
STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF BELTRAMI

FIFTEENTH JUDICIAL DISTRICT

IN THE MATTER OF THE

MEMORIAL SESSION

FOR

HONORABLE GEORGE L. BARGEN

DECEASED ATTORNEY AT LAW

OF BEMIDJI, MINNESOTA

W. B. HIGMAN
OFFICIAL COURT REPORTER
COURT HOUSE
BEMIDJI, MINNESOTA

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T R A N S C R I P T

BEFORE: HONORABLE ARNOLD C. FORBES, DISTRICT JUDGE,
AND ENTIRE JURY PANEL OF SEPTEMBER TERM OF COURT

AT: BEMIDJI, MINNESOTA
10:00 o'clock A.M.
October 1, 1956

APPEARANCES:

CLARENCE R. SMITH, ESQUIRE, REPRESENTING
AN OPPOSING ATTORNEY AT LAW;

DOUGLAS W. CANN, ESQUIRE, REPRESENTING
A PARTNER AND ATTORNEY AT LAW;

MAYOR F. G. TROPPEMAN, ESQUIRE, REPRESENTING
CIVIC INTERESTS;

DAVID J. M. PARK, ESQUIRE, REPRESENTING
A FRIEND AND NEIGHBOR;

JUDGE S. M. KOEFOD, REPRESENTING
A JUDGE OF PROBATE COURT BEFORE WHOM
MR. BARGEN PRACTICED;

JUDGE M. A. REED, REPRESENTING
A JUDGE OF BOTH MUNICIPAL AND PROBATE
COURT BEFORE WHOM MR. BARGEN PRACTICED;

MRS. GEORGE L. BARGEN, REPRESENTING
IMMEDIATE MEMBERS OF FAMILY.

PROCEEDINGS:

THE COURT: I think it very appropriate that we maintain silence as the Catholic Chimes play a very beautiful tune common to all our Churches.

(Chimes from Catholic Church across the street play “Faith of Our Fathers”.)

THE COURT: That tune in my own church is known as “Faith of Our Fathers”. It is used in every church, protestant and catholic and jewish synagogues under different names but the words are almost identical. It is quite appropriate that it be played because I know George L. Borgen had a deep and abiding faith which was much revived by a very serious sickness.

THE COURT: This is the time and place fixed by the order of this Court for a Memorial Session to perpetuate the memory of George L. Borgen, who was a brilliant lawyer and an officer of this court and a close personal friend of this judge. I shall read his obituary which appeared in the official organ of the Minnesota Bar Association:

“George L. Borgen, 55, one of the most prominent attorneys of northern Minnesota and Bemidji, passed away December 30 following a long illness.

Active in civic affairs in Bemidji, Mr. Borgen was an officer of the First Presbyterian church, a Mason, an Elk and a former president of the Bemidji Town and Country Club. He was a member of the 15th Judicial District, Minnesota State and American Bar Associations.

Born at Mountain Lake, Minnesota, Mr. Borgen received his higher education at the University of Minnesota where he earned the honor of a Phi Beta Kappa. He graduated from the University’s Law school in 1927 and immediately entered the practice of law in Bemidji as a partner to Charles Pegelow. During his many years of practice he served as City Attorney and as acting Municipal Judge.

Mr. Borgen is survived by his widow, Marie, and a

son, William, now serving in the U. S. Army at Fort Bliss, Texas. Other survivors include three brothers: William J. of Richmond, Illinois; Walter of Northfield, Minnesota, and Bernard of Newton, Kansas; three sisters: Mary Borgen of Mountain Lake, Mrs. Sara Schultz of Bluffton, Ohio, and Mrs. Rosella Olson of Anchorage, Alaska.”

THE COURT: I shall read into the record a letter from the Chief Justice of our Supreme Court dated September 20, 1956:

“Dear Judge Forbes:

The members of this court have asked me to extend to you, the Bar Association of the Fifteenth Judicial District, and Mrs. George L. Borgen and family our sympathy occasioned by the death of Mr. Borgen. The justices of this court held Mr. Borgen in the highest esteem. He was a very experienced and able lawyer and we regret his passing.

On the personal side I have lost a true and loyal friend. I knew George as an able, fair and exceptionally capable advocate for more than a quarter of a century. We appeared as opposing counsel in several trials. I shall always cherish the memory of those trials because of the many kindnesses which he extended to me even in his advocacy. He always represented his client in a skillful and efficient manner. He always knew the facts and the law of the case and could be depended upon to make the most of his client’s cause.

