

**CEREMONIES OF THE SUPREME COURT OF
NEVADA, MARKING RETIREMENT OF ASSO-
CIATE JUSTICE EDGAR EATHER AND ADMIN-
ISTERING OATH OF OFFICE TO JUDGE FRANK
McNAMEE, MONDAY, DECEMBER 15, 1958, AT
9:30 O'CLOCK A. M., IN THE SUPREME COURT
ROOM AT CARSON CITY, NEVADA.**

Presiding :

Chief Justice MILTON B. BADT.

Also Present

On the Bench

Associate Justice EDGAR EATHER
Associate Justice CHARLES M. MERRILL
Judge FRANK McNAMEE.

Also Present

In the Court Room

Members of the Bar and
Friends and Officers of the Court.

Chief Justice BADT :

This session of the Court has been called this morning for the dual purpose of paying tribute to our Justice Edgar Eather who leaves the bench this morning, and to his long period of service to the bench, the bar, and the State, and to welcome Judge McNamee who joins the Court today.

Committed as we are to cold logic in this Court, to precedent, to syllogistic reasoning, to the philosophy of law, nevertheless it is inevitable that at a moment of this kind it becomes charged with deep emotion. This cannot be otherwise in view of the long personal and official association between men who have been associated together so intimately for so many years.

The evidence of the importance of the occasion is here in the presence of so many eminent counsel from all over the State. To the end that we may recognize the importance of the occasion we desire to hear from some

of the members of the bar, and first I shall call upon the President of the State Bar of Nevada, Mr. V. Gray Gubler.

Mr. GUBLER :

Mr. Chief Justice, Justice Eather, Justice Merrill and Judge McNamee, Ladies and Gentlemen :

It is an honor and privilege to join the Supreme Court, distinguished lawyers and judges and leading citizens of Nevada in extending to Justice Eather on his retirement from the Supreme Bench a small measure of our love and appreciation for long and meritorious service as an outstanding jurist of our State. It is a privilege and honor at the same time to join in the installation of Judge McNamee as a Justice of our Supreme Court.

The genius and strength of the American system of democracy is inherent in Lincoln's description of it as "Government of the people, by the people and for the people." In order to implement and safeguard this principle, a system of checks and balances was established. The legislative branch of government enacts the laws; the executive branch administers the affairs of County, State or Country as the case may be; and the judicial branch interprets the laws and has final word in adjudicating our personal and property rights. Judges are the protectors of our lives, our property and our liberties as citizens of the United States and of the State of Nevada.

Throughout his judicial career Justice Eather bore his robe of office with honor and distinction, bringing to the bench great personal integrity, extensive experience and a broad acquaintance with legal matters in various fields and categories, involving all types of human problems and relationships. After faithful and distinguished service on the district bench for 17 years, Justice Eather received a merited advancement to the Nevada Supreme Court in 1946. As a member of such Court, Justice Eather has again served with honor and distinction. Though the human contacts and relationships, which Judge Eather molded with the law to accord justice from the district bench, were largely

replaced on the Supreme bench by the impersonal consideration of law and fact, Justice Eather maintained throughout his service on the Supreme Court a personal warmth, which was daily manifested by the friendly and courteous treatment accorded by him to counsel appearing before the Court.

Justice Eather has served the cause of justice faithfully and well throughout his 29-year tenure as a Nevada judge and jurist. We view with a deep sense of loss and sadness Justice Eather's retirement from the Supreme Court, but rejoice with him in the well earned reward and satisfaction which will surely result from being able to put aside the cares and concerns of pressing and important proceedings. As he lays down the robes of judicial office we extend to Judge Eather our deepest appreciation and sincere best wishes for long years of happiness and self-satisfaction in his retirement, whether spent in study, in travel or in just enjoying the natural beauty and grandeur of the great State we love so much and that he has served so well for so long.

We in the southern part of the State regret very much losing Judge McNamee with whom we have worked as lawyer, friend and Judge over the period of many years. For the past 12 years he has served with distinction as a member of our district court bench. We regret very deeply losing him from service in this capacity, but rejoice with him at his elevation to the Supreme bench of our State. To him we extend from throughout the State, our best wishes on the added duties and responsibilities of his new calling. Justice McNamee has this morning started a new career which we know will be eminent and distinguished as an appellate judge whether on this Court or on other courts of our Nation.

