

**THE PIONEER BENCH AND BAR**  
*of*  
**The Twelfth Judicial District of Iowa**

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BY REMLEY J. GLASS

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In the winter of 1851, the Third General Assembly, meeting at Iowa City in the Old Capitol Building, determined that westward expansion and settlement within the boundaries of the state justified the creation of fifty new counties in North and West Iowa. Included among these were the eight counties now composing the Twelfth Judicial District with substantially their present boundaries.

Although there were scattered cabins on the banks of the lakes and streams in this territory when these counties were created, the census returns of 1852 show white population in only two of these eight counties, Bremer three hundred nine and Butler, seventy-three. The first census return showing settlers in all eight counties was that of 1860 when the grand total for the eight counties was 17,835, as opposed to 154,867 in 1940, just eighty years later.

During the formative years of the 1850's, hunters and trappers still came into Northwest Iowa. Sioux and Winnebago Indian tribes still contended for dominion over this territory despite its putative surrender by the long series of treaties between the Indian tribes and the Great White Father in Washington. (After reading the terms of some of those treaties, I am inclined to believe that he might have been considered the Great White Stepfather of those Indians.) Government surveyors seeking to establish the northern boundary of Iowa, during the early fifties, were compelled to withdraw because of the armed opposition of the Sioux tribes. Evidently these surveyors lacked the legal backing of a writ of ejectment.

The land hunger of the settlers and the actual hunger of the Indians, deprived of their hunting grounds, resulted in the famous Grind Stone War in Cerro Gordo County with the retreat of the settlers to Nora Springs, a little later came the attack of Inkpadutah and his band on the western frontier culminating in the Spirit Lake Massacre of 1857, and still later was the raid on New Ulm and Mankato, Minnesota, in 1862.

### THE EARLY COURTS

Probably the first exercises of the judicial prerogative on the Iowa side of the Mississippi was a Miners' Court at Dubuque in 1834 which in rapid succession arrested, tried, convicted, sentenced and executed one Patrick O'Connor for the killing of his partner after a petty quarrel. O'Connor had deemed himself safe because "The Law," as he supposed, was a remote affair. But the principles of Anglo-Saxon justice prevailed, despite the fact that neither the Dubuque mines, nor any of the territory recently wrested from the Indians in the Black Hawk War, had any federal control of either an administrative or judicial nature. The "O'Connor Affair" revealed the need for legal judicial procedures, and led to the immediate joining of the Iowa district to the Territory of Michigan in September, 1834, and the division of the whole Iowa district into two large counties, Dubuque and Des Moines.

Attached to the Territory of Wisconsin in 1836, additional counties in the Iowa district were created by that legislature in 1836-37, by sub-dividing the original two—thus a further increase in legal facilities for adjudication of difficulties. When the separate Territory of Iowa was organized in 1838, the seven counties then organized were divided into three judicial districts, served by members of the territorial supreme court. It was a young judiciary: Chief Justice Charles Mason of New York State was aged thirty-four, while associate justices Joseph Williams of Pennsylvania, was thirty-seven, and Thomas S. Wilson of Ohio, was twenty-five. These three acted as *NISI PRIUS* judges in the territorial district courts.

The first session of a district court in the Territory of Iowa

was held September 11, 1838, at Prairie La Porte, now Guttenburg, with Judge Thomas S. Wilson on the bench.

As Iowa progressed and settlements surged westward, each new judicial district repeated anew the pioneer conditions recorded in the judicial districts first established.

The early sessions of the district court in those long past years brought judge, attorneys, officers of the court, litigants and witnesses promptly together in the log cabin, tavern, or hastily constructed courthouse, for the terms were only a day or two long and the sessions were held but two or three times a year. Lawyers "rode the circuit" with the judge, putting up often at the same tavern, hotel, or settler's cabin. The crowded conditions of temporary quarters sometimes forced the jury on occasions to conduct their deliberations in a nearby grove while the court considered the next case in the hastily improvised courthouse. Railroads did not enter Iowa until 1855; and the Milwaukee did not reach Mason City until 1869.

An early case, *Smith vs Frisbie*, decided in 1859, appealed from Fayette County, shows the rather free and easy manner in which court proceedings were handled in those years. The error upon which the appellant relied was: "That one J. O. Crosby, an attorney-at-law presided in the trial of the cause in the place of Samuel Murdock, the judge of the Tenth Judicial District, whose duty it was to preside." Judge Murdock absented himself, Mr. Crosby presided, and the defendant withdrew from the trial of the action. The Iowa State Supreme Court, by Woodward J., said "that a person who was 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 a party a bill of exceptions to show his objections and we regret to see the necessity of resorting to a bill signed by third persons where the facts do not appear to be questioned. Judgment reversed and cause remanded." *Smith v. Frisbee*, 7 IOWA 486.

It is interesting to delve into the early records and plead-



ings and to compare the succinct statements in those early hand written instruments with our present day typewritten verbosity. Well do I recall reading a copy of my father's pleadings in my mother's handwriting which, according to present practice seemed short indeed. The telephone, typewriter, automobile, and paved roads have changed the practice of law almost as much as the elimination of the spread eagle eloquence of those early lawyers.

#### PREVIOUS DISTRICT AFFILIATIONS

In the days before the formation of the Twelfth Judicial District, the counties which now compose that district were within many of the districts of the state. In most instances, due to a lack of population sufficient to support a separate county government, they were first associated with an older county for judicial, legislative, and taxation purposes. This same situation exists in many counties in western states today where the population of an organized county is insufficient to support the expenses of government.

It occasioned me considerable surprise to learn that Hancock and Winnebago counties were the first of the eight counties to be made a part of any judicial district. On February 5, 1851, these two counties were added to the old Fifth District, though the census returns show no population in these counties until 1860.<sup>1</sup>

In 1853, by provision of the Fourth General Assembly, Bremer County was placed in the old Second District, while the other seven by the same act constituted part of the Fifth.<sup>2</sup>

In 1855, when the Tenth Judicial District was established, Cerro Gordo, Floyd, Mitchell and Worth counties were placed within its confines by the Fifth General Assembly.<sup>3</sup>

On January, 1857, a Thirteenth Judicial District was created with Butler County included in it.<sup>4</sup>

The redistricting of the state on March 20, 1858 placed Bremer, Floyd, Mitchell and Butler in the Tenth Judicial District and Hancock, Winnebago, Cerro Gordo and Worth in

<sup>1</sup>Acts of the 3rd General Assembly, Chapter 68.

<sup>2</sup>Acts of the 4th G. A. Chap. 46.

<sup>3</sup>Acts of the 5th G. A. Chap. 111.

<sup>4</sup>Acts of the 6th G. A. Chap. 145.

the Eleventh Judicial District. This act did not go into effect until January 1, 1859.<sup>5</sup>

In 1864, the Twelfth Judicial District was formed, taking in all the eight counties which now compose it.<sup>6</sup>

A statement has appeared at times that Winnebago County was once a part of the Fourth Judicial District, but I find no authority for that in the early session laws.

