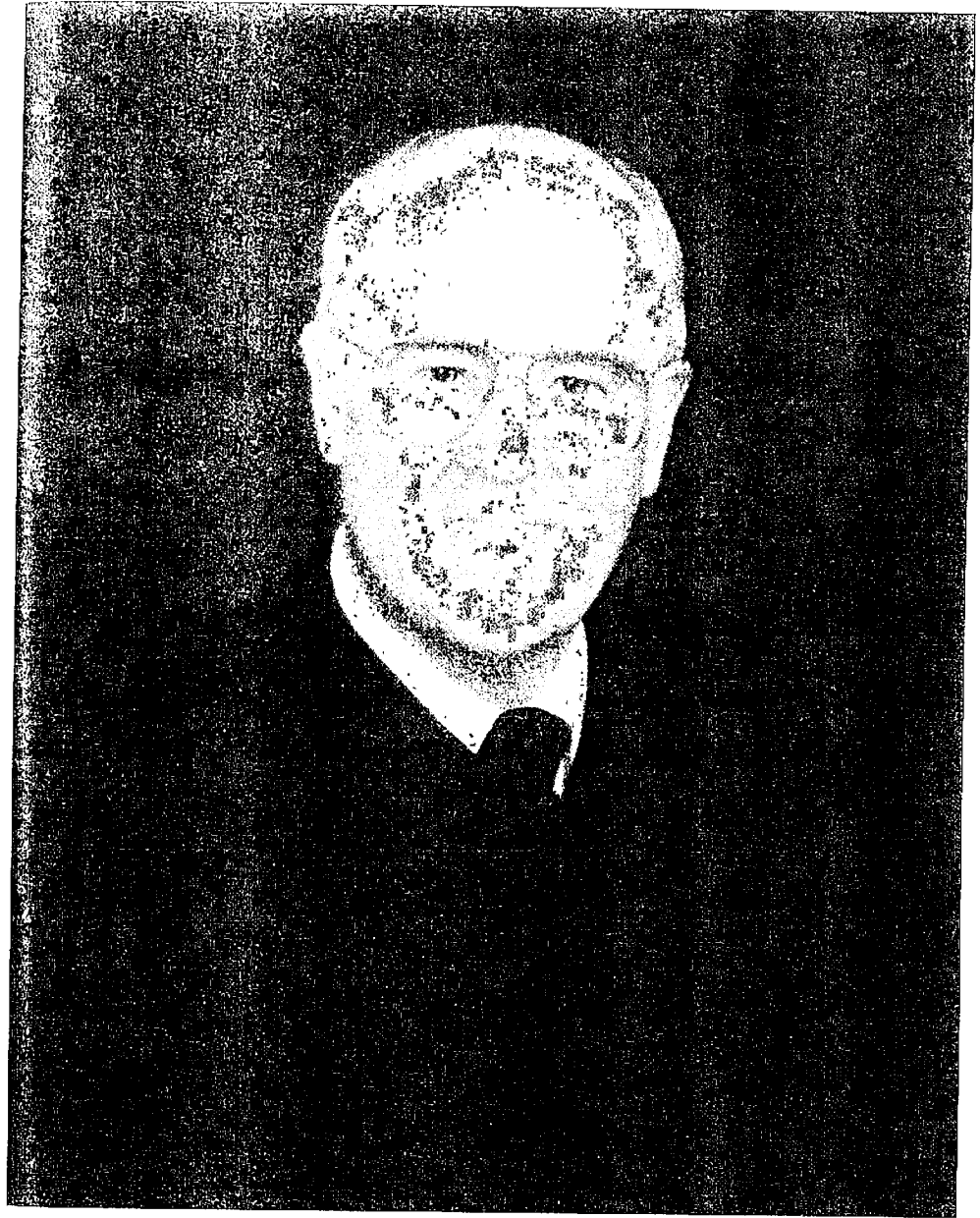


Judicial Conference  
Tenth Judicial Circuit of the United States

**Presentation of the Portrait**  
of the  
**HONORABLE JAMES K. LOGAN**

July 19, 1996  
Snowmass Village  
Snowmass, Colorado



HONORABLE JAMES K. LOGAN

## Proceedings

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CHIEF JUDGE STEPHANIE K. SEYMOUR: We now come to that part of the program where we honor our beloved colleague, Judge James Logan. As you may know, Judge Monroe McKay is in South Africa and unable to be here. He is the one colleague and friend, however, who is able to "do" Jim Logan. Consequently, he has prepared a video of his portrait presentation. If it does not work, I will have to read his remarks.

