SOME JUDGES AND LAWYERS I HAVE KNOWN

Address

By George N. Hillman

Foreword

By Douglas A. Hedin

On the evening of Wednesday, December 14, 1927, George N. Hillman, the official court reporter for the Second Judicial District, addressed the Ramsey County Bar Association on "some" judges and lawyers he had observed during the past fifty-three years. An article in the *St. Paul Pioneer Press* the next day emphasized Hillman's plans to give copies of his speech to members of the association:

HILLMAN TO GIVE BOOK TO BAR BODY

"Judges and Lawyers I have Known," to Be Court Reporter's Yule Gift.

Members of the Ramsey County Bar association will receive as a Christmas remembrance a bound copy of "Judges and

Lawyers I Have Known," by George N. Hillman, chief official reporter of the district courts of Ramsey county.

The pamphlet will be illustrated with pictures of men who it tells about, and will be a copy of Mr. Hillman's speech before the dinner meeting of the association of Wednesday night at the Athletic club.

Mr. Hillman has been a court reporter in Ramsey county more than a half century. He was appointed the first court reporter when the district was organized in 1876 (sic), and he has served continuously since.

He told his audience many anecdotes concerning their predecessors on the bench and at the bar. About 100 lawyers were present.¹

An elegant thirty-nine page pamphlet was soon published and given to members of the bar. The author acknowledged that he was encouraged by Kenneth G. Brill, President of the County Bar Association, in this endeavor.² Brill's father, the venerable Hascal R. Brill, served on Ramsey County courts for forty-seven years, and receives high praise from Hillman.

Hillman spent his life in service to the judicial system, which he revered. Not surprisingly, his sketches of many of the lawyers and judges he observed (and reported) are respectful, generous, always interesting. These portraits are particularly helpful in understanding the trans-

¹ St. Paul Pioneer Press, Thursday, December 15, 1927, at 5 (descriptions of motion pictures of travels taken by Carl Cummins, Dr. Edmond Warren and James Kelly omitted).

² Brill wanted to see Hillman's address reach a larger audience. In the records of the Ramsey County Bar Association at the Minnesota Historical Society, there is a letter to Brill from Joseph R. Taylor, Managing editor of the *Journal of the American Bar Association*, acknowledging receipt of Hillman's "Some Judges and lawyers I Have Known." The ABA, however, did not reprint excerpts from Hillman's booklet, probably to the disappointment of Brill. See Ramsey County Bar Association Records, File # 6 in "Misc. to December 30, 1927" (MHS). Kenneth Brill, it should be noted, was appointed to the Ramsey County District Court in May 1929 and served until death in February 1954. For his bar memorial see, "Ramsey County Bar Memorials: 1954" 30-37 (MLHP, 2016).

formation of the court system from one where pleadings, briefs and transcripts were written with pen or pencil to a faster, more efficient one dependent on court reporters, the typewriter, dictation and, eventually, the telephone. As a court reporter, he saw and recorded the actual operations or workings of the "bench and bar" that lawyers such as Charles Flandrau and Isaac Atwater, who had written of this period decades earlier, omitted. Here are three examples:

James Gilfillan, of St. Paul, served as Chief Justice of the Supreme Court for nearly a score of years. I recall seeing him engaged in opinion-writing in his sanctum at the State Capitol with a stubby pencil in his hand and suggesting that he lighten his labor by use of a shorthand amanuensis. He died before the expiration of his term in 1895. He was, concededly, a great jurist.

Homer C. Eller compiled the first Minnesota Digest, doing his own typing in that long and laborious task on a No. 1 Remington typewriter which printed only capital letters.

All pleadings, legal documents and court proceedings were in longhand, some of which were quite illegible and at times more or less halted court proceedings. During the trials of cases the judges and lawyers all wrote, in longhand, as much as they could, which they often had trouble reading when the notes "got cold." The settlement of a case or bill of exceptions was often a tedious and troublesome matter, as the versions of respective attorneys would often differ regarding testimony, objections and rulings.

