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# MILESTONES

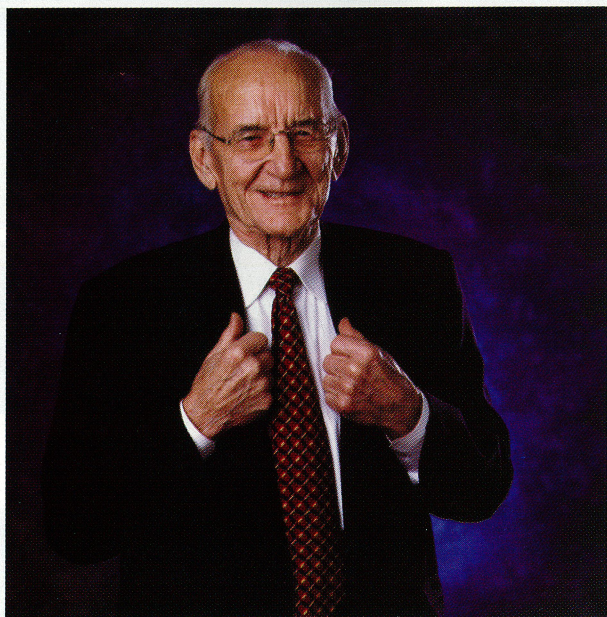
*look back on the  
colorful career of  
Minnesota legend  
Files Lord*





# TRUE TALES OF THE LEGEND OF MILES LORD

Collected by David Rubenstein



PHOTOGRAPH BY LARRY MARCUS

**I**t can't be overstated — Miles Lord is a Minnesota legend. After serving as state attorney general and as U.S. attorney in the 1950s and '60s, Lord was appointed federal district judge, where he wrote landmark opinions on topics such as civil rights and the environment. He was the first judge to shut down a major industrial plant over environmental concerns in the Reserve Mining case, and is known for his work on the Dalkon Shield litigation in the '80s.

Judge Lord, 85, hasn't only had an effect on the law, however. Throughout his career, he's inspired his clerks, assisted those before him in court and made everyone laugh. We share some of their stories here.

## ► FLOYD BOLINE

*Boline was in the U.S. Attorney's Office from 1964 to 1968 and in private practice (with what is now known as Chestnut & Cambronne) for 12 years until he was appointed magistrate in 1980. He retired in 1994.*

## LORD'S SECRET HISTORY OF CRIMINAL ACTIVITY

I'd met him before through some political things but never really got to know him until I was hired as assistant U.S. attorney [1964]. I think at that time there were only six or seven assistants. Now I think there are over 100. So it was a small office. Everybody knew each other. It was like a family.

He's got a great sense of humor. When he was the U.S. attorney and found out he'd been appointed to district judge, he called me into his office and said, "Floyd, come in here. I've got to show you something." He went behind his desk and he pulled out a couple-of-inches-thick package of the labels that are on mattresses that say, "Do Not Tear Off Under Penalty of Law." He held them out and said, "Look what I've been doing, and they've never caught me."

## LORD LOVED THE JOB

One thing: a lot of people including myself would talk about the pressures of the job. I hadn't been a magistrate for all that long and he told me: the only pressures you have on this job are the pressures you put on yourself. When Jim Rosenbaum was going to be appointed U.S. attorney and he went up to talk to Lord, asking him about the job, Lord told him it was the most fun he ever had without taking his clothes off.

## FROM HERO TO ZERO

Just as I was about ready to retire, and he was talking to me about retirement, he commented that while sitting on the bench, you get kind of used to all the trappings of a federal judge and all the accolades you get. He said the courthouse kind of becomes the center of the universe, and you tend to think the world revolves around the courthouse. You walk down to the mall and lawyers across the street come over and say, "Hi, Judge, hi, Judge." Then you find out the day after you retire, you walk down the mall and nobody crosses the street. They stay on the other side and say, "There goes that S.O.B.!"

## ► KARL L. CAMBRONNE

*Chestnut & Cambronne*

## THE CATTLE CALL: A METHOD TO HIS MADNESS

I have appeared in court and known him ever since I was a baby lawyer back in 1974, and I appeared before him frequently. There were things he did that were sort of



classic Lord. An example would be he would take all the cases in the fifth division, up in Duluth, that he had on his calendar and note them all on the same day for trial. He might have 50 cases. A larger number anyway. You'd get this notice, appear for trial on whatever date it was. And you'd go up there and the room would be full of lawyers. Of course this was his method for settlement. Once you started to understand the method in his madness — this was in the nature of a cattle call and a discussion of settlement, and not necessarily a trial — you would prepare for that. Then he'd take you into chambers, you and your opponent, and give you his views on why this case ought to be settled. And of course he had hanging over your head the fact that you were called for trial today, you'd better be ready to go. And that would have the effect of cutting down his calendar dramatically.