#### 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 vs. Montgomery*, 5 IOWA 370, decided December 22, 1857. It is interesting to observe that *Wiltse & 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 vs. 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 in the case of *Williams vs. 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. vs. Stanbery, Garnishee*, 22 IOWA 334. *W. C. Stanbery*, 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. Stanbery*, was later engaged in the practice, and his grandson, *Ralph S. Stanbery*, is now a practicing attorney in *Mason City*. He was represented in this litigation by *Irving W. Card* of

<sup>5</sup>Acts of the 7th G. A. Chap. 94.

<sup>6</sup>Acts of the 10th G. A. Chap. 98.

the Floyd and Cerro Gordo county bar. The garnishee was successful in procuring a reversal of this case.

The case of *Blake vs. 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.

Butler County appears in the Supreme Court on April 15, 1862, *Perrin vs. Griffith*, 12 IOWA 151, J. O. Crosby, of the pseudo judicial activity, having been of counsel.

*Butters vs. Olds*, 11 IOWA, 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 vs. Ellis*, 18 IOWA 413.

Litigation in the Twelfth District was not confined to mundane matters.

On May 2, 1890, a large meteor exploded about ten miles north of Forest City, which phenomenon was visible for three hundred miles. Fragments varying from a few ounces to many pounds were found. Interesting litigation involving the rights of the tenant and landlord to possession was carried to the Supreme Court and case decided for the plaintiff. *Goddard vs. Winchell*, 86 IOWA 75. Interesting it is that Hon. John C. Sherwin decided this case in the trial court, that C. H. Kelley, later Judge of the District, represented the appellant Winchell, and that Judge C. T. Granger of the Supreme Court, who had practiced at Osage, wrote the opinion in the above matter.

#### THE EARLY JUDGES

The Early Judges of the Twelfth Judicial District stand out among the early lawyers of the District and we are pleased to believe, among the members of the Bench of Iowa.

While many of the early attorneys were men of little



formal education, and had learned their law in some law office, these early judges had nearly all attended some college and received legal training in law school. A college education was unusual eighty years ago; it speaks well for the district that it selected the type of men it did to hand out justice in those early days.

Judge William B. Fairfield of Charles City, the first judge of the Twelfth Judicial District, a classmate of James A. Garfield, at Williams College, and a graduate of Hamilton, was elected to the Bench in 1864 and commenced his five years of service in 1865.

Judge George W. Ruddick of Waverly, who served on the Circuit and District Bench of the District, had been educated in Ohio and New York and studied law in the Albany Law School.

John B. Cleland, one of the early lawyers of Osage, serving upon both the Circuit and District Benches, was educated in Carroll College and graduated from the law school of the University of Michigan in 1871. It is interesting to note that he was a founder of Phi Delta Phi Law Fraternity, and that, after he left Iowa in 1888, he served upon the Bench in Oregon, was president of the Bar Association of that state and lecturer in law at the University of Oregon, and that all the courts of Oregon adjourned to honor his memory on the day of his burial.

John C. Sherwin of Mason City, who succeeded Judge Cleland, was a graduate of the University of Wisconsin and after his service as *nisi prius* judge was elected a member of the Supreme Court of Iowa.

Porter W. Burr of Charles City was educated in one of the smaller colleges of this state and secured his legal education at our state university.

J. F. Clyde of Osage graduated with honor from both the collegiate and law departments of the State University of Iowa. The older lawyers well remember the Phi Beta Kappa key which always hung upon his watch chain. Most of us also remember how difficult it was to prove a default divorce case before him as he certainly required much more than the "Court House" grounds. I remember well

that when a divorce case came up before Judge Clyde, one stock question which he almost invariably asked of the plaintiff was, "Were your family relations satisfactory?"

Charles H. Kelley came to the Bench from Forest City, though during most of his service he was a resident of Charles City. Born in the hills of New Hampshire, educated at Boston University, his keen legal mind and active judicial intelligence marked him as one of the able *nisi prius* judges of the state during his thirty-four years of service. Those of us who appeared before him well remember the care with which the record was protected and his customary answer to objections to testimony—"Let the witness state the facts."

Hon. Joseph J. Clark of Mason City, Iowa, who served on the Bench for almost thirty years, came of strict Methodist stock. He graduated from the State University of Iowa and was a regular attendant at its Homecoming celebrations. It was pleasant, indeed, for the members of the bar who knew and loved him to observe how his strict disposition mellowed with the passing years. The unfulfilled hope of the younger members of the bar was some time to present an order to him which would meet his entire approval, but every time some phrase had to be changed. Even if the next time his suggestions and corrections were carefully embodied, additional alterations were always necessary. In his later years, his increasing deafness made it necessary for him to use loud-speaking equipment in the trial of cases and how the bar did suffer as a result of it! I think that Mr. Nathan Levinson and I tried the first case before Judge Clark by loud speaker and I am sure that neither one of us will ever forget our efforts to adapt our voices to the machine. On a later occasion, Mr. Boomhower and I were trying a case involving some marital entanglements before Judge Clark. Mr. Boomhower's client had looked on the wine, not wisely but too well, and in a voice clearly audible to counsel and bystanders, but not heard by the judge, urged his counsel to "Give 'em hell, Boomie, give 'em hell!"

The dinner given by the local Bar in honor of Judge Clark's eightieth birthday was a memorable occasion indeed.

Judges Clifford P. Smith, now of Waban, Massachusetts,



and Millard F. Edwards of Parkersburg, Iowa, have retired from the Bench and constitute our Judges Emeritus.

Of the long list of judges who have left the Bench of this district, not a one was born in Iowa. Of the present incumbents, Judge M. H. Kepler, Judge T. A. Beardmore and Judge Tom Boynton are native Iowans, while Judge Henry N. Graven was born in the State of Minnesota.

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, Indiana, Minnesota and, of course, Iowa have contributed to the judiciary of this western state, and these 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 to make 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.

Some one has observed that the after life of a community is determined by the character of its first settlers. So the men who presided over the courts of this district have by their worth, character and achievements, contributed their full share to the development of the Twelfth District and the State of Iowa.

#### ADMISSION TO THE BAR

The changes in the requirements for admission to the Bar since the adoption of the Territorial Code of 1843 show not only the increasing needs of legal education and the vast fields with which a modern lawyer has to familiarize himself, but also show the increased need for general education.

In the first territorial code, admission to practice was granted to practicing attorneys from other states and territories, while licenses to practice might be obtained by others upon proof of good moral character and the passing of a satisfactory examination by two judges of the Supreme Court of the Territory.\*

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\*1843 *Laws of Territory of Iowa*, Chapter 15.

