

155692

A PHOTOGRAPHIC HISTORY OF THE SOUTH DAKOTA SUPREME COURT



NCJRS

AUG 9 1995

ACQUISITIONS

A PHOTOGRAPHIC HISTORY OF THE SOUTH DAKOTA SUPREME COURT

"I hope you enjoy this brief history of the South Dakota Supreme Court prepared as a lasting tribute to the individuals who have served thereon."

Chief Justice Robert A. Miller

155692

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been
granted by

South Dakota State Court
Administrator's Office

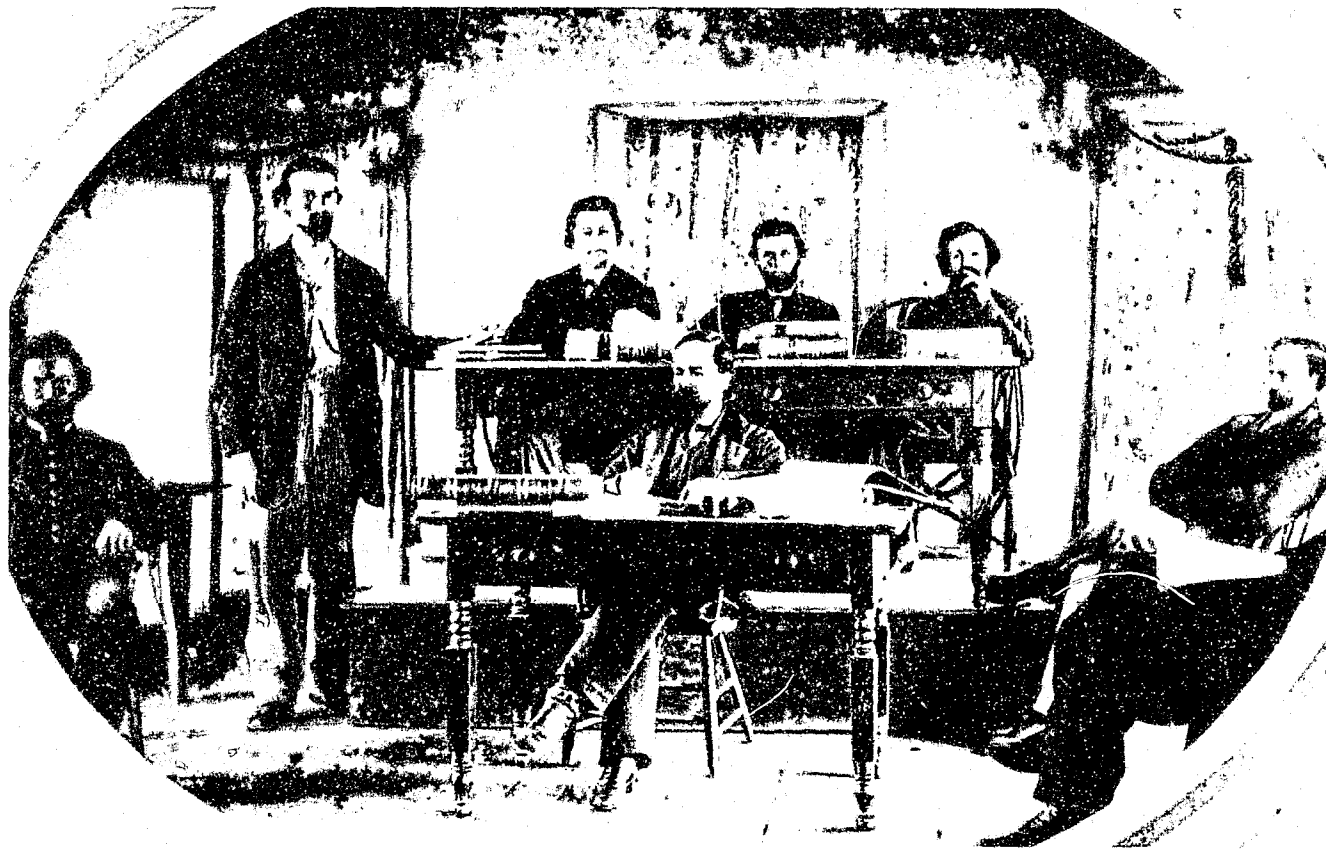
to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

TERRITORIAL SUPREME COURT

On March 2, 1861, the United States created the Dakota Territory with three branches of government: executive, legislative, and judicial. The judicial power of the territory was vested in a supreme court, district court, probate courts, and justices of the peace.

