

IN TRIBUTE TO PROFESSOR JOHN E. CONWAY

The Wisconsin Civil Jury Instructions Committee would be remiss in its acknowledgments if it failed to give public recognition to the contributions made by Professor John E. Conway in the development and success of the Wisconsin book of civil instructions. We applaud the dedicatory salutes to him by his peers on his outstanding career as a teacher, lecturer, writer, and promoter of the highest ideals of jurisprudence and focusing their direction to their most practical and professional application. (See 1980 Wis. L. Rev., Vol. 2.)

There was presented to the Board of Circuit Judges, at its 1958 meeting, a proposal to establish a permanent committee of its members to initiate, develop, and publish a book of uniform civil jury instructions. The proposal was accepted, and in June 1959, the Board sponsored two seminars at the University of Wisconsin Law School on the subject. Professor Conway of the Law School and Professor William Bradford Smith of the Extension, Department of Law, joined and cooperated to produce the organizational and administrative foundation upon which the project was based. The committee members became the author of the book; UW-Extension, Department of Law, became the sponsor and publisher; and Professor Conway was named the editor. He retained his position as editor until his retirement in early summer of 1980, except for a brief self-imposed hiatus during his tenure of more than 20 years.

As editor, Professor Conway assumed a heavy and continuing assignment. It was his function to review submissions for legal conformity, to prepare the comments, to support the proposed instruction, and to edit, redraft, and conform it in the language of the rule of "clear, concise, and correct" expression of the law.

His position as editor elicited his great talents in the field of civil law and to its practice, proceedings, and procedures. His expression of them were always tempered by his virtues of patience, composure, modesty, and conciliation. He was after all a law professor in a den of resilient circuit judges. However, even omniscient judges are sometimes swayed by proper argument supported by correct interpretation of the law. He was formidable in debate and discussion and always insistent that the basic and true issue surface and be expressed in simple, direct, and understandable language.

His broad knowledge of the law and his extensive experience in all phases of its origin and application made him exceptionally qualified to serve as an arbitrator and editor in this collegial attempt to produce a worthy and durable

product. That it has succeeded to this point and has been accepted by Bench and Bar as an indispensable tool in the trial of civil actions is due in great part to the ability, tenacity, and dedication of Professor Conway. His expertise in the law, his capacity to expound and express it, and his intuitive aptitude to apply it to its correct and greatest effect made him an outstanding editor.

COMMITTEE ON CIVIL JURY
INSTRUCTIONS

**IN MEMORIAM
TO HONOR THE MEMORY OF JUDGE
ANDREW W. PARNELL**

No acknowledgment or tribute to those who have given so much to the successful creation of uniform civil jury instructions would be complete without recognition of the first chairman of the Civil Jury Instructions Committee. This committee, therefore, wishes to take the exceptional step of paying tribute to Judge Andrew W. Parnell. Judge Parnell died in 1988.

Judge Parnell was appointed Circuit Court Judge of the 10th Judicial Circuit (Outagamie, Shawano, Menominee, and Langlade Counties) in 1952 where he presided until his retirement in 1972. Homage has often been paid him for his many accomplishments, and he earned a national reputation as an outstanding jurist. His achievements are legion and cannot all be recounted here. But, to name a few, he served as chairman of The National Conference of State Trial Judges and as chairman of The Wisconsin Board of Circuit Judges, was a lecturer of national renown, and a leader in judicial education.

The idea for, and the motivating force behind, the uniform civil jury instructions came from Judge Parnell. His was the guiding hand in forming the first committee and in assuring the successful completion of its task.

His contribution went beyond the leadership he displayed in forming and guiding the committee at its inception. He continuously resolved the most complex legal problems with his wisdom, understanding, and experience.

We acknowledge Judge Parnell's guidance and initiative and we sincerely appreciate the thousands of hours of labor he contributed in this area. If there is a father of the Wisconsin Civil Jury Instructions, it is Judge Parnell whose effort, tenacity, and intelligence have made this work possible.

COMMITTEE ON CIVIL JURY
INSTRUCTIONS

**IN MEMORIAM
TO HONOR THE MEMORY OF JUDGE
HELMUTH F. ARPS**

Judge Helmuth F. Arps served as Circuit Court Judge for the 3rd Judicial Circuitry (Calumet and Winnebago Counties) from April 1948 until his retirement in May 1962. Judge Arps died January 24, 1964.

In 1959, while serving as chairman of the Board of Circuit Judges, Judge Arps became associated with the Wisconsin Civil Jury Instructions Committee and later served as a committee member.

