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Judge Delmas C. Hill

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DEDICATION

JUDGE DELMAS C. HILL

The federal judges of the Tenth Circuit are grateful to the Denver University Law Review for this issue memorializing our esteemed colleague, the late Judge Delmas C. Hill.

Of the many respected and learned judges who have graced the trial and appellate benches of the Tenth Circuit, Judge Hill personified what a judge should be. Born in the small town of Wamego, Kansas, Judge Hill was the son of a country doctor who ministered to his patients regardless of their ability to pay. Judge Hill early acquired a similar devotion to duty and desire to help his fellow man. He graduated from Washburn Law School in Topeka, Kansas, a prestigious smaller institution which intensively trained many outstanding lawyers around the nation in both legal theory and practice. Judge Hill then rapidly attained success in the public and private sectors. He practiced law in Wamego with Robert Kaul, who later became a Justice on the Kansas Supreme Court. During the course of his career, Judge Hill served as a County Attorney, a City Attorney, School Board Counsel, an Assistant United States Attorney, and Chief Counsel for the Kansas Tax Commission. While in the United States Attorney's office, he attracted the favorable attention of Tom Clark, then an Assistant United States Attorney General under President Roosevelt, who later became a United States Supreme Court Justice under President Truman.

Like many young lawyers who later attain fame, Judge Hill was astute in politics and a nationally recognized leader of his political party in Kansas. He volunteered for military duty in World War II as a private, rising to prominence in the J.A.G. Corps as a member of General MacArthur's staff in the Pacific. As Major Hill, he was one of the principal attorneys assigned to the successful prosecution of Japan's General Yamashita. After the war, he returned to Kansas and to private practice, turning down the opportunity to be the Democratic nominee for governor. In 1949, President Truman selected him to be a federal district judge.

As a federal district judge, Judge Hill significantly changed the way in which the federal judiciary was perceived in Kansas. In 1950, the federal court in Kansas catered only to a very small segment of the bar, and was as remote as the moon to most Kansans. The judges who presided, while competent jurists, were idiosyncratic. Some were believed to be tyrannical; some were autocratic and aloof; some were overworked and plagued by bad health.

It is recognized that Judge Hill did more than others to popularize the federal judiciary in Kansas, and to "humanize" the federal court as an institution of justice. He brought legal scholarship and extensive trial

experience to the bench, and zealously worked to correctly decide the large volume of cases filed after the war. His legal and political experience also gave Judge Hill a respect for practicing attorneys, as well as a feeling for people. All of these qualities produced a judge who was considerate of lawyers, litigants, jurors and witnesses alike, yet who was firm and prompt in his decisions. Soon after President Kennedy was inaugurated in 1961, Judge Hill was appointed to the Tenth Circuit Court of Appeals. He served the Tenth Circuit with national distinction from 1961 until 1977, when he took senior status and retired. His wise counsel continued to be sought by, and was generously given to, both district and circuit judges until his death on December 2, 1989.

Judge Hill's appellate service was characterized by opinions which were scholarly and concisely written, combining a proper regard for precedent with an openmindedness towards changes in both constitutional and statutory law. Judge Hill was especially revered by the trial judges of this circuit. As an appellate judge he never countenanced trial error. However, he innately understood the difficult position of the federal trial judge who must make decisions instantly, be persuasive in welding the interests of litigants and lawyers to produce justice, and who must have the stamina to overcome the many pressures inherent in decision-making. Judge Hill also respected the rule that factual decisions are not to be upset absent clear error or an abuse of discretion — a rule of appellate review sometimes difficult to follow when only a cold record of the trial proceedings is presented to the court on appeal.

Judge Hill has been deservedly praised by lawyers and judges throughout the nation as an outstanding judge. As the late Kansas United States Senator Harry Darby aptly said of Judge Hill: "Guilt never escaped, and innocence never suffered in his courts."

*The Honorable Frank G. Theis
Chief Judge Emeritus
United States District Court
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