the former corporation counsel for the City of St. Paul. In 1905, he moved to New York City to practice law. There, several years



William DeWitt Mitchell served as a second lieutenant in Company B of the Fifteenth Minnesota regiment in 1898. Photograph by J.M. Kuhn. Courtesy of Ramsey County Historical Society.

later, Taylor and Mitchell would join forces again.⁷ That same year, Pierce Butler, a future Supreme Court associate justice, resigned his position as general counsel for the Omaha Railroad Company and returned to private practice with his former partner, How. The law firm of How, Butler & Mitchell prospered.

Mitchell earned a reputation as an outstanding attorney sought for his intellect and skill as a drafter. His clients included members of the James J. Hill family, whose famously ill-fated estate planning was due in no way to Mitchell's efforts in drafting wills that were never signed⁸ and trust agreements that resulted in disputes motivated by the size of the trust corpus rather than ambiguities in the written instruments.^{9,10} Mitchell truly was a "lawyer's lawyer," and when Frank B. Kellogg¹¹ needed legal advice, he is said to have declared, "Let's Ask Billy Mitchell."¹²

During World War I, Mitchell served as the ranking officer of the First Battalion of the Minnesota Home Guard.¹³ In December 1917, the battalion mobilized at the St. Paul Armory three times in connection with striking employees of the Twin City Rapid Transit Company.¹⁴ The First Battalion intervened after violence broke out during a labor demonstration on December 2.¹⁵ Now a major, Mitchell was credited with restoring order through the deployment of the troops without firing a shot.¹⁶ Federal District Judge John B. Sanborn, Jr., later wrote to US Attorney General John G. Sargent that "[t]he city and county authorities were unable to cope with the situation [and Mitchell] was called upon, in effect to police the city of St. Paul, and he did the work in an admirable way, showing great ability as an organizer."¹⁷ Mitchell served as a colonel for the Minnesota National Guard through the remainder of World War I.

Solicitor General

When President Warren Harding nominated Pierce Butler as associate justice for the US Supreme Court, Butler is said to have exclaimed, "Billie Mitchell, not I, should be named."¹⁸ While it is hard to believe that Butler did not consider himself the best choice for the court, the story certainly reflects the high regard in which Mitchell was held.

Some suggested Mitchell be appointed to the federal appellate court. However, Mitchell made

it known that the only federal post in which he was truly interested was that of US solicitor general. Yet as a Democrat, he could not have seriously expected to receive such a plum appointment in a Republican administration.

Nonetheless, when there was a vacancy at the post, Mitchell's friends and admirers went to work on his behalf. Judge Sanborn told Attorney General Sargent that Mitchell was "the ablest lawyer with whom I have ever come in contact."¹⁹ The highly regarded Walter H. Sanborn²⁰ wrote President Coolidge to endorse Mitchell whom he described as "endowed with a calm, clear, logical mind of extraordinary power . . ."²¹ The entire Minnesota Supreme Court also heartily endorsed Mitchell, and Minnesotans in Washington, D.C., including Secretary of State Kellogg and Justice Butler, used their influence with the Coolidge Administration, as did Thomas Schall, Minnesota's Republican senator.

In 1925, President Coolidge appointed Mitchell to the post. Years later, Mitchell recalled a dinner at the White House when he first arrived in the capital city. The famously taciturn president had only two things to say during their meal: "Chicken again" and "I understand the Solicitor General has no time to make speeches."²²

Mitchell declared his representation of the federal government would be limited to only those cases in which he was satisfied that the government's position was "just." Mitchell was true to his word. There were thirty-four occasions when either he or his staff advised the Supreme Court that the lower courts had erred in rendering decisions in favor of the government.²³

Mitchell stated, "The purpose of the Department of Justice is not merely to win. In this respect, the position of the Government differs from that of most litigants. The Government is usually litigating with its own people. It cannot afford to win at the expense of justice; it can only win when justice is done."²⁴ Years later at the dedication of the new Department of Justice Building in 1933, Mitchell stated his guiding principle as solicitor general, and then as attorney general: "In any case, whether judgment is for or against the Government, the United States wins if justice is done to one of its citizens."²⁵

Mitchell's office represented the federal government in several search and seizure cases, including *Olmstead v. United States*, which challenged the constitutionality of warrantless wiretapping.²⁶ The defendant was charged with violating the federal Prohibition laws. Primary responsibility for presenting the government's position fell to the renowned Mabel Walker Willebrandt, the assistant attorney general who oversaw enforcement of the Volstead Act and the Eighteenth Amendment. Willebrandt declined to participate in the "whispering wires" case because she believed wiretapping was a dangerous invasion of privacy.²⁷ Mitchell recruited his former law partner Michael J. Doherty to present the case.²⁸ While the government prevailed, four justices wrote separate dissents, including Pierce Butler. Justice Louis Brandeis' dissent carried the day when *Olmstead* was overturned by the Warren Court.²⁹

Overall, Mitchell was well regarded for his work. President Coolidge is said to have remarked, "We are all very fond of the Solicitor General [who] is doing splendid work and making a great name for himself."³⁰



William DeWitt Mitchell on June 8, 1925, with his wife, Gertrude Bancroft Mitchell, and their oldest son, William, who became a distinguished attorney, serving as general counsel of the US Atomic Energy Commission. Photograph from National Photo Company Collection. Courtesy of Library of Congress, Prints & Photographs Division.

