

Judge Gillard wasn't first to be bounced from bench

By AUSTIN C. WEHRWEIN
Of the opinion page staff

Judging the Law



Cox in his own defense declared he was never intoxicated "whilst sitting as a judge upon the bench."

framing and presenting articles of impeachment and all proceedings of the Senate... be vacated, canceled and expunged."

In any event, this was the upshot: Six of the original charges were dismissed; on seven Cox won acquittal by a big margin but the verdict was "guilty" on the remaining seven. Cox was removed from office and disqualified "for all judicial offices of honor, trust or profit" for three years.

Folwell went on to say that this was a consolation but it left open the question whether the conviction was regarded as unjust or whether, if it was just, Cox had been sufficiently punished. A few years later Cox left Minnesota and died in Los Angeles in 1898. Folwell didn't speculate whether Cox also found the Minnesota winters too chilling for comfort.

"Fruitless objection was made to the disqualification from office," Folwell, who was president of the University of Minnesota, wrote. But Folwell added:

Russell W. Fridley, director of the State Historical Society, assesses Cox as a frontier eccentric. Fridley said Cox was known to sleep more soundly than custom allows on the bench; he sometimes played the violin while listening to lawyers argue, and was known to take convicted defendants out for a beer before packing them off to jail. But he wasn't impeached for those engaging quirks. His house in St. Peter has been restored and is on the state and national historical registers.

"It is a pleasure here to record (in his history book) that the Legislature of 1891, in consideration of the fact that the conviction cast no reflection on the integrity of Judge Cox as a man nor on his incorruptibility as a judge and because the state deigns not to tarnish its escutcheon with oppression, ordered by joint resolution that all the proceedings of the House in

The disbarment and removal of District Judge Jack F.C. Gillard was the first time a Minnesota judge suffered that fate at the hands of the Minnesota Supreme Court. But it was not the first time a judge in this state was bounced off the bench.

The other instance in our recorded history was the impeachment of Judge E. St. Julien Cox of St. Peter, a Democrat who served in both the Minnesota House and Senate before he was elected district judge in 1878.

Affable and genial, "daintily dressed" (in the words of an old account) in a garb that included a silk top hat and highly polished shoes, Judge Cox was a forceful pub-

lic speaker with an entourage of friends in both parties. No surprise then, given the frontier milieu, that he had a taste for alcoholic refreshment. Alas, within a few weeks after his election to the bench there were newspaper stories alleging that he was "seen in a state of intoxication while attending to his judicial duties."

This led, in due course, to a petition for impeachment from two citizens of the Minnesota House in 1881. The main charge was drunkenness on the job. Two supplementary charges of "immoral behavior" were brought but ignored. William Watts Folwell's "History of Minnesota" goes no further in that regard. What moral standard he may have broken is there unrecorded.

The actual trial in the Minnesota Senate did not begin until early 1882, and by March there was, according to Folwell, a continuous stream of oratory that had little effect on the voting that began March 22.

Four thousand voters signed a petition in favor of this "impartial and incorruptible judge." Among the defense witnesses were 10 saloon keepers and 22 lawyers. But when a defense witness was asked to define "drunk" he said: "Well, when a man is so full that he lays in the street." One of the round-about arguments for conviction was that if Cox was acquitted, all the "moral elements of this state" would be "aroused beyond all restraint" and would pass a prohibition law

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THE MINNEAPOLIS STAR

Friday, July 7, 1978
VOLUME C, NO. 160