In conclusion I would like to ask the blessings of our Heavenly Father upon this honorable Court and particularly upon Justice Eather as he lays down the mantle of office and goes into retirement. For him we ask the blessings of long life and happiness and a rewarding and self-satisfying retirement over many years to come.

For Justice McNamee we ask the blessings of our

Father that he may be guided by wisdom and understanding in his new calling and responsibilities.

We have faith and a sure knowledge that this Honorable Court will continue to serve the best interests of our State and Nation by extending equal justice to all who are called before the bar of this Court.

Thank you very much.

(Mr. V. Gray Gubler concludes.)

Chief Justice BADT :

Thank you very much.

Present are other officers of the State Bar, officers of the Clark County Bar Association, of the Washoe County Bar Association, and many eminent counsel from all over the State, men who have practiced before both these jurists and before this Court. It would not be the Court's purpose to call by name any of the other persons to be heard this morning. Whoever wishes to be heard, will you simply address the Court and let us hear your remarks, briefly, of course, because we have a Court session this morning in a criminal case from Clark County in which Mr. Justice McNamee will sit with Mr. Justice Merrill and myself.

The Court will hear from others in the courtroom.

Mr. JACK E. BUTLER, *President of the Clark County Bar Association*:

Mr. Chief Justice.

Chief Justice BADT :

Mr. Butler.

Mr. BUTLER :

I would like to state I am the incoming President of the Clark County Bar Association. I realize the solemnity of this occasion. Last Wednesday we paid our respects to Judge McNamee and the work he has done on the bench of the Eighth Judicial District Court. Mr. David Goldwater told of his capabilities both as a lawyer and a judge. Judge McNamee, in his own inimitable

manner, said he never heard a finer obituary given to a living individual than David Goldwater gave him. (Laughter from the audience.)

It is a sort of an obituary to us because we hate to lose him from Clark County, both as a civic-minded individual and jurist. The younger lawyers who have practiced before Judge McNamee, I think, have become better lawyers. As Gordon Thompson said, "This quite small room," (indicating the Courtroom)—the first time I walked into it, it was a big room, and the Court extended its hand and put me at my ease. I know the Judge will do that to the individuals who appear before this Court.

The Clark County Bar Association extends its great appreciation for your work, Judge Eather, and wishes you a long life and happy endeavor in what you choose to do from this time on.

Thank you.

(Mr. Jack E. Butler concludes.)

Mr. GORDON THOMPSON, *President of the Washoe County Bar Association:*

Mr. Chief Justice.

Chief Justice BADT:

Mr. Thompson.

Mr. THOMPSON:

On behalf of the Washoe County Bar Association I should like to say this, Judge Eather, that we just want to thank you from the bottoms of our hearts for your many years of devoted service to the people of the State of Nevada and to the bench and the bar. We join President Gubler in saying to you that you have our fondest hopes and wishes for a most happy and enjoyable retirement.

And to you, Mr. Justice McNamee, it must indeed be a considerable source of gratification and satisfaction to you to realize that in accepting this position of high responsibility you do so with the knowledge that you

have the respect and complete confidence of the lawyers throughout the State. We know that you will be of great service to the State and we ask that God be with you in the performance of your high duties and responsibilities.

(Mr. Thompson concludes.)

Chief Justice BADT:

Thank you, Mr. Thompson.

Mr. HOMER ANGELO (Representing Judicial District No. 1, Comprising the Bar of Storey, Ormsby, Douglas, Churchill and Lyon Counties.):

If the Court please.

Chief Justice BADT:

Mr. Angelo.

Mr. ANGELO:

I would like to speak on behalf of the bar of the First Judicial District of the State and the residents of Ormsby County. The residents of Ormsby County have the privilege of knowing the Justices of the Supreme Court as persons, as well as Justices, and from that viewpoint it is with regret that we say goodbye to Judge Eather who has been with us for many years, coming to Carson City daily and participating in many of our activities such as Rotary Club and other functions. It is with sadness we see you go, Judge Eather, and we hope you will consider this a place where you can always come to see your friends in Carson City.

