

UNITED STATES COURT OF APPEALS  
TENTH CIRCUIT

**In Memory of**  
**THE HONORABLE JOHN JOSEPH HICKEY,**

Judge of the United States Court of Appeals,  
Tenth Circuit  
1966-1970

January 4, 1971  
United States District Court  
Cheyenne, Wyoming

**Presiding**

**THE HONORABLE DAVID T. LEWIS  
CHIEF JUDGE OF THE UNITED STATES CIRCUIT COURT  
OF APPEALS, TENTH CIRCUIT**

**THE HONORABLE JOHN C. PICKETT  
SENIOR JUDGE OF THE UNITED STATES CIRCUIT COURT  
OF APPEALS, TENTH CIRCUIT**

**THE HONORABLE DELMAS C. HILL  
JUDGE OF THE UNITED STATES CIRCUIT COURT  
OF APPEALS, TENTH CIRCUIT**

**THE HONORABLE OLIVER SETH  
JUDGE OF THE UNITED STATES CIRCUIT COURT  
OF APPEALS, TENTH CIRCUIT**

**THE HONORABLE WILLIAM J. HOLLOWAY, JR.  
JUDGE OF THE UNITED STATES CIRCUIT COURT  
OF APPEALS, TENTH CIRCUIT**

**THE HONORABLE ROBERT H. McWILLIAMS  
JUDGE OF THE UNITED STATES CIRCUIT COURT  
OF APPEALS, TENTH CIRCUIT**



HONORABLE JOHN JOSEPH HICKEY

## Proceedings

JUDGE LEWIS: The Court has this day convened, en banc, to honor the memory of Judge John Joseph Hickey, who died September 22, 1970, while an active member of this court, the Court of Appeals for the Tenth Circuit.

It is appropriate that these proceedings be held on this historic inauguration day and in Judge Hickey's native state of Wyoming. Judge Hickey was and is truly a part of the history of this great state, for he served the people of Wyoming so well, so long, and in so many different ways. The overflow attendance here today attests to that fact, and to the subjective feeling that each of us here shares, a desire to acknowledge and to express by word, or simply by our presence, our deep admiration for our friend and associate.

Judge Hickey served on the Court of Appeals for something over four years, all but a few months of which was during the tenure of Chief Judge Murrah.

Judge Murrah was unable to be here today but he has written a letter expressing his regret, that I would like to read to you: "I am terribly sorry not to be able to be with you in Cheyenne when you sit to memorialize our late brother Hickey. We shall always remember his witticisms and our informal counsels, nor shall we ever forget the forthrightness of his wisdom when we came to deliberate on our legal problems at the conference table. His mastery of the facts and his incisive logic were always an inspiration to me. He never quibbled about little things. His eyes were always lifted to the hills of the law. His true worth to the work of our court is known only to those who were privileged to sit in intimate counsel with him. There was a quality about his whole life that permeated the society in which he moved. He will take his place as one of the greats who have graced this circuit with honor, dignity and learning."

Signed, "Alfred P. Murrah."

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It is a privilege and honor to recognize the United States Senator from the great state of Wyoming, the Honorable Clifford Hansen.

Senator.

SENATOR HANSEN: Thank you very much, Your Honor.

Distinguished and honorable members of the Court and friends: I am very proud and privileged, as is Mrs. Hansen, to be here this afternoon.

It was my great fortune to know your late colleague, Joe Hickey, from the time we were in school together. My knowledge of him was marked by an increasing respect and admiration that was shared by all who knew him. He truly was a worthy son of this great state of Wyoming.

He served in numerous capacities all to his honor and credit. He understood Wyoming, he was always loyal to Wyoming, and he contributed much to Wyoming.

I share with each of you the sadness that engulfs all of us as we mark his passing. We are encouraged, though, to look beyond that moment and to sense with appreciation the great family that he has left for us to enjoy and to know.

I am certain that each of us will be inspired to do his job better by virtue of the great example that Joe Hickey left for all of us.

Thank you, sir.

JUDGE LEWIS: Thank you, Senator Hansen.

The Court now recognizes the Honorable J. Reuel Armstrong, State District Judge, Rawlins.

Judge Armstrong.

JUDGE ARMSTRONG: May it please the Court, members of the family of Judge Hickey, and friends: The untimely death some three months ago of John Joseph Hickey at the age of 59 years was deeply felt by many people; numbered among them are innumerable friends in Rawlins, which was his birthplace and home base.

