



JOHN COLLINS SHERWIN

Member of the Supreme Court of Iowa, 1900-1912. From a photograph in the  
Historical, Memorial and Art Department of Iowa.

# ANNALS OF IOWA

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## SOME NORTHERN IOWA JUDICIAL HISTORY

A Brief Account of Judicial History of What Is Now the Twelfth  
Judicial District, With Particular Reference to the Various  
Courts and Judges of Cerro Gordo County, Iowa

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According to various country histories and the recollection of pioneer settlers as handed down to present generations, hunters and trappers began to visit this section of Iowa in 1849, particularly along the streams and on the shores of Clear Lake. In 1851 or 1852 Joseph Hewitt and James Dickirson brought their families and settled near Clear Lake, and definitely made a beginning of civilization and settlement in what is now Cerro Gordo County. Their relations with the Indians were not always friendly as witness the Grindstone War when the settlers withdrew for a season to the more settled region of Nora Springs.

February 5, 1851, the General Assembly then in session created almost half a hundred new counties out of the undivided western portion of the state, and one of them was Cerro Gordo County, named after the Battle of Cerro Gordo in the Mexican War.

An election was duly called and held on August 7, 1855, at the John B. Long cabin near what is now Mason City, to elect officers for and effect an organization of the new county.

The census of 1856 when Cerro Gordo County first was listed, gave it a population of 632.

The first county seat was located at Mason City, but in the spring of 1857 citizens appeared before the Sixth General Assembly and procured a commission to be appointed composed of Stephen Henderson, James Taggart and George McCoy who determined upon the location of a new county seat and by

report filed on April 30, 1857, Livonia, located in Lake Township, was named as the county seat.

A year later on the first Monday of April, 1858, in a bitterly contested election Mason City was selected as the county seat and has retained that distinction since that time. The very location of Livonia is forgotten save as some old abstract or county map refers to it.<sup>1</sup>

#### TERRITORIAL COURTS IN IOWA

As set out in the Act of Congress creating the territory of Iowa, approved on June 12, 1838, and going into effect on July 4, 1838, all that portion of the territory of Wisconsin west of the Mississippi River was separated therefrom and established as the territory of Iowa. In Section 9 as set out on pages 627-28 of the 1851 Code of Iowa it was provided that the territory of Iowa should have a Supreme Court with a chief justice and two associate justices who were to serve for four years, and three judicial districts over each of which one of the supreme judges should preside; probate courts; and justices of the peace. The Supreme and District Courts had both chancery and common law jurisdiction. Appeals might be taken to the Supreme Court of the United States. Provisions for clerks of courts were also set out.

In Section 10 provisions were made for the United States attorney and marshal for the territory.

On October 7, 1844, the people of Iowa, through a convention of delegates formed a Constitution and state government and on March 3, 1845, an act providing for the admission of Iowa and at the same time, of Florida, to meet the exigencies of the slavery situation, was adopted by the Congress of the United States. Certain requirements were set forth which had to be approved by the citizens of Iowa before the admission of Iowa into the Union could be proclaimed.

To comply with these requirements, a second convention of delegates met at Iowa City and on May 18, 1846, adopted the 1846 Constitution of Iowa.

The Constitution of 1846 provided for a Supreme Court of three members to be elected by the joint vote of House and Senate and to serve for six years, and further provided:

<sup>1</sup>In Section 18, Lake Township, a short distance east of the east end of Clear Lake. See ANNALS OF IOWA, Vol. XVII, p. 457.—Editor ANNALS.



The district court shall consist of a judge, who shall be elected by the qualified voters of the district in which he resides, at the township election, and hold his office for the term of five years, and until his successor is elected and qualified, and shall be ineligible to any other office during the term for which he may be elected. The district court shall be a court of law and equity, and have jurisdiction in all civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law. The judges of the district courts shall be conservators of the peace in their respective districts. The first session of the general assembly shall divide the state into four districts, which may be increased as the exigencies require.<sup>2</sup>

Prosecuting attorneys and clerks for the districts are also to be elected.<sup>3</sup>