On behalf of the lawyers of the First Judicial District, I might say, Judge McNamee, this is the most informal bar association in the world. We have no dues, no officers, and no rules. (General laughter.) We wish to welcome you here in Carson City, and in the counties of Ormsby, Storey, Lyon, Douglas and Churchill, to join with us in our activities. We express to you the feeling of warmth and gratitude that we hold for all members of the Supreme Court in their functions in this district. We hope that you will make Ormsby County and this district your home and we offer the cooperation of the local bar.

I would like to speak, too, to Judge McNamee as a veteran. We of the veterans' organizations in the State are proud of your work as a soldier in our armed forces. We welcome you to the bench of this, our highest court.
(Mr. Angelo concludes.)

Chief Justice BADT:

Thank you, Mr. Angelo.

Hon. D. W. PRIEST, *Deputy Attorney General of the State of Nevada*:

May it please the Court.

Chief Justice BADT:

Judge Priest.

Hon. D. W. PRIEST:

I have been asked to attend and make a few remarks for the Attorney General's office to convey the admiration and respect and warm personal friendship for both the retiring Justice and the incoming Justice of the Supreme Court. Mr. Dickerson [the Attorney General] regretted he could not be present upon this occasion, but was called away to take care of work in southern Nevada.

Justice Eather, may your well-earned leisure be a period of much happiness and personal satisfaction.

Respecting the incoming Justice, Judge McNamee, this advancement represents to you a well-earned advancement. Your judicial services heretofore have shown your comprehension of the law and your moderation. We entertain no doubt in respect to the quality of your services upon this bench. This appointment has opened to you the way to be of greater service to your fellow men, to which your qualifications have justly and properly led you.

And to the Court as a unit, we of the bar and of the Attorney General's office, comprehend the weight of your office, the soul-searching difficulties of your decisions and pronouncements and the knowledge of far-reaching effects which constantly bear upon your consciences. We of the bar have great confidence in your

wisdom, and instinctive sense of justice and in the harmony and order of justice. We have great confidence in you individually.

May God help you when the weight is great and the responsibility is overwhelming.

(The Hon. D. W. Priest concludes.)

Chief Justice BADT:

Thank you, Judge Priest.

This courtroom has never, during my experience, been graced with the presence at one moment of so many eminent members of the bar, the leaders of the bar of Nevada. Do any one of you members desire to be heard further?

(No response.)

I will say that your very presence here indicates your appreciation of the importance of the occasion, a presence that has not been equaled, as I say, in my 12 years' experience on the bench here. So you are evidencing not only your appreciation of the significance of the occasion, but the well-known modesty and humility of the members of the bar in not taking the time to be heard.

We do, though, I am sure, wish to hear from Mr. Justice Merrill.

Associate Justice MERRILL:

Speaking on behalf of Chief Justice Badt and myself, of course it is extremely hard for us to say goodbye to Mr. Justice Eather. The relationship between the members of this court for the years I have served has been of the closest from the point of affection, from the point of mutual respect and regard. The contributions that our brother has made to the cause of justice through his many years on the bench are not to be found simply in the cold pages of the Nevada Reports or the decisions of the District Court, but they are to be found in the hearts and consciences of his fellow men. I have never known a man who had such an instinctive sense of justice and a conscience which could manifest itself so unerringly. A measure of his quality of justice, I think,

is to be found in everyone who has come in contact with him either as lawyer or as judge. Justice Badt and I both count ourselves extremely fortunate for our years' close association with him.

But it is good when the time comes, as it inevitably must, for a man such as Judge Eather to retire that we should have to take his place upon this Court a man such as Judge McNamee. Judge Badt and I have known Judge McNamee, of course, for many years, both as lawyers and as judges, and have for him the deepest affection and the greatest respect for his abilities as a lawyer and as a judge. Judge Badt and I, as we have frequently demonstrated upon each other throughout our years together, take the keenest delight in intellectual difference and we are, I know, going to welcome Judge McNamee into this area with great anticipation. I am sure that his presence on the bench is going to bring to us personally a great deal of pleasure and stimulation in the process of decision.

