

La Vern Kostner



MEMORIAL TO LA VERN G. KOSTNER

The Committee appointed by the President of the Tri-County Bar Association to prepare and present to such Association a Memorial in honor of the late La Vern G. Kostner, presents the following and moves that it be made a part of the minutes of the Tri-County Bar Association and that it be filed with the Circuit Court of Trempealeau County, and that it also be presented to the family of the decedent.

La Vern G. Kostner was born on October 4, 1910, in the City of Arcadia, Wisconsin, to George and Mary Kamla Kostner. He received his grade school and high school education in Arcadia. He was a graduate of St. Mary's College, in Winona, Minnesota and of Marquette University Law School, in Milwaukee, Wisconsin. He was admitted to the Wisconsin State Bar on June 8, 1933, and returned to Arcadia to enter the practice of law with Nathan Comstock, who was then a pioneer attorney in the area, and with whom he practiced until 1948. In that year the Law Firm of Fugina, Kostner, Quinn and Ward was established. In recent years he was a senior member of the Law Firm of Kostner, Ward, Galstad and Koslo.

He married Nathanie Fuller on August 29, 1933, in Arcadia. He is survived by two daughters, Mrs. Richard (Jo) Stalmach, of La Crosse and Mrs. Carmen Mongoven, of Poughkeepsie, New York; six grandchildren; two brothers, Bernard J. Kostner, of Bloomer and Adrian Kostner, of Arcadia; and two sisters, Mrs. Ben (Bernadine) Pietrek, of Milwaukee and Mrs. Henry (Lucille) Brom, of Winona, Minnesota. He was preceded in death by his wife on September 18, 1972 and by one brother.

He was a member and a Past President of the Tri-County Bar Association and a member of the State Bar of Wisconsin. During the period of his association with the State Bar of Wisconsin he served in a number of different capacities. He was praised and cited by the State Bar for meritorious service as a member of its Board of Governors from 1964 to 1968. He was

also at the peak of his law career a candidate for the office of President of the State Bar of Wisconsin, for which he received strong support but not enough to be elected to that office. He was for many years an active member of the American College of Trial Lawyers, which was an honor and privilege accorded him by his peers in recognition of his talents and abilities as an outstanding trial lawyer. He served as a Director of the State Bank of Arcadia for many years. He was also for many years a member of the Arcadia Board of Education and served in the capacity of President thereof for many years. He was the City Attorney for the City of Arcadia at one time and in that capacity had a hand in prompting new business interests in the City and working with the same for the best interests of the City.

He possessed that rare and gifted quality of human understanding and relating with compassion but firmness to people's legal problems and was able to counsel and reassure them in a manner which helped troubled and depressed people regain the necessary confidence in themselves. This is what can be said to be his gift to the people who were his clients, associates, and friends.

He never minimized or put down the importance of a client's problem or concern and always gave it his best efforts. Although he was and liked to be referred to as a "small town lawyer" in the scope of his law practice over a continuous period of close to 48 years he was truly a very worldly practitioner based on the size and scope of his law practice.

It is well known that in his many years of law practice that he acted and filled the role in many instances of umpire, referee, mediator, moderator, arbitrator, peacemaker, counselor and adviser to couples with matrimonial problems, champion of the rights of anyone who had legal problems, and unofficially in the various roles which have been endearingly attributed to him such as family adviser, father confessor, psychologist, psychoanalyst, and street-level psychiatrist.

He always appeared to have a keen intuitive and down-to-earth grasp of the vital facts and circumstances in every situation he was involved in, to start out in a case with some preconceived goal and game plan, and with a sound approach as to the use, application, and handling of the law as it applied to both sides of a case, and with a strong sense of the "value of a case" both from settlement and for trial, both from the monetary standpoint and from the personal angle insofar as it involved the personalities in any given case.