#### DISTRICT COURTS

In 1853 according to the districting as set forth and provided by the Fourth General Assembly, there were at that time nine judicial districts of which the Fifth District was composed of Marion, Jasper, Marshall, Hardin, Grundy, Butler, Floyd, Mitchell, Worth, *Cerro Gordo*, Franklin, Polk, Story, Webster, Wright, Hancock, Winnebago, Dallas, Boone, Yell, Humboldt, Kossuth, Bancroft, Green, Calhoun, Pocahontas, Palo Alto and Emmet.<sup>4</sup>

In 1855 the General Assembly created the Tenth Judicial District, as set forth in the Acts of the Fifth General Assembly composed of Clayton, Allamakee, Winneshiek, Fayette, Chickasaw, Floyd, Mitchell, Howard, Worth and *Cerro Gordo*.<sup>5</sup>

After the creation of the Tenth Judicial District on February 8, 1855, *Cerro Gordo*, Howard, Mitchell and Worth counties were attached to Floyd County for judicial purposes.<sup>6</sup>

On January 21, 1857, it was provided by the legislature that court should be held in *Cerro Gordo* County as a part of the Tenth District on the fourth Monday after the third Monday in May and September of each year.<sup>7</sup>

Samuel Murdock of Clayton County was elected judge of the Tenth District on April 2, 1855, and was commissioned May 3, 1855. He it was who held the first term of court in Mason City, *Cerro Gordo* County, on June 15, 1857.

<sup>2</sup>*Constitution of Iowa, 1846, Art. 5, Sec. 4.*

<sup>3</sup>*Ibid.*, Art. 5, Sec. 5.

<sup>4</sup>*Acts of the Fourth General Assembly, Chap. 46.*

<sup>5</sup>*Acts of the Fifth General Assembly, Chap. 111.*

<sup>6</sup>*Ibid.*, Chap. 3.

<sup>7</sup>*Acts of the Sixth General Assembly, Chap. 56.*

On March 20, 1858, an act was approved fixing the Eleventh Judicial District of the state as containing Hardin, Franklin, Hamilton, Wright, Hancock, Winnebago, Webster, Marshall, Cerro Gordo, Worth and Boone counties, to take effect as of January, 1859.<sup>8</sup>

John Porter was elected judge of this district October 12, 1858, and held court in Cerro Gordo County after Cerro Gordo County became a part of the Eleventh District, and until the establishment of the Twelfth Judicial District in January, 1865.

By legislative enactment approved March 12, 1858, the county of Worth was attached to Cerro Gordo for judicial, election, and revenue purposes.<sup>9</sup>

The first session of the District Court held in Cerro Gordo County, on June 15, 1857, the county then being a part of the Tenth District, was called by N. W. Stackhouse, sheriff, and adjourned to June 17, 1857. On that date Samuel Murdock, judge, presided and the first matter brought to the attention of the court as set forth in *Clerk's Record A-1* was the certificate of admission to practice of Jarvis S. Church, issued by the District Court at Waterloo on September 23, 1856. At this first session John Porter, later judge of the Eleventh District, was admitted to practice in this court, Samuel Murdock, district judge, certifying to the fact. The first litigated matter brought to the attention of the court was on a transcript from Floyd County where the case had originated while Cerro Gordo County was attached to Floyd County for judicial purposes. This was an action brought by Silas Card and Jacob Van Curen against one John B. Long, who at that time was county judge in Cerro Gordo County, alleging malfeasance in office. On an ex parte hearing previously held Long had been suspended from his duties as county judge, but on the trial to a jury had in this first term of the District Court in Cerro Gordo County, John B. Long was cleared and reinstated as county judge. On this same day one George Brentner, who was one of the early settlers and land owners in this community, was naturalized. He renounced his allegiance to the 'King of Brynie' and was admitted to United States citizenship in Cerro Gordo County.

<sup>8</sup>*Acts of the Seventh General Assembly*, Chap. 94.

<sup>9</sup>*Ibid.*, Chap. 47.

