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A TRIBUTE TO JUDGE EARL LARSON *

Because the Mary Tyler Moore house, on the southwest corner of 21st St. and Kenwood Parkway, was only a block and a half from our home, so I often had occasion to stroll by it. One autumn day in 1978, when I was taking a walk with my four oldest daughters, we paused in front of that house, so the girls could giggle in recognition of the building they had seen on the MTM TV re-runs. Then I pointed to the house on the northwest corner of the intersection. "See that house?" I asked. "That's where Judge Earl Larson lives," I stated in a tone I knew they would interpret as in serious mode.

"Who's Judge Earl Larson?" my oldest daughter dutifully replied, interrogatively.

"If it weren't for him," I answered, "the four of you would all be in the same school, like you were in Washington. But because of a court order he issued, we have choices. So, Caroline is in middle school; Meeja is in a traditional school; Kathy is in a continuous progress school; and Elena is in an open school." They didn't really understand what a court order was nor its connection to their school matriculations, but I had learned, in the year since we had moved to Minneapolis, about the *Booker v. Special School District No. 1*¹ case and that it was the Larson decision that indeed enabled the Weissmans and every other set of parents of kids in the Minneapolis public schools to choose the kind of academic program that fit each child's needs.

* This article by Gary A. Weissman, a Minneapolis lawyer and mediator, now retired, appeared first on pages 14-15 of the December 2001 issue of *The Hennepin Lawyer*. Though reformatted, it is complete. It is posted on the MLHP with the permission of Mr. Weissman and the Hennepin County Bar Association.

I never appeared in Judge Larson's court, but I knew where he lived because we were "bus buddies." MTC Bus No. 1 plied the short route from downtown Minneapolis through Lowry Hill to Kenwood. It was never so crowded that passengers had to stand; and, by some tacit agreement, the back of the bus was the exclusive preserve of lawyers—and judges. Occasionally, Hennepin County Judge Peter Albrecht would ride, but Judge Larson, by then already a senior federal judge, always presided. He sat in the center of the very back seat and held court for the Kenwood and Lowry Hill attorneys, frequently handing us slip opinions to read and discuss.

When I asked him one time in the early 1980s if he ever read fiction, he answered that (his wife) Cecill was always prodding him to read something other than "the law," but he hadn't yet found time to fit in anything else. So on his next birthday, I - gave him a book of fiction to read, Marcel Proust's *Remembrance of Things Past*. Balancing graciousness with a heightened concern for ethical boundaries (he could never be sure I might not appear before him some day), he accepted the book; but he insisted on reciprocating the gift, on one of my unbirthdays, by giving me a volume of Thomas Jefferson's writings (a tome I shall always treasure).

He invariably carried an unlit cigar with him, a snuffed-out stub of the late afternoon stogie which he had smoked in the federal courthouse, much to the chagrin of platoons of Rosenbaum clerks who had not yet ascertained the difference between laws and "sort-of-laws," including the sort-of-law that banned smoking in federal buildings.²

One day on the bus, the driver—who had no idea that the rumped-looking, stoop-shouldered, and white-haired man with the ash-perforated overcoat was a federal judge—spotted the cigar, stopped the bus, and said in a rather loud voice, "Hey, old man, get that cigar off this bus!"

We back benchers collectively drew in our breath at the demeaning command. A less humble dignitary might have assumed a Popeye pose and threatened the driver with a "*Do you know who I am?*" but that wasn't Earl Larson's style. He obediently descended deposited the unlit cigar in an adjacent receptacle, and thanked the driver for waiting for him.

That was classic Larson, a man whose life spanned most of the 20th century, who served in World War II, who captained the golf team at the University of Minnesota and became the first president of the Minnesota Civil Liberties Union,³ and who uncomplainingly managed a law firm while his partners ran for public office (Orville Freeman for governor; Leonard Lindquist for state House of Representatives; and Don Fraser for the state Senate; and, later, Walter Mondale for attorney general),⁴ all while keeping his cool, maintaining his patience, never losing his dry sense of humor, and endearing himself to his colleagues at the bar and, later, on the bench.

The coterie of former Larson law clerks is a select group, all of them admirers, including current federal judge Jack Tunheim and attorneys Tom Fraser, Kathleen Graham, and Ed Moersfelder. Although Judge Larson favored cafeteria food in the Midland Bank Building, attorney Richard Williams convinced him to eat in a restaurant on Williams' last day as a Larson clerk in 1971. During their lunch, Judge Larson showed Williams a letter he had received from a woman who held Judge Larson responsible for her pregnancy. Judge Larson had sentenced the epistle-writer's boyfriend to prison, and she took up with some other men with whom—but for Larson's incarceration of her boyfriend—she would not have consorted and from one of whom she had “contracted” the pregnancy.

With the twinkle in his eye that never faded over the years, and with the aplomb and dry wit to which most of us in the legal profession only aspire, Judge Larson turned to Williams and said, “I don't recall any interaction with this woman which could have resulted in her pregnancy.”⁵

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His family buried him on the kind of gorgeous fall day which Judge Larson found wholly suitable for golf. A celebration of his life was held on Saturday, Nov. 3, 2001, at the Minneapolis Golf Club, overlooking the judge's beloved 10th hole. His son, Richard Larson—himself an author and noted civil libertarian—emceed the Celebration, and asked those who showed up to forego the usual lugubrious comments. He elicited “lighter-side anecdotes” about his dad.

Luminaries among the hundreds in attendance included former Vice-President Mondale, former Mayor Fraser, Judge Larson's longtime friend and partner, Leonard Lindquist, and almost the entire Minnesota federal bench, current and retired.

A few of the storytellers mentioned some of the landmark cases which Judge Larson had decided; but most of them described how Earl Larson was a *mensch*. No one used that term to describe the son of Scandinavian immigrants; it is a Yiddish word that anemically translates as "man." But the meaning of *mensch* is more expansive than just "adult human male": It includes nuances of maturity, compassion, graciousness, moral courage, civility, thoughtfulness, generosity, and kindness, all of which attributes were embedded in the yarns about Judge Larson. Those who spoke heeded Richard's admonition and told funny stories. It was not quite a roast, but the anecdotes prompted applause and laughter; there was not a wet eye in the house. Earl Larson, a true *mensch*, who was embarrassed by too much fanfare, would have heartily approved.

He was precisely the kind of person the world can least afford to lose.

¹ 1351 F Supp. 799 (D. Minn. 1972).

² Remarks of Chief Judge James Rosenbaum, Nov. 3, 2001, at the Celebration of Judge Earl Larson's life ("the Celebration").

³ From the article by Leonard Lindquist in the May-June 1979 issue of *The Hennepin Lawyer*, which Lindquist read at the Celebration.

⁴ Comments of ex-Mayor Don Fraser at the Celebration.

⁵ Remarks to the author by Richard Williams after the Celebration on Nov. 3, 2001. ■

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