#### DOUBLE THE JURY WHILE HALVING THE COURT'S EXPENSE

I would say Miles Lord also understood kind of a big picture in terms of the costs of litigation, both on plaintiffs' and defenses' side. For the International Rectifier Antitrust litigation there were two cases involved and lots of big-name defense counsel. But he actually had built in his Minneapolis courtroom two jury boxes. So essentially the same evidence that was being considered could be heard by two juries at the same time. And there wouldn't be a need to go through a very lengthy trial two times. That was just a remarkable bit of creativity at the time. I've not heard of it before or since.

#### A JUDGE WHO DIDN'T SIT IN SILENCE

He also had a tendency to be very proactive during trials. Questioning people, that sort of thing, to the point where people accused him of obviously leaving his bias before the fact-finder jury. But he was not at all shy about doing that, and he did it perhaps more than most. It's a touchy issue in that you don't want to, shall we say, color the case for purposes of the fact finder. But that was his M.O. for a long time. And the court of appeals, when he strayed too far, cut him back.

#### SENATOR HUMPHREY GIVES MILES HIS LITMUS TEST FOR POPULARITY

He was a great storyteller — in chambers and out. Very cordial. I remember him talking about Hubert Humphrey, then senator, who would sometimes come up to the chambers to talk to Miles. The courthouse was then on 110 South 4th Street. One day he was up talking to Miles, concerned about his political fortunes. What raised his concern was that recently it



PHOTO COURTESY OF MILES LORD

Lord shares a serious moment with Robert Kennedy in 1961

took him less than two hours to walk from the courthouse to Dayton's. If it took less than two hours for him to transverse those two blocks, he figured his currency was dropping because not enough people were stopping him to glad-hand him. That was his Humphrey's litmus test.

#### DID HE EVER FORGET A NAME?

But I can remember his going-away party, or retirement party, whatever it was. It was a big, big deal at the Leamington Hotel, which would make sense, owned by Bob Short. I can still visualize the figure of him walking through the lobby of the Leamington Hotel, and there were hundreds of people, well-wishers, lawyers from in town, from out of town. Just a whole bunch of folks. And he would go from one group to another, know everybody's name, thank them for coming. I mean he was so well connected. So visible. I just marveled at his ability to go through what seemed like a thousand people that day and talk to everyone, and know who he was talking to, recall their names and events.

#### ► J. EARL CUDD

*The Honorable J. Earl Cudd, magistrate district judge, District of Minnesota, still works a couple of days a week. Magistrates are assigned to specific judges, and Cudd was assigned to Judge Lord during much of the time he was a full-time magistrate.*

#### MILES AS OVERSEER IN THE U.S. ATTORNEY'S OFFICE

The office was not very big then. Counting Miles, and if we were at full strength, there were only seven of us. It was a great place to work, and he was a great guy to work for, because he wasn't supervising you and putting you under a microscope. He just kind of turned you loose and if you needed help or wanted advice, you could talk to him, and he'd give it to you. Otherwise, you were kind of left on your own. He didn't have a big ego. He was just fun to work for, because you could learn by your mistakes and he wasn't looking over your shoulder all the time.

#### THE REAL MILES LORD

He was a very warm person. He liked people. He would do anything for you. I can't think of a guy in that U.S. Attorney's Office when he was there and I was there that didn't like him. Really like him. And love to spend time with him, and loved working for him, because we just had tons of fun. He could get you laughing no matter how down in the dumps you were over how a case was going.

#### MILES AND THE-MAN-WHO-THOUGHT-HE-WAS-HUMPHREY

He had a lot of fun with Humphrey, and Humphrey had a lot of fun with him. One time they were up in the Boundary Waters and they get to one place where there is a small bus to take people across this portage. So Humphrey was off monkeying around with his gear or something, and Miles gets on the bus and tells all these people, who are from all over the country, that there is a guy up here in the woods who wears a lumberjack shirt and he looks like Humphrey and he sounds like Humphrey, and he kind of thinks he is Humphrey. He's going to jump on this bus in a few minutes and say, "Hi! I'm Senator Humphrey. Glad to meet you all!" Humor him a little.

Well, it worked perfectly. They were being very condescending to him. And it just drove Humphrey nuts.