Hillman's address is, in short, a valuable source of information, insights and revealing anecdotes about changes in trial practice and lawyering in the late nineteenth and early twentieth centuries.

After publishing this address, Hillman continued reporting. He retired in 1929 and set to work on his autobiography which became a sprawling collection of memories, documents and letters titled *Wheel of Fortune:* Recollections of a Shorthand Court Reporter that was never published.

He died on July 7, 1934, one week shy of his eighty-second year. The *St. Paul Daily News* carried the story:

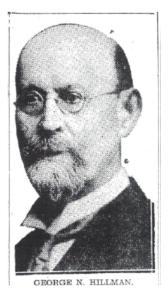
George N. Hillman, Veteran Court Reporter, Dies at 82

George N. Hillman, whose career as a court reporter in Minnesota covered more than 55 years, died at 6:30 a.m. today at his home, 615 Lincoln ave.

Although in failing health for some months, Mr. Hillman did not become seriously ill until July 4. Pneumonia was the cause of death. He would have been 82 years old July 14.

Retired in 1929.

When he first came to St. Paul in March, 1875, as official Ramsey county reporter, the courthouse was on the site now occupied by the Northern States Power Co. office building. Mr. Hillman retired as official reporter in 1929, after serving 54 years.



In addition to his Ramsey county court activities, Mr. Hillman figured in many of the notable events that made history in Minnesota. He was the official stenographer on the historic "golden spike" ceremony marking the completion of the Northern Pacific railway to the Pacific coast. He reported the celebrated Minnesota rate case of 25 years ago and was offered the noted Standard Oil antitrust prosecution in which Frank B. Kellogg was the attorney for the government. Mr.

Hillman declined this appointment which was given to one of his associates.

Impeachment Trials.

Mr. Hillman also reported several important legislative hearings, including two impeachment trials involving state officials. It was during one of these that the capitol building burned to the ground.

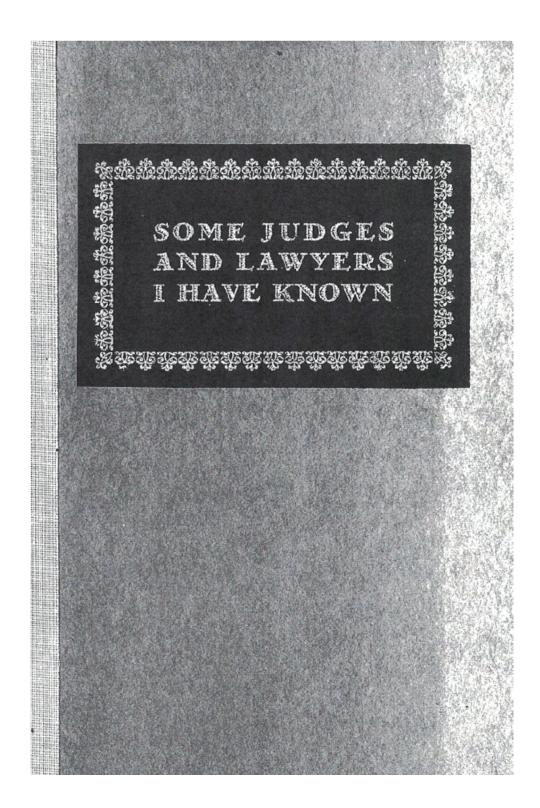
Mr. Hillman was born near Greenwich, N. Y., in 1852. He came to Minnesota about1873, settling in Minneapolis where he did court reporting in Hennepin and adjoining counties. In 1875 he was offered the position of official Ramsey county reporter and had lived here ever since. His home for 55 years has been at Dale and Lincoln ave. where he died today.³

"Some Judges and Lawyers I Have Known" follows. Photographs have been condensed and rearranged. It is a companion to Hillman's "Reminiscences" delivered a year earlier.

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³ St. Paul Daily News, July 7, 1934, at 2 (list of survivors omitted).