For Solicitor General William Mitchell who, among the Solicitors General since 1870, when the office was created, including a number of the ablest of the Nation's Bar, ranks among the first, with grateful appreciation of the great aid he renders the Supreme Court and with affectionate respect.

W^m H. Taft

Washington, May 25th, 1926.

Since Mitchell's distinguished service from 1925 to 1929, the post of solicitor general has been held by many fine attorneys, including Charles Evans Hughes, Jr. (1929-30), Robert H. Jackson (1938-40), Archibald Cox, Jr. (1961-65), Thurgood Marshall (1965-67), and Elena Kagan (2009-10). Courtesy of Minnesota Historical Society.

Attorney General

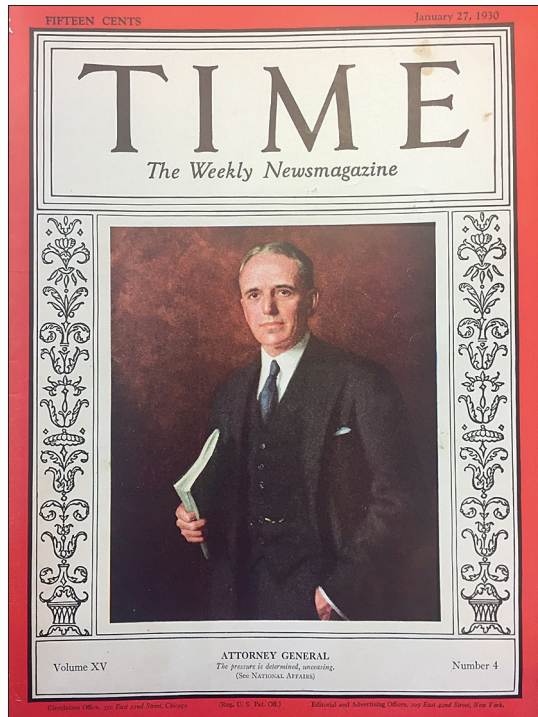
Mitchell had every intention of leaving Washington and returning to private practice in 1929 at the end of the Coolidge administration. It was expected that President Hoover would appoint William J. Donovan, a loyal supporter from his own party, to be his attorney general. However, Hoover planned to transfer responsibility for both investigating and prosecuting the Prohibition laws to the Department of Justice, and Donovan was a known "wet" who had shown little enthusiasm for this plan.^{31,32}

In the meantime, there was a ground-swell of support for Mitchell. In an extraordinary tribute, all members of the US Supreme Court recommended that Mitchell be appointed. This powerful endorsement had a great impact on President Hoover, who made the politically surprising decision to offer Mitchell the Republican administration's top post in the department.

Mitchell later wrote that he "twice refused to consider it."³³ He was reluctant because of the administration's plan to turn over full enforcement of Prohibition laws to the Department of Justice, which it had previously shared with Treasury. Mitchell knew this would be an unpleasant task and a difficult one to carry out. However, he ultimately accepted the position and became the fifty-fourth attorney general of the United States.

The Department of Justice was one of the largest departments in the executive branch. Its litigation made up nearly a third of the US Supreme Court's docket. Its divisions encompassed not only federal criminal investigations and prosecutions but also an array of civil matters that included antitrust, tax, administrative

William DeWitt Mitchell's appointment as attorney general solidified Minnesota's connections with national political power, which also included former Congressman Walter Newton, who served as personal secretary to President Hoover. *Time* magazine touted Mitchell's vigor and resolve in approaching the daunting task of becoming "Prohibition's Enforcer-in-Chief." Courtesy of Thomas H. Boyd Collection.



law, admiralty, customs, public lands, and Indian affairs.

When he accepted the position, Mitchell made it clear that he would continue arguing cases before the Supreme Court to the extent he could while also effectively managing the Department of Justice, which he did.

Always cordial and responsive, Mitchell was disciplined in keeping his meetings short and to the point, and he kept glad-handing to a minimum. Mitchell resisted attempts to politicize the department, stating, "The administration of justice is not a partisan matter."³⁴

Hoover assigned Mitchell "the chief responsibility for cleaning up the nation's justice system by weeding out corrupt and inefficient federal officials,"³⁵ which Mitchell did by dismissing unethical and incompetent federal district attorneys and replacing lax prosecutors with aggressive ones.

The Justice Department's enforcement of the Prohibition laws was a high-profile task. In part, President Hoover instructed Mitchell to "get" Al Capone, who reigned over the Chicago mafia.^{36,37} Mitchell recruited G. Aaron Youngquist, the former Minnesota attorney general, to head the Tax Prohibition Division of the Department of Justice. Youngquist oversaw the trial and sentencing of Capone for federal income tax evasion.³⁸

Mitchell also helped improve the federal prison system. The mass incarceration caused by Prohibition created the need for reform. He believed that continued enforcement of Prohibition obligated the federal government to take responsibility for the consequences of that enforcement. Mitchell took on many other difficult and challenging problems that the Department of Justice faced.³⁹

Erwin Griswold, the legendary Dean of the Harvard Law School—and solicitor general in Lyndon B. Johnson's administration—was a young lawyer when Mitchell served as attorney general. Griswold later wrote "that the period from 1929 to 1933 would be a high point in the Department of Justice for a very long period of time."⁴⁰

Commitment to an Independent and Qualified Federal Judiciary—The Nordbye Appointment

As attorney general, Mitchell advised President Hoover on the appointment of Article III judges to the federal courts. An American Bar Association study later showed that Hoover's appointments were based on merit and quality, without undue emphasis on political party affiliation.⁴¹ Mitchell deserves a good deal of credit for the President's record in this regard.