Another one I remember: He and Humphrey were on the St. Croix, out on this boat, going down to Prescott or someplace, to have lunch and then come back. This was after Humphrey had lost the election in '68 and was teaching at Macalester College, but rumors were floating around that he was going to run for senator.

So Miles starts telling Humphrey that he shouldn't run, because he'd been out of office and people didn't remember who he was. All this sort of thing. And Humphrey is objecting, insisting he is still very well known. And blah blah blah.

So Miles says, "I've been out of the public eye for a long time too. But I'll bet as we're floating down this river that more people will say hello to me than will say hello to you."

So they get down the river a little ways, and here comes a boat going by. And it's, "Hi, Miles! How are you!" and "Hi! Hi, Miles Lord!"

And pretty soon a little farther down, another one. Same thing. And Humphrey — I wasn't there, so I can't testify to the truth of this, but I believe it to be true — Humphrey was getting pretty wild about this, because he figured he couldn't have faded that far from the public. He is getting really nervous about it. Finally the judge broke down and told him to look over the side of the boat. And there Miles had hung a sign that said, "Say hello to Miles Lord."



► **SUZANNE LAUKKA**

*Laukka became Judge Lord's secretary — that was her title — in 1976 and she remained in that position until Lord left the bench in 1985. Currently Laukka works for Judge Diana Murphy.*

**SINGING IN THE BRAIN**

He came into the office, as far as I know, every single day but one, whistling, singing or humming. And usually just about when he passed in front of my desk, he'd go, "Let's see those fingers fly!" or "Let's hear those keys clicking!" Some sort of enthusiastic thing about getting into the day.

**FAMILY AND FLARE PENS**

When he hired me, he told me there were only two things I could do that would make him angry at me. One was not keep him supplied with flare pens. And the other was to do anything to irritate his family. His wife and his kids were tops in his book. He sort of had a rule. If the family called, and he was in court, if they wanted to talk to him, I was absolutely to come and get him out of court. They'd take a quick recess at that point.

**NO ONE OUTWORKED MILES**

He was determined that nobody, just because they were a big company and could hire a gazillion attorneys and paralegals and investigators, was going to outwork him, when it came to getting to the end point where justice was done. He would get up early. He would work late. He would work weekends. This didn't happen too often, but a couple of times he called me at 5:30 in the morning, when I was still sleeping. He'd say, "Oh, Suzy, I just had to work on this, and I'm already at the office. Can you come in early?"

**NO BRAHMINs. NO UNTOUCHABLES**

He wasn't tied into class. I don't think he felt just because he was a federal judge he was better than anyone else. He would go to lunch with us. Frequently. And occasionally when he had lunch with someone, he would invite us, the secretaries or the law clerks, to join. I know one of my favorites was he'd invite us to join him when he went to lunch with Eugene McCarthy. I think Gene McCarthy said something to the effect that they didn't dare not be good friends. They always had to keep an eye on one another!

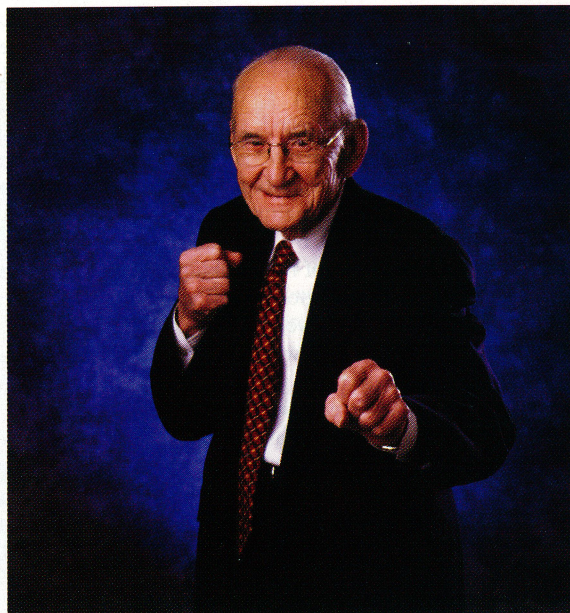
**MANY GOOD DEEDS UNTOLD**

Some people think he is just sort of a showboater. Had to be in the limelight. But that wasn't really always the case. One afternoon somebody called me and wanted to pass along thanks to the judge. And so I said, "Thanks for what?" And he

told me he was a worker at, I think it was the veterans' home. One of their residents had gotten downtown and apparently had some memory problems and was lost. And Judge Lord, being Judge Lord, was talking to everybody that he met along the way, and he talked to this fellow and figured out he didn't know what was going on. So he talked to him enough to figure out where he belonged. He called [and told] the veterans' home to be on the lookout for him. And he put the guy on the right bus, told the bus driver to make sure where he got off, so he could be met at the other end. And he never said a word about that to me.