SOME JUDGES AND LAWYERS I HAVE KNOWN

Address

By GEORGE N. HILLMAN Chief Official Reporter District Court Before

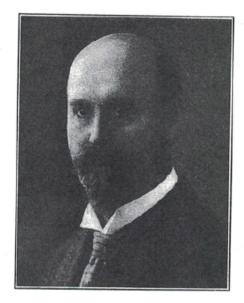
The Ramsey County Bar Association

December 14, 1927

At the Athletic Club St. Paul, Minn.



Prepared at request of Mr. Kenneth G. Brill President of Ramsey County Bar Association



GEORGE N. HILLMAN

Compliments of Lev. M. Hillman. I-mas 1927,

Some Judges and Lawyers I Have Known

A.

HILE courts of justice have not yet cul=
minated in the grand prophetic millenium
when "nations shall beat their swords into
plowshares, and their spears into pruning=
hooks," they are the grandest and surest safeguards
against war and revolution.

The administration of justice is, concededly, one of the noblest, if not the noblest, of all functions of government. Judges and lawyers are sworn officers whose duties are to expound and administer the law. "Respect for law is the keystone of our social arch," and when, if ever, the people lose confidence in these ministers of justice, anarchy and revolution are not far distant.

S)

For the past fifty=four years it has been my good fortune and happy experience to be associated officially with these very best classes of men, and during this long period we have invariably sustained amicable relations.

Professional Career

My professional career began at Sandy Hill (now Hudson Falls). New York, in 1873, where I reported a murder case. The defendant was charged with killing his wife and several children with corrosive sublimate. Mr. M. D. Grover prosecuted the case. The man was convicted and sentenced to be hung. The trial lasted a week, and, as a Sunday intervened, one of the "side-judges" went to his home in a remote part of the county and did not return to the court-room until the following Monday afternoon. In the meantime the trial proceeded for half a day in his absence. Upon this technicality the appellate court granted a new trial. At the second trial the jury disagreed, and the case was finally nolled. Since then court procedure with "side-judges" has been abolished.* Mr. Grover, a very able lawyer, came to Minnesota as the personal attorney for Mr. James J. Hill, and the Great Northern Railway Company, which position he held for many years and died in their service.

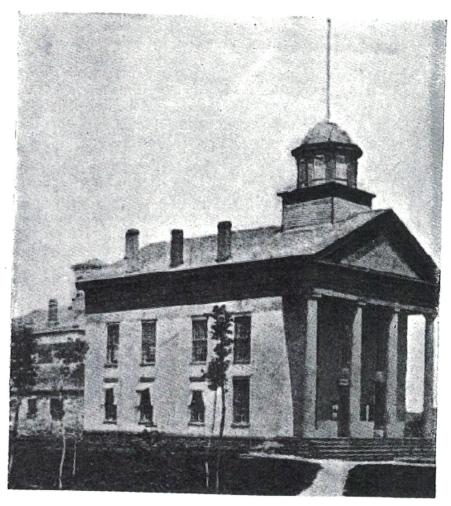
In 1874 I was appointed official court reporter at Minneapolis, in the Fourth Judicial District, by Judges Charles E. Vanderberg and A. H. Young. At that date Minneapolis had a population of but 33,000. While reporting there I heard John W. Arctander make his first address to a jury. He was very nervous, his legs trembled and shook, and I feared he would fall to the floor. He won the case and afterward defended Judge E. St. Julien Cox in his impeachment trial. It was then the custom of the judges at Minneapolis to deliver their charges with judge and jury standing. Judge Vanderberg also served several years on the supreme bench. After two or three terms, Judge Young retired and resumed practice at Minneapolis.

*"Side-judges" was a term applied to the two venerable laymen who sat on the bench at the right and left of the presiding judge, whose duty it was to aid him in his rulings. On March 1, 1875, I was appointed official reporter of the district and common pleas courts, Second Judicial District, at St. Paul, then a city of 33,700, by Judges Westcott Wilkin, Orlando Simons and Hascal R. Brill, and under them and their successors have served ever since.