One such appointment involved the Honorable Gunnar Hans Nordbye, who would become one of this country's finest federal judges.⁴² That appointment would never have occurred if not for Mitchell.⁴³

Because of the significant increase in Minnesota's federal court caseload from the Prohibition docket, the state's congressional delegation successfully secured an additional federal judgeship. Senator Thomas Schall was the only Republican senator from the state. He believed he was entitled to deference from the Hoover administration in determining the appointee to the new district judgeship.

One of Senator Schall's supporters, a personal injury attorney named Tom Davis, urged Schall to endorse Davis' law partner, Ernest Michel. Davis hoped to secure a pro-plaintiff jurist sympathetic to the cases he filed in Minnesota. The senator recommended Michel.

Schall was not a person to cross. He had fought his way through a life of hardship.⁴⁴

Shortly after earning his law degree from the St. Paul College of Law,⁴⁵ Schall was blinded by an electric cigar lighter that blew up in his face. However, with the aid of his wife, Margaret Huntley Schall, who helped with reading and writing, he served five terms in the US House of Representatives and then defeated the incumbent Magnus Johnson to take a seat in the Senate in 1925.⁴⁶

Mitchell found the notion of appointing Michel to the federal judiciary offensive. Michel had no previous judicial experience, and Mitchell thought the attorney neither distinguished nor accomplished. In his characteristically decisive manner, Mitchell notified Schall that Michel was not acceptable, stating, “You are entitled to know what my attitude is toward Mr. Michel as a candidate. I regret to say and I cannot recommend to the President his appointment . . . I have given this matter very thorough and conscientious consideration and there is no prospect of my reaching any different conclusion.”⁴⁷

The matter eventually became a cause célèbre between Schall and his supporters on one hand and President Hoover and his attorney general on the other. Hoover even asked Schall to provide alternative candidates, but he refused. The administration then compiled its own list with the names of eight Minnesota district court judges “who [the President understood] to have substantial support from citizens in Minnesota,” including Judge Nordbye.⁴⁸

Nordbye immigrated with his family from Norway in 1888 as an infant. His father died when the children were young, and his mother took in laundry to earn money. Nordbye worked his way through the University of Minnesota Law School. After ten years of practice in Minneapolis, he was appointed to the Hennepin County municipal court and then to the district court. He was well regarded as a state court judge and would have been happy to remain there. However, fate intervened.⁴⁹

While Senator Schall remained defiant and Congress neared the end of its session, President Hoover and Attorney General Mitchell concluded they needed to do something to fill the vacancy in the understaffed Minnesota federal court. Accordingly, Hoover decided to make a recess appointment and advised Schall that he planned to appoint Nordbye.⁵⁰

This appointment posed serious risk. Hoover was alienating a senator from his own party, and he faced the potential embarrassment that the Senate would ultimately not confirm his nominee. Judge Nordbye faced the prospect of giving up his position as a Hennepin County district judge to take what could be a short-lived appointment to the federal judiciary. Worse, Nordbye would not be paid during the recess appointment, and he would forfeit any right to retroactive pay if he was not eventually confirmed by the Senate. To accept the recess appointment, Nordbye needed a loan of \$5,000 to feed his family during the time prior to his uncertain confirmation. Nordbye got the loan—and he accepted the recess appointment.⁵¹ Senator Schall and his cronies were livid. Fortunately, President Hoover’s appointment of Judge Nordbye was generally well received in Minnesota.

On December 7, 1931, Mitchell again recommended Judge Nordbye to President Hoover—this time for a permanent lifetime appointment—noting that “his services since his recess appointment had been excellent.”⁵² Hoover asked the Senate to formally confirm Nordbye, which it did February 3, 1932. Nordbye later said that apart from his own family, the president of the bank, who had approved his loan, was the “most enthusiastic . . . well-wisher” to attend his swearing-in ceremony.⁵³

Judge Nordbye served until his death in 1977, presiding over some of the most important cases filed in his district. His career and service



Pugnacious and independent throughout this life, Thomas Schall ran away from home as a boy, rode the rails, and earned money as a fighter and a baseball player, before becoming a lawyer and an upstart candidate who campaigned his way into Congress. *Courtesy of Minnesota Historical Society.*