## CERRO GORDO COUNTY AND THE TWELFTH JUDICIAL DISTRICT

By the year 1864 while the Civil War was still in progress, settlers had increased in north central Iowa to such a point that the General Assembly under the provisions of the Constitution of 1857 revamped the judicial districting of the state and created the Twelfth Judicial District to be composed of Mitchell, Floyd, Bremer, Butler, *Cerro Gordo*, Worth, Winnebago and Hancock counties, setting the times and places of terms of court and providing for an election to select a district judge and district attorney who should commence their duties on the first Monday of January, 1865. This statute was approved on March 28, 1864.<sup>10</sup>

The election held November 8, 1864, resulted in the election of William B. Fairfield of Floyd County as the first judge of the Twelfth Judicial District of Iowa, and of John E. Burke of Bremer County as district attorney.

On June 19, 1865, Hon. William B. Fairfield as sole presiding judge, John E. Burke, district attorney, William B. Stilson as sheriff and Robert Hickling as clerk of the District Court convened the first session of the Twelfth Judicial District at Mason City, Cerro Gordo County, Iowa.

At the first session of the Twelfth Judicial District court held in Cerro Gordo County some of the matters brought to the attention of the court were the case of Alonzo Willson v. Geo. A. Fuller, which is law case No. 21. Alonzo Willson was the grandfather of Dixie Willson, the author.

On the same day equity case No. 11, Nancy E. Allen v. Wm. A. Kerns was brought to the attention of the court and was continued as the defendant was in the military service of the United States. This Nancy E. Allen has added to the perplexities of examiners of titles in this community as she seems to have gotten a divorce elsewhere and then sought to convey real estate as Nancy E. Crow, to the great confusion of the industrious and conscientious examiner. A number of other cases at this time were continued for the same reason, showing that this county had contributed to the service of the Union. These matters are set forth in *Clerk's Record A-281*. At this first term, as set forth in clerk record fifteen grand jurors were summoned

<sup>10</sup>*Acts of the Tenth General Assembly*, Chap. 98.



and while the names of most of them are unknown to the writer, yet the name of R. O. Serrine, Sr., Geo. L. Bunce and T. Palmer are known through their descendants. It is interesting to know that James Goodwin was appointed bailiff to attend upon their deliberations.

On *Clerk's Record A-284* appears reference to law case No. 45, *W. A. Ransom & Co. v. Wm. Stanbery* as garnishee of Martin Bumgardner. This case later went to the Supreme Court as one of the early cases from Cerro Gordo County. On the same page appears an action on a note by Rosa A. Howard, administratrix of the estate of Thomas O. Howard, deceased, *v. Charles McNary* which action resulted in a judgment for a little more than \$50.00 in favor of the administratrix. Thos. O. Howard was one of the early settlers in this community and served in the Union Army dying on the field of battle. The post of the Grand Army of the Republic at Clear Lake was named after Captain Howard. A list of the judges of the Twelfth District is set out as exhibit "A" hereof.

#### THE TWELFTH DISTRICT IN THE SUPREME COURT OF IOWA

The first case to reach the Supreme Court from one of the counties which now compose the Twelfth Judicial District of Iowa went up on appeal from Floyd County. It was a replevin action entitled *Smith v. Montgomery*, 5 Iowa, 370, decided December 22, 1857. It is interesting to observe that Wiltsie & Fairfield successfully appeared for the appellant, the junior member of the firm being William B. Fairfield who later served as the first judge of the Twelfth Judicial District.

The first state case to reach the Supreme Court also went up from Floyd County, *State of Iowa v. Nichols*, 5 Iowa, 413, involving the action of the justice of the peace in the trial of the cause. This case also was reversed.

Cerro Gordo County first appears in the Supreme Court records in the case of *Williams v. Walker*, 11 Iowa, 77, decided October 6, 1860, involving a motion to dissolve an attachment. Reiniger, Card & Reiniger represented the defendant. The third member of this firm was Robert G. Reiniger, later judge of the Circuit Court. This action resulted in reversal.

On June 14, 1867, Cerro Gordo County again appears in the

records of the Supreme Court in an appeal in the case of *Ransom & Co. v. Stanberry*, garnishee, 22 Iowa, 334. W. C. Stanberry, the defendant, had come to Cerro Gordo County from Vinton in the early days and was a physician, later being admitted to the bar. His son John S. Stanberry was later engaged in the practise, and his grandson Ralph S. Stanberry is now a practising attorney in Mason City. He was represented in this litigation by Irving W. Card of the Floyd and Cerro Gordo County bar. The garnishee was successful in procuring a reversal of this case.