At that date there were two court-houses in St. Paul, one of brick construction at the corner of Fifth and Wabasha, flush with the streets, the upper floor was used for court-and jury-rooms, the lower floor was occupied by the offices of the clerk of court, auditor, treasurer and assessor. The other court-house stood near the center of court-house square, of brick construction, two stories high; it fronted Fourth street and had four imposing stone columns. The lower floor was used as a court-room; the upper floor contained a court-room and judge's chambers. The jail building, of Minnesota limestone, stood at the corner of Fifth and Cedar. These buildings were heated by stove-wood.

As there was not sufficient space in either of these court-houses for my use, for several years I officed with Messrs. Davis, O'Brien & Wilson, at the corner of Third and Wabasha. They had a very large and lucrative practice. The senior member of the firm, Governor Davis, was writing his pleadings and briefs with goose-quill pens, but soon abandoned this practice for the shorthand method and often gave me dictation at his home. In the woodshed of their office I found a No. 1 Remington typewriter, which I got Mr. Wilson's permission to use, and soon the lawyers were willing to have their transcripts of court proceedings printed in its capital letters. About the year 1882 for a short time I acted as sales agent for the Remington and sold to the Omaha Railway Company the first No. 2 (upper and lower case) typewriter used in St. Paul.

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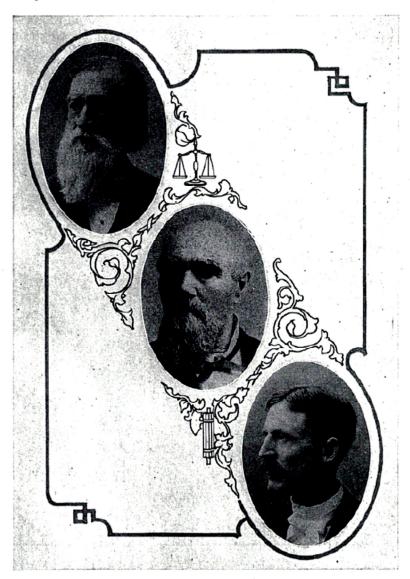


FIRST COURT-HOUSE
BUILT IN 1851 AT A COST OF \$5,000

On October 13, 1857, the first Minnesota state election was held. In Ramsey County all the Democratic candidates for the various offices were elected with the single exception of William P. Murray for district judge, who was defeated by Mr. E. C. Palmer, an independent candidate. Judge Palmer presided from May 24, 1858, to December 31, 1864, and was succeeded by Westcott Wilkin, who held the position for successive elections until his death in 1897.

Judge Wilkin's long gray hair and beard gave him a His lifelike oil-painted picture venerable appearance. may be seen on the wall above the judge's bench in courtroom No. 1. He was dignified, modest, amiable, remarkably patient. I never saw him lose temper but once, which was when an attorney, during cross-examination, was putting words into the mouth of the witness he had not used in the direct examination. In emphatic tone Judge Wilkin reprimanded the attorney and told him he would not permit that style of examination. He would, upon occasion, sit patiently for hours listening to arguments, and then, when the lawyers were through, in his quiet, urbane manner, would say, "I'm inclined to think I'll overrule (or sustain) your objection, and note your exception." He never married. His service on the bench lasted for thirty-three years.

Orlando Simons was upward of fifty when appointed by Gov. Davis as judge of the common pleas court. He had previously served as police justice by appointment of the city council in 1857. He was of average stature, robust physique, wore chinwhiskers and was bald. He was quite inclined to be gruff on occasions and his husky voice sometimes faltered and failed when charging a jury. His honesty and ability were never doubted. He served for more than a dozen years. When charging a jury it



JUDGES OF 1875 ET SEQ.
WESTCOTT WILKIN, SENIOR JUDGE
ORLANDO SIMONS

HASCALL R. BRILL

was usual for these judges to review the testimony in the case.