When the Code of 1851 was adopted, an applicant for admission to the Bar had to be a white, male citizen, an inhabitant of the State, of moral character, who could satisfy any district court that he possessed the requisite learning and took the oath of office.<sup>8</sup>

The same requirements are set out in the Code of 1860 with the addition that the applicant must be twenty-one years of age.<sup>9</sup>

In the Code of 1873, the applicant might be any person who met the perviously adopted requirements. This opened the field to women as well as men.<sup>10</sup>

In 1884, the Twentieth General Assembly enacted legislation requiring applicants to have taken a regular course of study of at least two years in an office or reputable law school. Provision was also made for examination by a committee of lawyers appointed by the Supreme Court.<sup>11</sup>

In the year 1900, the Twenty-eighth General Assembly further raised the requirements to three years of instruction in the law and a three years' high school education or the equivalent. The Attorney-General and four members of the bar appointed by the Court constituted the Board of Examiners.<sup>12</sup>

In the year 1925, the requirements for preliminary education were increased to a four year high school course or the equivalent.<sup>13</sup>

In addition to the above, Supreme Court rule 104 now requires that no person who began the study of law after January 1, 1939, shall be eligible for admission to practice unless before beginning said study of law he shall have completed two years of study at a university or college of recognized standing, or have successfully completed a course of training determined by the Board of Law Examiners to be equivalent to the foregoing.<sup>14</sup>

Let us hope that those of us who have met these increasing requirements measure up to the pioneer lawyers

<sup>8</sup>1851 Code of Iowa, Section 1610.

<sup>9</sup>1860 Code of Iowa, Section 2700.

<sup>10</sup>1873 Code of Iowa, Section 208.

<sup>11</sup>1897 Code of Iowa, Section 310; 20th G. A., Chapter 168.

<sup>12</sup>Acts of the 28th G. A., Chapter 11.

<sup>13</sup>40 Ex. G. A., House File 246, Section 14. 1939 Code of Iowa, Section 10908.

<sup>14</sup>1939 Code of Iowa, Section 10908.



who possessed keen legal minds and a vast knowledge of human nature even though their libraries often contained only a Code and the Commentaries of Kent or Blackstone.

### THE EARLY BAR

As the settlers came across the Mississippi into Iowa, many young men who had been admitted to the Bar in Eastern States, and others who speedily sought admission in Iowa, came west seeking to establish themselves in the frontier communities. The requirements for admission to the bar were not so difficult in those early days. Appearance before the district court, a recommendation, reference to some member of the bar for examination, which perchance took place in a nearby saloon, and a motion for admission enabled the applicant to practice before the courts of the territory or state.

The first list of members of the Bar which I have been able to find is contained in the volume of *Iowa Reports* prepared by Eastin Morris, which gives the names of sixty-eight attorneys admitted to practice before the Supreme Court of the Territory up to the year 1839.

In the nineteenth volume of the *Iowa Reports* appear the names of Iowa lawyers as of 1865, which lists Twelfth District attorneys in Bremer, Floyd, and Mitchell counties only. Those listed were: John E. Burke, first District Attorney for the Twelfth District, A. G. Case, and J. C. Wright, all of Waverly, William B. Fairfield, first Judge of the Twelfth District, J. G. Patterson, G. C. Reiniger, and S. B. Starr, all of Charles City, and D. W. Poindexter, and O. P. Harwood of Mitchell County.

Incidentally these two brothers at the Bar of Mitchell County soon learned that litigation between attorneys was unprofitable. The first case brought before the District Court of Mitchell County was that of Harwood vs. Poindexter which was settled out of court.

Today the bar of the Twelfth District numbers one hundred fifty, while the bar of the state numbers approximately thirty-three hundred.

## BREMER COUNTY LAWYERS

Among the names which appear on early Bremer County records are those of:

Phineas V. Swan came to Bremer County from Vermont in 1854, when he was admitted to practice before the Hon. Thomas S. Wilson, then Judge of the old Second District, who had previously served on the Supreme Bench of the Territory and State of Iowa.

John E. Burke, the first District Attorney for the Twelfth Judicial District was one of the early lawyers in Bremer County.

Judge George W. Ruddick was one of the leaders of the bar of Bremer County in pioneer days, later serving upon both Circuit and District Bench with rare distinction.

D. T. Gibson, whose name also appears in the early records of Cerro Gordo and Winnebago counties, was one of the leaders of that early bar. His gift of Websterian oratory and his mastery of language were outstanding, while his ability as a trial lawyer made for great success.

E. A. Dawson, a partner of D. T. Gibson, was another one of the leaders of the legal fraternity who well supplemented his more aggressive partner. One of his favorite expressions was "A fair settlement of a case is better than the best law suit."

Our old friend, J. Y. Hazlett is one of the old timers who is still in the practice. He came to Bremer County from New York in 1860 and is respected and admired by all who know him.

No list of outstanding lawyers of Bremer County is complete without mention of Honorable E. A. Sager, for many years active in the practice, and now on the Supreme Bench of the State.

## BUTLER COUNTY BAR

The various portions of Butler County were separated by unbridged streams, which with bitterness of county seat contests, resulted in the location of early attorneys in most of these various communities, a situation which exists today. Allison, Parkersburg, Greene, Clarksville, Shell Rock, and



Applington now have and always have had their own attorneys.

At the first session of the District Court held in 1857 in Butler County, five citizens were admitted to practice law.

Even before the courts began their session in Butler County, however, Mathew M. Trumbull, who had been admitted to the bar in Linn County settled in Clarksville. He was born in England, but loved and served his adopted country. He was the first representative of Butler County in the State Legislature, and when the Civil War broke out, served in the federal forces from Iowa, becoming a Brigadier General of Volunteers. After the war he practiced in Waterloo, Dubuque, and Chicago.

Orson Rice was another early lawyer, quite different in education and ability from General Trumbull.

William R. Jamison was in very truth the Judge Roy Bean of Butler County where he served as general community adviser with his law office at his farm home in Jamison's Grove near Bristow.

One of the first Harvard men to come to the Twelfth District was C. A. L. Roszell. He also served in the Civil War, and after its ending returned to Clarksville, where he resided until 1898.

John E. Burke, the first District Attorney of the Twelfth District, was a lawyer of determination and ability. His resourcefulness was shown in the case of Turner vs. Hitchcock, later appealed to the Supreme Court where it appears in 20 IOWA REPORTS 310 as a case not only of first impression but of last impression likewise.

In the early records a long list of names of members of the Butler County Bar appear, but many of them only paused for a brief space and many more found the Law too jealous a mistress and engaged in other occupations.

Among others of the early barristers whose names were well known over the District were George M. Craig, N. W. Scovel, M. Harness and Dick Voogd, while W. T. Evans, O. B. Courtright and J. W. Arbuckle for many years in the practice of law at Waterloo were first located in Butler County.

The Hon. M. F. Edwards, now a Judge Emeritus, began the practice of law in Butler County fifty-seven years ago.

The Hon. Henry N. Graven, now on our district bench, practiced law for many years at Greene.

#### THE CERRO GORDO COUNTY BAR

Among the Cerro Gordo County lawyers of pioneer days were:

Jarvis S. Church, one of the prominent pioneers of Cerro Gordo County, was admitted to the practice of law at the first session of the District Court held in Cerro Gordo County in 1857.