The case of *Blake v. McMillan*, 22 Iowa, 358, went up from the District Court of Cerro Gordo County and was decided on June 15, 1867, on the question of presentment to only one of the makers of a joint note, which was held not sufficient to charge an endorser unless some legal excuse could be shown for the failure to make presentment to the other maker. Irving W. Card appeared as counsel for the appellee but the judgment on appeal was reversed.

Another case which went up from Fayette County, decided on April 4, 1859, was the case of *Smith v. Frisbie*, 7 Iowa, 486. This case particularly shows the freedom from restrictions which existed in the trial of litigated matters at this time. The error upon which the appellant relies was "that one J. O. Crosby, an attorney at law, presided in the trial of the case in the place of Samuel Murdock, the judge of the Tenth Judicial District, whose duty it was to preside." Judge Murdock having been absent, Mr. Crosby presided and the defendant withdrew from the trial of the action. The Supreme Court by Woodward, judge, says "That a person who is not a judge under the laws of the state was placed upon the bench to try the case against the wishes of one of the parties is made manifest; therefore the proceedings and the judgment under them, must be reversed. It is to be hoped that no one holding the responsible office of judge would refuse an appeal on exceptions, but show his objections, and with regard to seeing the necessity of resorting to an appeal signed by three persons where the facts do not appear to be questioned. Judgment reversed and remanded."

Butler County appears in the Supreme Court on April 15,



1862, *Perrin v. Griffith*, 13 Iowa, 151, J. O. Crosby of pseudo judicial activity having been of counsel.

*Butters v. Olds*, 11 Iowa, 1, first brought litigants from Mitchell County before the Supreme Court.

George W. Ruddick, later a district judge, appeared before the Supreme Court in the Bremer County case of *Wolverton v. Ellis*, 18 Iowa, 413.

#### COUNTY COURTS UNDER THE IOWA STATUTES

The Iowa Code of 1851 provided for the election of a county judge with duties similar to those of the present county auditor, and the additional ones incident to a county probate court holding regular sessions on the first Monday of each month save April and August (for on the first Mondays of these months elections were held) and then on the Tuesday following the first Monday. His office was to be at the county seat.

The County Court had authority to provide for the erection and preparation of courthouses, jails and other necessary buildings within and for the use of the county, and in relation to roads, ferries, the poor, and cases of bastardy, the handling of probate and guardianship matters, and such other powers as are or may be given it by law. It determined the amount of taxes to be levied for county purposes according to the provisions of the law in force at the time and caused the same to be collected. The clerk of the District Court was required to act as clerk of the County Court and the register of probate.

It provided that "a county judge should be elected at the first election holden in August after this statute has been in force thirty days, and if such election does not take place in the year 1851, the county judges elected in 1852 shall hold for a term of three years, and a new election shall take place at the August election in the year 1855 and every four years thereafter."<sup>11</sup>

These matters are also set out in Chapter 105, *Code of Iowa*, 1860.

Many amendments to these statutes appear in the early volumes of the session laws.

The county judge was required to furnish a bond of an amount no less than \$10,000.00.<sup>12</sup>

<sup>11</sup>*Code of Iowa, 1851, Chap. 15.*

<sup>12</sup>*Acts of the Ninth General Assembly, Chap. 119.*

On April 8, 1862, the fees and compensation of the county judges in various matters are fixed.<sup>13</sup>

It was also enacted by the Ninth General Assembly that when a county judge is disqualified to act the clerk of the District Court shall act in his place.<sup>14</sup>

For those interested in the question of temperance and the present method of handling the sale of liquor, it is interesting to recall that "the county judge of each county on the first Monday of May annually shall appoint some suitable person or persons, not more than two in number, residents of said county but not both residents of the same township, to act as agent or agents of such county for the purchase of intoxicating liquor and for the sale thereof in the county for medicinal, mechanical and sacramental purposes only."<sup>15</sup>

On April 7, 1868, the creation of a new office of county auditor was effected, it being provided that the county judge in each county shall be ex officio auditor after the first day of January, 1869, and shall continue to discharge such duties until the auditor should be elected and qualified and after the said auditor should be elected and qualified, the office of county judge should cease.<sup>16</sup>

The County Court of Cerro Gordo County, so far as the records show, first met at Mason City on December 14, 1855, in reference to the estate of Thomas Corcoton, deceased, of Shell Rock Falls, Cerro Gordo County, of which estate J. S. Church was executor E. D. Huntly, clerk of the District Court, acted in the place of the county judge for reasons unknown.