JUDGE MONROE G. McKAY (on video tape from Durban, South Africa): Jim, I apologize that I can't be there in person. I've been looking forward to this for nearly twenty years. I also apologize for mostly reading from text. It would be very difficult for me to say extemporaneously the things I want to say. So you'll have to put up with the reading without the personal touch. You know me, I just do not do as well without an audience in front of me.

Justice Breyer, Justice White, Chief Judge Seymour, other distinguished judges, lawyers, family, and friends. I regret that I cannot be there in person to honor my good friend. However, Lucy and I live interesting lives because we do interesting things when the opportunity arises rather than waiting until the time is propitious or even wise. Under the circumstances, this is the best that we can do.

So sit back and relax. You have nothing better to do at this moment than to take adequate time to celebrate the significance of our special friend and colleague, James K. Logan. While I am tempted to do him justice, I promise to merely encapsulate. But even that mandates a "sit back and enjoy" injunction.

James K. Logan is an American original. Sadly, he may be the last to epitomize belief in and practice of the American dream. A true Middle American, he believed that he, personally, James Kenneth Logan of Quenemo, Kansas, born to parents of good intellect but modest formal education and modest means, could be anything he wanted to be, including President of the United States.

I don't think even he can say just when it was that he decided to be President, but vociferous denial notwithstanding, decide he did. From very early on he knew and accepted precisely the ingredients required to that end in the meritocracy he believed America to be. One could recite the names of these ingredients and give either a brief history or brief current description of the man we honor today.

Even he would concede that the first ingredient is at least partly a product of inherited genes—intelligence—with which he is abundantly blessed and which he has carefully nurtured by curiosity and study from the tiny public school in obscure Quenemo, through the University of Kansas where he qualified for a Rhodes scholarship, to Harvard Law School where he qualified for the law review based on his grades while also winning the Best Brief award in the Ames Moot Court Competition. His curiosity has driven him to a lifetime habit of serious study as well as casual reading and reflection. Indeed one of his "truck no interference" passions

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remains his role on the Kansas screening committee for Rhodes Scholar candidates whom he holds in increasing awe.

One only needs to meet a sampling of Jim's law clerks to know that nurtured intelligence is the characteristic he looks for above all else. He cares little for their politics, social views, or a host of other characteristics often prized in this and other markets.

In family matters he has been the same. He enthusiastically supported Beverly when she decided to get her Master's Degree while several of his children and children-in-law were pursuing advanced degrees. Together they have inspired, cajoled, and supported all four children in obtaining advanced professional degrees.

Even a polite audience would not sit still for a recital of all of Jim's scholarly works. Even this brief overview is enough to tire you: He is co-author and editor of four books—two about estate planning, one about corporate law and practice, and an excellent history of the Tenth Circuit. There is his twenty-hour video course on Estate Planning. Add to this his approximately forty articles and parts of books on legal subjects and his work for the Court and anyone would be impressed.

The second ingredient in his quest is planning. It is so much a part of the character of Jim Logan that I doubt he can take care of even life's most basic and routine functions without planning. He plans when he plans to plan, and he plans when he plans not to plan. While he is modestly capable of it, spontaneity is not a characteristic which would make its way into his short biography. The one notable event hinting of spontaneity was sparked by his falling in love with Beverly; but once her intelligence, poise, and beauty matched the pre-programmed spouse chip at his core, there can be little doubt that the attack was planned with exquisite detail. Jim is always days and years ahead of most of us. It matters not the task, it matters not the issue; if you want planning, charting, organizing, (while he may wear you out) give the assignment to Jim Logan. In fact, even if you don't give it to him, call him. He will have done it just in case someone calls or just to facilitate his constant penchant for successful intermeddling. He is an unequaled collector of data to that end. We once had to fashion a special exception to the rules governing circulation of summary dispositions to accommodate his compulsion for knowing all the facts. Here is a representative sample of his planning penchant: Out of the blue one day we all got a memo from him. It began, "In catching up on my back reading, I ran across an article [etc.] which listed the number of majority and dissenting opinions filed by active judges on [such and such court, I won't mention it—] during their careers. [Etc.] For fun I had one of my secretaries check ... the average.... [T]he results are shown on the attached. No doubt you will be proud because hardly any active judge on our court ever has fewer published opinions in any one year than the most productive member of [that circuit]."

He knows every breath we draw on this Court, clear back to the first Judge Lewis. This unshakeable characteristic got him more or less self-appointed as the Tenth Circuit Historian, and a splendid work he has done in the process. And yet, I can detect no hint of invidiousness in his monitoring of our efforts. (Of course, that is not so as to other circuits and the Supreme Court, I suspect considerable invidiousness in that matter). I think his only intracircuit uses of these data are for known and unknown planning—and to drive himself to make certain he has done his full share and some to spare. I have never felt put down by his recitations, nor

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have I heard him use this copious information to denigrate a single colleague on this court.