The name of I. W. Card, surveyor and lawyer of Cerro Gordo County, is well known to those of us who examine old abstracts. In 1870, after 366 ballots, he came within one and three-fifths votes of being nominated as candidate for District Judge against G. W. Ruddick.

Judge Edwin Flint, a Vermonter, who had been on the bench of the Sixth Judicial Circuit of Wisconsin, was a bachelor and a lawyer of most studious habit. In his later years it is said that he reviewed his entire college course, and so greatly did he esteem his ALMA MATER, the University of Vermont, that he left almost his entire estate to that institution.

Then, of course, Cerro Gordo County has a long list of pioneer lawyers whose records are outstanding:

D. T. Gibson, later of the Winnebago and Bremer Bar

Captain G. R. Miller, a veteran of the Civil War with waist-long whiskers

John Cliggitt, a leader of the bar who was never too busy to lay aside his work and talk over some knotty legal problem with a junior member of the bar

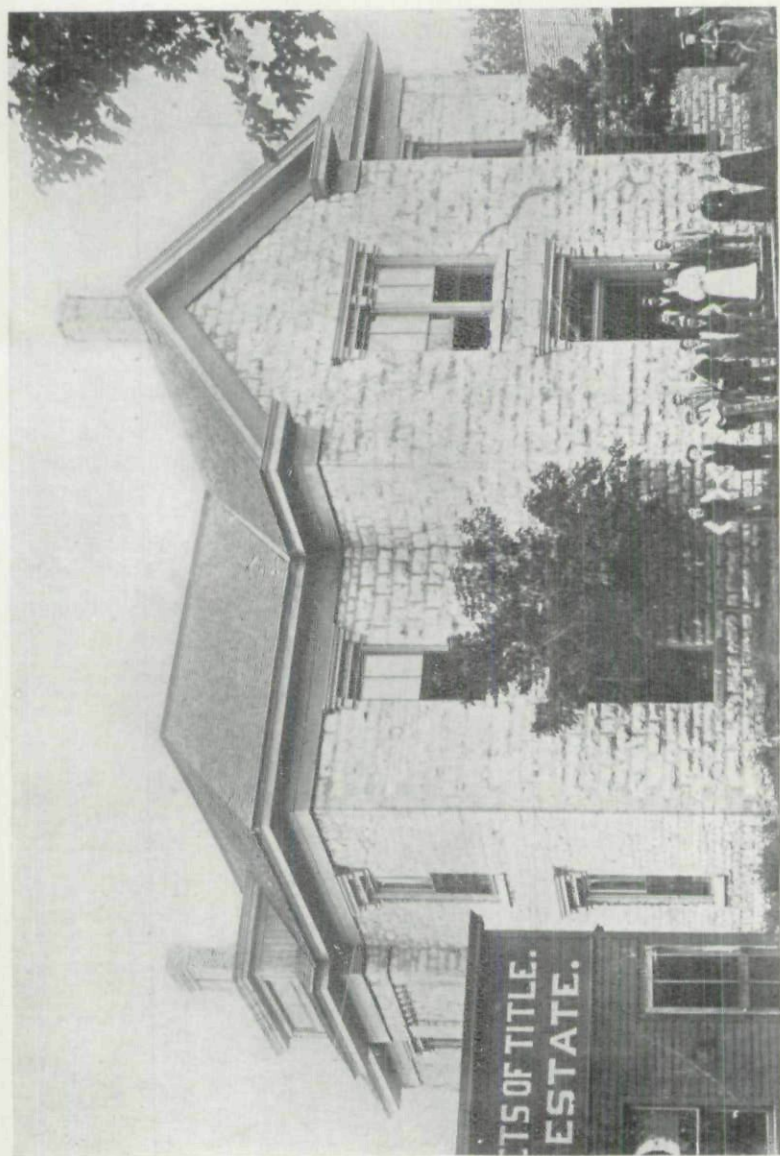
Duncan Rule, his partner for many years

Richard Wilbur

John C. Sherwin, *nisi prius* judge and Justice on the state supreme bench

John D. Glass, who came to Mason City with his bride in 1871





THE CERRO GORDO COUNTY COURT HOUSE  
1866-1900

W. C. Stanbery, doctor, soldier, and lawyer, and his son,  
John S. Stanbery

Judge Joseph J. Clark whom we all knew and loved

Col. James H. McConloge, a tall, strapping Irishman who  
most certainly had kissed the Blarney Stone

James E. Blythe, most definitely a Republican

J. E. E. Markley, legal scholar and able lawyer. One  
of the great trial lawyers of the district court, Markley had  
an outstanding ability to build assumption on assumption  
in a series of inverted pyramids, and perhaps no lawyer  
ever possessed a greater skill in testifying in his own law-  
suits than he.

And many more came to this country in the early days  
and carried on throughout the years helping to make Iowa  
what it is today.

Herbert Quick, who later was Mayor of Sioux City and  
a writer of note, started in the practice here.

The Cerro Gordo County Bar is proud that the State has  
recognized the ability of one of its members by selecting the  
Honorable William L. Bliss as Justice of the Supreme Court  
of Iowa.

#### FLOYD COUNTY BAR

Among the outstanding pioneer firms in Floyd County  
was Wiltse and Fairfield. The senior member was county  
judge for many years, while the junior member was the  
first judge of the Twelfth District. Starr, Patterson and  
Harrison was also a strong firm of which S. B. Starr, the  
senior member, was one of the attorneys listed in the 19th  
Iowa Report. The early firm of Reiniger, Card and Reiniger,  
was a power in the early days before R. G. Reiniger went  
on the Circuit Bench and Irving W. Card moved to Cerro  
Gordo County.

The partnership composed of Charles D. Ellis and A. E.  
Ellis had a reputation as a fighting firm.

Another early lawyer was H. O. Pratt, who represented  
the Fourth Congressional District of Iowa at Washington in  
the 43rd and 44th Sessions, and later entered the Methodist  
ministry. The so-called learned professions were closely  
connected in those early days.



Most of us remember Harry J. Fitzgerald, who was a fighting advocate if there ever was one, and F. Linnell, Sr., who came to Charles City in 1893 and is now associated in the practice with a son and grandson at Long Beach, California, being the father of Walter D. Linnell, Reporter for Judge Boynton. The family name originally was Lingenfelter, but during World War I it was changed to its present form.

Charles City placed many of its older lawyers on the District Bench, among them being Judge Fairfield, Judge Burr, and Judge Beardmore, while Judge Kelley was a resident of Charles City for many years.

These are some of the men who made the Floyd County Bar famous as a group to be feared in trial or settlement, but respected and loved in all other relations of life.

#### HANCOCK COUNTY BAR

Among the older members of the Hancock County Bar were:

M. P. Rosecrans, later of Clear Lake, who held many county offices

J. M. Elder, C. D. Pritchard, lawyer, school teacher, and county clerk

William E. Bradford who came to Britt from Tennessee in 1880 took an active part in the county seat fight

Harvey N. Brockway, a soldier of the Rebellion served on the Circuit Court bench

A. C. Ripley whose later years were spent in California.

John Wickman

John Hammill, Governor of the State of Iowa, and prominent politician

My college friend, Irving C. Hastings

And many others who spent a little time in the new county and then moved to greener fields.