His inauspicious recess appointment to the federal district court led to a distinguished career during which Gunnar Nordbye (right) became known around the country as the epitome of a United States district judge. *Courtesy of Minnesota Historical Society.*

as a federal judge rank among the finest in the nation.⁵⁴

Hoover and Mitchell

Mitchell developed a close relationship with President Hoover,⁵⁵ and he stood by his boss and weathered many challenges faced by the administration. One such “storm” involved the unfortunate confrontation with the World War I Veteran Bonus Marchers⁵⁶ who encamped around Washington, D.C., in 1932.^{57,58} After various awkward steps, President Hoover appointed Mitchell to coordinate the evacuation of the marchers. On July 28, 1932, Mitchell ordered the police to remove the veterans and their families from government property in a gradual and orderly manner. However protesters resisted, and shots were fired. When the military was called to restore order, Army Chief of Staff General Douglas MacArthur exceeded Hoover’s limited orders by routing the protesters with

tanks and teargas, driving them across the Potomac and burning their encampments.⁵⁹ Notwithstanding his clear insubordination, the administration had no choice but to stand by MacArthur in the adverse public firestorm that ensued. It fell to Mitchell to issue a dubious report that blamed the violence on criminal elements among the ranks of marchers.^{60,61}

President Hoover greatly respected Mitchell and wanted to appoint his able cabinet member to the US Court in 1932, but Mitchell declined. First, Hoover’s administration previously experienced difficulties with Supreme Court nominations and had suffered the failed nomination of Judge John Parker. Also, while Mitchell was well respected among members of both parties, he was associated with several of the administration’s unpopular policies and was vulnerable to political attack.⁶²

In addition, the leading alternative candidate was Benjamin Cardozo, the well-respected

National Prominence of Minnesota’s Bench and Bar in the Late Nineteenth and Early Twentieth Centuries

William Bell Mitchell

Governor John S. Pillsbury appointed William Bell Mitchell (William DeWitt Mitchell’s father) to the Minnesota Supreme Court in 1881. During his eighteen years on the court, Justice Mitchell wrote more than 1,500 opinions that touched all areas of state law.^a In 1898, a Republican defeated Mitchell in the general election, and so “Minnesota lost its greatest judge.”^b Mitchell returned to private practice and planned to join the faculty of the new St. Paul College of Law, but he died unexpectedly before the school opened in 1900.

Justice Mitchell was just one of several Minnesotans who rose to national prominence in the late nineteenth and early twentieth centuries. A sampling of these luminaries illustrates the state’s significance in the federal judiciary and bar:

Rensselaer R. Nelson

The Honorable Rensselaer R. Nelson was the embodiment of federal judicial authority in Minnesota—as a territorial justice and then as the state’s only federal district judge from 1858 to 1896. Judge Nelson, himself the son of a US Supreme Court associate justice, received national attention for many of his rulings.^c

The St. Paul Sanborns

The Honorable Walter Henry Sanborn was appointed to the Eighth Circuit in 1891. This event was heralded as “bringing the federal law to the Northwest.”^d Sanborn was known nationally for many progressive decisions, including the opinion he authored to break up the Standard Oil Trust, which was affirmed by the Supreme Court, and for the dissent in which he argued that “separate but equal” segregation in public transportation is unconstitutional.^e

Sanborn’s younger cousin, John B. Sanborn, Jr., later served on the Eighth Circuit. Together, at least one Sanborn served continuously on the federal bench for seventy-three years (from 1891 to 1964). They were called “The Hands of the Eighth Circuit”^f in reference to cousins Learned and Augustus Hand of the Second Circuit. Judge Sanborn’s first law clerk and successor on the circuit was St. Paul’s Harry Blackmun, who was named an associate justice on the US Supreme Court alongside his friend from the city’s Dayton’s Bluff neighborhood, Chief Justice Warren E. Burger.^g

Fredrick McGhee and William T. Francis

The St. Paul bar was also the source of leadership in the fight for civil liberties and against racial discrimination of African Americans. Fredrick McGhee, born into slavery in Mississippi in 1861, became the first African American admitted to practice law in Minnesota. He settled in St. Paul

high court justice from New York. Ultimately, it was Justice Cardozo who, with Mitchell's support, was nominated and confirmed for the appointment. Some forty years later, Griswold commented, "I think it very likely that Attorney General Mitchell could have had the appointment if he had indicated a willingness to take it. I believe he deliberately stood aside so that the nomination might go to Cardozo. That is to his credit. And it was not due to modesty on Mitchell's part. It was because he thought that Cardozo had the qualities which would make him a great Supreme Court Justice."⁶³

There appears to have been one other reason Mitchell was reluctant to be nominated to the Supreme Court. In a story reported by Bennett Boskey, a legendary lawyer and member of the American Law Institute, Mitchell shared "that he had declined an offer of appointment to the Supreme Court, and that the reason was that back in Minnesota he had been a partner in the

same law firm as Pierce Butler and did not wish to spend the rest of his life sitting on the same court with Butler."⁶⁴

There is no doubt about President Hoover's preference. Shortly after he left office, he wrote, "One of the disappointments of my life was that I was deprived of drafting you to the Supreme Court—where you have a unique fitness beyond any American."⁶⁵

Legacy to the Federal Bench and Bar

When the Hoover administration ended, Mitchell was in his late fifties and wanted to return to private practice. He moved to New York City where he joined his former partner, Carl Taylor, to practice law in a prominent firm that Mitchell made even more prominent—Mitchell, Taylor, Capron & Marsh.⁶⁶

