

PROCEEDINGS

In Memory Of

ASSOCIATE JUSTICE THOMAS O. STREISSGUTH

On October 8, 1951, at 2:30 p. m., the Court being assembled in the courtroom in the State Capitol, Chief Justice Charles Loring said:

The Court recognizes the president of the Minnesota State Bar Association, Mr. Charles B. Howard.

MR. HOWARD then said:

May it please the Court:

The Minnesota State Bar Association, representing three thousand lawyers of Minnesota, are delighted to have this opportunity to honor one of the distinguished lawyers of the state of Minnesota. We have asked that memorials be presented by two of our distinguished members. We have asked Mr. Henry N. Somsen, Sr., of New Ulm, Minnesota, and the Honorable Harry H. Peterson, formerly a colleague on the Supreme Court, to present a memorial as such colleague on the Supreme Court. If the Court please, I would like to have the Court first recognize Mr. Henry N. Somsen, the dean of the Bar of New Ulm, who will speak for the Bar.

CHIEF JUSTICE LORING then said:

The Court recognizes Mr. Henry N. Somsen.

MR. HENRY N. SOMSEN then presented the following

MEMORIAL

May it please the Court:

This memorial is presented in behalf of the members of the Bench and Bar of the Ninth Judicial District as a token of the respect and esteem in which they held our late friend and associate, Thomas Otto Streissguth. It was intended that this memorial should be presented to the Court by a beloved friend and colleague of Mr. Streissguth's, Mr. Henry H. Flor, of New Ulm. Owing to his untimely death a few weeks ago, this plan was necessarily changed, and I was asked to take his place here today, which I do with a deep sense of duty and obligation, both to the Mr. Streissguth and the Mr. Flor.

Thomas Otto Streissguth was born at Arlington, Sibley County, in this state, on February 27, 1889. He died on December 21, 1950, age 61. He passed away shortly before midnight of that day and then started that long journey to an undiscovered country from whose bourne no traveler ever returns.

Mr. Streissguth was commonly and affectionately known as "Tom" to his brethren of the bar and to hundreds of friends and acquaintances. He was the son of Theodore and Katie Streissguth and was one of a family of nine children. The Streissguth home was a Christian home. The teachings of the Christian faith were truly exemplified and followed in the daily life

of the family. They thoroughly pervaded the atmosphere of the home. Consideration one for the other, love and affection between the members of the family, and a high regard one for the other were present to a striking degree. The result was a family solidarity that was rare indeed—a condition that continues to this day. In the Streissguth family it was "all for one and one for all." This fine atmosphere in which Tom grew to manhood made a deep and lasting impression on his life and character, which continued through his entire life.

Tom attended the public schools at Arlington. Upon his graduation from high school there, he entered Carleton College, where he remained for two years. He then went to the State University and obtained his Bachelor of Arts degree in that institution in 1908. He then took up the study of law at the University and received the Bachelor of Laws degree in 1910.

From that time until 1914, a period of four years, he was employed by the West Publishing Company of St. Paul and by the Callaghan Law Book Company of Chicago, where he was engaged in research work and the writing of text material. In 1914 he entered the practice of law at Redwood Falls, Minnesota, associating himself with that distinguished lawyer and gentleman, the Honorable Frank Clague. He remained there only a short time and then opened his own law office at Gaylord, in his home county, where he remained until 1923. During that period, however, he answered the call to the flag and served almost two years in active military service. In 1923, he came to New Ulm and joined Alfred W. Mueller in the practice of his profession. That partnership continued until 1927, at which time Tom opened his own office in New Ulm. He was associated for a number of years with his brother-in-law, John Fordyce, under the name of Streissguth & Fordyce. In 1935 Mr. Fordyce went to Wisconsin, whereupon James Gislason became associated with Tom. This partnership was soon terminated by the tragic death of Mr. Gislason. The latter part of 1936 Judge S. P. Gislason became Tom's partner. That partnership was dissolved when Tom was appointed an Associate Justice of this Court in 1942. When his service on this Court ended, he resumed the practice of law at New Ulm. Soon afterward he entered into a partnership with Robert J. Berens. Later, Richard T. Rodenberg was admitted to the firm, which continued until Tom's death. A few months before he died, Tom was proud to welcome as an associate in his office his daughter, Janice, immediately following her admission to the bar of this state.