**EVERYONE'S OPINION COUNTS**

Secretaries are sort of background people and don't always feel a part of what gets accomplished. But when I worked for him, I really felt



PHOTOGRAPHY BY LARRY MARCUS

that whatever I could do was important. We were actually doing some good for real people, not just complying with rules. And he did talk about cases, and we all had our chance to throw our five cents in. We felt like we were welcome to. It wasn't just for show. He actually wanted to hear what we said.

► **KEITH J. HALLELAND**

*Keith Halleland, who grew up in Iowa, is one of the founding partners of Halleland Lewis Nilan & Johnson. He clerked for Lord from 1982 to 1984. He and Roberta Walburn were Lord's clerks on the Dalkon Shield cases.*

**UNLOCKING THE TREASURE TROVE**

Probably one of the most remarkable experiences in my life was being clerk to Judge Lord

when he was sitting over the Dalkon Shield cases. Have you found the speech he gave to those guys? One of the things that led up to that was literally the judge and his two clerks, Roberta and I, being flown to Virginia to sit in on some discovery hearing that actually took place at AH Robins headquarters.

Can you imagine AH Robins consenting to have Judge Lord come in? They consented to it. It was part of a discovery dispute, and the judge said, "Well, why don't I just come out there and sit in on these hearings?"

They were fighting over attorney-client privilege and documents that were in dispute. And he had Roberta and me go in and start to review these documents. And of course it was a treasure trove of information available about the history of the IUD and all the things that had gone wrong, and all the claims that they had about it. Eventually that, among many things, led to the view that led to his famous Dalkon Shield speech. (Editor's note: visit L&P on the Web at [lawandpolitics.com](http://lawandpolitics.com) for a transcript of the speech.)

**HE KNEW HOW TO GET PEOPLE'S ATTENTION**

He had a passion for the law and for people — that is what I remember the most about working with him. What people might not know was that the passion and the drama of these disputes were something he lived in and with, and something he knew how to capture in his opinions. Clerks would always do the first draft. Then they would work with the judge. People think that he didn't care as much about a case as what his opinion said. But the fact of it is he really did care about how these opinions would be drafted, and whether they would be drafted in a way that would really capture people's imagination and attention.

He is a more creative person that way than what he might be given credit for. So when we went through that opinion, he changed it in ways that really made it much more engaging.

**QUICK! I NEED SOME SNOOSE**

He just had a way of joking and enjoying himself. Sometimes during a big trial you would be there, all the lawyers would be there, and there was this great courtroom drama — and suddenly he would motion you to the bench. Everyone would be watching him, and then of course watching you come up to him. And you'd lean over and he'd whisper into your ear. Of course everyone is wondering, "What is he saying?" And what he was saying is that he wanted you to go next door and get him some chewing tobacco. Yeah, there was a spittoon up there in those days. And sometimes he would lean down and use it.



## DRIVING WHAT THE VOLK DRIVE

What he drove the whole time I knew him was a Volkswagen diesel Rabbit. Can you imagine the chief judge of the federal district court driving around in a diesel Rabbit? And they were hard to start. During the cold weather he had it plugged in from the parking lot. And everybody knew that was Lord's deal, that he had a line running out from the courthouse. One time he asked me to go start it and move it. And the FBI guys are standing around down in the lobby and I walk out, and I start this old diesel Rabbit and move it. But I forgot to unplug it. So there I am driving in the parking lot, in his car, with this electrical line. And everybody was looking on and laughing. I had to tell him, of course, and he just thought it was really funny.

## SEND IN THE MARSHALS

The U.S. marshals were there in the courthouse and would come to his aid in the event that anything would happen in this courtroom. Behind his bench there was a button he could push which rings a buzzer in the marshal's office, in the event of an emergency. He would do that just for fun to see whether they would show up. He would do a fire drill just for fun. And the marshals would come rushing in and he thought that was just the funniest damn thing.