#### MITCHELL COUNTY BAR

When we come to Mitchell County, there is a list of names which stand for probity and ability.

At the first term of the District, held at Mitchell by the Hon. Samuel Murdock in June of 1857, a group of citizens

was admitted to the bar, among them being John G. Patterson, later a member of the firm of Starr, Patterson & Harrison of Charles City.

Other early lawyers were: O. P. Harwood, whose name also appears in the list of Floyd County attorneys, D. W. Poindexter, and William H. Sawyer. A little later, we find the name of Hon. J. B. Cleland, who served upon the Circuit and District Benches of the Twelfth District, and that of District Judge J. F. Clyde, while Frank Forbes, later of Northwood, also was in practice in Mitchell County. Eaton and Brown and Sawyer were others of a long list of men who for a short time or throughout a long and useful life were engaged in the profession of the law in Mitchell County.

Hon. A. B. Lovejoy of Waterloo, Judge of the Tenth District began the practice of law in Mitchell County.

#### WINNEBAGO COUNTY LAWYERS

"Jerry" Murphy located in the wilderness in 1857, and was the first lawyer in the newly formed county of Winnebago, but times were rather tough and he moved after a year's stay.

J. K. Boyd arrived a few years later, and after the end of the Civil War a number of others arrived for a brief space, only to go into school teaching, farming, store-keeping, or newspaper editing.

D. T. Gibson who had been in the practice at Mason City, located in Forest City in 1870. He soon went to Waverly where he associated with E. A. Dawson to form a most successful firm.

J. E. Howard, still active in mind, though frail in body, was a pioneer lawyer in Forest City.

Our beloved Judge Kelley, now passed on, came to Forest City from Clear Lake, but after having been elected to the District Bench, it was necessary to have a more central location, and he moved to Charles City.

#### WORTH COUNTY BAR

J. U. Perry, admitted to the practice before Judge John Porter at the June 1862 Term of the District Court, was one of the very early attorneys of Worth County, while Amos



Bentley, who had been elected as prosecuting attorney in the early days, probably was never duly admitted.

L. S. Butler, father of Rush Butler, prominent corporation lawyer of Chicago, was at various times associated in the practice with his brother-in-law, William P. Clark, E. W. Smith, W. E. Pickering and his brother, D. M. Butler.

W. E. Pickering and W. T. Hartley, later formed a partnership for the practice of law at Northwood.

Edward Collins was another of the old school lawyers who carried on legal activities in Worth County, as was Frank Forbes who **previously had practiced** at St. Ansgar in Mitchell County. Frank Forbes, incidentally, was a nephew of Marshall Field I, merchant prince of Chicago, and an uncle of Henry Field of Shenandoah, Iowa.

Many other names appear on the list of the Worth County Bar during the past eighty-five years. Some of them became school teachers, others entered mercantile pursuits and one at least, J. R. Smith, entered the ministry.

Honorable M. H. Kepler of Northwood has served on the Twelfth District Bench since 1923 with ability and distinction. He is the only judge in the district who has a son practicing in his father's court.

#### COUNTY SEATS AND COUNTY COURTHOUSES

Before the judicial history of the present 12th Judicial District could commence, each county, even though named and bounded, had first to be organized as a distinctive government unit. This step included the selection and establishment of county seats. County seats and courthouses were of vital interest to all pioneer settlers and no less so to the settlers in the recently organized counties of what became the Twelfth Judicial District. Money was scarcer in those days than it is today—if possible. Various communities in each county sought the seat of county government by fair means or foul, by physical force, legislative enactment, judicial decree or the vote of the people.

County seat elections were frequent and continuing manifestations of civic patriotism, hope of commercial prosperity and the desire to have the folks from the back town-



ships come in to trade and pay their taxes, not to mention having the county officers in residence.

The building of a substantial courthouse usually marked the termination of the struggle and the establishment of a new city to which, as years passed, railroads, factories, jobbing centers and resultant prosperity might come.

#### BREMER COUNTY COURTHOUSES

Bremer County, like others of the Twelfth District counties, had been a part of Dubuque County, which in territorial days took in the northern half of the territory, later yet a part of Fayette County, which at one time contained one hundred forty thousand square miles. After its creation in 1851, Bremer was attached to Buchanan County and it was not until 1853 that it became the first of these eight counties to be organized, with Waverly as the county seat. Honorable T. S. Wilson, who had served on Territorial and State Supreme Courts, convened the first session of an Iowa District Court in any of these eight counties at Waverly in 1854. In that year a frame courthouse, twenty-by-thirty feet, was constructed as the seat of justice, near the site of the present building. Its construction entailed an expenditure of \$147.50, while it cost \$1.25 to clear the ground and furnish seats for the court room. Evidently there were some crimes committed in Bremer County in the early days, for in 1855 a jail was constructed of two-inch hard wood planks, doubled and driven full of spikes.

In 1865, the second courthouse at Waverly was constructed of Bremer County lumber and brick at a cost of \$23,000 and when completed it was the finest in the Valley of the Cedar.

Bremer's new courthouse, completed in 1937 at a cost of \$150,000 is a structure which makes the hearts of the local bar beat with pride and occasions a bit of envy in certain other counties of the district, but I wonder if old Richard Miles, who received \$147.50 for the first courthouse, did not turn over in his grave when the present structure was completed.

## BUTLER COUNTY COURTHOUSES AND COUNTY SEATS

In May of 1853, Judge Roszell of Buchanan County, to which Butler County had been attached, appointed three commissioners to locate a county seat. They selected a site which a little later was platted and named Clarksville in honor of the original owners. In 1855 an attempt was made to procure the erection of a courthouse, but it was not until 1856 that the bids were finally received, and the large two-story brick building, erected at a cost of \$20,000, was not completed until 1857.

In the days before improved highways, bridges, and railroads, communications were difficult in the extreme. Streams separated Butler County into districts, each of which thought itself entitled to the county seat. Even before the courthouse was completed, to meet the desire for a central location, Georgetown was platted in the geographical center of the county and contended in vain for the county seat. Now Georgetown is but a memory. In 1859 Butler Center, a small village about two miles south of the center of the county, was selected as the county seat by a majority of twenty one votes. The removal of the county seat was enjoined forthwith and the election declared void, but in April of 1860 the voters of Butler County determined in favor of Butler Center by a substantial majority. A small frame courthouse was erected at a cost of about \$2,000, the records moved to the new location while the old \$20,000 courthouse was sold for \$2,800.

In 1861 or 1862 again Clarksville sought to obtain the county seat without avail. In 1863 Shell Rock strove to the same end. In the late 70's the railroad came to Butler County and in April of 1879, Allison, named for Senator William B. Allison, was platted. In 1880 a renewed county seat struggle between Butler Center, Bristow and Allison developed, and, an election being held, Allison was successful. In the spring of 1881, a contract was let for the erection of a new courthouse on the public square in Allison. Additions have been made from time to time, but the old courthouse still serves its purpose, and the people of the county feel that fights for the courthouse are finally over.