Judge Arps, who stood 6'5" and of imposing appearance, was affectionately known as "Shorty" to his colleagues and friends. A lifelong resident of Calumet County, he graduated from New Holstein High School and later pursued further scholastic endeavors at the University of Wisconsin in Madison and the University of Michigan Law School.

The judge was admitted to the Bar in 1916. After serving as district attorney for Calumet County, he served as Calumet County Judge from November 1923 until 1936. He was appointed Circuit Judge of the 3rd Judicial Circuit in 1948 by Governor Oscar Rennebohm and was thereafter elected by the people of Winnebago and Calumet Counties in two elections.

While serving on the Bench and as a member of the instructions committee, Judge Arps established an excellent reputation as a trial judge and student of the law. He was known to his colleagues as "the pipe smoking philosopher," slow to voice his opinion but when pronounced, his opinions were deliberate and sound.

Judge Arps enjoyed his work on the instructions committee, respected his colleagues, and along with them contributed to clarifying the law for the benefit of the Bench and Bar.

His contributions to the committee are reflected in the pages of the civil instructions book and will remain as a tribute to his memory.

COMMITTEE ON CIVIL JURY
INSTRUCTIONS

**IN MEMORIAM
TO HONOR THE MEMORY OF JUDGE M.
EUGENE BAKER**

In October 1959, Judge M. Eugene Baker, then the presiding Judge of the 1st Judicial Circuit, comprising the counties of Kenosha and Walworth, was named as one of the six original appointees to the Wisconsin Civil Jury Instructions Committee. His appointment reflected a recognition of his outstanding judicial qualifications and his scholastic ability to articulate and translate his knowledge and experience into a project that would portend to well serve the state judiciary and the Bar.

He was referred to in the committee as the "Counsel" for the committee. His tenure endured until his death in May 1975. He served with distinction, devotion, and dedication. He was held in high esteem by the members, blessed as he was with dignified composure, radiant and friendly personality, and outstanding qualities as a judge.

When his health failed, he tendered his resignation, but the committee refused to accept it. This was an explicit acknowledgment of his value to the committee and the great contribution he had made towards its success. It was rightly felt that his long and priceless relationship to the committee entitled him to the tribute of continuing and permanent membership.

It is impossible to single out his particular work because the end product of the committee's work is the result of collegial effort. It must be recorded, however, that when a difficult problem of evidence or law surfaced, it was generally referred to Judge Baker to resolve. This he would do with meticulous care, producing a scholarly, legally refined and correct report. In a group such as ours, it is natural that often divergent and disparate views develop on any given legal subject. Judge Baker was not one to throw himself into the arena of debate. He abided his time patiently and when called to express his views would calmly, logically, and analytically respond and bring to focus and light the issue presented and the answer to it. When arguments and discussions detracted from or obscured the real point at issue, Judge Baker would, by his ingenious art of approach, appraisal, and persuasion, bring us back to a point of clarification and suggest the language which clearly expressed what was intended.

Judge Baker will long live in our memory. His work on the committee will be perpetuated in the pages of our book and make us all realize that the particular gifts by which some judge is favored can be translated in form to produce an enlightening endowment to those who follow.

COMMITTEE ON CIVIL JURY
INSTRUCTIONS

**IN MEMORIAM
TO HONOR THE MEMORY OF JUDGE
EDWARD M. DUQUAINE**

The Honorable Edward M. Duquaine served as Circuit Court Judge for the 14th Judicial Circuit (Brown, Door, and Kewaunee Counties) from 1946 until his retirement in January 1962. Judge Duquaine died on the 8th of November of 1969. In October 1959, he was selected to serve on the original committee formed for the purpose of drafting uniform civil jury instructions and continued to serve until his retirement from the Bench.

He was an asset to what he called "the most prestigious committee;" He was a student of the law. His power of concentration was immense. Nothing hurried him. He had a sense of humor, but it never upset his dignity. He thoroughly reviewed every suggested instruction and commented at length on each. He was firm in his convictions and usually was right. If Judge Baker was the "Counsel" to the committee, then surely Judge Duquaine was the "Advocate" in the group.

While the work of the committee represented a dedicated collegial effort, Judge Duquaine will be remembered by his colleagues for having persuaded the committee to adopt the standard "this burden is to satisfy you, to a reasonable certainty, by the greater weight of the credible evidence," instead of "preponderance of the evidence" which was being used by a large majority of the state trial judges at the time.

His contributions to the committee are freely distributed in the pages of this book of instructions and will remain as permanent memories to his great mind and talents.

COMMITTEE ON CIVIL JURY
INSTRUCTIONS