Mitchell joined the Association of the Bar of the City of New York and served as president from 1941 to 1943. He also was appointed

in 1889 and became a charismatic orator and a skilled criminal defense lawyer. He served as the director of the legal bureau of the National Afro-American Council and helped found the Niagara Movement in 1905, a precursor to the National Association for the Advancement of Colored People (NAACP).^h Following McGhee's untimely death in 1912, W. E. B. Du Bois eulogized McGhee as "not simply a lawyer [but] a staunch advocate of democracy [who] stood like a wall against the encroachment of color caste in the Northwest."ⁱ

Attorney William T. Francis took over McGhee's law practice in 1912. Born in Indianapolis, Francis moved to St. Paul to work as a messenger on the Northern Pacific Railway. He rose through the ranks in the railroad's law department and obtained his degree from St. Paul College of Law in 1904. In 1927, President Calvin Coolidge appointed Francis US Minister and Consul General to Liberia, where he investigated rumors of forced labor and slavery by Liberian officials in exchange for payments from Spanish plantation owners.^j Francis verified the truth to Secretary of State Henry Stimson, who demanded Liberia form an investigative commission. Not long after, Francis died of yellow fever while still in Liberia. Stimson called Francis one of the nation's "most able and trusted public servants."^k

Attorneys with Davis, Kellogg & Severance

The St. Paul law firm of Davis, Kellogg & Severance gained national prominence, as well. This firm boasted a Minne-

sota governor—Cushman K. Davis; two United States senators—Davis and Frank B. Kellogg; and two presidents of the American Bar Association—Kellogg and Cordenio A. Severance. Also, Kellogg, who earned a national reputation as a trustbuster while serving as a special prosecutor in the Theodore Roosevelt and Taft administrations, later served as secretary of state and received the Nobel Peace Prize for the Kellogg-Briand Pact.^l Not bad for a small St. Paul law firm.

Pierce Butler

Pierce Butler, an aggressive, formidable man, was a prosecutor, a railroad lawyer, and a successful attorney. Butler and Taft (who had already served as the twenty-seventh President of the United States) were acquainted during a high-stakes arbitration that Butler litigated in Canada. Taft was one of the arbitrators when he learned of his nomination as Chief Justice of the United States. He and Butler celebrated together. Later, Taft recommended that President Warren G. Harding appoint Butler to the US Supreme Court, which he did.^{m,n}

Indeed, through these impressive individuals, Minnesota influenced the nation's legal affairs that belied the size of its population, and William Bell Mitchell's son, William Dewitt Mitchell, soon followed in the footsteps of these many prominent leaders.

William Dewitt Mitchell with the Supreme Court after Justice Oliver Wendell Holmes' resignation and Benjamin Cardozo's appointment in early 1932 before Mitchell left the post of attorney general in early 1933. (L-R): William DeWitt Mitchell, Benjamin N. Cardozo, Harlan Fiske Stone, George Sutherland, Willis Van Devanter, Charles Evans Hughes (Chief Justice), Louis D. Brandeis, Pierce Butler, and Owen Roberts. The gentleman on the far right is believed to be Solicitor General Thomas D. Thacher. Photograph by Acme Pictures, Inc., New York. Courtesy of Minnesota Historical Society.



the first chair of the Committee on the Federal Rules of Civil Procedure and served as chair for more than twenty years. Mitchell's stature, as well as his experience as a practicing lawyer and his savvy political insights from his days in the Department of Justice, were critical in obtaining authorization and implementation of these rules. His work continues to affect how civil litigation is conducted.

Over the years, Mitchell built an impressive nationwide practice that included several high-profile cases, some of which encompassed foreign proceedings and international law. Not surprisingly, he became one of the outstanding appellate advocates of his time and regularly appeared before the US Supreme Court. He argued and won his last Supreme Court case less than a year before he died in 1955.^{67,68}

William DeWitt Mitchell received numerous recognitions including honorary degrees from Yale University, Williams College, and the University of Michigan. He was similarly honored by his alma mater, the University of Minnesota, which presented him with a special commendation for outstanding achievement as the "learned son of a learned father; practitioner and public servant of rare modesty, integrity, and scrupulous regard for high ethical standards; whose incisive intelligence and searching clarity have brought honor to his profession and to himself."⁶⁹ A fitting tribute indeed to "The Other William Mitchell."

Thomas H. Boyd is a shareholder with Winthrop & Weinstine, P.A.

Douglas R. Heidenreich is former Dean, William Mitchell College of Law.

NOTES

1 Douglas R. Heidenreich, *With Satisfaction and Honor: William Mitchell College of Law 1900-2000* (St. Paul, MN: William Mitchell College of Law, 1999), 171-187.

2. "Mitchell, William, Judge," *Campbell's Winona City Directory*, 1875-1876, 13.

3. Edward Everett Watts, Jr., *Memorial on William DeWitt Mitchell* (New York: Association of the Bar of the City of New York, 1956).

4. Franklin F. Holbrook, *Minnesota in the Span-*

ish-American War and the Philippine Insurrection (St. Paul, MN: Minnesota War Records Commission, 1923), 87-101, 368.

5. Joseph A. A. Burnquist, *Minnesota and Its People* (Chicago: The S.J. Clarke Publishing Company, 1924), 543.

6. Ramsey County Bar Association, *Annual Memorial Service*, March 31, 1956, 19.

7. William D. Mitchell, *Memorial of Carl Taylor*

(New York: Association of the Bar of the City of New York, 1942).

