

Henry M. Gallagher

1885–1965

Chief Justice, 1937–1944

On May 31, 1966, at 2 P.M., the Court being assembled in the courtroom in the State Capitol, Chief Justice Oscar R. Knutson said:

The Court recognizes the president of the Minnesota State Bar Association, Mr. James E. Montague.

Mr. Montague then said:

The Minnesota State Bar Association comprising more than 4,000 members of the Bar of this State is honored to participate in this proceeding to commemorate the memories of departed justices of this court who have died since proceedings in memory of departed justices were last held in this room. Since that time five justices have gone to their ultimate reward. Three of them were chief justices of this court and two were associate justices. All left their imprint on the law, on the profession, and on the state. In order that there may be a record of their lives, their personal characteristics, and their achievements, we ask the Court at this time to recognize members of the Bar of this State who will deliver memorials to these departed justices. The Honorable Robert J. Sheran, an associate justice of this Court, will deliver the memorial honoring Chief Justice Henry M. Gallagher . . .

Justice Sheran then presented the following memorial:

On April 3, 1965, Henry M. Gallagher came to his death at Waseca, Minnesota, survived by his wife, Maude, his daughter Henrietta Gahler, and his brother, Judge Frank T. Gallagher of this court. One other daughter, Alice Toller, predeceased him.

He was born September 10, 1885, in Wilton Township, southwest of Waseca, Minnesota, the son of the late Bernard M. and Kathryn Barden Gallagher. Following his graduation from Waseca High School



in 1905, he worked in the law office of the late John Moonan of Waseca, obtaining his legal education at Creighton University of Omaha, Nebraska, from which he graduated in 1910 with an LL.B. degree. That same year he commenced the practice of law at Waseca, Minnesota, first in partnership with Fred W. Senn, who later became district judge in the area, and then in partnership with G. P. Madden and his brother, Frank. Before his appointment as Chief Justice of the Minnesota Supreme Court in 1937 he had served as Waseca County Attor-

ney, Waseca Municipal Judge, and as a member of the Waseca School Board, the Minnesota State Board of Law Examiners, and the Minnesota State Industrial Commission. He was elected by a large majority in 1938 and continued to serve as chief justice until January 3, 1944, when he resigned to resume the practice of law in Waseca and Mankato, Minnesota, where his partners included Charlotte Farrish and Miles Zimmerman. Three of his nephews, Daniel, Lawrence, and Michael Gallagher, are members of the legal profession in this state. He was a Director of Northern States Power from 1953 to 1963. His religious honors included designation as a Knight of St. Gregory.

This recitation of the attainments of Chief Justice Henry M. Gallagher serves principally to give the background in which his stature as judge and lawyer and his distinctive character can be recalled and appreciated.

He had an innate understanding of the law and the reasons for it. From this understanding came appreciation of the law's complexities; the never-ending need for examination and research of statute and precedent. He did not try to give and was not moved by the quick or flippant answer. "Let me think this over," he

would say; and when he had done so, his opinions and advice were based solidly on the facts, the law, and common sense—blended in such a way as to make the complex seem simple and the prescribed course evidently right. Because these professional skills were combined with rare qualities of character, he will always be memorable as a jurist and lawyer.

While he devoted a considerable part of his life to civic affairs, he did so without ostentation. “Everyone,” he often said, “owes something to his community besides the payment of taxes.” For him, no more elaborate rationale was needed to explain his willingness always to be of public service.

He was, above all else, a person of great compassion and humility, finding his greatest satisfaction in the assistance of others. He was by nature a man of the highest personal rectitude, but never did he deplore or publicize another’s faults. He seemed to be able to find the essential quality of goodness in everyone and to accord to each individual courtesy and respect regardless of his state or condition in life.

Henry Gallagher’s philosophy is illustrated by a quotation that he kept always in his office, reading: “There are three sides to every question—your side, my side, and the right side.” This saying epitomized his faith that men could, if they but would, find a common denominator of agreement for the adjustment of controversy and dispute. Committed to this principle, he enjoyed a disciplined and constructive life both personal and professional, at peace with his fellow men and with himself.

People of all kinds and backgrounds seemed to

recognize his worth almost spontaneously, and he in turn could and did visit with a fellow townsman, or the president of the United States, or the operator of an elevator, or the editor of a newspaper, or a law clerk, or the president of a large corporate enterprise, or the bellhop at a hotel, or a United States Senator, or the relative of a convicted felon seeking a pardon or release—easily and simply—giving the same deferential attention to each of them. He had respect for greatness; he was unimpressed by grandeur.

I conclude this memorial by giving testimony based upon 25 years of close acquaintance with Henry M. Gallagher as his law clerk, his partner, and his close friend—a witness that can be condensed in this statement: During all of this term of regular and intimate association, I observed not one recallable incident, whatever the provocation, where he treated any person harshly, inconsiderately, or unfairly. He was indeed a good and gentle man.

Chief Justice Knutson then said:

It is proper that we hold these memorial services for those who have served on this Court. Some of us have had the privilege of serving with most of those whom we honor today. All of them have served with distinction and have added much to the jurisprudence of this state and this nation. While the opinions they have written, which are to be found in our Minnesota Reports, are the best testimonial to their ability, their intellectual integrity, and their devotion to their work, it is fitting that we who survive them express our appreciation for what they have done. [273 Minn. xxi]