I am delighted to see so many members of the bar here and particularly so many members of the Clark County Bar. I know the pride that they feel in their Judge McNamee. I am glad of it. I like to see merit recognized and appreciated in such a manner. Their confidence, we all know, is far from misplaced. The pleasure and pride that they feel on this occasion I know will continue, and the pride in Judge McNamee that is felt particularly on behalf of the Clark County Bar is one in which the lawyers of the State and the 16 other counties will soon be able to share.

So, with deepest regret, we terminate our official relationship with Judge Eather but confidently expect to maintain a close personal relationship for many years to come. We welcome to this Court the distinguished jurist from Clark County who we know will become a most respected and beloved member of our family here on this bench.

(Associate Justice Merrill concludes.)

Chief Justice BADT :

Thank you, Judge Merrill.

And so it is "Hail and farewell." As Judge Merrill has just said, in saying farewell to Judge Eather it is officially only because we know our personal relation and friendship will endure for many years, and our chambers are always open to him. He is always welcome here. We may even ask his advice and assistance, which the three of us can have occasionally in difficult matters that are submitted to us. So, Judge Eather, I think you should have a moment in a matter of self-defense against all these things that have been said about you.

Associate Justice EATHER :

All I can say, gentlemen, is that I appreciate very much the presence of so many members of the State Bar here this morning. It gives me a great deal of satisfaction to see each and every one of you here.

Words cannot just express my feelings. While my retirement is certainly voluntary, it is with deep regret that I must retire from the bench. I enjoyed my work very much here, and I don't think there's any man who ever sat on this bench that had worked with two better men than I have had the pleasure of working with Chief Justice Badt and Associate Justice Merrill.

Regarding Judge McNamee, I have always had the highest regard for him as an attorney and as a judge and I know that he will be a credit to this Court. I think I can say without fear of contradiction that with these three men on this bench the State of Nevada will have one of the finest courts that they have ever had in the State and we have had some mighty fine Justices.

Thank you.

(Associate Justice Eather concludes.)

Chief Justice BADT :

Thank you, Mr. Justice Eather.

Judge McNamee, I may say, too, that we look forward now to continuing the work of the Court in the very best and highest of its traditions and we look forward to that proudly and confidently.

I think you should have the unique privilege of being heard with regard to your own obituary. (Smilingly.)

Judge McNAMEE :

Honorable Justices, and members of the bar, and visitors:

Of course, I am deeply grateful for the attendance here today and for the honor that has been given to me to be able to sit with these distinguished gentlemen. I appreciate very much the Clark County Bar support that I have always had, and also when I have sat in Washoe County the fine cooperation of the attorneys there.

I think that I will always regret leaving Las Vegas because it has been my home for so many years, but I am looking forward to a new life up here and I feel I can adapt myself properly to this.

Thank you very much.

(Judge McNamee concludes.)

Chief Justice BADT :

Thank you.

If you (addressing Judge McNamee) will arise, I will administer to you the oath of office.

(The entire assembly stands and Chief Justice Badt administers to Judge McNamee the oath of office. Thereafter the assembly adjourned at 10:00 o'clock A. M. until 10:05 o'clock A. M. when Court convened with Chief Justice Badt and Associate Justices Merrill and McNamee sitting.)

ANNA REBOL,
Official Reporter.

IN THE SUPREME COURT OF THE
STATE OF NEVADA

IN RE CEREMONIES OF THE COURT } ORDER
HELD DECEMBER 15, 1958 }

In Chambers.

PRESENT: HON. CHARLES M. MERRILL, C. J.
HON. FRANK MCNAMEE, J.
HON. MILTON B. BADT, J.

IT IS ORDERED that the foregoing transcript of proceedings be spread upon the minutes of this Court under date of December 15, 1958; that the same be published in Volume 74 of the Reports of the Nevada Supreme Court and that copies thereof be furnished to Mr. Justice Eather and Mr. Justice McNamee.

Done at Carson City, Nevada, this 21st day of January, 1959.

Attest:

NED A. TURNER,
Clerk of Supreme Court.