That same year, President Lincoln appointed Philemon Bliss, Joseph L. Williams, and George P. Williston as the first Territorial Supreme Court. The early Court had little business and, in fact, the first time it met as a supreme bench to hear appeals was on December 3, 1867, in Yankton. Between 1861 and 1889, when South Dakota became a state, thirty presidential appointees served as judges of the Territorial Supreme Court. Their decisions, cited as "Dakota Reports", cover six volumes. The Territorial Supreme Court was dissolved in 1889, when President Harrison proclaimed statehood for South Dakota.



The 1867 Territorial Supreme Court conducting business at its first meeting as an appeals bench in Yankton. The members of that court were Jefferson P. Kidder, Ara Bartlett, and John W. Boyle.

THE SOUTH DAKOTA SUPREME COURT

Oath Ceremony For First Supreme Court

The 1889 South Dakota Constitution provided for three branches of government: executive, legislative, and judicial. The judicial branch consisted of a supreme court, circuit courts, county courts, and justices of the peace. The Supreme Court consisted of three judges, each selected from a district.

On October 1, 1889, a statewide election was held in South Dakota to approve the constitution, select a temporary capital, and elect a governor, legislature, and Supreme and circuit court judges. The first Supreme Court judges elected were Dighton Corson, Alphonso G. Kellam, and John E. Bennett.

On October 15, 1889, all of the newly elected officers met in Pierre to take their oath of office. However, there was no capitol building for the new officers because Pierre had just won the temporary capital site.

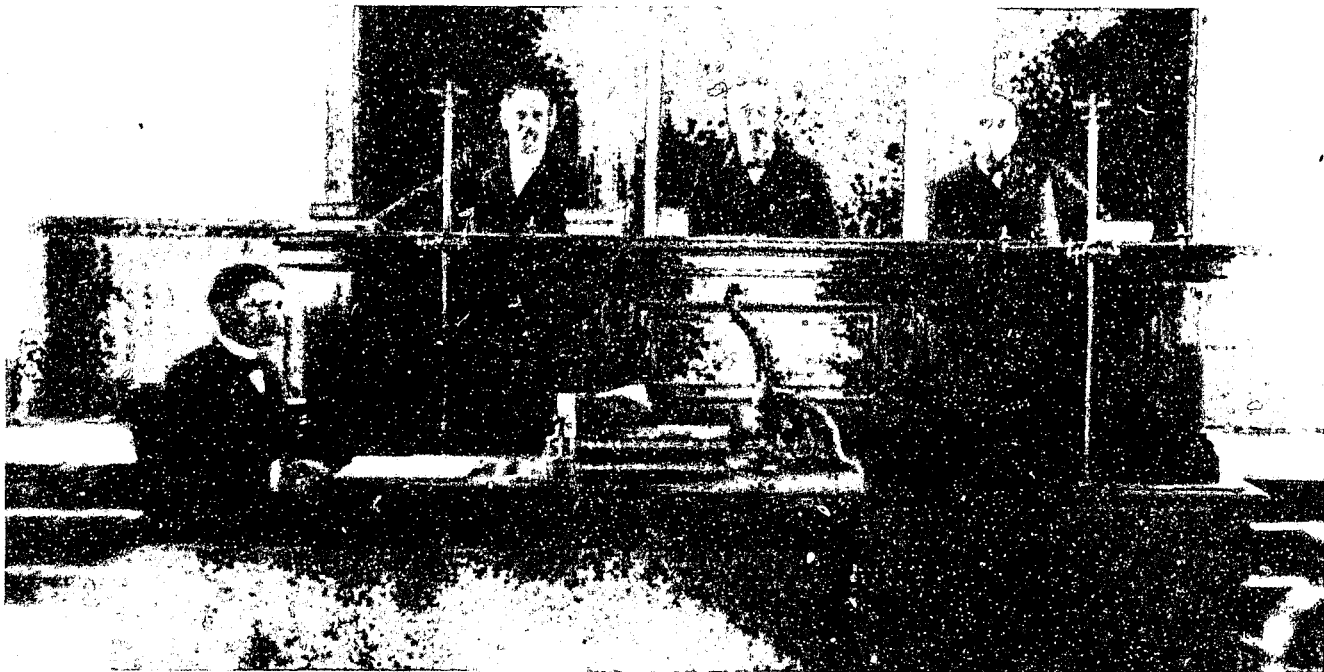
The oath-taking ceremony for the new officers, including the judges of the Supreme Court and the circuit courts, was described in the October 16, 1889 newspaper, *The Daily Capital*:

Never was there a more auspicious day for the launching of the ship of state of South Dakota. It was a perfect day. The officers all assembled on the front veranda of the courthouse in a semi-circle. The oath of office was administered by Territorial Presiding Judge Bartlett Tripp and was very short. Most of the people supposed Governor Mellette would make an inauguration speech, but in this they were disappointed as no speeches were made.

