

The Puzzle of the Elections of 1892, 1898, 1904 and 1910 *

BY

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The 1892 election was the first of four judicial elections where the start of the terms of the certain associate justices was delayed one year. Three associate justices, who were elected in November 1892, did not take office until January 1894; three justices elected in November 1898, did not take office until January 1900; three justices elected in November 1904, did not take office until January 1906; and two justices were elected in November 1910, to terms beginning January 1912. These four elections were held every six years; only the commencement dates of the terms of certain associate justices—not all—were moved.

It is likely that these delays were designed to provide redress for an unintended consequence of amendments to the constitution passed in 1883. Those amendments provided for biennial elections in even numbered years, and reduced the justices' terms from seven to six years. The last election in an odd-numbered year was held in 1881.

Justices Mitchell, Dickinson and Vanderburgh, who were first elected to seven year terms in November 1881, had their terms shortened by the 1883 amendments and, after only five years in office, were forced to run again in November 1886, for terms that normally would end January 1893. This was thought to impose an unfair hardship on them that could be rectified by extending their current terms one year. Thus, rather than viewing the January 1894, start date of the new terms of the three associate justices elected in 1892 as a *delay*, it is more accurate to view it as the last day of a one year *extension* of the current terms of Justices

* For the results of each of the elections from 1892 through 1910, see “Results of Elections of Justices to the Minnesota Supreme Court, 1857-2010,” at 30-27 (MLHP, 2010).

Mitchell, Dickinson and Vanderburgh, which they won in the 1886 election.

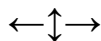
As it happened, of the three, only William Mitchell was reelected in 1892 for the term beginning January 1894, which revealed that the decision to postpone or extend the expiration date of the three incumbents' terms had created a problem that would end only with the resignation, death or promotion of their lineal successors over time (in fact, the odd term dates ended with the death of Associate Justice Philip Brown in February 1915, over twenty years later). The constitutional solution to this lingering problem lay in Article 6, §10, which required a newly appointed justice to stand in the next election that was held more than thirty days after his appointment.

The three justices who were elected in November 1892—William Mitchell and Daniel Buck and Thomas Canty, who had defeated Daniel Dickinson and Charles Vanderburgh—ran in November 1898, for terms beginning January 1900, and all three lost (though defeated, they remained on the bench the next year). Their three successors, John Lovely, Calvin Brown and Charles Lewis, ran for reelection in November 1904, for six year terms beginning January 1906, and expiring January 1912; but John Lovely lost to Charles Elliott, who did not complete his term. He resigned in September 1909. His appointed replacement, Thomas D. O'Brien, was required to run in the next election, November 1910, for a normal six year term beginning January 1911. O'Brien ran and lost, coming in third in a field of four.

This left two justices who still served odd terms—Calvin Brown and Charles Lewis. Their terms expired January 1912. To be reelected, they were required to run in the November 1910, election for terms starting January 1912. Calvin Brown ran and was reelected associate justice; however, in the midst of the 1912 election, he ran for chief justice and was elected to a normal six year term, beginning January 1913. His elevation created a vacancy in the associate justice ranks which was filled by the appointment of George Bunn in January 1913. Because Bunn attained this office by appointment, he stood for election in 1914, survived the primary, and won the general in November 1914, for a normal six year term commencing January 1915.

Charles Lewis did not seek reelection, and served to January 1912. In the election of November 1910, Philip Brown ran for the seat to be vacated by Lewis and won. He was the last justice whose term was still set by the delayed start scheme. His term ran from January 1912, to January 1918, requiring him to run for reelection in November 1916. But he died on February 6, 1915. The following month, Albert Schaller was appointed to fill the vacancy. Article 6, §10, required Schaller to stand in the next election. He did not survive the 1916 primary. James Quinn was elected in the general election to a regular six year term running from January 1917, to January 1923.

Thus ended the curious cycle of judicial elections in which a few justices, who were successors to three justices first elected in 1881, were elected to six year terms whose commencement dates were delayed one year. ■



Posted MLHP: November 4, 2010.