8. Biloine W. Young & Eileen R. McCormack, *The Dutiful Son: Louis W. Hill, Life in the Shadow of the Empire Builder, James J. Hill* (St. Paul, MN: Ramsey County Historical Society, 2010), 245-254.

9. David Carr, "A Matter of Trust," *Minnesota Lawyer* 5, no. 10 (August 1990): 16-17.

10. Minnesota Court of Appeals, "*In the Matter of Trust created by Hill on December 31, 1917, for the Benefit of Maud Hill Schroll*, 499 N.W.2d 475," 1993.

11. Frank B. Kellogg served as a US senator for the state of Minnesota (1917-1923) and secretary of state in the Calvin Coolidge administration (1925-1929).

12. Larry Ho, undated article in scrapbook, "'Let's Ask Bill Mitchell,' *All the Lawyers Exclaim*," William DeWitt Mitchell papers, Minnesota Historical Society.

13. Order Establishing Home Guard, April 28, 1917, Minnesota Historical Society.

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17. John B. Sanborn, letter to John G. Sargent, April 29, 1925, William DeWitt Mitchell papers, Minnesota Historical Society.

18. David J. Danelski, *A Supreme Court Justice is Appointed* (New York: Random House, 1964), 10.

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20. John B. Sanborn's older cousin (See sidebar).

21. Walter H. Sanborn, letter to Calvin Coolidge, April 24, 1925, William DeWitt Mitchell papers, Minnesota Historical Society.

22. William D. Mitchell, letter to Erwin Griswold July 2, 1951, William DeWitt Mitchell papers, Minnesota Historical Society.

23. Watts, *Memorial on William DeWitt Mitchell*, 3.

24. Theodore G. Joslin, "Attorney General Mitchell And A Difficult Job," *World's Work* 68, no. 2 (February 1930).

25. William D. Mitchell, address at Laying of Cornerstone of the Department of Justice Building, February 23, 1933, William DeWitt Mitchell papers, Minnesota Historical Society.

26. *Olmstead v. United States*, 277 U.S. 438 (1928).

27. Dorothy M. Brown, *Mabel Walker Willebrandt: A Study of Power, Loyalty and Law* (Knoxville, TN: University of Tennessee Press, 1984), 7.

28. Richard F. Hamm, *Olmstead v. United States: The Constitutional Challenges of Prohibition Enforcement*

55, Federal Judicial Center, 2010, <https://www.fjc.gov/sites/default/files/trials/olmstead.pdf>.

29. *Katz v. United States*, 389 U.S. 347 (1967).

30. President Calvin Coolidge, interview with Frank Hancock, May 6, 1927, William DeWitt Mitchell papers, Minnesota Historical Society.

31. Herbert Hoover, transcription of handwritten notes for "Reasons Donovan was not taken into Cabinet," Herbert Hoover papers, Herbert C. Hoover Presidential Library.

32. Glen Jeansonne, *The Life of Herbert Hoover: Fighting Quaker, 1928-1932* (New York: Palgrave MacMillan, 2012), 48.

33. William D. Mitchell, letter, in "Forty-Six Years After, Class of Ninety-Four, Sheffield Scientific School of Yale University," compiled by Edward W. Allen, 1940.

34. Joslin, "Attorney General Mitchell And A Difficult Job," 70.

35. Joslin, "Attorney General Mitchell And A Difficult Job," 105-106.

36. David Burner, *Herbert Hoover: A Public Life* (Newtown, CT: American Political Biography Press, 1978), 219.

37. Jeansonne, *The Life of Herbert Hoover: Fighting Quaker, 1928-1932*, 102.

38. G. Aaron Youngquist, *Autobiography of G. Aaron Youngquist; 1959*, 68-70 and 80-84, accessed from Minnesota History Project website, <http://minnesota.legalhistoryproject.org/assets/Youngquist%20Auto%20biography.pdf>.

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40. Harriett and Erwin Griswold, letter to Gertrude and William D. Mitchell, June 26, 1951, William DeWitt Mitchell papers, Minnesota Historical Society.

41. Burner, *Herbert Hoover: A Public Life*, 234.

42. US District Courts Federal Supplement 452, "*In Memoriam*," November 9, 1977.

43. Gunnar H. Nordbye, address, May 6, 1959, Gunnar H. Nordbye papers, Minnesota Historical Society.

44. Thomas Schall's father died when Schall was a baby. His mother struggled to make ends meet. He was known for his staunch independence throughout his political career. He was killed in a car accident in 1935. "Schall, Thomas David (1878-1935)," Biographical Directory of the United States Congress, accessed July 6, 2019, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=S000113>.

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47. William D. Mitchell, letter to Thomas D. Schall, June 28, 1930, Herbert C. Hoover papers, Herbert C. Hoover Presidential Library. See also William D. Mitchell, statement, January 24, 1931, and William D. Mitchell, letter to Thomas D. Schall, January 31, 1931.

48. Herbert C. Hoover, letter to Thomas D. Schall,

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50. Herbert C. Hoover, letter to Thomas D. Schall, February 20, 1931, William DeWitt Mitchell papers, Minnesota Historical Society.