## ► JOHN Q. MCSHANE

*Since 1998 McShane has been a judge with the 4th Judicial District Court, State of Minnesota. He is a founding partner of Bowman and Brooke (1985).*

## THE ATTACK OF THE ROTTEN S.O.B.S

Periodically we would go sit in Duluth. There were other courts in Fergus Falls, federal courthouses. You would go up and you would sit in those cities and hear cases. When we would go up there, the judge would take his staff and his law clerk, and we would always end up going to Crosby, which is the judge's hometown. I remember being in Crosby when we went into the American Legion Hall where they were playing bingo. It was the judge and Mrs. Lord and probably his clerk. And we walked in, in this big group, and the place just went silent. Because, you know, strangers! You could just see the buzz go through the crowd. Who is that? Oh, that's Miles Lord. So it was, okay, he's one of us.

So we are in there playing bingo, having dinner, probably a beer or two. And we walk out, we are walking down the street to our cars. And there are these three or four guys across the street. And Miles goes, "You rotten S.O.B.s, what are you doing here? Get your ass out of town!" Or something along those lines. So these guys start coming over to him, and I'm thinking, "What do I do? Stand in front and take one for the judge? Run?" And as soon as they get close enough to see, they say to him, "Aw, Miles, you son of a gun."

## STRONG FEELINGS

Now that I am a judge, I realize how difficult a job he had, and how well he did it. He feels so strongly about things. He really has strong feelings for people. And it got to be just killing him to sit up there as a judge and try to remain impartial. Because it is not in his nature. He just feels too strongly for the cause. For him to be impartial and neutral had to be awfully difficult. He fought a battle to maintain judicial temperament, and he lost that battle a couple of times.

## SHOUTING ABOUT NAM

After I graduated from college, I went into the military. I was in ROTC and went to Vietnam and served in Vietnam. In fact, I took the law school admissions test in Saigon. After I came out of Vietnam, I went to law school and came to work for the judge. That is when they were doing a lot of draft resistance, a lot of trials and sentencing of people who had resisted the draft. The judge was fairly lenient with draft evaders and draft dodgers. Needless to say, I had a little different opinion of that. I believe it was in the first week that I was there, he sentenced somebody and I didn't think it was an appropriate sentence, and I told him I didn't. And he told me why he did it. We got into a real good shouting argument. I thought to myself, "Well, I've just screwed up my legal career. Here I am yelling with a federal judge." And after we both calmed down, he said to me, "Okay. I understand how you feel. I appreciate your position. You will not have to work on any of these cases." Because the clerks split the cases, there are two of us. "You don't have to work any of those cases, and I respect your position." And we got along marvelously after that. I consider him to be a good friend to this day.

## LORD THE INNOVATOR

Another case he had was an antitrust case brought by the government and others, regarding the antibiotic tetracycline. That's where he had two juries empaneled at the same time. I don't know if anyone has ever done it. And there were other innovations. It's interesting. I was just at this judicial meeting and they were talking about "innovation": You can set up the courtroom so that when the lawyer approaches the bench and they are having a conference, you can have music. He did that 30 years ago, when I was there. He had that set up so that when the lawyers would approach the bench he would turn a switch and there would be music in the jury box, and the jury couldn't hear what the lawyers were saying.

## ► WALTER MONDALE

*Former Minnesota senator and vice president of the United States, currently with Dorsey & Whitney.*

## THE ONE AND ONLY

Miles is one of the most remarkable human beings I've ever worked with. He has a wonder-

ful sense of humor, but he is serious and thoughtful and a deeply caring human being — ah, man.

He was a different kind of public servant because he listened to his own drummer.

## MILES THE TERRORIST

He was very creative in his practical jokes. There was a canoe trip up near Park Rapids somewhere. They were talking around a campfire. It was dark out, and they were talking about the dangers of being out there alone and what could possibly happen to them. Then apparently everybody started to get a little scared and Miles slipped away and reappeared in Indian garb and with war paint, hollering at them. That's a typical example of what he might do.

## ► REBECCA L. ROM

*Rom clerked for Lord from 1977 to 1979. She is a partner at Faegre & Benson.*

## A MOST UNUSUAL JOB INTERVIEW

The way I got my job is a funny story and typical of Miles. In the fall of my last year in law school at William Mitchell, the judge's current clerk, a fellow named Lew Remele, called me and said I needed to interview with the judge. But the judge was in the university hospital and I was supposed to call him in his hospital room and set up a time to come over to interview for the job of replacing Lew. This was, I'd say, late November, early December 1978. Just after the presidential election. So I called his room, and a man answered the phone, a booming voice: "Hello, Jimmy Carter!" I was speechless for a moment. Then I said, well, this is Becky Rom and I'm calling for Judge Lord. The man on the other end of the phone said, "Oh, I thought you were Jimmy Carter calling from Plains, Georgia, asking me to join his administration."