A circumstance in La Vern's life which was known by only his family and just a few other people close to him was the fact that he undertook to volunteer for enlistment into the U.S., Navy in World War II but was rejected because of his heart. According to those friends who were very close to him and knew this it was a real disappointment to him. He proceeded, however, to serve his Country in many ways such as working on War Bond Committees to promote the sales of War Bonds, on U.S.O. Fund Drives to raise money to provide entertainment for the men in service, and right in his office by voluntarily assisting draft registrants with the completion of Draft Questionnaires, and providing supporting information and evidence to justify and substantiate exemptions from service by reason of the nature of one's employment.

At different times in reminiscing about his early years of law practice with Nathan Comstock he was heard to say that Nathan was a perfectionist in the practice of the law and in the preparation and drafting of legal documents, and that as the result of that, on numerous occasions after examining something which La Vern had worked on and prepared and submitted to Nathan for scrutiny that he would tell La Vern to re-structure and re-draft legal documents until it met with the full approval of the well-meaning teacher. He also acknowledged on many occasions the importance of such legal training in accuracy early in his legal career which had a most invaluable effect on his own practice of law in later years.

Early in his career La Vern was elected a County Board Supervisor where he served with distinction until his election as District Attorney. During his early practice and his years as attorney in his Court work and his handling of cases he developed a skill as a trial lawyer. In an active practice that spanned almost a half-century, La Vern earned a reputation for skill and dedication to trial work that we believe is unparalleled in the Tri-County Bar Association and indeed in all Western Wisconsin. His clients always received full measure. His handling of cases, hearings, trials in the Federal and State Courts and administrative tribunals of this State and elsewhere were widely regarded as excellent. His talents and skills as a trial lawyer made him a respected and in some cases a feared adversary by those who opposed him in the Court rooms of this area. And yet, with all, he was a modest man, who while self-assured, never sought the limelight, a man whom fame sought out.

In the late 40's the Wisconsin Legislature passed the school consolidation law that spelled the doom of the one-room country school. A school committee of each County was granted jurisdiction to conduct appropriate hearings and issue orders consolidating all lands in the county into a high school district. La Vern, as the District Attorney, represented the Trempealeau County School Committee. There ensued hearings in every community in Trempealeau County, attended by rabid defenders of the one-room school, taxing the capacities of the various school auditoriums; for two years, La Vern struggled to keep the peace and surprisingly did so.

In 1947, a fire consumed a residence property in the community of Centerville. The owner promptly filed his insurance proof of loss. There ensued in April of that year, the trial of *State v. Willie Lingenfelter* on charges of arson and perjury. The trial attracted great interest throughout Western Wisconsin. Lingenfelter was ably represented and the week-long trial resulted in a conviction on all counts. What brings this case to mind is that during the trial, La Vern forcefully demonstrated his consummate skill in cross examination. The State's

case was circumstantial, the defendant was a wiley and intelligent witness. The cross examination by La Vern of the defendant was more than just worthy of comment, it was devastating. For hours La Vern's voice, at times strident, and at times soothing, rang throughout the old Trempealeau County Courthouse. This case established La Vern's reputation as a top flight advocate.

La Vern's capacity for attention to detail and for persistence in thorough preparation for trial or appeal was demonstrated in *State v. Kwosek*, reported in Wisconsin Reporter. La Vern was assigned the defense of a young husband who premeditatedly killed his wife by shotgun in their apartment in Independence. In the trial that lasted eleven days, took four days to select a jury, where the State's evidence was overwhelming, both as to guilt and as to sanity, the jury returned a verdict of guilty of murder in the first degree, and La Vern appealed. In pouring over the lengthy transcript for many hours, La Vern spotted the misplacement of the word "no" in the Court's charge on sanity. The typographical error had the effect of misstating the definition of insanity. La Vern's appeal resulted in a mandate for reversal and the case remitted for trial. Again, credit the man for perseverance and for dedication in the interest of his client in the face of insurmountable odds.

