

## **EARL E. O'CONNOR**

His colleagues, friends, and the lawyers who appeared before him often referred to him as a "judge's judge." Indeed the manner in which he ran his courtroom and dispensed justice embodied the ideal qualities one looks for in a judge: dignity, calm, reason, fairness, clarity, reserve, patience, and firmness. His sheer presence and spirit dominated the United States Courthouse in Kansas City, Kansas for more than 25 years - and continues to this day.

O'Connor's maternal grandparents were European-born. His grandfather was born in Austria-Hungary and his grandmother in Belgium. Both migrated as children from Europe to Johnson County, Kansas, where Earl's mother was born and raised.

O'Connor was born on October 6, 1922, on a farm ten miles northwest of Paola, Kansas, not far from the Missouri border. His father was born on the same farm 36 years earlier. His great-grandfather had come to Miami County with his family from Pennsylvania in the 1850s.

On the 360-acre farm on which the O'Connors lived, Earl's father tilled crops and raised cattle. The property had no running water or electricity until the 1940's. O'Connor walked  $\frac{3}{4}$  of a mile each day to the one-room Lone Elm School at which he attended eight years of elementary school.

At Paola High School, which he began in 1936, Earl was a well-rounded student, involved in almost every activity possible, including orchestra, band, debate, football, and school plays. In his sophomore year something happened which helped shape the rest of his life. O'Connor skipped school one day so that he might hear the final arguments in a civil suit being tried in the local district court. The case involved a claim brought by an employee of a neighbor of the O'Connor family who had been gored by his employer's bull. The skill of the lawyers on both sides of the suit so impressed the young man that he developed an avid interest in pursuing a career in the law.

O'Connor's father had only the equivalent of a fourth grade education. His mother had made it through the eighth grade. Farm life was all they had known. But his mother was determined to see her only child get an education. She raised chickens and put the egg money into an education fund for Earl.

Following graduation from high school in 1940, O'Connor attended the University of Kansas. Believing he would never be able to afford to go to law school, he entered the business school as a junior in the fall of 1942. But with World War II underway, and aware that he would soon be hearing from his draft board, O'Connor enrolled in ROTC. He also signed up for the Enlisted Reserve Corps, a program which was popular on many of the

nation's campuses. A number of the KU contingent, including O'Connor, were called to active duty in March of 1943.

After reporting to Fort Leavenworth, O'Connor was sent to Camp Robles, near Paso Robles, California, for basic training in the summer of 1943. Then it was on to Camp Stoneman, a staging area for the San Francisco Port of Embarkation. However, because of poor eyesight, O'Connor was never assigned to an infantry unit. Instead, and in part due to his typing skills, he was assigned to the Operations Division of Camp Stoneman.

After being promoted to Sergeant, O'Connor was selected to attend Officers Candidate School beginning in June 1944, and in October he became a Second Lieutenant. O'Connor spent the next two winters making crossings of the North Atlantic on Army supply and troop transport ships. O'Connor served in various capacities -- from Assistant Transport Commander to Mess Officer -- on ships that carried as few as 400 and as many as 7,000 troops to and from the war's European Theater. In addition to soldiers, the ships on which O'Connor served carried German POWs, USO entertainers, and even war brides. He remained on active duty for more than a year after the war ended, finally being discharged as a First Lieutenant in August 1946, when he returned to the University of Kansas.

KU had changed dramatically during the four years O'Connor had been away. It had more than doubled in size, primarily due to returning GIs.

About to graduate from the Business School, with honors, O'Connor was offered a position as an auditor with Stanolind Oil Co. However, he suddenly realized that his lifelong dream of becoming a lawyer was within reach. O'Connor had always thought that he would never be able to afford law school. But now, thanks to the GI bill, he could. And so, he enrolled at the KU Law School beginning in the June of 1947.

After completing law school in January 1950, O'Connor was admitted to the Kansas Bar. He formed a partnership in private practice with his close friend and law school classmate George Lowe and George's father Roy, in Mission, Kansas (in northern Johnson County). In July 1951 he left the firm to become an assistant county attorney for Johnson County (under John Anderson who would later become Governor), where he gained intensive trial experience as a prosecutor. Then, a year later, a quirk of fate helped make O'Connor a judge.