That was the first time I ever spoke to the judge. So I went in for the meeting. And I go to his hospital room and I knock on the door, and I hear the same voice inside the room talking. And he was trying to convince his nurse that he had something called Guillain-Barré Syndrome. It was the side effect of some flu shots. People don't hear about that affliction very much. It happened to be in the news right at that time. He was saying to the nurse, "I didn't move from 10 o'clock last night until 6 o'clock this morning, so I'm convinced I have Guillain-Barré Syndrome." I think it paralyzes you. He was just pulling her leg. He was sleeping. So I came in and introduced myself and had my interview with the judge. But he was the ultimate jokester. Loved to pull people's leg, in a good-natured way. He did that all the time.

## MILES PANICS THE MINNEAPOLIS CLUB

The judge continued to pull people's legs but never on the bench. But he was very impish. Sometime in my stretch there, Hubert Humphrey



## ► MILES LORD

died. And Muriel was appointed to replace him for the duration of his term as senator. The Minneapolis Club had always provided an honorary membership to the two U.S. senators. But the Minneapolis Club was a single-sex institution at that time — male only. So there was a little bit of controversy in Minneapolis. What was the Minneapolis Club going to do? Were they going to extend this honorary membership to Muriel? And of course they graciously did. Well, the day after that was announced, the judge called me into his chambers along with Su Laukka, and he said, “I want you to be Muriel Humphrey. And say exactly what I tell you to say.”

Well, it's your boss. You don't say no. So we had Suzy call up the Minneapolis Club, get the switchboard, and connect through to the athletic facilities, which were managed by a man who, as it happened, had grown up with Miles. They were childhood friends. Suzy finally got through to him and said, “Would you hold, please, for Senator Muriel Humphrey?” So then I got on the phone. This is what the judge had me say. I said, “Hello, this is Senator Humphrey. I'd like to come over for a swim and a rubdown. I just want to make sure the facilities are ready for me, because I'll be there shortly.”

Well, he stuttered and stumbled, and I kept talking to him. He was nervous. You know how some people are? They don't know if it's for real but they don't want to take the chance? In any event, we had him going for a while until finally he said: “Yeah? Miles? Miles? I know you're behind this!” He gets on the speaker phone and we all burst out laughing. So we had those kinds of very unusual clerkship experiences.

### ► PETER N. THOMPSON

*Thompson clerked for Lord during the Reserve Mining case. He currently is a professor of law at Hamline University School of Law.*

### A SHORT AND SWEET JOB OFFER

I went to the University of Michigan Law School and then went right to the Twin Cities. I wanted to work for a federal judge. My roommate was from Minnesota and he had told me a little bit about Judge Lord. But I didn't really know him. I soon learned he was unique. When I came out here, his son-in-law was doing the interviewing for him. He was fishing or hunting or working in the library or whatever. So I didn't actually meet him when I came out to the interview. And about two weeks later I got a phone call and this raspy voice said, “Peter?”

“Yeah.”

“This is the judge.”

I thought it was my friend, Phil, from law school. I say, “Okay.”

“This is Judge Lord.”

“Okay.”

“Well, don't you want to come work for me?”

I said, “Yeah.”

He said, “Okay. Start in June.” And he hung up. That was it. I hung up the phone and my wife says, “Who was that?”

I said, “Well, it was either Phil or it was Judge Lord from Minnesota, in which case I just took a job.” So I guess you could say when Miles called, I thought it was just Phil giving me a hard time. But it was Miles giving me a hard time! I realized I was in for something interesting.

### FULLY FORMED IDEAS ONLY, PLEASE

He was very good to work for. Very respectful. Very professional. But still, very quick. He was not the sort of person you would go to and say, “I'm sort of thinking about this,” or “What do you think about that?” You had to pretty much have in mind what it was you were thinking about before you sat down to talk to him. He wasn't one to sit down and brainstorm with you. You were supposed to do the brainstorming and then come to him. Then we were supposed to come back with completed thoughts.

### JUDGMENTS COUNT, BUT SO DOES THE REASONING BEHIND THEM

I'm not sure people give him credit for this, but he was always of the view that when citizens came before the court, and he gave a judgment, that they should have the reasons for it. And that he needed to be able to explain those reasons so that they could understand them — and then agree with them! A lot of times he gave decisions some people didn't necessarily like, and he wanted them to know the reasons for that too. I don't mean to criticize other federal judges, but sometimes judges just sort of decide and don't give extensive reasons. He would always want to be sure there were good reasons, that he explained.