The citizens of Pierre raised \$30,000 to erect and donate to the state a wooden capitol on the southwest corner of the present capitol grounds.



Old Hughes County Courthouse



First Supreme Court in Session in Old Hughes County Courthouse. Left to right: Clerk Ivan W. Goodner; Judge Alphonso G. Kellam; Presiding Judge Dighton Corson; and Judge John E. Bennett.

First South Dakota Supreme Court Meets in Old Hughes County Courthouse

The wooden South Dakota Capitol was ready for occupancy for the governor and the legislature on January 9, 1890. Unfortunately, the building was too small to house the Supreme Court. The Supreme Court was given offices in the county courthouse and jointly shared the courtroom with the circuit court judge.

A large delegation of attorneys, ladies, and citizens were present to witness the impressive ceremony of opening the Court. At the time set for the opening, Presiding Judge Dighton Corson, followed by Judges A.G. Kellam and J.E. Bennett, entered from their private room. As they took their positions, the attorneys and audience arose to their feet as a due mark of respect to the dignity and the majesty of the law.

Presiding Judge Corson then administered the oath to fifty-seven attorneys who were admitted to practice before the Supreme Court. Judge C.H. Winsor of Sioux Falls, the oldest member of the bar, was granted the distinction of having his name entered first on the roll of attorneys. The Court then proceeded to hear cases.



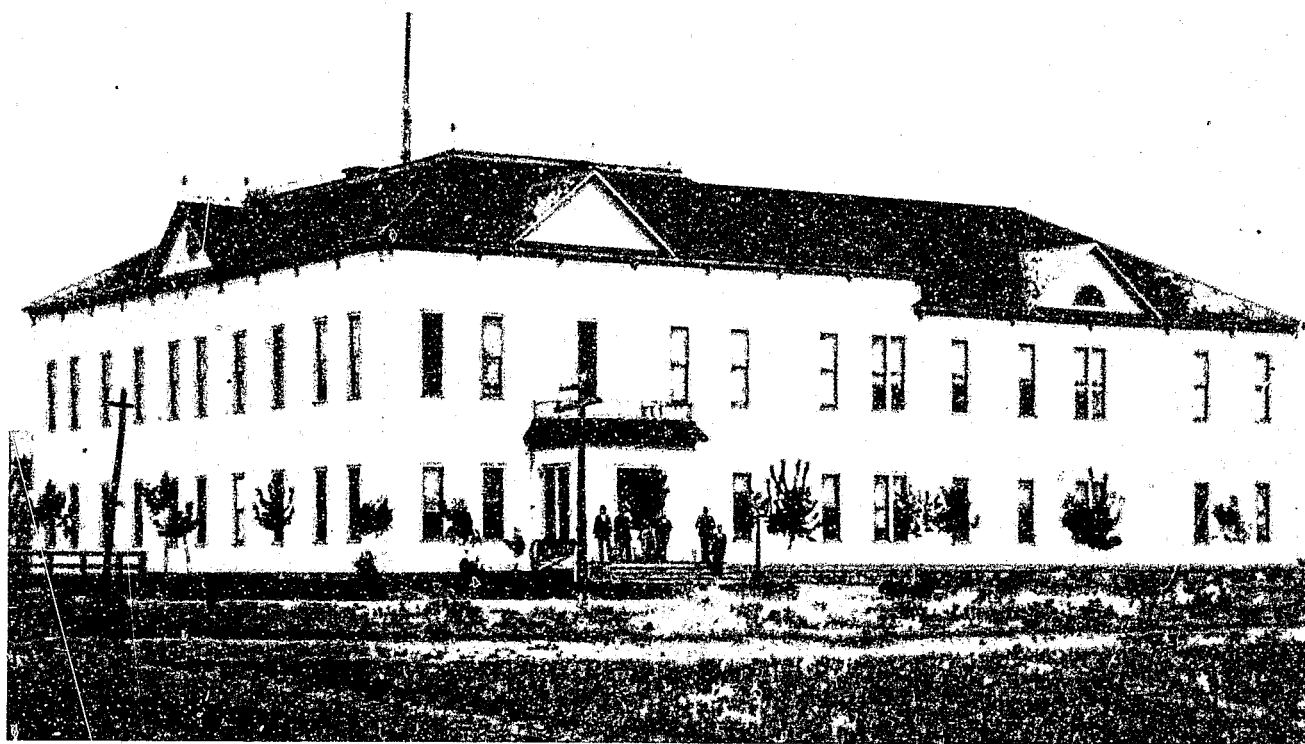
Supreme Court judges and first legislative delegation leaving from Deadwood for new Capital in Pierre, 1889.