51. Hoover, letter to Schall, February 20, 1931.

52. William D. Mitchell, letter to Herbert C. Hoover, December 7, 1931, William DeWitt Mitchell papers, Minnesota Historical Society.

53. Gunnar H. Nordbye, speech at Hennepin County Bar Association Dinner, October 7, 1958, Gunnar H. Nordbye papers, Minnesota Historical Society.

54. US District Courts Federal Supplement 452, "In Memoriam," November 9, 1977.

55. Jeansonne, *The Life of Herbert Hoover: Fighting Quaker, 1928-1932*, 56.

56. In 1924, Congress issued World War I veterans \$1,000 certificates that could be redeemed in 1945. However, as the Great Depression worsened and more veterans lost their jobs, they fought to receive their bonus money earlier. Over 17,000 veterans encamped in a shantytown and rallied near the Capitol. When it was clear that their fight was lost, most returned home, but several thousand remained until forced out by the military. "The Bonus March," *U.S. History Online Textbook*, accessed July 7, 2019, <http://www.ushistory.org/us/48c.asp>.

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60. William D. Mitchell, report to Herbert C. Hoover, September 9, 1932, William DeWitt Mitchell papers, Minnesota Historical Society.

61. Paul Dickson and Thomas B. Allen, *The Bonus Army: An American Epic* (New York: Walker & Company, 2004).

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63. Erwin Griswold, "The Judicial Process," *Federal Bar Journal* 31 (1973): 309-310.

64. Bennett Boskey, "Supreme Court Declinations," *Journal of Supreme Court History* 31, no. 3 (2006): 252.

65. Herbert C. Hoover, letter to William D. Mitchell,

March 22, 1933, William DeWitt Mitchell papers, Minnesota Historical Society.

66. Watts, *Memorial on William DeWitt Mitchell*, 4.

67. Edward Everett Watts, Jr., *Mitchell, Capron, Marsh, Angulo & Cooney, A History* (New York: Association of the Bar of the City of New York, 1956), 31-32, 58.

68. Watts, *Memorial on William DeWitt Mitchell*, 4-6.

69. Conferred by the Regents of the University of Minnesota on April 13, 1951.

Notes to Sidebar on pp. 6-7

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c. Honorable Becky Thorson, "Judge Rensselaer R. Nelson," PowerPoint presentation for United States District Court, District of Minnesota, July 29, 2016.

d. Thomas H. Boyd, "Walter Sanborn and the Eighth Circuit Court," *Ramsey County History* 26, no. 2 (Summer 1991): 22-27.

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f. Thomas H. Boyd, "The Life and Career of the Honorable John B. Sanborn, Jr.," *William Mitchell Law Review* 23, no. 2 (1997): 203.

g. Boyd, "The Life and Career of the Honorable John B. Sanborn, Jr.," 203.

h. Paul Nelson, *Fredrick L. McGhee: A Life on the Color Line, 1861-1912* (St. Paul, MN: Minnesota Historical Society Press, 2002).

i. Nelson, *Fredrick L. McGhee: A Life on the Color Line, 1861-1912*, 202.

j. Paul D. Nelson, "William T. Francis, at Home and Abroad," *Ramsey County History* 51, no. 4 (Winter 2017): 3.

k. Nelson, "William T. Francis, at Home and Abroad," 3.

l. The Kellogg-Briand Pact was an attempt to prevent a future world war. "The Kellogg-Briand Pact, 1928," US Department of State: Office of the Historian, accessed June 10, 2019, <https://history.state.gov/milestones/1921-1936/kellogg>.

m. David J. Danelski, *A Supreme Court Justice is Appointed* (New York: Random House, 1964).

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RAMSEY COUNTY History

A PUBLICATION OF THE RAMSEY COUNTY HISTORICAL SOCIETY

Preserving our past, informing our present, inspiring our future.

The mission statement of the Ramsey County Historical Society
adopted by the Board of Directors on January 25, 2016.

The Ramsey County Historical Society's vision is to be widely recognized as an innovator, leader, and partner in preserving the knowledge of our community, delivering inspiring history programming, and using local history in education. Our mission of *preserving our past, informing our present, inspiring our future* guides this vision.

The Society began in 1949 when a group of citizens acquired and preserved the Jane and Heman Gibbs Farm in Falcon Heights, which the family had acquired in 1849. Following five years of restoration work, the Society opened the Gibbs Farm museum (listed on the National Register of Historic Places in 1974). Originally programs focused on telling the story of the pioneer life of the Gibbs family. In 2000, with the assistance of a Dakota Advisory Council, the historic site also began interpreting Dakota culture and lifeways, building additional structures, and dedicating outdoor spaces to tell these stories. The remarkable relationship of Jane Gibbs with the Dakota during her childhood in the 1830s and again as an adult encouraged RCHS to expand its interpretation of the Gibbs farm to both pioneer and Dakota life.

In 1964, the Society began publishing its award-winning magazine, *Ramsey County History*. In 1978, an expanded commitment from Ramsey County enabled the organization to move its library, archives, and administrative offices to downtown St. Paul's Landmark Center, a restored Federal Courts building on the National Register of Historic Places. An additional expansion of the Research Center was completed in 2010 to better serve the public and allow greater access to the Society's vast collection of historical archives and artifacts. In 2016, due to an endowment gift of \$1 million, the Research Center was rededicated as the Mary Livingston Griggs & Mary Griggs Burke Research Center.