### DON'T PUT OFF UNTIL TOMORROW

My first day in court, there was a strike at a mine up north. And he held court all night, until 2 or 3 in the morning. We were just going to stay there until all the proofs were in, so he would give the ruling. He was going to get it resolved that night. That broke me in early. Then the next day we drove up to Duluth because he had a calendar up there.

### MILES KNEW EVERYONE

I saw his practical joke side too. I think the first time I went up to Duluth with him he had this rubber snake he was pulling out, frightening the waitresses. That's the most remarkable thing about him. You couldn't go anywhere with him, up an elevator, lunch, where he wouldn't connect with somebody. The waitress. Somebody in the elevator. He either knew them or their father. Or somebody they worked with. And have some story to tell them about it. He really did connect with people.

### ► ROBERTA B. WALBURN

*Walburn, a former reporter for the Star Tribune and former legislative aide to Sen. Paul Wellstone, is currently of counsel with Robins, Kaplan, Miller & Ciresi. She clerked for Lord during the Dalkon Shield case, from 1983 to 1984.*

### LAW AND JUSTICE

What sticks in my mind is that he was incredibly energetic. His mind was always going. He was always thinking about ways to approach cases. The bottom line, what made the biggest impression on me and what ultimately led me to decide to try and practice law was that he was always focused on justice. It sounds kind of corny, but sometimes that can get lost in the shuffle of practicing law. He wanted to make sure he did whatever he could to achieve justice. Sometimes at great personal sacrifice to himself. He was not afraid to take on issues that needed to be taken on. He was not afraid to take on the establishment. He was very courageous. He had incredible instincts about what was really going on, reading in between the lines.

### A JUDGE WHO TRUSTS HIS INSTINCTS

The Dalkon Shield cases had been pending in courts around the country for years before Judge Lord got involved. There had been a multi-district litigation (MDL) proceeding, where they consolidate cases from around the country, and they do discovery, getting documents and taking depositions, and then they send them back to the jurisdictions they were originally filed in for trial. There were thousands of Dalkon Shield cases filed all over the country. And there were more cases in state court in Minnesota. I'm just talking federal cases. But obviously trying one case at a time was not going to get this litigation done. And the Robins law firm, which at that time was Robins, Zelle, Larson & Kaplan, was representing a number of plaintiffs in Minnesota. They had been asking judges to reopen the discovery, because they didn't think the MDL discovery had gotten all of the relevant documents and information. Other judges would not grant that motion. Because typically that is what the MDL does. It is supposed to get the discovery done expeditiously and then send it back. But when they brought that motion in front of Judge Lord, he granted it and reopened the discovery. Because his instincts told him that — no matter how fine the MDL judge was, and there was this great MDL judge in, I think it was Kansas City, no matter how good the plaintiffs lawyers were in the MDL, and they were good lawyers — because of the actions of the company, they had not gotten to the bottom of what had happened. And that more discovery was warranted. So Judge Lord reopened the discovery. Which meant a tremendous workload for him. He appointed special masters to go down and supervise document discovery. He himself got



on an airplane and went down to Richmond to preside over depositions because the deponents were not being responsive.

And he forced more documents to be produced. Depositions of the highest officials in the company to be taken. All of this in a very compressed schedule.

And it worked. The discovery is what ultimately broke the Dalkon Shield cases wide open. The documents that were produced. The depositions that were taken. They ultimately led to a famous deposition that Mike Ciresi actually took of the former general counsel of AH Robins, who testified that documents had been destroyed at the company. That's what broke the litigation wide open. Within about a year the company went bankrupt. And bankruptcy proceedings were established to compensate the women. It was a characteristic Judge Lord move. Seeing something that on the one hand sounds so simple, but it took someone with his instincts to know this is what needed to be done, and he was going to do it.

#### **I WAS IN COURT WHEN HE GAVE THE DALKON SPEECH**

It was a very powerful moment. It was extremely quiet. People were hardly breathing. And there were a number of women in the courtroom who were crying, who had been victims of the Dalkon Shield.

#### ► **MIKE STEENSON**

*Steenenson clerked for Lord and is currently a professor at William Mitchell College of Law.*

#### **A FINE LINE**

I remember watching a case before I started working, a civil rights case. Judge Lord was having real problems with a witness, a psychiatrist. Every question the lawyer would ask, the psychiatrist would say, "Well, there's a fine line between this and that." As he was being questioned I saw the judge sliding closer and closer to him. Finally, the judge said, "There's a fine line between where you're at and contempt." After that the psychiatrist was really helpful.