For a period of 18 years, from 1924 to 1942, Tom served as County Attorney of Brown county. He was fearless and untiring in his efforts to perform the duties of his office in the fullest measure. His reelection to this important office time and again is testimony of the high esteem in which the people of Brown county held his character and ability. As a prosecutor it may fairly be said that he was impartial and fair, as zealous in shielding the innocent as he was diligent and untiring in prosecuting those of whose guilt he was convinced.

On October 6, 1942, he was appointed an Associate Justice of our State Supreme Court by Governor Harold E. Stassen, and he was later appointed to the same position by Governor Edward Thye to fill a vacancy then existing in the Court. His work and accomplishments on the Supreme Court will be dealt with in another memorial being presented to this Court today.

I think it may fairly be said that Tom ranked in the top bracket of his profession. He was a student of the law and a most forceful advocate at the bar. He had a tremendous capacity for work. His counsel was widely sought not only by clients but by lawyers. He was in a true sense a lawyers' lawyer. His passing is a shocking loss to our local bar as well as to the bar of the entire state.

To terminate this memorial at this point would be a grave injustice, for Tom was more than a mere lawyer. He was a good citizen in the fullest sense of the word. He participated in all

activities which promised to further the welfare of the community in which he lived, particularly in all matters pertaining to law and government. He came to the aid of his country in time of need. All these, and all other obligations of good citizenship, he met in full measure. He was a director and officer of the Brown County Historical Society, of the New Ulm Library Association, of the New Ulm Charter Commission, and of many, many other organizations—all calculated to promote the welfare of the community. He was not only a member, but actively worked and promoted the interests in every possible way of all of these organizations. He was generous in supporting all of them and spared neither his time nor money in promoting their best interests.

In politics he was always a Republican. He was one of the organizers of the Young Republican League, was County Republican Chairman for a time, was a delegate to a Republican National Convention, and a candidate for the office of lieutenant governor of this state in 1932. When this country entered World War I, he promptly responded to his country's call, served faithfully, and rose to the rank of Captain in the Fourth Regiment of Field Artillery.

Tom had an intense interest in the welfare of the boys of the community. He was one of the leaders of the Boy Scouts organization of this area. By reason of his long contact with the Boy Scout movement and as an adult scouter, he firmly believed that no other institution in our country was so potent an influence in developing good citizenship and good character. He was a pillar of strength and support to the organization all through southwestern Minnesota. That Tom did give willingly and generously of his time and money to the support of the Boy Scout movement does not admit of any doubt. Tom was a very busy man. Many of us, including myself, often wondered how Tom could possibly find the time from his many other activities to do the work which he took upon himself to do in his support of the Boy Scout movement. Truly the boys of the New Ulm community have lost a great and a good friend.

Tom was married to Gladys Burnside, of Neenah, Wisconsin, in 1918. In passing on he leaves her, his widow; a son, Tom, Jr., who is in public relations work at Geneva College, Beaver Falls, Pennsylvania; and a daughter, Janice, who, as previously mentioned, is a member of the bar in New Ulm and an associate in her father's former firm. He was a generous and indulgent husband and father.

Tom leaves a community wherein he was a trusted, gifted, and energetic leader. He leaves a bar that was proud to include him within its circle. He leaves a multitude of friends, all of whom have fond memories of Tom that will long continue. He leaves the boys of the New Ulm community, whose loyal and true friend he was. They are all better boys, and will be better men, because of his interest and friendship.