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The fact that his college education was attained during the severe years of the depression attests to his tenacity and strength of character. Especially should it be noted that he accomplished this without material financial assistance from his devoted mother or the aid of his father who died when Joe was two.

He and five others graduated from the University of Wyoming Law School in 1934, and he was admitted to practice in the State of Wyoming the same year. Four years later he gained his first recognition in politics by being elected in Carbon County to the office of the County and Prosecuting Attorney.

He enlisted in the Army in September of 1942, and was honorably discharged on Christmas Day 1945. He returned to private practice in Rawlins and was soon married to a classmate, Winifred Espy. From that union are two boys, John and Paul, both worthy of the pride their father had in them.

In 1946 he was again elected County and Prosecuting Attorney in his home county, but resigned three years later to become the United States District Attorney. He served in that office with distinction during some of the last few years that Judge Kennedy presided in District Court.

With the advent of the new administration in 1953 he again entered private practice, but this time with an eminent firm in Cheyenne.

The depth of his dedication to public service emerged again when he was elected Governor of the State of Wyoming in 1958. This exacting experience led him to be the logical successor to fill the vacancy created by the death of the late Senator elect Keith Thomson.

His tenure in the United States Senate in 1961 and 1962 was marked with many expressions of praise for his competence and ability which were to be rewarded by President Johnson appointing him to the United States Court of Appeals in June of 1966.

We were proud of his service in all three branches of government, but naturally our pride was greatest with his judicial appointment to this court.

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Judge Hickey's first and last devotion in his public career was with the law. His interest and concern was always for his fellow man for whom he always had time and energy to help and serve. He possessed the attributes which so few obtain, but which make his memory so highly respected and beloved in his profession and in his home town.

The confidence, esteem and affection of those who knew him lasted his entire lifetime, and as a friend and fellow lawyer I am privileged to pay my respects to an able jurist and an outstanding member of this court.

JUDGE LEWIS: Judge Armstrong, that is a very fitting tribute.

The Court now recognizes Mr. Bard Ferrall, Cheyenne.

MR. FERRALL: May it please the Court, Mrs. Hickey, John and Paul, ladies and gentlemen: Joe Hickey, a good governor, good senator, good lawyer, good judge, good friend. Many of us who have practiced in Wyoming during the past 35 and more years knew Joe Hickey well. We knew him in times of triumph and in times of defeat. We knew him before the honors came, and all of us liked what we knew.

We thought there would be a few more years of talk and laughter, but he left and the Wyoming Bar lost a good man.

Our reasons for liking Joe Hickey are as old as friendship of man for man. He was without arrogance and the common vanities, and was not driven to seeking compliments. He had learning, understanding and integrity. He did not fear speaking out on what he believed, and he had that rare quality of being able not to agree and state his reasons without causing resentment or humiliation.

He had that courage that springs from complete faith in God, and he met death as he had lived without fear or self pity.

Thinking and commenting on the works and deeds of an old friend is always a rewarding experience, and I am grateful for this opportunity to say what I and many others think of him.

JUDGE LEWIS: Thank you, sir.

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It is my privilege to recognize the Chief Justice of the Wyoming Supreme Court, the Honorable Norman B. Gray.

JUSTICE GRAY: May it please the Court, Mrs. Hickey, John and Paul, and friends of Joe Hickey: May I say to you, Judge Lewis, that this morning I was just demoted as the Chief Justice of the Supreme Court of Wyoming, and our Chief Justice now is Judge McIntyre.

On behalf of our court may I express to this court our appreciation for the opportunity to come here to participate in this memorial service for our dearly beloved and departed brother in the judiciary.

I can say without fear of dissent that the members of our court feel a deep sense of loss in the passing of our brother and I hope that they will indulge me for a few minutes to express the deep loss that I personally feel.

Over a span of several years I was closely associated with Judge Hickey and came to know him well as a lawyer, as a law partner, as the recipient of high honor bestowed upon him by the people of this state, and as a member of this court; and I can say that knowing him was certainly a rewarding experience for me.

During all of this period of time Judge Hickey never lost his modesty, his sincerity, his consideration and kindness, and many of the other attributes that he possessed and simply took as a way of life.

Although he was reserved, he had the ability to make countless numbers of friends throughout this state and the nation who revered him and he in turn cherished them.

All of us I am sure will benefit from having known him and we could do no better for ourselves than to emulate the example he set as a lawyer, as the holder of high public office, as a jurist, and as a man.

Thank you very much.