It is unfortunate indeed that he could not have continued longer in the profession which he loved and in the service to the public to which he was dedicated.

Very truly yours,

(SIGNED) Roger L. Dell

ROGER L. DELL
CHIEF JUSTICE OF THE SUPREME COURT”

THE COURT: There probably was no local attorney who opposed Mr. Bergen more than Clarence R. Smith, and I would like to call upon Mr. Smith for a few minutes.

MR. SMITH: Your Honor, Judge Forbes, Members of the bar, Mrs. Bergen and Friends: Except for Judge Koefod who is here this morning, I believe that I am the only member of the Local bar who was practicing law in Bemidji at the time that George Bergen came to Bemidji.

George and I practiced here together and against each other for some thirty years; we were both young attorneys of the bar and continued on as years went by and I might say much too rapidly we became the older members of the Bar. George and I were here in Bemidji when we were both young and single; we were married about the same time; we lived as neighbors, and our families grew up together; so I truly feel that I knew George very well.

During the course of these thirty years, we had many cases against each other and some together. Started out as young inexperienced attorneys, and we went on through the years, I came to know, sometimes to my sorrow, that George developed into a very experienced and capable lawyer.

As the Chief Justice of our Supreme Court has already said that George was a man learned in his profession. I might add that he had a record at the Minnesota Law School that was outstanding; he was a brilliant student, they tell me, and he served in the honored position as a member of the Minnesota Law Review while he was at the University.

He was, in addition to being able, most aggressive, spirited in his lawsuits and brought out all there was to bring out in behalf of his client.

George never, to my knowledge, catered to any political office other than offices that dealt directly with the practice of law. During his younger days, he and I had occasion to fight it out politically for public office, sometimes he upseated me and sometimes I upseated

him but the thing that I admired about George in connection with his battles in his profession that he never took defeat as a personal affront. During the period of these many years, I never knew of George taking any personal or having any personal feelings toward me when we were across the table fighting for our client no matter what the result may have been.

As members of the Bar, as practicing attorneys, we are naturally engaged in a profession where we are in a contest most of the time. As a result, we all know, members of the Bar know and I know, there are times when tempers flare, and the spirit rises. George was the kind of a man that did what he could to the best of his ability for his client without being--without injecting personality into it.

I can say that I was privileged, for a number of years, to belong to a social bridge club with George. Many an evening we spent a very enjoyable social evening together after having had some rather bitter word across the table during the day. That's the kind of a man that George Bargaen was.

Speaking this morning as a competitor of his, I am sure that I can say, with the approval of all the members of the Bar and those throughout the state who had contact with George, that Bemidji had no more able attorney than George Bargaen. I am sure I can speak for his many clients, and he had many, that they, --when they had George as their attorney, were well represented in their cause.

In addition to being a good lawyer, George was a most patriotic American. He held his country first in his mind, and there is no one that can ever say that George ever betrayed the principles of this great democracy because he was an American.

In addition to that, he was a fine Christian gentleman. As I knew George, I knew him to be a man who practiced his religion without any particular fanfare. Probably one of the greatest achievements in his lifetime, and he talked to me many times about it, was his trip to the Holy Land. He was very happy that he had been able to make this trip before illness became so great that he would not have been able to make it.

When George received his final call, I felt that I had lost a true friend; Bemidji had lost an able and competent lawyer; and his family a good husband and father.

Thank you very much, your Honor, for the privilege of injecting these few remarks into the record.

THE COURT: Thank you, Mr. Smith.

Douglas Cann, attorney of this City, has been a partner of George Barges and deserves a place upon this program, and I will call upon Douglas Cann.

MR. CANN: May it please the Court, Ladies and Gentlemen: I have known George Bergen for a much shorter time than many of those here today and those who are participating and will participate in this memorial exercise.

My acquaintance with him began in the fall of 1953, shortly after he suffered his first crippling attack and then continued until the time of his death in December of 1955. During that time, it was my good fortune to be associated with him in his office and law practice here in Bemidji. For me it was a great privilege to come under the influence of this man at a time when I had little or no actual experience in the practice of law. His sage counsel and guidance extending from a wealth of experience and knowledge were always freely and generously extended to me. He was never slow to offer kindly words of encouragement and advice.

George Bergen was an unusually able lawyer whose integrity, honesty and devotion to his profession and the ideals of truth and justice caused him to be an example and an inspiration to young lawyers.

To his many clients, George Bergen was a tower of strength and a reservoir of learning and skill. His services were in great demand, even in the closing days of his life when he was no longer able to go from his home to his office.