To his memory, there has been erected a monument much more worthwhile and more imposing than any granite column or marble mausoleum. That monument is a living monument—a better and finer generation of young American citizens.

May it please the Court, I respectfully ask that this Memorial be spread upon the minutes of the Court as a permanent record of the doings and accomplishments of our good friend and brother, Thomas Otto Streissguth.

CHIEF JUSTICE LORING then said:

The Court recognizes the Honorable Harry H. Peterson.

JUSTICE PETERSON then said:

May it please the Court:

My brief remarks concerning Judge Streissguth's work as a justice of this Court shall be for the purpose of paying him a just tribute and perpetuating his memory rather than for that of appraisal and analysis of his judicial work. Our task is one of portraiture, and, as has been observed on other similar occasions, it is one that can be done only imperfectly for the same reasons that an artist can portray but imperfectly from memory his subject.

Judge Streissguth's work as a justice of this Court demonstrates the truth of the assertion that the judge's personality determines what kind of a judge he is. Judge Streissguth was a very distinct personality. He was strong and compact physically and seemed to have almost boundless physical and mental energy. He had a very lively disposition and was not only aware of what transpired about him, but also took an interest in events and persons. He was studious, industrious, thorough, and painstaking in everything he did.

He early acquired a wide range of learning in history, literature, criticism, and a smattering of music. His conversation was enlivened and adorned by allusions thereto to illustrate or emphasize points. His opinions as a justice of this Court sometimes referred thereto, as, for example, the reference in his dissent in *State v. Glenny*, 213 Minn. 177, 181, to Bacchus, Aphrodite, Olympus, and Cyprus of ancient Greek mythology; in *Thiede v. Town of Scandia Valley*, 217 Minn. 218, to the philosophers Hood and Paine; in *State v. The Crabtree Company*, 218 Minn. 36, to Tom Sawyer; in his dissent in *Berthiaume v. Christgau*, 218 Minn. 65, 71, to the singer Frank Sinatra; and so on in other opinions that he wrote.

Of a highly competitive nature, ardent, buoyant, intense, thorough, sanguine, and ambitious to be a successful lawyer, he followed a course that was bound not only to achieve that goal, but also to fit him for the honor that was to be his as a justice of this Court. He devoted both his days and his nights to the practice of law. He mastered his cases. By the analysis of evidence in ease after case, he became expert in the handling of fact questions which arise in the course of a busy practice. He clearly perceived the legal points involved in his practice and read and studied all the law in the books pertinent to such questions. The consequence was that his legal education continued from the time he entered the law school until his death; that he covered practically the entire field of the law, excepting, of course, such subjects as are unlikely to arise in the course of a country practice; and that he grew in legal stature with the passing of the years.

His was a country practice running the entire gamut of the law incident to such a practice. He was counsel in many important cases, some of which were of national importance. He engaged in stirring and exciting trials with lawyers of the highest standing and ability with a high measure of success. He was an able and effective advocate and no respecter of persons, whether they happened to be opposing counsel of high standing and ability or even the trial judge. This is not to say that he did not respect the presiding judge. He had a high conception of the functions and importance of the judicial office, which he believed was the instrumentality for doing justice here on earth. He believed that in the decision of cases courts should apply the law to the facts of the particular case without fear or favor so as to do exact justice as between man and man. He was a firm believer in our system of constitutional government and that it was the first duty of courts to apply constitutional principles so as not only to preserve our form of government, but also the rights and privileges it guarantees to the citizen.