The field of law that held the greatest attraction for La Vern was in personal injury litigation. He was an acknowledged expert in this field, his fellow attorneys sought his views on the complex legal questions arising in this area, and courts and judges of trial and appellate jurisdictions respected his comments and arguments in the law of personal injury. A case in point would be *Theisen v. Milwaukee Auto*, 18 Wis. 2d. 91, where La Vern secured a reversal as attorney for the defendant Insurance Company. In this case the Court clarified and defined the degree of negligence of a sleeping host driver and how the trial court should thereafter

It may very well be said of La Vern that he was a specialist in many fields and branches

of the law, which were the result of a stern and strict self-discipline which he imposed on himself in connection with a lot of hard work and long hours in thoroughly familiarizing himself with all of the facts and details of each case and then digging out the points of the applicable law on both sides. Of all of his many fields of practice he had often said that his first love was as a trial lawyer.

In his court work and handling of cases he was always well-prepared and presented every case with dignity and finesse. Perhaps because of his association with Nathan Comstock in the practice of law early in his career and later with the talented attorneys and judges with whom he worked and had contact with, he developed an exceptionally fine respect for fellow attorneys, Judges, Officers of the Court, and clients.

He was a very intelligent man, a profound scholar and a hard-working student of the law during all of his long legal career, and a man of keen intellect and insight, and he combined and used such qualities well for the best interests of his clients and their legal affairs. He was a man of deep-rooted standards and values, of high ideals, and of good Christian and sound moral principles, all of which combined to mold his way of life and his practice of the law into a wholesome and uplifting professional legal service to those who sought his help and who were helped by him. He was a man of deep and sincere faith, simple and basic truths, and firm but tolerant convictions. He was gifted with a rare and sincere inner sense and quality of fairness and justice, and for these he was respected and admired by friend and adversary alike.

He was a very capable, successful, and outstanding trial lawyer and was very well known in the various Courts of the Tri-County Bar Association, of surrounding counties, and in other counties in this State. In fact, La Vern excelled in all the fields and phases of the law.

He was blessed with the rare qualities of a deep love for the practice of law, strong pride in his work, and humility in the manner in which he went about doing it. He was most gentle and

considerate in dealing with people's feelings and emotions, but yet he was firm enough in his dealings with the opposition to enable him to accomplish the best results possible for his clients.

His active participation in the practice of law in the many fields in which he was considered an expert, his involvement in the field of legal counseling, and his continuous interest in civic and community affairs for 48 years in the City of Arcadia and the surrounding area, qualified him as one of the truly great and outstanding country lawyers of his time.

He was a man of exceptional depth and strong character. He was a man of mature judgment who had a sound sense of values which guided him in his practice of the law and in advising clients. He was gifted with the qualities of self-assurance and poise which gave to him a profound sense of dignity and ease of manner. Although firm and deliberate, he was always gracious, considerate, sympathetic, and understanding. He had a cheerful disposition, a keen wit, delightful sense of humor, and an optimistic outlook on life.

He was a very dedicated family man who loved the close company of his own immediate family and their families. He was a very modest man as was evidenced throughout his life by his many acts of kindness and charity for individuals and his community. He was also a very devout and religious man and his Church affiliation was an integral part of his life.

His greatest love, other than the actual practice of the law, was to meet and mingle with his fellow lawyers, to discuss the joys and labors of his profession, and to reminisce with his friends about his past experiences. The law was, in truth, his life. By his own comments, admissions, and testimonials he repeatedly said that he was his happiest in his work and in his contact and association with lawyers and Judges.

Another side of La Vern is revealed in this little anecdote. Following the death of Honorable G. L. Pattison, an esteemed member and benefactor of our Association, the Trempealeau County Bar met in Blair in winter session to consider the purchase of the Judge's

home on Deer Island, the Association's summer home, according to the terms of his will. A committee of the bar had been appointed to consider and report on the matter. Their report was favorable, the purchase to be financed by sale of Certificates of Indebtedness of the Association for the then substantial sum of \$300.00 each. Strong affirmations were made by the younger, impoverished members of the Association. La Vern, always the cautious financier in spite of his courtroom demeanor, led a contingent of three affluent dissenters, cautioning the members that succumbing to this fiscal madness would bring down the Tri-County Bar. Deer Island prospered, the note duly burned, and La Vern graciously and ruefully admitted in later years this lone error in judgment.