On December 9, 1857, the first contested matter was decided as set forth in Docket A, page 38. Judge J. S. Church, presiding, "The court was called at the outcry of the Sheriff Stackhouse," and John Russell succeeded in establishing a claim against the estate of A. Long, deceased.

The first guardianship petition was filed by Rindia Ann Hoffman, in 1857, she being a minor over fourteen years of age. James G. Beebe was duly appointed her guardian and today we wonder what became of the young lady and her property.

<sup>13</sup>*Ibid.*, Chap. 137.

<sup>14</sup>*Ibid.*, Chap. 136.

<sup>15</sup>*Acts of the Fifth General Assembly*, Chap. 45.

<sup>16</sup>*Acts of the Twelfth General Assembly*, Chap. 160.

The last session of the County Court, so far as the records show, was held on December 8, 1868, at which time George E. Frost presided as county judge.

In reading the old records of the county court it is interesting to observe the property listed and the values thereof as set forth in the appraisals. Articles brought from the more settled and older portions of the country had a surprising value. Horses, cattle, and hogs were no lower than they were during the recent depression. Books, tools, wearing apparel were highly valued, and by the way, the number of petticoats which were listed in the inventory of a female decedent would be illuminating to a modern young woman.

A list of the county judges of Cerro Gordo County from the formation of the county in 1855 to the end of the county court as such in 1869 is set out in Exhibit "D" attached hereto.

#### THE CIRCUIT COURT OF THE TWELFTH JUDICIAL DISTRICT

The abolishment of the county courts with their probate jurisdiction and the increasing amount of litigation in the rapidly growing state caused the Twelfth General Assembly in 1868 to create a system of circuit and general terms courts, two in each district with a judge for each circuit, who were to hold office for four years. Four terms of court were to be held in each county.

It was provided that the Circuit Court should have exclusive jurisdiction of all matters relating to wills, executors, administrators and guardians, settlement of estates of decedents, minors and incompetents, and appeals in civil matters from justice of the peace courts and concurrent jurisdiction with the District Court in civil cases at law, foreclosures of mortgages and the like, actions of partition, dower, applications for the writ of *ad quod damnum*, and of all appeals in special proceedings involving the assessment of damages on the establishment of lanes or highways or other public improvements, or the taking of private property for public use. It was a court of record and had the same officers as the District Court. Appeals might be taken to the Supreme Court.<sup>17</sup>

The Twelfth District was divided in two circuits of which

<sup>17</sup>*Ibid.*, Chap. 86.



the first was Bremer, Floyd and Butler and the second Mitchell, Worth, Winnebago, Hancock and Cerro Gordo.<sup>18</sup>

The first session of the Circuit Court in Mason City was held February 8, 1869, H. N. Brockway sole presiding judge of the Second Circuit of the Twelfth Judicial District, F. M. Rogers, clerk of the Circuit Court.

The Fourteenth General Assembly in 1872 provided that there should thereafter be one circuit judge in each district to be elected at the next general election and to hold office for a four-year term, this provision taking effect on the first Monday of January, 1873.<sup>19</sup>

After this enactment Judge Harvey N. Brockway was not re-elected and thereafter one circuit judge only functioned in the Twelfth Judicial District.

For eighteen years the circuit courts were a part of Iowa's judicial system despite what appears to have been a duplication of the duties of the District Court. Lawyers of today remember little of its work and many even forgot its existence until some abstract of title showing an estate matter, or foreclosure action entitled "In the Circuit Court" reminds them of it.