He not only was busy in the practice of law, but also engaged in political activity, in which field he was energetic, resourceful, and determined. As a campaigner for his party—the Republican Party—he struck hard and telling blows. I know this of personal knowledge, for I felt the impact thereof in the state campaign of 1932 when he was the Republican candidate for

Lieutenant Governor and I was the Farmer-Labor candidate for Attorney General. While he was a hard hitting and strenuous contestant, he was withal humorous, kind, and sympathetic, and after the contest was over he bore no grudges. He viewed the issues involved objectively; his contests related to causes and not to personalities. Because he failed sometimes to make this clear and because his opponents thought he fought with vengeance and rancor, he was often misunderstood. Judge Streissguth enjoyed good and gracious living and the companionship of his fellowmen. His home in New Ulm radiated hospitality and friendship. He mingled with his fellow citizens and took part in the affairs of the community. The dominant group in New Ulm being of German extraction, much of the life and culture of the community was in the German tradition, which was characterized by a friendly and pleasant social intercourse with participation in food and drink to create a feeling of well being and satisfaction. This they called "Gemutlichkeit"—a state of being which must be experienced and enjoyed in order to be understood.

When Judge Streissguth came to this Court, he possessed, therefore, rare qualities of learning, experience, insight, common sense, industry, and temperament. The processes he daily applied in the practice of law in preparing his cases were the identical ones employed by this Court in the decision of cases. When he became a justice of the Court, he merely stepped from one side of the bar to the other. His prior training in the analysis of facts and the application of legal rules to established facts were a perfect preparation for the performance of his duties as an appellate judge. In short, when he came to this Court, he came as one prepared for the work—as a true journeyman and master of the craft, so to speak; as one equal to the responsibilities of the office; and when he took his seat on the bench it was as one among his peers.

While Judge Streissguth's term of service was short, he demonstrated high ability in his judicial work. His expertness in dealing with complicated fact situations stood him and the Court to good advantage in many cases, as, for example, in the case of *In re Restoration to Capacity of Masters*, 216 Minn. 553, involving the application of the principles of psychology and psychiatry in determining the mental capacity of a party. In the course of his service, he wrote for the Court several important cases in the field of public administrative law which determined important questions and which will serve as guides to the bench and bar as long as our system of government endures. Among such decisions were those of *State ex rel. Rockwell v. State Board of Education*, 213 Minn. 184; *Tepel v. Sima*, 213 Minn. 526; *State ex rel. Ging v. Board of Education*, 213 Minn. 550; and *Juster Bros. Inc. v. Christgau*, 214 Minn. 108. Other decisions written by him cover many legal subjects. All of them bear evidence of his grasp of the questions considered and decided, of thorough scholarship, and his purpose to do justice.

In the conferences of the justices, where the work of actually deciding the cases is done—work with which the members of this Court are familiar, but the Bench and the Bar generally are not—Judge Streissguth's abilities in dealing with facts and applying principles of law thereto showed off to fine advantage. The supposition is that the Court derives strength from its membership—that the interaction and cooperation of several judges having equal authority and responsibility in the decision of all matters coming before it will bring to the process the learning, the insight, the judgment, the understanding, and the common sense of all and thus afford a surer basis for decision. Judge Streissguth made just such contributions. He mastered every case during his tenure. He was prepared to discuss them and thus contribute to the decisions written by his colleagues as well as his own. He was interesting and delightful in conference, for there he could use picturesque language and display his humor and kindness. A conference at which he was present was never dull. He, like his colleagues, rendered decisions

of the entire Court and not, as has been sometimes asserted, "one man decisions."

Judge Streissguth was a valued member of this Court and a lovable friend and companion. His judicial work will endure forever as a perpetual memorial to his high ability, his integrity, and his devotion to the duties of the judicial office as an able and upright judge.

MR. EVERETT L. YOUNG, of New Ulm, Minnesota, then presented the following memorial on behalf of the Minnesota State County Attorneys Association:

The committee appointed by the President of the Minnesota County Attorneys Association present before the Supreme Court the following Memorial for Thomas O. Streissguth, who died at New Ulm, Minnesota, on December 21, 1950:

Tom Streissguth, as he was best known to his friends and associates, was appointed County Attorney of Brown county by the Board of County Commissioners in the year 1924 and was reelected to that office four times. He served as County Attorney until October 1, 1942, at which time he resigned to accept an appointment to this Supreme Court.