O'Connor had been registered to vote as a Democrat, and his family had always been Democrats. But living and working in heavily Republican Johnson County, where Democrats did not even field a full slate of candidates every election year, O'Connor realized that if he was ever to get ahead in his career, he might have to become a Republican. When John Anderson decided to seek a state senate seat rather than run for reelection as County Attorney, O'Connor was approached about running for the job as a Democrat. However, his Republican opponent would have been his friend

George Lowe, and the odds of a Democrat winning anyway, O'Connor surely thought, were slim.

However, the incumbent Probate and Juvenile Judge, Harley V. Haskin, a Republican, was expected to run for reelection. But he confided in O'Connor, and apparently nobody else, that he did not intend to run. At his urging, O'Connor filed for the position as a Republican just minutes before the deadline. As a result, O'Connor had no opposition on the Republican ticket, was elected in November by a landslide, and thus first became a judge in January 1953.

After less than two full years as Probate Judge, O'Connor was approached by prominent Republicans about running for District Judge in 1954. Once again having no Republican opposition, he was easily elected and sworn in as District Judge in January 1955 at the age of 32. It is believed that he was one of the youngest ever elected to serve as a Kansas District Judge.

In a few short years, the young Judge O'Connor quickly gained statewide prominence. He co-authored the first edition of *Pattern Jury Instructions For Kansas* (PIK civil), published in 1966. O'Connor also served in the early 1960s as President of the Kansas District Judges Association, as well as the Johnson County Bar Association.

Then, in 1965, O'Connor was appointed to the Kansas Supreme Court. Kansas had only recently adopted the Non-Partisan Selection Plan, and

O'Connor was the second Kansas Supreme Court Justice appointed under the new system. He was 42.

Although this was surely heady stuff, O'Connor found the life of an appellate judge to be far less satisfying than that of a trial judge. He found the cold printed record a poor substitute for the live interaction with lawyers and jurors which he had always relished. O'Connor also felt that the court was very much overworked (the Kansas Court of Appeals was not created until 1977 and prior to then Kansas had no intermediate court of appeals), and its law clerks very much underpaid. While he enjoyed his colleagues on the Supreme Court, and the writing of opinions, when the chance came to become a trial judge once again-- this time as a federal judge -- O'Connor did not hesitate.

As his reputation grew, Justice O'Connor began to be mentioned in connection with other judicial appointments. Indeed, when Justice Abe Fortas resigned from the United States Supreme Court in 1969, O'Connor received consideration to sit on the highest court in the land. And when Alfred Murrah retired from the Tenth Circuit in 1970, O'Connor was prominently mentioned as a candidate for that position as well. Then, Arthur Stanley, United States District Judge for the District of Kansas, announced his intention to take senior status on April 1, 1971.

Among the Kansas Bar, O'Connor seemed to be a logical choice to succeed Judge Stanley, whose chambers were in Kansas City, Kansas, and

the idea of becoming a trial judge again clearly appealed to O'Connor. But another candidate was John Anderson, O'Connor's former boss, and by then a former Governor. Anderson seemed to want the job, and while Governor he had appointed James B. Pearson to the United States Senate. But on October 14, 1971, Pearson withdrew Anderson's name from consideration, saying that Anderson had asked him to do so. This cleared the way for O'Connor, whose name was submitted immediately to the Attorney General by Senators Pearson and Bob Dole. From there the process moved quickly, and O'Connor was sworn in as a United States District Judge for the District of Kansas in Kansas City on November 10, 1971.

Of the some 700 cases he tried in his lengthy career, perhaps the most significant - - and the one of which O'Connor was most proud - - was the desegregation suit involving the public schools in Kansas City, Kansas. The Justice Department filed the case in 1973 and a trial was held in 1977.

O'Connor found that the school district had made virtually no progress dismantling segregated schools over many years, and ordered the institution of a plan that called for the clustering and pairing of some schools, the closing of other schools, the creation of a magnet school at what had previously been an all-black high school, and established a busing plan for students at the schools most directly affected. At the same time O'Connor ruled against the Government on several charges it had made, and refused to order a multidistrict desegregation plan, stating that the

constitutional violations he had found could be adequately remedied by a plan encompassing only the Kansas City, Kansas School District. Judge O'Connor oversaw the successful implementation of that plan for the next 20 years. In August of 1997, he dismissed the case, finding that the District had taken all practicable measures to eliminate the remnants of its prior segregated school system. Consistent with his personality, he gave credit for the success of the desegregation plan to counsel on both sides, as well as District administration and personnel.