#### **WHERE TO DROP THE ROCK**

In one case, a U of M student had been caught with marijuana. Judge Lord was all set to sentence him to a probationary period — he would have had the conviction expunged. And so the guy came in at sentencing and the judge asked, "If I put you on probation, are you going to stay away from drugs?" The guy said, "Well, I'll probably smoke some pot over on the West Bank down by the river." And the judge said, "I hereby sentence you to five years in prison." Afterward I said to the judge, "That's like trying to build something with a rock instead of a hammer." He said, "That



PHOTO COURTESY OF MILES LORD

#### **Lord always had a prank in store for hunting buddy Hubert Humphrey**

depends on where you drop the rock." The judge asked the guy the same question again after 60 days, and the guy said no — prison had a significant effect on him. So he had crude tools to work with, but they may have worked pretty well.

#### ► **MIKE WOLFF**

*Wolff clerked for Lord and is currently the chief justice of the Missouri Supreme Court.*

#### **THE BIG QUESTION**

I went down and interviewed with him for his clerkship. I was working at the Minneapolis *Star* at the time, going to law school in the day and working as a reporter at night. He called up my editor and asked him if I knew how to write, and then he called me up at work and said he had a hot tip for me, and would I like to come and interview with his clerkship.

#### **SYMPATHETIC TO ANIMAL LOVERS**

There was a case involving a guy who had shipped his dog on a commercial airliner. Somehow the luggage compartment lost pressure and the dog died. And this poor fellow came out to the airport and had an ax or a big sledgehammer and he went and banged a hole in one of the airplanes. So they charged him with a federal offense. The government was very serious about this, of course. But Judge Lord acquitted this guy on the grounds of temporary insanity. Because, you know, they killed his dog!

#### **MILES LORD: ANONYMOUS DONOR?**

During the Vietnam War, this woman, a peace activist, had declared 10,000 Vietnamese dependants on her income tax return. She was prosecuted for tax evasion. The government wanted to make an example of this woman, so it was very contentious. They tried the case and it was real clear that the young woman was a saintly person, but the jury found her guilty. Judge Lord, I know, couldn't stand the thought of putting her in jail. He put her on probation on the condition that she had to pay her taxes that she had cheated the govern-

ment out of — about \$300-\$400 — by a certain date or she would go to jail. So the deadline came and went and she never paid. They brought her in again and Judge Lord gave her a new deadline. She said, "I'm not going to do it." So the new deadline came, and right before it passed, some law firm in Minneapolis paid the taxes on her behalf. Now I have no personal knowledge of where that money came from, but I have my suspicions.

#### **LORD AS STORYTELLER**

There was a case involving a mink farmer in Minnesota in, I think, 1969. The problem with mink is that if you scare the hell out of them, they get panic stricken and eat their young. The U.S. Air Force flew a plane over the farm, broke the sound barrier and the mink became distraught and destroyed themselves. The mink farm brought a federal court claim against the government, and Miles had the case. He gave the farmer damages of \$40,000. While that first case was pending, the mink farmer had gotten his mink farm going again, and the Air Force flew another plane over the farm, broke the sound barrier and all the mink ate their young and destroyed one another again. So the second case came up, and the young lawyer that came out from the Justice Department was sitting there and Judge Lord said, "Let me tell you a story. Up in my hometown there was a circus that came to town every year. And the circus had a great big elephant. The elephant really didn't do anything, it was old and stubborn. They had a contest where anybody who could come up in front of the elephant and make it nod its head would get free tickets to the circus. So all the kids lined up and waved and the elephant just stood there and didn't do a damn thing. One kid came up, looked the elephant in the eye, picked up two bricks, went around behind and banged the elephant in the balls. So he won the free tickets.

"The circus comes to town the next year — same elephant, same contest. This time they said you have to make the elephant nod his head, then shake his head. Finally, the same little kid came up to the elephant and said, 'Remember me?' The elephant nods. 'Want me to do that again?' The elephant shakes his head."

Judge Lord said, "Now you go and get on the phone and tell your superiors at the Justice Department that story and see if we can settle this case." He made the phone call and came back with another \$40,000. **L&P**

#### **FOR MORE JUDGE LORD**

Visit *Law & Politics* on the Web this month at [lawandpolitics.com](http://lawandpolitics.com) to read:

- Judge Lord's famous Dalkon Shield speech, given in court on February 23, 1984.
- More stories about Judge Lord.