The members of the Supreme Court pose with entire statehouse force in 1903 in front of the old capitol. Front row second from left, Judge Dighton Corson; third from left, Judge Howard G. Fuller; fifth from left, Governor Charles N. Herreid; and sixth from left, Judge Dick Haney.

Supreme Court Moves Into New Wooden Capitol in 1891

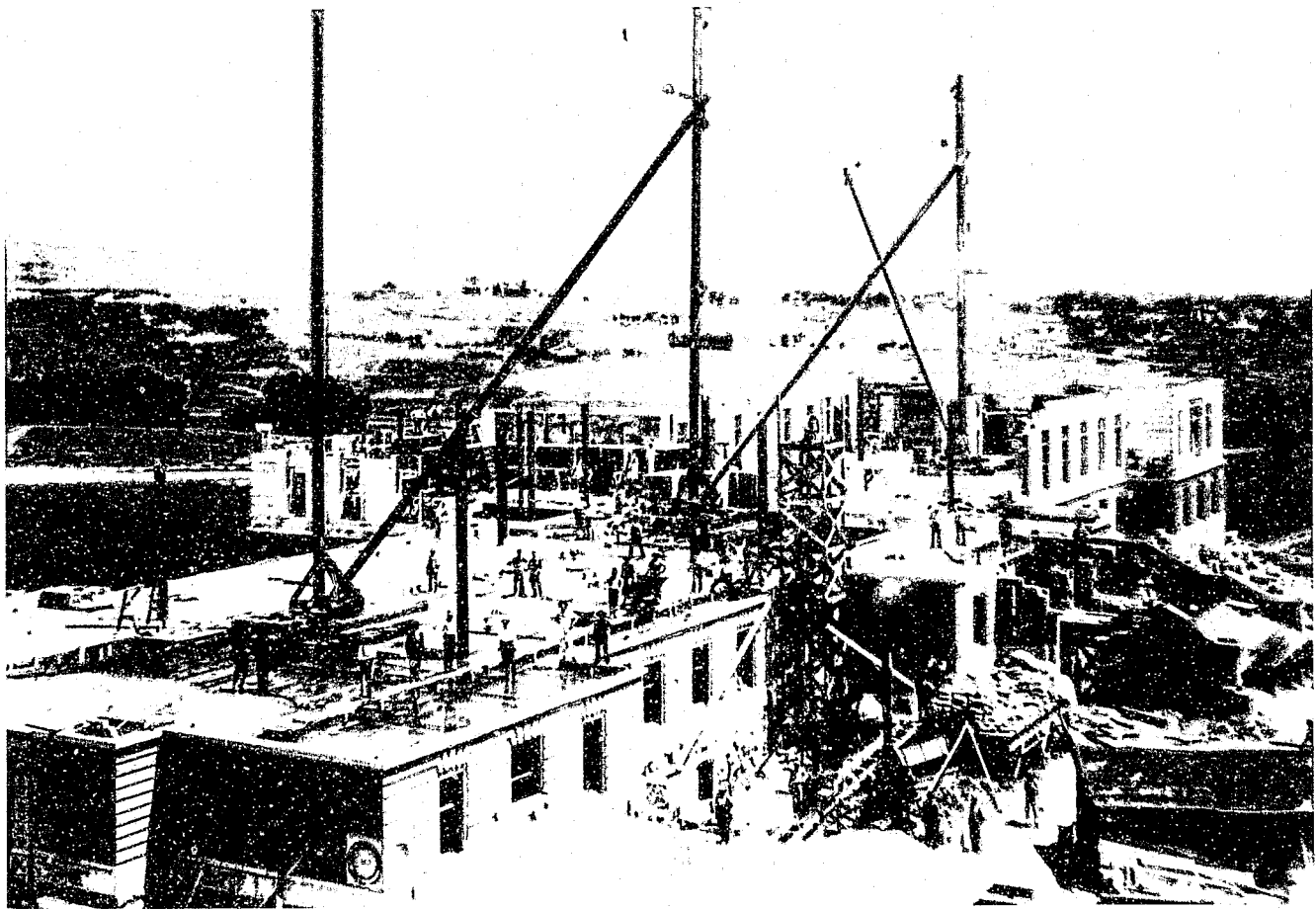
In 1891, the legislature approved \$7,000 to build an east wing addition to the wooden capitol in order to provide office space for the Supreme Court and other state officers. The two-story, fifty-foot by sixty-foot addition was completed on October 1, 1891. However, the new addition did not include a courtroom. Therefore, the Supreme Court held its first session in the capitol in the senate chamber on October 13, 1891, with sixty-two cases on its calendar. Both the house and senate chambers were available for official and private use because the legislature met only once every two years for sixty days. Frequently, the State Supreme Court was in session downstairs in the senate chamber while the Federal Court was in session upstairs in the house chamber.