JUDGE LEWIS: Thank you, Mr. Justice.

If I may recognize one of our associates, the Honorable Ewing T. Kerr, United States District Judge for the District of Wyoming.



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JUDGE KERR: May it please the Court, Mrs. Hickey, distinguished guests, and I might say there are many here this afternoon: To me, Judge Hickey was the epitome of the American Heritage that there is an equal opportunity for every boy who has a willingness to work, a mind to conceive and an ambition to succeed.

For those who knew him best, probably his most salient characteristic was his high sense of honor and justice. His was no "fair-weather" devotion to what he felt to be right. Whether as an individual citizen, a lawyer, or a judge, he evidenced always a singular and unswerving devotion to his sense of justice and fairness. He was not a neutral, he felt deeply and he acted as he felt, on the side he believed to be right and just. He enjoyed expressing his convictions in a manner that endeared him to all who respect strength of character and wise judgment.

It did not appear to be difficult for him to recognize the changes in the theories and philosophies of the law over a comparatively short period of time. He realized that the social, economic and political aspects of our country had changed the responsibilities of the courts and judges.

I do not like to conclude without commenting on one feature of his character, which all of us who knew him well appreciated. No one was ever a more loyal and steadfast friend. He did not give his friendships easily but when once given they knew no bounds. I shall always be grateful that I had the privilege to enjoy his friendship and I appreciate the opportunity afforded me by this honorable court to express my opinion of one of Wyoming's great citizens.

JUDGE LEWIS: Thank you, Judge Kerr.

I now recognize the most Reverend Bishop of the Cheyenne Diocese, Hubert M. Newell.

BISHOP NEWELL: Distinguished members of the judiciary, members of the family, friends and associates of Judge Hickey: It is indeed a privilege to be permitted to share in this tribute.

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It is a great and deserved compliment to him that the court and Judge Hickey's associates in the law would wish to honor his memory.

When we speak of departed friends we sometimes are tempted to attribute to them qualities which they did not really possess, or at least to the degree that we claim. It is a pardonable fault and one that people are quick to forgive or overlook.

With Joe Hickey I do not believe it is necessary to alter the facts. It is true he was a human being like ourselves but he was also a good and honorable man, an ornament to his profession, a distinguished public servant, an asset to his community and state, a joy to his wife and family.

In my brief remarks I would like to make mention of three aspects of the man which impressed me particularly. Some of the things I will say have already been alluded to by previous speakers, but they bear repetition.

I do not know whether Joe would qualify for the title of a lawyer's lawyer, as this is a compliment that would come properly from his peers; however, I must say that from my first meeting with him 25 years ago I was struck with his great respect and veneration for the law. He was the Diocesan Attorney for several years before his election as Governor. I never had occasion to change my judgment about his dedication or his competency.

Another facet of the man was his great interest in and enjoyment of politics. He was quite perceptive in the area of practical politics. He had a feeling for issues. He liked people and was genuinely concerned about their needs and interests. He regarded public office as a sacred trust. However, I admire Joe most for the fact that he was a true Christian gentleman.

In this connection every person to a greater or lesser degree reflects the environment in which he was reared. Joe came from a home in which the practice of religion and the fulfillment of one's religious responsibilities were as much a part of life as eating and sleeping. His parents were of modest circumstances but

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there was love and affection, respect, a sense of compassion, and appreciation for education and the acceptance of responsibility.

It was this environment that Joe Hickey reflected in his whole life. He was a faithful Christian and in an unostentatious way, regular in the practice of his religious duties, frequent at Mass and the Holy Eucharist. He gave generously of his time and talents to the service of the church and of charity. His home was his pride and joy. His wife shared fully in his hopes, his aspirations, his many accomplishments.

His sons had the blessed opportunity to see and experience in their day to day life at home and in the family the flowering of the Christian faith.

It is our feeling that it was this religious sense that made him so successful a lawyer, so effective a judge, so honorable a public servant, so representative a man.

We pray that his soul may rest in peace and that his example may be an inspiration to Wyomingites for years to come.

JUDGE LEWIS: It is my privilege to recognize His Excellency, the Governor of the State of Wyoming, Governor Stanley K. Hathaway.

GOVERNOR HATHAWAY: May it please the Court, Mrs. Hickey, John and Paul: We are gathered here today to pay tribute to the memory of one of Wyoming's greatest public servants, Joe Hickey.

Joe had four great loves, his family, his church, the law and the State of Wyoming. He exemplified that in many years during his great career.