It had often been said of La Vern that alas, he had no hobbies. For a man of his make-up we simply call them by a different name - "diversions" - and find the same thing. His "diversions" were not complicated or mystical. They consisted of simple things such as a scoop of beer in the pub closest to his office, the Wall Street Journal, a good game of poker, a highball or two anywhere with friends, his dog "Sam", his first speedboat, eating out at many of his favorite spots, talking shop outside the office with fellow lawyers, clipping coupons, entertaining on his yacht, winning a hard-fought Court case and talking about it in retrospect, just visiting with friends, his Coke and peanuts and dark chocolates, being a generous and charitable husband-father-and family man. Simple and basic, but adequate and sufficient to fill his leisure time and to provide relaxation.

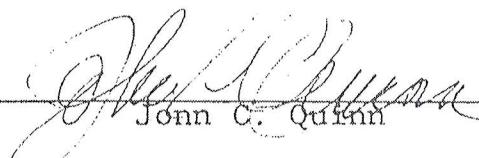
The works, accomplishments, and triumphs of La Vern Kostner reflect well in the traditions of the Tri-County Bar Association and he will be long remembered as a true exemplification of a "Country Lawyer".

At some time in his legal career, we are sure that his path crossed each of ours and that because of something that he said, or did, or hoped for - he will be remembered by each of us in

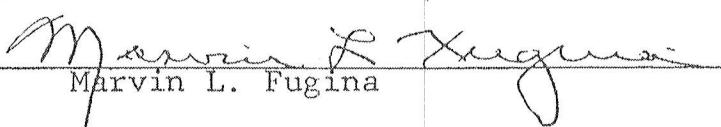
our own way.

RESPECTFULLY AND SINCERELY SUBMITTED
TO THE MEMBERS OF THE TRI-COUNTY
BAR ASSOCIATION IN ATTENDANCE AT
THE REGULAR MID-WINTER MEETING OF THE
ASSOCIATION ON FRIDAY, JANUARY 22, 1982,
HELD AT THE BAIL-I-WICK, IN OSSEO.

Clarence E. Fugina


John C. Quinn

Marvin L. Fugina



KOSTNER, WARD, GALSTAD & KOSLO

WARD
D D. GALSTAD
AM N. KOSLO

UCE J. BROVOLD
CHARLES V. FELTES
BRUCE J. KOSTNER

ATTORNEYS AT LAW
POST OFFICE BOX 46
ARCADIA, WISCONSIN 54612
TELEPHONE 323 - 3351
AREA CODE 608

CLARENCE E. FUGINA
OF COUNSEL

JOHN M. KOSTNER
(1952 - 1974)

LA VERN G. KOSTNER
(1933 - 1981)

December 15, 1981

Ms. Carmen Mongoven
23 Skyview Drive
Poughkeepsie, New York 12603

Ms. JoAnn Stelmach
428 N. 23rd Street
La Crosse, Wisconsin 54601

Dear Carmen and Jo:

It has been a tradition of the Tri-County Bar Association to have one of its members prepare and present a eulogy to deceased members. This eulogy is presented at our mid-winter meeting in January of each year. Fred Berns, an attorney from Whitehall, Wisconsin, has prepared the eulogy to be presented in honor of your father. This eulogy is written in free verse similar to the style used by Robert Frost.

I am taking this opportunity to share the eulogy which will be presented with you. A copy is enclosed in each of your letters.

Best wishes for the Holiday Season!

Very truly yours,

Bill

WILLIAM N. KOSLO

mc
Enclosures

RECEIVED
JAN 2 2001
KKB
ARCADIA, WI

THE DEATH OF A WORDSELLER

Their faces
White as snow, showing
The strain of supporting
Their friend in that
Casket between them.

The Judge
Before whom
He had tried many cases,
Two partners,
Like him married to the law,
Three friends-at-Law,
The six
Passed slowly
Through the Brethren of
The assembled members
Of the local bar.

They came
To pay homage
To the man of letters,
The lawyer,
The barrister,
Their friend,
The wordseller.

He was of them,
Of wheresoever,
And therewhence,
Subpoenas,
Injunctions,
And writs.
The wordseller;
Paid to say
What others could never
Say for themselves.