## COURTHOUSES AND COUNTY SEATS OF CERRO GORDO COUNTY

In Cerro Gordo County, organized in 1855, Mason City was the first county seat, and there Judge Samuel Murdock of the Tenth Judicial District held the first term of court in the year 1857. Paul Felt's Original Plat of Mason City shows that the block now occupied by the school administration building was designated as the courthouse square, but I have searched in vain to determine where that first court session was held. Probably it was at some temporary location.

An election to determine whether Mason City or Livonia, then located in section eighteen of Lake Township, should have the court house was held in the fall of 1857, which resulted in the removal of the county seat to Livonia that winter. There a courthouse had been built, but a year later another election returned the county seat to Mason City by a vote of 155 to 48.

A tract of land just west of the present city park was purchased in 1866 from Jarvis S. Church for \$600 and there was built the old stone courthouse which some of us remember. In September of 1867, a two mill levy was made to pay the balance on the courthouse contract.

When the Mason City and Clear Lake Electric Line and the town of Emery were built about the turn of the century, enthusiastic promoters almost convinced the public that the new town was to be the business center and capitol of Cerro Gordo County.

The present courthouse was constructed of native stone in 1901 and while we envy certain nearby counties with modern structures, the old building still has a sentimental attraction for us.

## FLOYD COUNTY COURTHOUSES AND COUNTY SEATS

On June 21, 1854, a petition for the organization of Floyd County was presented to Judge Lyon of Chickasaw County, to which Floyd County had been attached, and that fall county officers were elected and the county seat established at St. Charles, now Charles City.



The first session of the District Court was held in the old Benjamin building on a corner of Kelley and Milwaukee Streets in Charles City in the middle fifties.

The usual county seat contest developed in 1857 and a year later the geographical center of the county, near Floyd, was named as county seat. However, litigation in district and supreme courts finally re-established the county seat in St. Charles, now Charles City.

Having confidence in the justice of their cause, as well as an ultimate voting majority, Charles City commenced the erection of the permanent courthouse while the county seat fight was still in the early rounds and the building was completed in 1861.

It was in 1867 in the old stone courthouse that the "calf case," *Wilkins vs. Curry*, similar to, but not so prolonged, as the famous "Jones County calf case" was tried.

This old stone courthouse was struck by lightning in 1874, and some of us over the district, who have tried cases against that hard fighting Floyd County Bar, wonder if the new building should not carry extra insurance.

On February 4, 1881, a fire broke out which destroyed the courthouse and most of the county records. Again the struggle over the location of the county seat broke out, but a majority of the citizens were in favor of the existent site, and in 1881, the old red brick courthouse, with its tower in the corner, was constructed. The years passed and the walls of the structure were so seriously weakened by the legal eloquence and forensic fury of sixty years that the voters feared a collapse of its walls, and in 1940 a new and modern courthouse was commenced. And with good cause, the citizens of Floyd County boast that its construction has been carried out with no federal aid.

#### HANCOCK COUNTY COURTHOUSES.

Hancock County, attached to Boone County for governmental reasons after 1851, was finally organized in 1858. After its organization the county seat of Hancock County shifted around according to the home of the county officers, in Upper Grove and at Ellington and other places. An

attempt was made to locate it at Amsterdam. Finally, in 1865, the county seat was located in the Southeast quarter of of Southwest quarter of Section 31, Township 96, Range 23 West, the county receiving title to the tract from Truman Seymour on February 27, 1866. The first buildings were two frame structures, each sixteen feet by twenty-four feet erected in 1865 at Concord.

In 1868, a contract was made with G. R. Maben to construct a brick courthouse at Concord which continued in use until about 1898. The building, at a cost of \$10,000, was built of brick Maben burned for it on his nearby farm.

At the turn of the century, a county seat fight developed between Garner and Britt. Britt offered a site and \$25,000—Garner offered \$30,000. Elections and litigation resulted. Garner took over the Concord site, even though there was considerable distance between it and the old town. Long and bitter litigation ensued which culminated in victory for Garner in 1903.

#### MITCHELL COUNTY COURTHOUSES AND COUNTY SEATS

Like the other counties in the Twelfth Judicial District, Mitchell County was first attached to another for governmental functions, first to Clayton County, then to Chickasaw.

In January, 1855, commissioners were appointed to locate a seat of justice for Mitchell County and on March 1, 1855, they selected the town of Mitchell. In 1856, an election to determine the rival claims of Osage and Mitchell resulted in favor of Osage. A contest was sued out by Mitchell, but the decision in Mitchell's favor was appealed to the supreme court. A second commission was appointed early in 1857 to settle the matter, and in June of the same year the county seat was located at Osage. In 1860 another election was held which resulted in favor of Mitchell by a majority of sixty-nine, and in 1861 a third and last vote was taken which, by majority of nineteen decided in favor of Osage. An injunction suit by Mitchell held the county records until the fall of 1870 whereupon a final decision being rendered in favor of Osage, the seat of justice and the county records were moved to and have been in Osage since that time.



It was on June 22, 1857, that Judge Samuel Murdock of the Tenth Judicial District held the first term of court in Osage, though just where that session was held, I have not been able to determine.

On August 8, 1857, provisions were made for construction of a courthouse in Osage at the expense of \$25,000 even though the election which had given Osage the seat of justice was then being contested. The building was completed in July, 1858. Additions to the east and west were added later, but more than eighty years later the foundations and walls of what I believe to be the oldest courthouse in this district are still in excellent condition.

#### WINNEBAGO COUNTY COURTHOUSES

Along with the other counties of Northwestern Iowa, Winnebago County was created by the Third General Assembly in 1851. Polk, Boone and Webster counties in succession looked after its governmental offices. Its organization was effected in 1857 and the seat of government located at Forest City in 1858. So far as I have been able to ascertain, Winnebago and Bremer are the only two of the eight counties which did not indulge in that interesting but expensive manifestation of civic pride, struggles for the location of the county seat.

Where Judge John Porter held the first session of the District Court in 1859 I have not been able to discover, but the first courthouse built by the county was constructed on the present site in 1861. A picture of that building and the key which opened its front door, hang in the county auditor's office at Forest City today.

The present courthouse was built in 1896, at an expenditure of \$20,496.

#### WORTH COUNTY COURTHOUSES

Worth County was organized in 1857 after previously being attached to Polk, Chickasaw and Cerro Gordo counties. The preliminary steps being found defective, however, its final organization was not completed until 1858. The first county seat was at the now abandoned town of Bristol in



the western part of the county and there in September of 1859, Judge John Porter held the first term of court in a log cabin. A frame court house was erected in Bristol and Judge M. H. Kepler tells me that in the first Taft-presidential campaign he spoke at a political rally in the old courthouse.