It is typical of this man that during his long illness while his health was slowly deteriorating his chief concern was for the affairs of his clients, those people who depended upon him to handle their legal problems. He always observed religiously the highest ethical standards of the Bar and in every sense conducted his practice so as to be fair and just with his clients, the Court and his fellow attorneys. He was efficient, thorough and hard-working, with a genuine fondness for the study of the law and the search for the solution to legal problems.

Having had a wonderful command of the English language, George Bergan was able to express his thoughts in a logical pattern; thus to better impress them upon the listener or reader; this was true whether he was talking to a client in his office or writing an exhaustive brief on a knotty legal problem.

His professional accomplishments have been many and have earned for him the respect and admiration of lawyers throughout the state.

George Barga was a man of strong convictions who did not hesitate to speak up fiercely for what he thought was right; although he had respect for the opinions of others, he could not be swayed, nor would he compromise where he felt a matter of principle was involved.

This is George Barga as I came to know him: A man who this Bar and the legal profession can be proud of, and to whose memory, it is fitting that we pay this tribute today!

THE COURT: Thank you, Mr. Cann.

Bemidji has called upon its present Mayor, F. G. Troppman many times to serve as councilman, to serve as Mayor, both under the council form and this City Manager form of government. I would like to hear a few words from our good Mayor.

MAYOR TROPPEMAN: I have known George Barga since he came to Bemidji, and I certainly have the highest respect for him as an attorney and as a citizen. I sometimes was on the other side of the

fence when he was an attorney, so to say, at different times, and I certainly respect Mr. Barga for his honesty and principle which he upheld, and certainly the community lost a very able attorney and citizen which we all miss.

THE COURT: Thank you, Mayor Troppman.

They say a man is many times blessed who counts one friend at his death. I know it is going to be difficult for David J. M. Park to speak, but I am going to call upon him.

MR. PARK: Your Honor, Judge Forbes and Friends: I have been asked to speak about George Barga as a friend and neighbor, and I am happy to do that because George and I were friends and neighbors for many years.

I think that I probably met George about the day he came to town; in fact, I was probably either his first client or one of his first clients, and I can't say that I was too happy about it at the time. I don't remember what the case was or how it came out, but the reason I wasn't happy about it was because I thought that the legal firm he was associated with was giving me a young, inexperienced attorney; I didn't know then that in the years to come he would make the brilliant reputation for himself, not just in Bemidji, not just in Beltrami County, but throughout the state and even beyond its borders.

My acquaintance with George was probably a little bit accidental but not my close association with him because at that time I had a younger brother here named Joe; he was single and so was George, and they became close friends and there were a couple of other young friends around town the same way, and so they started chumming with each other quite a bit, and they would come to our house quite a good deal, felt free to come in and take out a card table and put it up, but generally what they did was sat around and argue about this and that and the other thing; I had a young family so while my wife was putting them to bed, I would sit in on these confabs they were having, and it was then that I became acquainted with the analytical mind that George had and also his sound judgment.

George used to tell me then what some of his aspirations were, and one of the things that he wanted most to do, at that time, was to sit on the bench and become a judge, but later he told me that he had changed his goal; that he wanted then was not to be rich, but he wanted be well enough to do so that when somebody came into his office with a case that he would feel he could take that case or reject it as he felt was right, that he didn't want to have to take a case simply because there was a fee involved; I think George pretty well achieved his goal.

I spent a lot of time with George; I don't know how many hours, but they ran into the thousands, and our visits together ran from ten seconds when we met on the street until three or four hours.

I remember one time back in the--just before the depression, at that time, I was mayor and he as the city attorney, and as I took him home after council meeting one night, we sat out there in front of where he lived until pretty near three o'clock in the morning, and the reason we did do that was because George was probing me on what the City of Bemidji could do about the unemployment situation, wasn't there something I could think of or that he and I could think of that would answer this unemployment situation. Those who were unemployed certainly had their problems, but one thing I don't think that they did know was that George was sitting up that late at night worrying about how something could be done to aid them.

Well, that was a serious side, but he had his lighter side, too. George always liked to joke, and we had many of them. I will tell you one we had. One day I was having coffee with him down in one of the restaurants, and I remarked to George that people up here in this cold climate should probably have about a ten percent bonus on account of the expense of putting overshoes on the kids and heating the house and he agreed; so in a couple of days I received a bill from George; it read something like this: For services rendered \$2.00 plus ten percent extra for living in a cold climate .20, total \$2.20. I can imagine how George laughed when he sent me that bill, but it reacted because I sent him a remittance made something like this: Your bill such and such a date \$2.20 less ten percent for living in cold climate \$0.22, check enclosed \$1.98. That story got in Cedric Adams column; neither George or I ever knew how it got there.