The third ingredient is hard work. From his childhood up he has practiced this with a vengeance. From the menial to the scholarly, his great pleasure in life has been work. Without it, he would be an intolerable companion. Had this Court found it necessary to double each judge's individual dispositions, he would have done that and more. He would be a terrible cook because every task is not only well done but often overdone. Every presentation, no matter the subject, sometimes even "how are you," is presented like a Supreme Court brief. From his copious record keeping we know exactly what he has contributed to the court by way of authored dispositions. By the end of 1994 (shortly after he took senior status) he had authored for the court 709 majority opinions, 22 concurring opinions, 30 dissenting opinions, and 646 orders and judgments. Through May of this year he has added an additional 43 majority opinions, 2 dissents, and 114 orders and judgments. If you want to know how this compares with any other member of this or any other circuit, or the Supreme Court for that matter, ask him. He will have it for you before you can push the send button on your computer.

The fourth ingredient is the wise accumulation of sufficient wealth to be free from the necessity of intellectual pandering to the fund raisers and transient popular opinion. He knew that the path to the Presidency is not through the poor house, even if the path from the Presidency often is. While he did not rush to that end, he early studied and adopted the habits and perceptions necessary to the accumulation of a substantial estate. Among other things, he observed that "the establishment," whatever else they had, had an abundant share of the material wealth. He observed them with a keen eye. He once told me that he looked at a picture of himself with a group of his Harvard classmates—(prep-school educated and already manifesting establishment entitlement). He said he felt embarrassed and out of place. They just looked different. So, as in all other matters, he studied their appearance so he could adopt it. And adopt it he did, until, by the time I met him in a taxi in Washington, D.C., he wore it as though it were his native attire. And he still does. You just look at him.

That singular ability to study something novel and distill its essence and its virtue without coaching causes me to marvel. Many years ago while I was serving on an ABA law school inspection team, one of the distinguished deans on the team asked if Jim was my colleague. He then told me this astonishing tale, later confirmed by Jim himself. They were classmates but barely acquainted. One night after an early exam, Jim knocked on this man's door and asked if he could look at his graded and returned exam. Jim explained that he was so disappointed in his own grade that he went to the professor to learn who had written the best exam in the class. He wanted to study it to see what it was that made it the best. He did and was able to wrestle from that study what the parameters of excellent exam writing were. The results among others were his extraordinary scholarly achievements.

This analytical skill has redounded to the benefit of the Court and the public. One hardly would describe Jim's opinions as having Holmesian flair. But when it comes to an issue with a doubtful precedential track record, impossible analytical organization, a poorly developed record—all in need of clarification and rational exposition, no one I know can do it like James K. Logan. He is like the Prophet Jacob—you'll forgive this little reference, but I am a missionary now—who wrestled

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with a messenger from God and seized him by the thigh and would not let go until he extracted from him a blessing. He can wrestle an issue and its case law hints until at last he seizes it by the intellectual thigh and extracts from it its rational promise. The end product is beautiful in the mind. Even he is want to admire it. Sorry about that, Jim. So much so that once I joined in one of those masterpieces only to tell him I thought it would be reversed when the Supreme Court granted certiorari. I learned of their decision before he did. I called him to tell him my delight and surprise that they had not only affirmed him but adopted his reasoning. His only, and earnest, response was: "I don't care if they sustained me. I still think I'm right."

The fifth ingredient in achieving the Ultimate American dream is public service. From town clerk in Quenemo to his enlistment in the Army; to teaching at Harvard, Stanford, Duke, Michigan, and Texas; to multiple committee assignments and chairs in the ABA, Kansas Bar Association, Judicial Conference of the United States, and Federal Judicial Center; to the Rhodes Scholar Committee; to public advisory commissions—Jim has done well a host of public service activities rivaled in number and significance only by one of our other Kansas colleagues, the inimitable Deanell Tacha. His contributions as long-time Dean of the Kansas Law School are well-documented in a deserved tribute published in Vol. 43, No. 3, of the Kansas Law Review. I commend it to your reading and add only his apparent pride when he told me that, during his entire tenure as dean, no motion of his ever drew a second in the faculty senate. He is the consummate small "d" democrat.

The sixth ingredient is the virtuous life. However you may individually define it, it defines Jim Logan. I might get emotional here, so watch out! A man of his word; forthright to a fault. He has a constantly implemented concern for the unfortunate, sad, and downtrodden. His generosity is private and unheralded, but I know from our private and confidential conversations that it is substantial to a fault. He is, at heart, a man of faith. He even tried once since coming to the Court to become a man of Religion. I think he abandoned his characteristic interrogation to that end out of concern for the continued sanity of the pastor.