South Dakota's wooden capitol showing the new sixty-foot east wing addition on the right side of the photograph. The South Dakota Supreme Court moved into the addition in 1891 and remained there until completion of the new capitol in 1910.

New Stone Capitol Becomes Third Location of Supreme Court

After the capital fights of 1889, 1890, and 1904, all won by Pierre, the 1905 legislature authorized the construction of a new stone capitol. The capitol would be paid for by monies obtained from the sale of public lands owned by the state. The legislature, believing these lands would sell slowly, decided that the east wing of the capitol should be built first and house the Supreme Court. The east wing foundation was finished in the fall of 1905. The entire capitol was completed in 1910.



Capitol building in construction. In the background is east wing with exposed area showing site of current courtroom, law library, and justices' apartments.

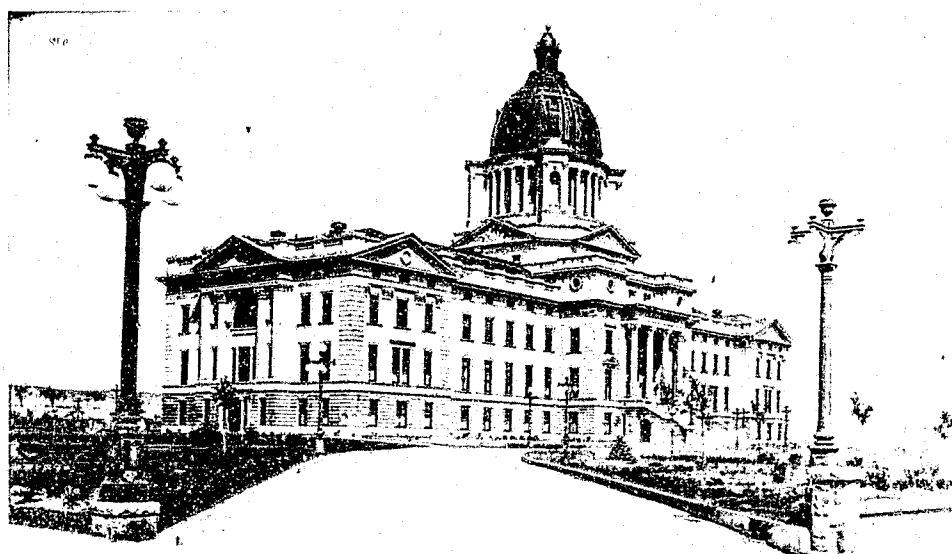
Newly completed Supreme Court Chamber in the new capitol before placement of mural. The room was decorated in browns, tans, and golds. The furniture consisted of polished mahogany with matching draperies and carpet.



Charles Holloway, a young artist from Chicago, painted the mural "Gate of Justice" for the Supreme Court Chamber. He also painted the murals for the house and senate chambers.