The Twenty-first General Assembly on April 10, 1886, abolished the Circuit Court and transferred its duties and responsibilities to the District Court, providing an additional judge for each district.<sup>20</sup>

The circuit judges for the Twelfth District were Harvey N. Brockway of Upper Grove, Hancock County, who served from 1869 to 1873; George W. Ruddick of Waverly, Bremer County, elected in 1869 who resigned to go upon the District Bench in 1870; Robert G. Reiniger of Charles City, Floyd County, who succeeded Judge Ruddick in 1870 and served until 1884; and John B. Cleland of Osage, Mitchell County, who served after Judge Reiniger from 1884 until 1886 when the Circuit Court was abolished and he was elected on the District Bench.

A list of the circuit judges of the Twelfth District marked Exhibit "B" is attached hereto.

<sup>18</sup>*Ibid.*, Sec. 23, Chap. 86.

<sup>19</sup>*Acts of the Fourteenth General Assembly*, Chap. 22.

<sup>20</sup>*Acts of the Twenty-first General Assembly*, Chap. 134.

## THE JUDGES OF THE TWELFTH JUDICIAL DISTRICT

The judicial history of the Twelfth District and of Cerro Gordo County has hinged upon the men who have occupied places upon the bench. For seventy years those men have made or marred it.

In the fall of 1864 when by act of the legislature the Twelfth District was formed the electors of eight counties met to select a district judge and a district attorney. What conflicts there were and who contended for the offices we do not know, but William B. Fairfield of Floyd County was elected as the first judge of the Twelfth Judicial District of Iowa. He began his duties on January of 1865 and served out his five-year term.

Judge Fairfield was a New Yorker of successful, well-to-do stock, a classmate of President James A. Garfield at Williams College in 1851 and a graduate of Hamilton College in 1855. Following Greeley's maxim he came west after his marriage and his admission to the practise. At thirty he was upon the bench. Some years after the conclusion of his term he returned to New York state and died there in 1879.

Judge Fairfield was succeeded on the district bench by George W. Ruddick of Waverly, who had served a year or so as circuit judge. He too was a New Yorker, educated in Ohio and in New York, and admitted to the bar after reading law and attending the Albany Law School. He was active in the practise and served on the district bench for twenty-two years. After he left the bench he continued in the practise and died at Waverly in 1905.

In 1886 upon the termination of the Circuit Court by legislative enactment, John B. Cleland of Floyd County was elected to the district bench to serve with Judge Ruddick. Born in Wisconsin in a pioneer cabin in 1848, educated in Carroll College at Waukesha, he had read law and was graduated from the University of Michigan in 1871, where it is interesting to note he was one of the founders of the Phi Delta Phi law fraternity.

After he resigned from the bench in 1888 he located first at Fargo, Dakota Territory, and then at Portland, Oregon, where his ability soon received recognition, he being appointed circuit judge in 1898 and serving as such until 1911. President of the

Bar Association of Oregon, lecturer in law at the University of Oregon, Grand Master of Masons of Oregon, he died with honors thick upon him in January of 1935.

Upon the resignation of Hon. John B. Cleland, John C. Sherwin, who had been in the practice in Mason City, was appointed to the position for which he was so well qualified, holding it until he was elected to the Supreme Court of the state in 1899, which position he held until January of 1913. Born in Ohio in 1851, educated in the schools of Wisconsin, graduating from the University of Wisconsin Law School in 1875, he located in Mason City in 1876, an active and honored member of the bar and an able and respected *nisi prius* judge, and a fair, careful, conscientious justice of the Supreme Court.

After George W. Ruddick had completed three terms on the district bench, in 1892, Porter W. Burr of Charles City, Floyd County, was elected to take his place. Judge Burr was born in Maine in 1852 and as a lad came to Iowa where he was educated in Griswold College at Davenport, graduating from the Law School of the State University of Iowa in 1873, and being admitted to the bar at the same time. He practised in Floyd County continuously, except for the one term on the bench, until 1908 when he suffered from a paralytic stroke which made him an invalid for eighteen years until his death in 1925.