His words
Had bested theirs many times.
Yet his verbal mastery
Was never vicious,
Or contemptuous,
Or bragging,
Or pompous.
For when the wordseller
Bested you
It was no shame,
No shame indeed.

They walked
To the freshly dug grave.
Silent words on lips
Unspoken, when he
Walked with them.
Each wished he had
Spoken words,
So the wordseller
Might know
What he had done for them.

They sprinkled dirt
And tears
And words
On the grave.
Standing silent
For a time
The words that mattered
Died unspoken.

As they passed
From the cemetery
An old crone
Looked anxiously at each face
Searching for the answer
To the question she repeated
For each to hear:

"He was my attorney,
You know?
He was my attorney!
You know!
What shall I do now?
What shall I do now!"

Not one
Could answer her,
For he was their wordseller too,
Saying the words they could
Never say for themselves.
They buried
In their hearts
All the words
They wanted to say,
All the words they would
Never sell;
And then walked silently away.
The Wordseller's silence
Shattered them.

A. L. MESME
Chief Judge
Tremplealeau County Courthouse
Whitehall, Wisconsin 54773
Telephone: (715) 538-4410

KENT HOUCK
Deputy Chief Judge
Richland County Courthouse
Richland Center, Wisconsin 53581

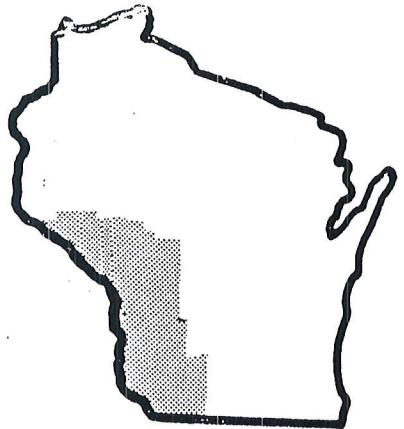
STEVEN STEADMAN
Administrative Assistant
Room BO - 3
LaCrosse County Courthouse
Telephone: (608) 785-9546

STATE OF WISCONSIN

SEVENTH JUDICIAL DISTRICT

LACROSSE COUNTY COURTHOUSE
LACROSSE, WISCONSIN 54601

April 20, 1981



Dear JoAnn and Carmen,

I have purposely delayed writing this letter until the first emotions of your father's death have eased and you are once again back into the realities of life.

I have always maintained that it is unethical for a judge to comment on any attorney's competence. If I passed on a favorable comment then all litigants would gravitate towards that attorney, and an unfavorable comment would cause the opposite result. Judges must accept all attorneys if they are good or bad. Now that your father has passed on, I am not in my opinion prohibited from comment.

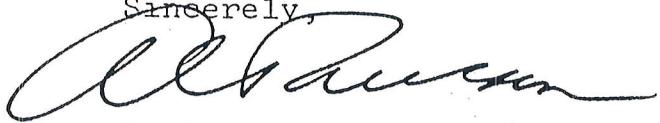
As a background let me express to you that I am the Senior Judge in the State of Wisconsin. I have been on the Bench longer than any other judge. I also want you to know that I have held court in more different counties in the State of Wisconsin than any other judge, living or dead.

It is my considered opinion that I never saw a better lawyer in or out of the courtroom in my life than LaVern Kostner. During the course of those 31 years on the Bench there have been times when I have had to rule in favor of the other side. At no time did he ever hold that against me or make any unfavorable comment because of those rulings. All he would say to me is, "Well, I guess I'll go home and get to work on the next trial."

I have learned that it is always easier to try a lawsuit with good lawyers than bad ones. Your father is going to be missed an awful lot around this courtroom.

I think it is now time that you started counting your blessings rather than your losses. The greatest blessing you two have is that you were the only two persons in the world privileged to have had him as your father.

Sincerely



A. L. Twesme
Chief Judge

ALT/dh

Copy to: A. N. Kostner
Lucille Brom
Bernadine Pietrek

JoAnn Stelmach
428 North 23rd Street
LaCrosse, WI 54601

Carmen Mongoven
23 Skyview Drive
Poughkeepsie, New York 12603