Other noteworthy cases over which O'Connor presided include personal injury cases arising from a 1978 leak of fuel oxidizer from the Titan II missile complex near Rock, Kansas; a class action discrimination trial in 1984 in which the successful plaintiffs were female employees of the Western Electric Company in Merriam, Kansas; criminal antitrust cases during the 1980's in which contractors were charged with bid-rigging in regard to Kansas highway construction; and a securities fraud case involving Topsy's International, one of the largest such cases ever filed as of that time, with the docket sheet showing more than 240 attorneys of record.

In addition, throughout his career on the federal bench O'Connor was very engaged in judicial education and administration, and advocacy for the judiciary. He co-founded the National Conference of Federal Trial Judges (NCFTJ) which became a new section of the American Bar Association

(ABA). He also served on several committees of the Judicial Conference of the United States, which is responsible for making policy for the administration of justice in the federal courts. Chief Justice Burger appointed O'Connor to the Court Administration Committee of the Judicial Conference in 1975. In 1988, the Tenth Circuit district judges elected O'Connor as their representative on the Judicial Conference, and he regarded it as the highlight of his many experiences in judicial administration. When federal judges received a long overdue pay raise in 1989, many of his colleagues gave O'Connor much credit due to his tireless work on their behalf. In 1990, Chief Justice Rehnquist demonstrated his confidence in O'Connor's leadership by appointing him to the executive committee of the Judicial Conference. O'Connor was one of only a few district judges to serve on that prestigious committee, where he worked to improve the administration of justice with the Chief Justice, the chief judge of each circuit court of appeals, and district judge representatives of every other circuit.

O'Connor was the sole district judge at the Kansas City courthouse until Judge Saffels joined him in 1979. In 1981 O'Connor became Chief Judge for the District of Kansas, a position which he continued to hold until 1992 when he took senior status. One of his proudest accomplishments as Chief Judge was the construction of a new federal courthouse to replace the outdated courthouse which had been built in the 1950's. O'Connor began

serious lobbying for the new courthouse in 1983, with much help from Senator Dole. Groundbreaking for the new state-of-the-art courthouse finally occurred in 1991, and it opened in 1994. In his remarks at the groundbreaking ceremony O'Connor said:

“Those of us from the court...will have a constant reminder of our responsibilities by the motto that will be inscribed just inside the building entrance - - the words of Judge Learned Hand. It will read: “If we are to keep our democracy, there must be one commandment. Thou shalt not ration justice.”

Stern, reserved, and strictly business on the bench, O'Connor revealed his kindness and humor when he took off his robe. To his law clerks, he was an invaluable mentor. With colleagues he was a scholar, an endless source of practical wisdom, a warm and charismatic companion, and a hilarious storyteller. O'Connor was a highly regarded man who achieved much. And yet, he was a humble man, one whose character had been formed while growing up during the Great Depression, and he never forgot his roots. He worked through nearly every lunch hour, while eating a brown bag lunch.

O'Connor was also instrumental in seeking to improve the quality of legal education and professional ethics. He remained devoted to KU and in particular the Law School throughout his career. In the late 1960's, O'Connor helped form and became the first president of the KU Law Society, an alumni-based group whose purpose is to maintain and further the

excellence of the Law School. In 1991, O'Connor co-founded the Kansas Inn of Court, which was organized to promote excellence in legal advocacy, fellowship and cooperative interaction between judges and trial lawyers, as well as higher standards of competence, etiquette and ethics. After O'Connor's death in 1998, in recognition of his quiet crusade to elevate the standards of the profession and the rule of law, the Kansas Inn of Court adopted a new name: The Earl E. O'Connor American Inn of Court

O'Connor died on November 29, 1998, survived by two sons, Nelson and Clayton, one daughter, Gayle, and various grandchildren.

During his years on the federal bench O'Connor had a beloved pet - a beautiful, black, Norwegian elkhound - who was named Blackstone, after the great British jurist. Blackstone once wrote that the whole doctrine of law could be reduced to three principles: that one should live honestly, hurt no one, and render everyone his due. It could be said that Earl O'Connor lived his life by that creed.