RCHS offers a wide variety of public programming for youth and adults. Please see www.rchs.com for details of upcoming History Revealed programs, summer camps at Gibbs Farm, and much more. RCHS is a trusted education partner serving 15,000 students annually on field trips or through outreach programs in schools that bring to life the Gibbs Family as well as the Dakota people of Cloud Man's village. These programs are made possible by donors, members, corporations, and foundations, all of whom we appreciate deeply. If you are not yet a member of RCHS, please join today and help bring history to life for more than 50,000 people every year.

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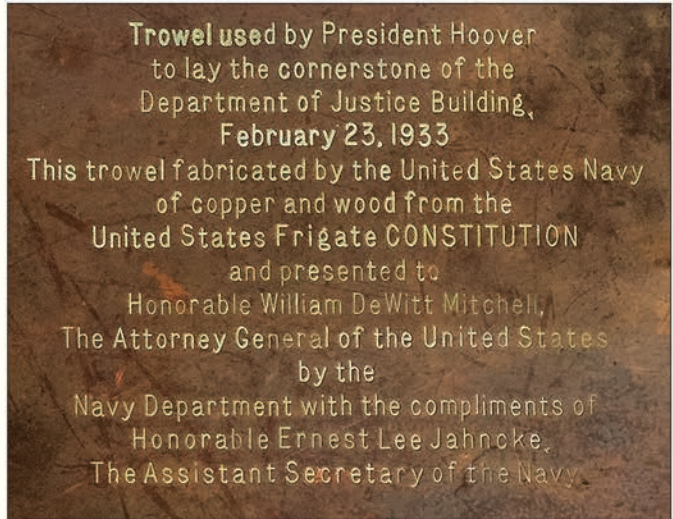
The Tale of the Trowel

DOUGLAS R. HEIDENREICH

William DeWitt Mitchell was presented with a trowel upon leaving his post as United States Attorney General. President Hoover had used the trowel to lay the cornerstone of the new Department of Justice building in 1933.

The trowel was fashioned from wood and copper from the USS *Constitution*. That wooden sailing vessel earned the sobriquet “Old Ironsides” because of her refusal to sink or strike her colors during a great naval battle in the War of 1812.¹ Supposedly a British sailor aboard the ship with which the *Constitution* was engaged in battle exclaimed that her sides must be made of iron to withstand the fierce shelling to which she was being subjected.

Some years later, the *Constitution* was scheduled to be dismantled. Public opinion, however, influenced largely by the publication of the poem, “Old Ironsides,” prevented this. The stirring opening line, “Ay, tear her tattered ensign down,”² had struck a chord with the public. The author of that poem, Oliver Wendell Holmes, Sr., became the father of the great US Supreme Court Justice, Oliver Wendell Holmes, Jr. The frigate was at various times decommissioned, recommissioned, rebuilt, and used as a training vessel. The *Constitution*, open to visitors, remains in the Charlestown Navy Yard today,³ a



Photographs by Bob Muschewske. Courtesy of William Mitchell School of Law Archives.

symbol of the days when America truly was “the Land of the Free and the Home of the Brave.”⁴

It is said that the copper that sheathed her hull, a bit of which was used to fashion this trowel, came from Paul Revere’s shop. The trowel today rests in the Mitchell Hamline School of Law Archives.

NOTES

1. United States Navy, “USS Constitution,” in United States Navy Fact File, accessed July 12, 2019, https://www.navy.mil/navydata/fact_display.asp?cid=4200&tid=100&ct=4.
2. Oliver Wendell Holmes, “Old Ironsides,” accessed July 12, 2019, <http://www.ibiblio.org/eldritch/owh/oldiron.html>.
3. United States Navy, “USS Constitution,” in United States Navy Fact File, accessed July 12, 2019, https://www.navy.mil/navydata/fact_display.asp?cid=4200&tid=100&ct=4.
4. “The Star-Spangled Banner,” Smithsonian National Museum of American History, accessed July 12, 2019, <https://amhistory.si.edu/starspangledbanner/>.



Facing Change: Advancing Museum Board Diversity & Inclusion

The Ramsey County Historical Society (RCHS) has been selected by the American Alliance of Museums (AAM) to participate in “Facing Change: Advancing Museum Board Diversity & Inclusion.” This unprecedented national initiative to diversify museum boards and leadership is taking place across five US cities and includes a cross-section of museums.

With the support of The Andrew W. Mellon Foundation, Alice L. Walton Foundation, and the Ford Foundation, this program will provide the framework, training, and resources for museum leaders to build inclusive cultures within their institutions that more accurately reflect the communities they serve.

According to Chad Roberts, RCHS president, “Ramsey County Historical Society has been a trusted partner in preserving the history of the people and institutions in Ramsey County for seventy years. Enhancing our leadership to ensure inclusive representation of everybody who calls this community home is a strategic priority.

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St. Paulite Ruth Cutler on her graduation day at Vassar College in Poughkeepsie, New York, in 1912. Her future was full of possibilities. *Courtesy of Minnesota Historical Society.*