Well, we miss George in the physical sense, but George has left his mark here in town; as the others have said they lost a good attorney, and I lost a good friend and neighbor.

THE COURT: Thank you, Mr. Park.

Are there any other persons in the audience who are not scheduled on the program who would like to add to this record? Any of the friends of George Bergen, I see many of them here, you don't have to be an orator, this isn't a memorial service for a fraternal association, this is a place where we understand plain talking. Anyone else? How about our local lawyers? Are there any of them that would like to volunteer some remarks? I think we have one hundred percent attendance today and some lawyers from out of town.

I will now call on Judge Koefod.

JUDGE KOEFOD: May it please the Court, Mrs. Bergen, Members of the Bar, and Friends: It was the privilege of the person addressing you to be acquainted with Mr. Bergen along with Mr. Smith as he has told us since the coming of Mr. Bergen to Bemidji and until the time of his departure, and while during this time, I had ceased from the practice of law, finding my official duties to demand my almost entire attention, and so I didn't have the privilege of meeting and associating with him in the higher courts, such as the other lawyers here have mentioned, but I did have occasion to observe his development since coming to Bemidji, his efficient service to the City of Bemidji as City Attorney and the very efficient and effectual manner in which he represented his clients in other courts as well as the one that I chanced to have the honor to preside over at the time.

In the Probate and Juvenile Court, I did have more intimate association with him, and I did not fail to observe the very efficient and effectual way in which he represented and served his clients from time to time. He had an extensive practice and administered -- conducted the administration of some of the largest estates that came to my attention with efficiency and success.

I would say too as one--as Mr. Smith has remarked a few minutes ago, there were times when we disagreed over matters but Mr. Bergen was very, very considerate in his argument and would let matters simmer so to speak for a few days and then he would come back and, generally he would prevail. Mr. Bergen was a very able lawyer, as I observed him to be and by reputation, by his reputation I learned that he was regarded as a leading lawyer as well, in other areas as in our own particular district. He was, I learned, not only a lawyer, he was a scholar, and a Christian.

Shortly before the attack of his last illness, I chanced to meet him as we usually did, down town, and we had a little visit and he told me about how contented he was. He had had a very extensive practice and a lucrative one and he seemed to aspire to progress even farther and to higher attainments but not so:

“This is the state of man; today he puts forth the tender leaves of hope; tomorrow blossoms, and bears his blushing honors thick upon him; the third day comes a frost, a killing frost, and when he thinks, good easy man, full surely his greatness is ripening, nips his root.”

I, along with other friends of Mr. Bergen, was very distressed to learn of his serious illness. But he realized that our lives are:

“as a sleep: in the morning they are like grass which groweth up. ‘In the morning it flourisheth and groweth up; in the evening it is cut down and withereth.’”

Shortly after the accession of his fatal illness, I learned that he sought and aspired to visit the holy land, to journey over the thoroughfares and to walk the paths that the Lord Jesus Christ had journeyed over and walked only shortly before His cruel death and sacrifices on behalf of us mortals.

I recall that on the day he arrived in the city of Jerusalem, he mailed to me a picture postcard with the photograph of the first view of that city as the traveler journeys towards it. I cherish that. I deeply appreciated his kind thought and I shall continue to cherish it.

I trust that the memory of the departed George L. Bergen may be an inspiration to his surviving fellow members of the Bar, as a blessing to his family and his friends. Thank you.

THE COURT: Thank you, Judge Koefod. Now, Judge Reed. Mr. Bergen has appeared in both your courts. We would like to hear from you, Judge Reed.

JUDGE REED: Judge Forbes, Mrs. Bergen, Ladies and Gentlemen:

I think I was the first, you might say the youngest attorney, at least to my knowledge, after Clarence Smith and Mr. Bergen came to the city of Bemidj. They were both well along in practice when I came and I found myself coming into a Bar of a large group of older attorneys and with a company of, at that time, middle aged attorneys except Mr. Smith and Mr. Bergen.

Needless to say, some of the first people I ran into in my practice of law was Mr. Smith and Mr. Bergen and being inexperienced and without having had the opportunity of practicing with another attorney, before appearing in court, I found out to my chagrin that Mr. Bergen was a very able lawyer. He taught me that the hard way.