As a small town lawyer he became involved, perhaps, as many others have, in public service, more of a desire to help people than to achieve prestige or honor.

From the county attorney to a leader in his party, chairman of his party, United States Attorney, elected Governor of Wyoming, the United States Senate, and finally to serve upon the Bench of the Tenth Circuit.

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He was a man of great compassion and understanding, great knowledge and capability. There isn't any question he will go down in the history books of this state as one of its greatest sons and citizens. His love for Wyoming prevailed in almost everything he did. In a way he exemplified any son who is native born to this state and who grew up with the people and worked with the people.

I think his greatest satisfaction probably was being on this court, because he did love the law and he recognized the fundamental responsibility of lawyers to preserve the judicial system, which is the bedrock of our freedom and our system of government.

He left a great family, a great wife, who was his helpmate through the years in all of his public service, the former first lady of this state, and two fine sons who resemble him so much.

I can only say on behalf of all of the people of Wyoming that we are grateful for Joe Hickey's life, and grateful for what he has contributed to all of us.

JUDGE LEWIS: May I now call upon one of my brothers, perhaps the one who knew Judge Hickey longer, and was a dear friend of his, Judge John C. Pickett.

JUDGE PICKETT: Judge Lewis, before we conclude this session I should like to comment briefly about our good friend and associate, Judge Hickey.

I might say that these glowing tributes which you have heard for him today were very appropriate and well deserved.

I first became acquainted with Joe Hickey when he was a law student at the University of Wyoming. After he entered the practice of law our acquaintance and association continued and grew, and we became very close friends.

As a young man I found him to be one of unusual talent and ability. His rise in the legal and political activities of Wyoming was not unexpected, as he displayed a natural ability and fondness for both. His success in these fields, however, did not in

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the least affect his personality. To everyone and to himself he remained the same jovial and friendly Joe Hickey.

When the Judge came onto this court he entered a new world, entirely different from that which had occupied his entire former life. It necessitated a change from a more or less carefree life to one of considerable confinement, solitude, and often frustrating work. It required the abandonment of the contentious life of an active practicing lawyer, and the vicissitudes of political contests. He lost little time, however, in making that adjustment. He immediately recognized that only by arduous work could he carry his full share of the court work. He made the transition admirably from the very first day. It was evident that he would be an excellent judge. He was always ready to accept assignment of complex and difficult cases, and completed all his work very rapidly.

He brought to the court along with his Irish wit his warm, human understanding, his natural wisdom, together with an extraordinary amount of good common sense. His approach to cases was always with the philosophy that the litigant in the right should prevail.

In my long association with Joe I found him to be a person of unusual integrity and reliability, both as a lawyer and as a person. He had an insatiable love for his country which had given him an opportunity to succeed to the full extent of his abilities. For that country during World War II he offered his life on the beaches of Normandy and on the battlefields of France and Germany without hesitation or question.

He loved his state, his church and his court, but above all, although at times he may have been a bit abrupt or appeared to be, his whole life was dedicated to his family, first to his mother, who alone had nurtured him to manhood, then to his able wife and two fine sons, who have a heritage to cherish.

Joe Hickey was a fine judge, a great American citizen, and all of us miss him.

JUDGE LEWIS: Thank you, Judge.

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The members of this court and each of them join in the tributes so sincerely here expressed, and there is little that I can or should add.

To honor Judge Hickey, in memory or by formal word, serves well to remind us of our own honor. Although our judicial association with him was much too short, we recognized the impact that his fine judicial mind and his human qualities were having upon our court. And, since his loss, we have recognized this even more clearly.

He was truly a leveling influence among us, easing our judicial ego with humility and kind humor.

It has been said that reason is the soul of all law. I think Judge Hickey would agree but would subjectively encase the law's soul with a love for all mankind.

Hopefully, our judicial Brother will live on in the character of those with whom he came in contact and in the living progressive flow of the body of the law of our nation.

There have been many tributes today to him, but I have heard nothing from anyone that I had not learned before during the four years and a little more that I spent with him. I truly loved this man and he truly loved his family, Winifred, John and Paul.

John, may I call on you just very briefly.

JOHN HICKEY: On behalf of my family I would like to thank you, the gentlemen of the court, for the tribute you have paid my father.

Thank you.

JUDGE LEWIS: Thank you, John.

It is the order of the Court that the report of these proceedings be spread upon the permanent minutes of the Court of Appeals for the Tenth Circuit.

This court will be in recess.

(Whereupon proceedings terminated.)