J. F. Clyde of Osage, Mitchell County, took the place made vacant by the retirement of Judge Burr in 1897, and continued on the bench until 1912 as an able and conscientious judge. He was born in a Wisconsin log cabin in 1850, coming to Mitchell County five years later. After his elementary education he attended the State University of Iowa, graduating from the collegiate department in 1877 with honors evidenced by his election to Phi Beta Kappa honorary fraternity, and from the Law School in 1884. Those who practised before him well remember the Phi Beta Kappa key hanging from his watch chain. He had served as state senator from his district and was active in civic, educational and humanitarian enterprises. He died at Osage in 1927.

In 1898, because of increased litigation in a rapidly growing district, Charles H. Kelley then of Forest City, later of Charles



City, took his place upon the district bench. Born in 1856 in Franklin Falls, New Hampshire, he received his college education at Boston University and was admitted to the bar in 1882. For thirty-four years his long experience, keen mind and active judicial intelligence made him an ideal trial judge. He died at his home in Charles City in 1932.

Upon the resignation of Judge Sherwin from the District Court to take his seat upon the Supreme Bench, the Twelfth Judicial District selected Clifford P. Smith, then of Mason City, to take his place. Judge Smith was born on a farm near North Vernon, Indiana, in 1869 and studied law in the office of Blythe & Markley, one of the pioneer law firms of northern Iowa. He was one of the young men to go upon the bench, but his ability was recognized locally and elsewhere, and after two terms, The First Church of Christ Scientist in Boston, Massachusetts, called him to become first reader. Since 1908 up to the present he has continued in various responsible positions. He now resides in Waban, Massachusetts.

Judge Joseph J. Clark was elected to fill the vacancy caused by the retirement of Judge Clifford P. Smith in 1908. He was born in Kentucky in 1851. He graduated from the Law Department of the State University of Iowa in 1873 and from that time onward was active in the practise of law in Mason City. For twenty-eight years he has been a judge, loved and respected by litigants and lawyers alike.

Millard Filmore Edwards of Parkersburg, Butler County, Iowa, was born and educated in Pennsylvania, graduating from the Law Department of the State University of Iowa in 1884. His mind was well seasoned in the practise of the law when he was elected to the district bench in 1913 and his years of service since then have confirmed the trust his friends, clients and legal associates have reposed in him.

In the year 1923 court work in the eight counties of the district was badly congested. Litigants and lawyers struggled in vain to get cases to trial within a reasonable time. To meet this contingency a fourth judge was added to the bench, and M. H. Kepler of Northwood, Worth County, was appointed and has been continuously re-elected since that time.

Born in 1870 in Scott County, Iowa, and graduated from the Law School of the State University of Iowa in 1896, he has carried on the best ideals of the Iowa bench.

Judge Thomas A. Beardmore of Charles City, who was appointed to fill the vacancy caused by the death of Judge Kelley in the spring of 1932, was the second of the judges in this district to have been born and educated in Iowa. As Judge Reiniger and Judge Brockway, years before, had served in the War of the Rebellion, so this young judge had served as captain in the Mexican imbroglio in 1916-17 and in the World War from March of 1917 until June of 1919. He has been elected to succeed himself and is ably carrying on the traditions of seventy years of judicial history.

It is interesting in going through the list of judges to observe the many states from which they came. Maine, New York, New Hampshire, Wisconsin, Ohio, Kentucky, Pennsylvania and Indiana have contributed to the judiciary of this western state, and widely scattered universities and colleges—Hamilton, Williams, Boston, Beloit, Michigan, Wisconsin, Iowa, and more important than all others, the school of experience—gave these men the training which made them leaders in their communities, well fitted to settle the legal problems of the pioneers and to determine the questions which an increasingly complex civilization presented to them.

Some one has observed that the life of a community is determined by the character of its first settlers. Just so the men who presided over the courts of this district have by their worth, character and achievements, done their full share in the development of the Twelfth District and the state of Iowa.

#### EXHIBIT "A"

##### List of Judges of the Twelfth Judicial District

Name and Service	Residence
William B. Fairfield, 1865-70.....	Charles City, Iowa
George W. Ruddick, 1870-92.....	Waverly, Iowa
John B. Cleland, 1887-88.....	Osage, Iowa
John C. Sherwin, 1888-99.....	Mason City, Iowa
Porter W. Burr, 1893-96.....	Charles City, Iowa
J. F. Clyde, 1897-1912.....	Osage, Iowa
C. H. Kelley, 1898-1932.....	Charles City, Iowa
Clifford P. Smith, 1900-08.....	Waban, Mass.