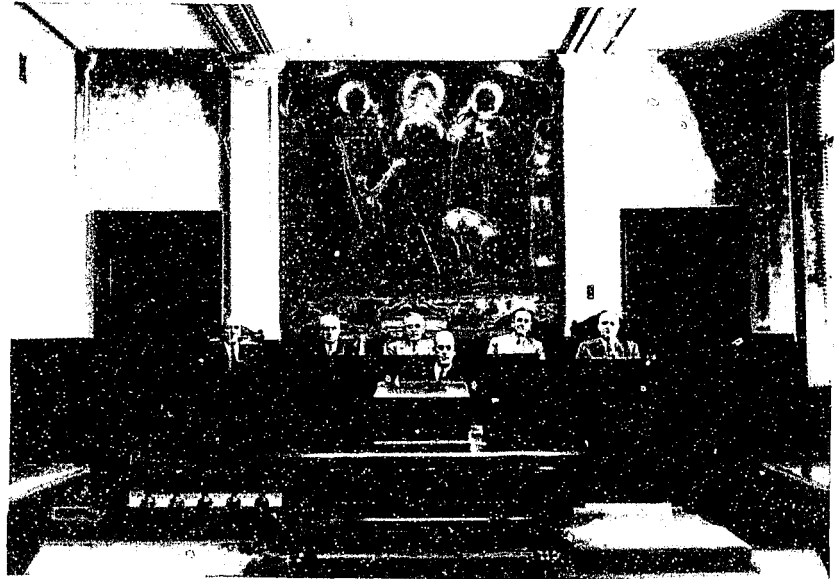
Judge Ellison G. Smith, 1909-1923, is shown in his office in the new capitol. He and the Supreme Court moved into the new building in June of 1910. This office is currently occupied by Justice Robert A. Miller. The east wing of the capitol included space for administrative offices, court chamber, law library, and offices for five judges.



South Dakota's new capitol was completed and dedicated in June of 1910.

Remodeling and Restoration of the Supreme Court Chamber

To obtain a modern look, the Supreme Court Chamber was remodeled in 1952. The ceilings were lowered with acoustical tile, the walls were covered with paneling, and fluorescent lights were installed.



In 1979, the Supreme Court Chamber was restored by removing the acoustical tile and paneling, and by repainting and refinishing all the walls and furniture to match the original color and design as closely as possible.



Justices of the Supreme Court, left to right: Hon. Richard W. Sabers, Sioux Falls, Second District; Hon. George W. Wuest, Aberdeen, Fifth District; Hon. Robert A. Miller, Chief Justice, Pierre, Third District; Hon. Frank E. Henderson, Hill City, First District; and Hon. Robert A. Amundson, Vermillion, Fourth District.

Justices of the Supreme Court Since Statehood.

| District | | |
|--------------------------------|-------------------------|----|
| Dighton Corson.....1 | 1889-1913 | |
| Alphonso G. Kellam.....2 | 1889-1896 | |
| John E. Bennett.....3 | 1889-1893 | |
| Howard G. Fuller.....3 | 1894-1908 ^c | |
| Dick Haney.....2 | 1896-1913 ^d | |
| Charles S. Whiting.....3 | 1908-1922 ^e | |
| James H. McCoy.....5 | 1909-1921 ^f | |
| Ellison G. Smith.....4 | 1909-1923 | |
| Samuel C. Polley.....1 | 1913-1947 ^g | |
| John Howard Gates.....2 | 1913-1927 ^h | |
| Frank Anderson.....5 | 1921-1925 | |
| Carl G. Sherwood.....3 | 1922-1931 | |
| Chas. H. Dillon.....4 | 1923-1926 ⁱ | |
| Dwight Campbell.....5 | 1925-1937 ^j | |
| N. D. Burch.....4 | 1926-1931 ^k | |
| James Brown.....2 | 1927-1931 | |
| Frederick A. Warren.....2 | 1931-1944 ^l | |
| Everett D. Roberts.....3 | 1931-1970 ^m | |
| Herbert B. Rudolph.....4 | 1931-1957 ⁿ | |
| St. Clair Smith.....5 | 1937-1962 ^o | |
| Vernon R. Sickel.....2 | 1944-1956 ^p | |
| Charles R. Hayes.....1 | 1947-1951 ^q | |
| Boyd Leedom.....1 | 1951-1955 ^r | |
| Alex Rentto.....1 | 1955-1971 ^s | |
| Charles S. Hanson.....2 | 1956-1973 ^t | |
| Harold Bogue.....4 | 1957-1959 ^u | |
| Frank Biegelmeier.....4 | 1959-1974 ^v | |
| Frederick J. Homeyer.....5 | 1962-1971 | |
| Fred R. Winans.....3 | 1971-1976 ^w | |
| Roger L. Wollman.....5 | 1971-1985 ^x | |
| James M. Doyle.....1 | 1971-1976 ^y | |
| Francis G. Dunn.....2 | 1973-1985 ^z | |
| Oren P. (Phil) Coler.....4 | 1974-1977 | |
| Laurence J. Zastrow.....1 | 1976-1979 | |
| Donald J. Porter.....3 | 1977-1979 | |
| Robert E. Morgan.....4 | 1977-1991 ^{aa} | |
| Frank E. Henderson.....1 | 1979- | |
| Jon Fosheim.....3 | 1979-1986 ^{bb} | |
| George W. Wuest (Acting).....2 | 1985-1986 | |
| George W. Wuest.....5 | 1986- | |
| Richard W. Sabers.....2 | 1986- | cc |
| Robert A. Miller.....3 | 1986- | |
| Robert A. Amundsen.....4 | 1991- | |