In 1859, bonds were issued in the sum of \$20,000 for the construction of a courthouse which was some structure for a county with a population of seven hundred. Somehow the bonds were cancelled and the building was not constructed.

An election to settle the rival claims of Northwood and Bristol to the county seat resulted in success for Northwood. Bristol's supporters maintained that Northwood's success was because most of Bristol's supporters were in the Federal army.

In January of 1864 the county seat was moved to Northwood. County business was first transacted and court held in a store building rented for \$3.00 per month from Thomas Wardall, but soon arrangements were made to erect a frame building at a cost of \$1,000.

Later a brick courthouse, now the city hall and library, was constructed southwest from the present site.

In 1893 the present brick building was constructed, and, in 1938, through the efforts of Judge Kepler it was remodeled.

#### OF MEN AND EVENTS

No account of the practice of law in the Twelfth Judicial District is complete without setting forth certain of the stories of the men themselves and of their doings and experiences. These stories, handed down from one legal generation to another as lawyers waited in court room or judge's chambers in the intervals of court procedure, serve better than dusty files or musty records to show the human side of almost a hundred years of legal life and experience extending from early days on the western frontier to what we somewhat uncertainly consider the best of modern civilization.

While an attorney usually has a great advantage over a witness in the court room, nevertheless, when the witness does strike back, the result is devastating.

Oliver Gordon, one of the early and capable lawyers in Winnebago County was trying to set up the fact that his client, a farmer from a back township, was too intoxicated to make a note he signed valid. His client as a witness did not seem to understand what was desired, and Oliver asked, "What did you do on that particular day the note was signed?" "I stopped at the livery stable and put up my horse and put down a half pint of whiskey with Ole Johnson." Where did you go from there?" "Oh, I went to the livery stable down the street and drank another half pint of whiskey with a friend." "What did you do next?" "I met John Hansen and we had two or three drinks together." "What was your condition then?" Oh, I was drunk." How drunk?" "I was drunk, very drunk." "Just tell the jury how drunk you were." Comprehension gradually dawned on the face of the defendant and he said, 'Why, Oliver, I was as drunk as you and I were on the last day of the Minnesota State Fair a year ago.'

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A story that has been going the rounds at the court house in Waverly for many years is to the effect that E. A. Dawson was called upon to defend a man who had maliciously shot a dog. Dawson was making the claim for his client that the dog was vicious and had attacked his client and that the shooting was done in self defense. The defendant was on the stand, and Dawson was trying to bring out in the testimony that the dog attacked him at the time of the shooting. Dawson said to his client, "You shot the dog in self-defense, did you not?" "No," said the defendant, "I shot him in the rear as he went under the fence."

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The older members of the bar well remember the vast amount of litigation which arose over William M. Colby and the Colby Motor Co. At a hearing held in the old Blythe-Markley offices on West State Street, where various claimants, to whom Colby had sold stock and notes were asserting their rights, someone inquired of one of the banker witnesses if he drove over in a Colby car, and quick as a flash, Will Colby said, "If he didn't drive over in a Colby car, he is not a North Iowa Banker!"

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As is the case with some of us today, a few of the early lawyers lacked full comprehension of the requirements of the law, which resulted in many amusing stories handed down where attorneys gather.

At one time Iver Boe of Northwood was county attorney and in

a state case he failed to make a very good case which he realized, so in his closing address to the jury he said, with a marked Scandinavian accent, "Gentlemen of the Jury, you shouldn't let this guilty defendant go just because the county attorney is a damned fool."

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Many years ago, Attorney Nelson of Forest City wanted to get service on a man who had passed to the Great Beyond, and in order to do so, posted the notice on the man's tombstone. However, I am informed that the defendant did not appear.

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In a damage case, tried in the courts of Winnebago County, an expert witness was being examined as to the extent of the injury. One of the lawyers then in practice asked the witness, "Was them there broken ribs visible to the fingers-" The court and witnesses were almost overcome with laughter while Judge Kelley twisted his nose in his characteristic manner. The witness said, "Well, I don't believe I can answer that question." Though he was still shaking with mirth, the Judge said, "I believe the learned counsel had best reform that question."

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There is the story of Colonel J. H. McConlogue which always affords a great deal of pleasure. The Colonel, a tall, white-haired imposing man, was a Democrat and had served on the Military Staff of Governor Horace Boies, where he received his title. One spring in traveling to Northwood over the old Iowa Central Railway, he met a young barrister, who was highly impressed. Struck by the Colonel's military title, white hair and commanding presence, the young man asked, "Colonel, did you serve in the Civil or Spanish-American War?" The Colonel glowered down at him and replied "My god, young man, don't you read your country's history?"

Sometimes the excitement or stress of unusual circumstances produced odd results even from a lawyer.

J. W. Gilger, a pioneer lawyer of Greene in relying upon a faulty memory in delivering a Fourth of July Oration at a nearby town, stammered through his opening lines three times, "Forty years ago this country was a howling wilderness ..." but could get no further. One of the briefest and most popular of such orations ever offered was concluded amidst a burst of applause when at the end of the third failure he cried, "And I wish to heaven it was yet."



Philo Knapp, another pioneer lawyer, of Nashua, Iowa, had the misfortune to lose a number of his office papers in a fire late one night. As the fire company came clanging down the street, waking all the town with their cries of "Fire! Fire!" Knapp leaned out his window, and though half awake, yet with good logic, yelled in return, "Why in blazes are you yelling for fire? Why don't you yell for water?"

Though Courts and opposing counsel often protected the errors of the barrister, there are many tales of occasions when the victim's hide was carefully removed and nailed to the barn door.

Joe E. Howard, one of the pioneer lawyers of Winnebago County was always interested in the young men who came into the practice, and when Judge Boynton was trying his first case, Mr. Howard attended religiously and listened attentatively to the final argument. Judge Boynton was anxious to get his opinion on that able and scholarly argument. He met him at the door as he was leaving and walked down the street with him, but Joe Howard talked about everything save the argument which the Judge had made. Finally Boynton asked Mr. Howard point blank what he thought of the argument, expecting a complimentary reply. Howard hesitated a moment, then replied, "Pup, you keep growling and in time you will learn to bark."

The practice of law requires a vast fund of information along many lines, and in hotly contested trials the counsel who was able to sieze upon some effective idea was usually able to win his case.

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Duncan Rule was defending a woman of certainly uncertain virtue accused of operating a house of ill fame. The case was presented vigorously by the county attorney with the very best of evidence, it being, what we might well term an open and shut case. In his argument to the jury, Duncan quoted from that portion of the Gospel where the woman taken in adultery was brought before Christ. The Scribes and Pharisees when asked what should be her punishment said she should be stoned to death. Christ listened to the argument and with his finger writing in the sand turned to the Scribes and Pharisees and said, "Let him who is without sin cast the first stone." Tears were in the eyes of the jury after his masterly argument and the woman was acquitted.