After Tom entered his work as County Attorney he soon became one of the outstanding County Attorneys of this state. Tom, as a prosecutor, tried his cases vigorously and successfully. He was meticulous in the investigation and preparation of a case, brilliant and untiring in his trial work, and asked for and gave no quarter. Having entered upon the prosecution of a case where he was convinced of guilt, he was zealous in seeking conviction, but always impartial and fair, would unhesitatingly urge dismissal when it appeared that one accused was apparently innocent. Tom believed that circumstances and environment were often a great factor in the failings of individuals, that it was human to err, and would often give of his time, efforts, and influence in an attempt to rehabilitate offenders, and on occasion was known to go before our Board of Parole to give information favorable to a prisoner to assist the board and prisoner to attempt rehabilitation.

Early in life Tom became a staunch supporter of youth organizations and particularly the Boy Scouts of America and his church. He was an adult Scouter and gave of his time and money toward facilities for Scout Camps in his territory of the State. The young people of his church now benefit through provisions made by Tom for them.

As County Attorney, Tom gave no less attention to the civil and administrative end of county business.' He felt it his obligation as County Attorney not only to give legal advice to the Board of County Commissioners, the County Welfare Board, and the County Officers, but to advise with them on policy as well.

During the remainder of his life after he became County Attorney, he rarely if ever missed a meeting of the State County Attorneys Association. He served as an officer of the County Attorneys Association for three years from 1925 through 1927, serving as President in the year 1927. Thereafter he served on many committees and in many advisory capacities. It may be said of Tom that he was a "regular fellow," never absent when there was work to be done or when something had been assigned to him. Because of his ability as prosecutor and his experience gained through his years of service, Tom's help and advice was often asked for and received by the younger county attorneys throughout the State. Tom was never stingy about his time if he could be helpful to other county attorneys.

The county attorneys of this state and members of the State County Attorneys Association were grieved by the death of their friend and associate, Tom Streissguth. At the annual meeting of the Association held on December 28, 1960, the Association halted

proceedings and in Convention Assembled the members stood for a moment of silence in memory of their departed brother. The death of Tom Streissguth was a great loss to our association and its members.

The Committee in preparing this Memorial has sought to confine itself to that phase of Tom's life which he spent as County Attorney. Much more could be said which would be repetitious because of other Memorials presented by the Bar.

We move that this Memorial be made a part of the permanent records of this Court.

Respectfully submitted,
B. M. Heinzen
Sidney P. Gislason
George D. Ekickson
James Lynch
A. L. McConville
Robert G. Williamson
Everett L. Young
Committee Appointed
for the Presentation of a
Memorial for Thomas O.
Streissguth.

CHIEF JUSTICE LORING then said:

Gentlemen of the Bar:

Your memorial is a just and merited acknowledgment of the brief but distinguished service rendered to this state by Thomas O. Streissguth as a justice of this Court, and also of his services as a member of the Bar and as a citizen of the state.

As you have stated, he served the people of this state twice, first, to fill out the term of Mr. Justice Holt, and, second, to fill the vacancy created when Chief Justice Henry Gallagher resigned and I was appointed his successor.

He brought with him the wide experience at the bar, as Judge Peterson has said, so necessary to equip a lawyer for a career on the bench. He was a tireless worker, as his excellent opinions demonstrated. I am sure that the quality of his work contributed much to the reputation of this Court. He was a most patriotic American. He served in the line in the first World War, but one of his great disappointments in life was his inability to pass the required physical examination to qualify him to accept a commission in the Judge Advocate General's Corps of the United States Army in the second World War.

He was a gracious and cordial person to be associated with. He won the affections and respect of all his colleagues on this Court. But I am sure that he was much happier in his active practice at the bar, where his wide acquaintance and high reputation won him a large clientele. We join with the Bar of this state in regret for his passing. May these proceedings be spread upon the minutes of the Court and be published in the *Minnesota Reports*.