^c Howard G. Fuller was appointed January 15, 1894, to fill a vacancy.

^d Dick Haney was appointed January 31, 1896, to fill a vacancy.

^e Charles S. Whiting died March 25, 1922, and Carl G. Sherwood was appointed April 1, 1922 to fill the vacancy.

^f James H. McCoy resigned December 1, 1921, and Frank Anderson was appointed December 1, 1921, to fill the vacancy.

^g Samuel C. Polley retired July 1, 1947, and Charles H. Hayes was appointed July 8, 1947, to fill the vacancy.

^h John Howard Gates died November 8, 1927, and James Brown was appointed November 26, 1927, to fill the vacancy.

ⁱ Chas. H. Dillon resigned November 15, 1926, and N.D. Burch was appointed November 16, 1926, to fill the vacancy.

^j Dwight Campbell resigned January 9, 1937, and St. Clair Smith was appointed January 9, 1937, to fill the vacancy.

^k N.D. Burch died March 18, 1931, and Herbert B. Rudolph was appointed March 27, 1931, to fill the vacancy.

^l Frederick A. Warren died June 18, 1944, and Vernon R. Sickel was appointed September 1, 1944, to fill the vacancy.

^m Everett D. Roberts retired December 31, 1970, and Fred R. Winans was appointed January 1, 1971, to fill the vacancy.

ⁿ Herbert B. Rudolph died September 2, 1957, and Harold Bogue was appointed October 1, 1957, to fill the vacancy.

^o St. Clair Smith retired December 1, 1962, and Frederick Homeyer was appointed December 1, 1962, to fill the vacancy.

^p Vernon R. Sickel resigned July 1, 1956, and Charles S. Hanson was appointed July 1, 1956, to fill the vacancy.

^q Charles R. Hayes resigned June 1, 1951, and Boyd Leedom was appointed June 1, 1951, to fill the vacancy.

^r Boyd Leedom resigned March 31, 1955, and Alex Rentto was appointed May 1, 1955, to fill the vacancy.

^s Alex Rentto retired September 15, 1971, and James M. Doyle was appointed December 30, 1971, to fill the vacancy.

^t Charles S. Hanson retired September 1, 1973, and Francis G. Dunn was appointed September 1, 1973, to fill the vacancy.

^u Harold Bogue died April 18, 1959, and Frank Biegelmeier was appointed May 11, 1959, to fill the vacancy.

^v Frank Biegelmeier retired August 31, 1974, and Oren P. (Phil) Coler was appointed September 1, 1974, to fill the vacancy.

^w Fred R. Winans resigned December 31, 1976, and Donald J. Porter was appointed January 1, 1977, to fill the vacancy.

^x Roger Wollman resigned September 6, 1985, and George W. Wuest was appointed September 8, 1986.

^y James M. Doyle died March 6, 1976, and Laurence J. Zastrow was appointed August 10, 1976, to fill the vacancy.

^z Francis G. Dunn resigned September 7, 1985, and George W. Wuest is serving as acting justice until a successor is named.

^{aa} Robert E. Morgan retired January 4, 1991, and Robert A. Amundson was appointed March 11, 1991.

^{bb} John Fosheim retired December 12, 1986, and Robert A. Miller was appointed December 15, 1986.

^{cc} Richard W. Sabers was appointed March 1, 1986, to fill the vacancy created by the retirement of Francis G. Dunn.