One of the favorite stories in reference to the practice of Mr. J. E. E. Markley which Judge Kepler delights to tell involved a malpractice suit in which the plaintiff claimed that his left arm was so injured that he could not use it at all. Judge Kepler and Mr. Markley, who were defending, decided there was something a little bit fishy about the injury as they noticed that the plaintiff kept a firm grip on his injured arm with his right hand. It was September and the courthouse windows were not screened. Finally Jim Markley went over to the Plaintiff then testifying, and reached in his pocket where he had some soft candy, ruffed his sugar coated hand over the hair and forehead of the witness, maintaining a good grip on his right arm while cross examining the plaintiff. The flies were thick and quickly finding the sweetness on the head swarmed there. The plaintiff involuntarily raised the presumptively injured hand to his head to brush the flies away and thereby lost his case.

Early practice in the Twelfth District was not confined to the courthouses, but extended to the courts of rural justices of the peace all over the county.

A story is told by the members of the bar in Bremer County that two prominent members were trying a case before a Justice of the Peace at Sumner. The case had lasted for a number of days, and the attorneys got into a controversy relative to the length of time they would argue the case before the Justice of the Peace. The justice was a retired farmer living in the village, and after considerable argument between the attorneys it was agreed that each should have an hour to argue the case. The justice finally made an entry in the docket to that effect, and then said to the attorneys, "Now, I am quite busy in my garden, and while you are arguing the case here, I will go out and hoe my potatoes, and when you get through your argument you can just lift up the green blotter on my desk, and you will find my decision all written out." It is safe to say that the counsel on both sides of the case immediately waived argument and read the decision.

Some of the early lawyers did not have a full appreciation of the value of their services or were animated by a sense of friendship such as is not found today.

John Cliggitt and Duncan Rule for many years associated in the practice of law together, were of the old school and did not charge the fees which their services merited. Many times John

Cliggitt would spend all afternoon with a client and charge him \$2.50 and when some of the old friends of Duncan Rule would come in for advice and assistance, Duncan would charge a dollar and then refund them his half of the fees.

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Illustrating the moderation of Judge Cliggitt's fees is the story of the general counsel for the Northwestern Railway who came out to look after the acquisition of the right of way of Iowa and Minnesota Railway which W. E. Brice was constructing. At the end of the month, Mr. Cliggitt submitted his bill to Mr. Sedgwick, the general counsel for the Railway. He looked it over and said, "I cannot approve that bill." Mr. Cliggitt's face flamed, but the Chicago attorney hastily added, "I was told to employ the best lawyers available and if I submitted that bill the Railway would think I had been unfaithful to my trust." I presume the Railway Company had no cause to complain thereafter.

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There is a story told around Clarksville of the gifts and fees which lawyers sometimes received. It seems that Matthew M. Trumbull had as one of his clients a Mr. Poisal. One day in 1857 during the course of a conversation Poisal remarked that one of his sows had given birth to a litter of pigs. "Well," said Trumbull, "that's just what I want. You had better give me one." "All right, you shall have one" answered Poisal. But nothing further was said for some months until one day the following November Poisal chanced to be in Trumbull's office and said that he had just killed a lot of fatted hogs, "By the way," remarked Trumbull, "How is that hog you gave me, doing?" "That hog?" exclaimed Poisal, "that is the very litter I've been killing. You never called for it!" "Well," answered Trumbull, "I thought the matter over, and decided to let you fat it on shares."

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Fees in the early days were not always small.

Once W. C. Stanbery, a pioneer lawyer of Cerro Gordo County was called up to Forest City to defend an alleged horse thief. He was away for three or four days, but when he did come back, he drove into town herding before him twenty-one head of horses!

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My father, John D. Glass, was approached by a prospective client who wished him to collect a claim against a citizen in the eastern part of the state. Father thought it was rather needless for him to have to go down there and suggested that it be sent to



an attorney in Clayton County, as he thought it would be an economy for his client. His client apparently knew that attorney better than did my father for he said to my father, "Yes, John, and how much will you charge me to collect the money from Attorney X?" Father went down and collected the money himself.

In the early days, even more than now, trials were never so serious or important that a bit of humor did not furnish a welcome relief. And revealed in many of the leading members of the bar their distinguishing characteristics.

Charlie Hughes, many years ago my father's partner, was trying a law suit in the old stone courthouse. A short recess had just been called when J. E. E. Markley entered the court room. Without a moment's hesitation, Mr. Hughes asked that Mr. Markley be sworn and was permitted to examine him as follows over J. E. E. Markley's violent objections:

Q. "Your name, sir?"

A. "J. E. E. Markley."

Q. "What does the 'J' stand for?"

A. "James."

Q. And what does the first 'E' stand for?"

A. "Edward."

Q. "And the second 'E'?"

A. "Earl."

"You may stand aside, Mr. Markley, I have always wondered about those initials."

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A story is often told of one of D. T. Gibson's clients who had been accused of stealing a harness from a shop in Waverly. The client was a tall, brawny Irishman, who lived in the northern tier of townships in Bremer County. After his arrest he engaged Mr. Gibson to defend him and the two of them went over the circumstances at some length. Just as the Irishman was leaving the offices, Mr. Gibson abruptly asked him, "Tim, did you really steal that harness?" Tim paused for a moment, then straightened up to his full height, and then turned to Mr. Gibson and replied in a very slow and positive tone of voice, "Mr. Gibson, wait until you hear the evidence."

Some of the clients of those old days appreciated what an attorney did for them.

Judge Kepler tells of a man, who, with his young son, operated a blind pig in one of the nearby counties. He was finally driven

out of business, while the judge was prosecuting attorney for the county. Years later this man, then a successful business man in Minneapolis, stopped in Northwood especially to see the Judge and tell him how much he appreciated what the Judge had done and thanked him for starting the visitor and his son on the right road.

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Col. J. H. McConlogue, a former member of my father's firm, was defending a young man for some minor offense. So moving was his appeal to the jury that they not only cleared his client, but also took up a collection for the defendant's benefit. Unfortunately, however, the Colonel received no compensation for his fervid plea.

#### CONCLUSION

The conditions of practice in the early days of the Twelfth Judicial District were very different from those which face the present day member of the Bar. The nineteen volumes of Iowa Reports which these men perused have increased to two hundred twenty-seven. The scanty library and equipment of the pioneer lawyer has become a burden to the modern practitioner. The quill pen and the sand box have given place to typewriters and carbon paper. Websterian oratory, forensic fury, and old-fashioned horse-sense have given place to careful examination of countless precedents and patient study of authorities. Clients are more apt to be corporations than friends from the back townships.

Certain things, however, have remained unchanged. Confidence in a brother barrister's word, assurance of fair and even justice from the bench, friendship and mutual regard between members of the bar, personal integrity, faithful protection of a client's rights and recognition of duty to court, and client, and public—these have remained from those early days and will continue down the years while men seek wise counselors and employ worthy advocates.

—Remley J. Glass of Mason City, member of the Cerro Gordo County Bar, has contributed other articles to the ANNALS. Parts of this article were the basis of a paper read to the 12th District Bar Meeting in the spring of 1941.

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