Joseph J. Clark, 1908.....	Mason City, Iowa
M. F. Edwards, 1913.....	Parkersburg, Iowa
M. H. Kepler, 1923.....	Northwood, Iowa
Thomas A. Beardmore, 1932.....	Charles City, Iowa

## EXHIBIT "B"

List of Judges of the Circuit Court of the Twelfth Judicial District

Name and Service	Residence
Harvey N. Brockway, 1869-73.....	Upper Grove, Hancock County
Geo. W. Ruddick, 1869-70.....	Waverly, Iowa
Robert G. Reiniger, 1870-84.....	Charles City, Iowa
J. B. Cleland, 1885-86.....	Osage, Iowa

## EXHIBIT "C"

List of Judges of Supreme Court of Iowa From Twelfth Judicial District

Name and Service	Residence
John C. Sherwin, 1900-12.....	Mason City, Iowa
W. L. Bliss, 1932-32.....	Mason City, Iowa

## EXHIBIT "D"

List of Cerro Gordo County Judges

Name	Service
John B. Long.....	1855-56
J. S. Church.....	1856-59
George Vermilya.....	1859-61
Marcus Tuttle.....	1861-63
Elisha Randall.....	1863-65
W. E. Thompson.....	1865-67
George E. Frost.....	1867-69

## AUTHORITIES

Acts of Congress of the United States for Creation of Territory of Iowa, June 12, 1838, 1851 Code of Iowa, Pages 627-8

Constitution of Iowa, 1844.

Constitution of Iowa, 1846.

Chapter 46, Acts of the Fourth G. A. of Iowa.

Chapter 111, Acts of the Fifth G. A. of Iowa.

Chapter 56, Acts of the Sixth G. A. of Iowa.

Chapter 94, Acts of the Seventh G. A. of Iowa.

Chapter 47, Acts of the Seventh G. A. of Iowa.

Clerk's Record A, page 1, Court Record of Cerro Gordo County.

Chapter 98, Acts of the Tenth G. A. of Iowa.

Clerk's Record A, page 284, Court Record of Cerro Gordo County.

Smith v. Montgomery, 5 Iowa, 370.

State of Iowa v. Nichols, 5 Iowa, 413.

Williams v. Walker, 11 Iowa, 77.



R. W. Ransom & Co. v. Stanberry, Garnishee, 22 Iowa, 334.  
Blake v. McMillan, 22 Iowa, 358.  
Smith v. Frisbee, 7 Iowa, 486.  
Perrin v. Griffith, 13 Iowa, 151.  
Butters v. Olds, 11 Iowa, 1.  
Wolverton v. Ellis, 18 Iowa, 413.  
Chapter 15, 1851, Code of Iowa.  
Chapter 105, 1860, Code of Iowa.  
Chapter 19, Acts of Ninth G. A.  
Chapter 137, " " Ninth G. A.  
Chapter 166, " " Ninth G. A.  
Chapter 45, " " Fifth G. A.  
Chapter 160, " " Twelfth G. A.  
County Court Records "A," Cerro Gordo County.  
Chapter 86, Acts of Twelfth G. A.  
Chapter 134, " " Twenty-first G. A.

The data in reference to the various judges of the district and circuit courts have been compiled from information received from members of their families, the clerk of the Supreme Court of Oregon, the clerk of the Supreme Court of Iowa, the office of Mrs. Alex Miller, Secretary of State of Iowa, the Registrar's Department of the University of Michigan, the office of E. R. Harlan, Curator of the Historical Department of Iowa, and through the co-operation of members of the bar of the Twelfth Judicial District of Iowa, to all of whom thanks and appreciation are rendered.

Note: In checking through the lists of judges of this district in the *Iowa Official Register* and in a list furnished by the clerk of the Supreme Court of Iowa, I found the name of Marshall F. Moore, Sioux City, Woodbury County, Iowa, given as having been a judge of the Twelfth District in the years 1857-58, seven years before the establishment of, and from a county never a part of, this district. When errors creep into official records, I crave your indulgence for such as may be found in this article.

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