They also taught me, I found George Bergen to be very understanding and sympathetic man when dealing with a younger lawyer. I know that on several occasions I had trouble in determining what procedure to follow because they don't teach you that in law school as I think all lawyers know and of getting a feel of the practice of law and I always found George to be very, very cooperative. Whenever I had problem and discussed it with him, he would give me very great help.

He has always, throughout the whole period of time that I have known him, and I have known him since 1940 or '41, he has always

been very helpful to me and he has been a friend, a person to whom I could go when I had a problem, both personal and in a business matter.

I probably had more meetings with George, actually, in his job as a trial attorney when he appeared before me while I was acting as a judge. George was probably the most prolific practitioner in municipal court because he represented all clients, large and small, and he represented them all well. He appeared before me probably as much or more than any other attorney during my term of practice as municipal judge in--from 1949 until about two years ago.

There's one thing about George, he never came into court without being well prepared. The court could always count upon him to point to the pertinent statute or pertinent law which could help both the court and the jury, in case there was a jury, to arrive at a just result in any trial at which George appeared. There was one thing about George's appearance in court, he didn't waste any time in going into every possible little angle there might be to a case, because he analyzed those cases beforehand. When he came into court, he had two or three pertinent issues that he knew were the governing issues and he dug at those three issues and spent his time at those three issues. He had them well analyzed and he was usually successful because of it.

I used to admire his ability to come into court and sit and listen to the witnesses being questioned by the other attorney, listen to the other attorney's arguments and, although he had a scratch-pad before him very seldom put down a note. If he did take down a note, it was just one little letter or one word, to give him an idea of what the subject matter was. He held all the rest of it in his mind and when he got around to his turn to examine the witness, he could pick out the very important parts of the witness' story which was damaging to his case and minimize those points. And, when he came to argument, he could do the same thing. He had a facility for just holding everything that transpired in the court in his mind without having to take down a written listing of what was going on in court.

And, last of all, I would say that both as--in knowing George both as a practicing attorney, opposite him and as a judge under whom he appeared, that George was always respectful to the court regardless of which court it was, before whom he appeared. There was no person that I knew of who would respond quicker to the attempts on the part of the court which--attempts on the part of the court to maintain the proper demeanor in court; when objection was made and sustained he would abide by that ruling without argument, and if a ruling was contrary to what he thought was right, you would never have known it. There are few people who have that facility to get a ruling which they think is wrong and yet accept it without change of demeanor or without any appearance on their part of being dissatisfied with the ruling of the court; he realized, as we all do, that in order to have justice under our law that you must have respect for the courts and respect for their rulings.

I believe that is all I have to say, Judge. I found in my own personal relationship with Mr. Bargaen that he was not only a good attorney but a very close friend and a good advisor.

THE COURT: Thank you, Judge Reed.

Anything that the Court might add to these fine statements from the men who knew George Bargaen would be surplusage, I am sure. He tried his last case before his final sickness in this very courtroom and received a judgment of \$17,800; it was the last case that he tried; at the conclusion, he told me, "I shall never try a case again."

These testimonies to George L. Bargaen, the man and the lawyer, are earned tributes to his integrity, his intelligent grasp of facts and situations and his keen perception and judgment.

I had not intended to make this public statement, but in view of the fact that Mr. Park said that George L. Bargaen aspired to be a Judge, I feel that it would be right and proper for me to put that record right, too. He had that opportunity; the attorneys of this town offered him the job which I now hold; it was offered to Clarence R. Smith, and finally to Arnold C. Forbes; I took it because I was drafted; I never aspired to it; I never expected to sit as a Judge upon my fellowmen or

follow lawyers; I was the unanimous choice of my local attorneys, and I took the job so that the Chambers would not be moved from Bemidji, and it is a wonderful attribute for the law practice to have a resident Judge in your own town; Mr. Smith's reason for not taking the job were financial; Mr. Bergen's reason for not taking the job was entirely dictated by the feeling of personal humanity; he told Mr. Smith and me that, he could not send a fellowman to the penitentiary. Were it not for that George L. Bergen would have been Judge following Judge Torrance, and that's the only reason why we were not behind him one hundred percent; he refused the job.

Feeling our own personal sorrow and knowing that George L. Bergen's absence will be in the future felt many, many times and in many, many varied activities,

IT IS ORDERED that these proceedings be spread upon the minutes of this Court and a copy certified by the Official Reporter be presented to Mrs. Bergen as a deserved tribute to a good and faithful officer of this Court.

This Court will now stand recessed until 1:30 this afternoon when we commence the trial of jury cases.

III]III

Posted MLHP: March 14, 2010