He is sophisticated enough to be cynical and to recognize guile, but he is constitutionally incapable of practicing either. There is no hint of scandal in his life because there is none in fact.

As one might expect, all these ingredients kept him on the track to the Presidency. Late in the political game that season, he entered the Kansas Democratic Primary seeking the nomination to run for the United States Senate. That same year, a relatively little-known war hero won the Republican nomination. So far as can be determined, Jim's loss in the Primaries is the only occasion when his ambition went awry. To this day, I know he believes that but for a couple of minor externalities, he would be the Kansas Senior Senator running for the Presidency (or already in it)—not Bob Dole. It is our good fortune that on his way to the White House he lost in the Primary. Had he won, he either would have beaten Bob Dole and thus be in the Senate or the White House, or he would have lost to Bob Dole. Political campaigns being what they are, Jim's nomination to this court after a vigorous campaign might have found him in a situation which would have jeopardized his future confirmation to this Court. In either event, we would have missed these wonderful eighteen years with a dear and talented friend and judicial colleague. Judge Huxman's former law clerk would not have any former law clerks.

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I think that one event alone confirms beyond cavil not only Jim's practice of what I have delineated as the six great virtues of the ideal Middle American, but it confirms that they define him as a man and a Judge. I saw them all come together in late 1993 when I decided for private reasons and the good of the court to surrender the Chief Judgeship. Jim was legally entitled to succeed to the office. As a courtesy, I met with him in advance of any public announcement to give him private notice of my intent. To my surprise, he said he was not sure he would take the office. In pure Jim Logan fashion, he made no decision until he had assembled all the relevant considerations, consulted with his life partner and advisor, Beverly, and assessed what would be best for all concerned, including the institution of the court. Although it seemed a very long time before he decided, and although he has been one of my best friends for eighteen years, I was truly surprised when this lifetime earner and collector of badges of honor announced that he was going to pass up the Chief Judgeship for which he was eminently qualified. His stated reasons clearly were honest and reflect that the ingredients of success are in fact virtues in him which are not modish, but rather are definitions of his character. He said first he would remain faithful to his promise to Beverly that he would take senior status in just nine months. He said that in light of that, he reviewed the condition of the Court and every special contribution he thought he could make to it as Chief over a nine-month period. His end conclusion was that in nine months he could not think of any unique contribution which would justify the disruption of continuity in the management of the Court. While undoubtedly wrong in this conclusion, I have found no other putative chief on any court, and I do not look for any in the future, with such selfless institutional commitment—such self-discipline.

To the extent that history takes note of us at all, it records not what we were but what our contemporaries thought we were. By either measure, Judge James Kenneth Logan should be pleased. We are proud to know you, Jim. We are pleased to honor you on the occasion of the unveiling of your official portrait to be hung for posterity in the Byron R. White Federal Court House. From far off South Africa, good night, dear and faithful friend.

(The portrait of Judge Logan was unveiled by his wife, Beverly.) applause.

JUDGE LOGAN: I like the portrait, despite the fact that it looks like me.

I don't think I recognize that fellow Judge McKay described. As I watched the videotape, particularly near the end, I could not help but think of the words of the late Ewing Kauffman, owner of the Kansas City Royals baseball team, when he spoke of the agent who had just persuaded Kauffman to give his client, pitcher David Cone, a \$16,000,000 contract. Kauffman said, "That man can sure lather you up before he shaves you." In his own unique way Judge McKay can sure lather a fellow up.

I thought McKay would say some nice things about me; this type occasion demands that. For that reason I wanted to have my whole family present. I have them all here except one grandchild. I would like to introduce them. You know my wife Beverly, who unveiled the portrait, of course. (applause) My son Dan, his wife Kathy, and their four children: Ben, Chris, Katie, and Beth. Would they please stand. (applause) My lawyer daughter Amy, her husband Rick, and their two sons Logan and Richie. (applause) My daughter Sarah and her husband John, and their 3-month-old son Thomas. (applause) My son Sam, also a lawyer, and his wife Diane.

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They left their 17-month-old son Paul home with the other grandparents so that they could have a real vacation. (applause)

I have been blessed with a wonderful life, thanks in large part to the family I have just introduced. The best part of my life has been the past eighteen plus, going on nineteen, years that I have been the colleague of the many judges who are in this audience.

I really have nothing more to say except that the other day I was reading a biography of Alfred Murrah, a former chief judge of this court. As he approached advanced age he said that he was too old to raise hell with fire and brimstone but he could still cook over the embers. That expresses my sentiments. I hope to be around for a while longer and to attend at least several more of these judicial conferences. Thank you. (applause)

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