Hascal R. Brill was also appointed by Governor Davis. He took office March 1, 1875, and remained on the bench forty-seven years. Before his appointment he had been elected probate judge and served as such for two years. On the 15th of April, 1922, the State and County Bar Association paid tribute to his memory in the presence of all our judges and many members of the bar. Seven times he was elected judge of this court and for him more votes were cast than for any other person who ever lived in Ramsey County. Two of his sons are lawyers.

Prominent Lawyers

Among the legal lights in active practice in 1875 were Governor Cushman K. Davis—afterward United States Senator for a dozen years; Christopher D. O'Brien—then county attorney, afterwards mayor of St. Paul, who during his legal practice tried more than ten thousand cases. Two of his sons, Richard D. and Christopher D., are now, respectively, judge of the district court of Ramsey County and county attorney.

John M. Gilman was highly respected for his knowledge of constitutional questions and the law of contracts. He had the sad misfortune to lose two of his promising sons by drowning in Pigs Eye lake while hunting.

William P. Murray for many years was city attorney.

Judge Palmer after retiring from the bench was actively engaged in the practice of law and his often repeated expression during the trial of a lawsuit, I recall, was "Incompetent, irrelevant and immaterial." I once heard him criticize a shorthand report of one of his cases which contained not only the testimony—questions and answers—objections and rulings, but also all statements and remarks of Court and counsel, as he felt that he must

reduce the record to narrative form, which was then the fashion in preparing a case or bill of exceptions. However, he smilingly characterized the shorthand report as "a perfect photograph of the trial."

General John B. Sanborn served with distinction in many important battles during the Civil War. In the trial of a lawsuit he was remarkably free from technicalities. I have seen him fail to object to irrelevant and hearsay testimony.

Walter H. Sanborn was a lawyer of exceptional ability and enjoyed a lucrative practice. In 1892 he was appointed Federal Circuit Judge, and ever since 1894 has ably served as Presiding Judge of the United States Circuit Court of Appeals.

S. J. R. McMillan was district judge at Stillwater before the admission of the state, was Chief Justice of the Supreme Court and United States Senator for twelve years. He was offered a position on the commission to settle the Hayes-Tilden presidential controversy but declined to sit because a brother Senator would have been disappointed had he accepted the honor.

H. J. Horn was a lawyer of large experience and great ability. For a long time he was looked upon as the nestor of the bar. His son, A. E. Horn, studied law in his father's office and bears, as did his father, a high reputation for ability and honesty.

I. V. D. Heard was in general practice for many years before and after 1875, was attorney for Norman W. Kittson and other wealthy clients, had been county attorney of Ramsey County and was thoroughly versed in criminal law. Shortly after the suppression of the Indian insurrection in August, 1862, he was appointed recorder for the military commission or court martial which met the following September and tried 425 prisoners, and he took down, in longhand, the testimony which

incriminated 321 of the number, 303 of whom were sentenced to death. Owing to the kindly intervention of President Lincoln, only 39 of these Indians actually expiated their crimes on the common gallows at Mankato, December 19, 1862.

John B. Brisbin was a New Yorker by birth and education. He was rather short of stature, remarkably good looking, well dressed and was rated as one of the most scholarly and eloquent members of the bar. At one time in the early days he was city attorney. I have seen him, when addressing a jury, in his enthusiasm for his client, impatiently strip off collar and necktie and roll up his sleeves and then proceed with his argument.

S. L. Pierce was emotional and quite an actor. On one occasion, when arguing to the jury a certain phase of his case, he got down on the floor of the court-room upon "all fours" and thus illustrated and emphasized the point he was making.

George B. Young was for many years the personal adviser of the "Empire Builder," Mr. Hill. It has been said that Mr. Hill paid him and his associate, Stanford Newell, the sum of fifty thousand dollars for their services in helping him to acquire what is now the Great Northern Railway—quite a handsome fortune in those days. Mr. Young was for seventeen years Reporter of the Supreme Court, and for one year a Justice of that court.

Stanford Newell was tall, slim, sedate, seldom seen in court. His home was on Dayton avenue, near the brow of the hill, in an imposing white stone structure. I have been told he was a graduate of Yale, the "Wooden Spoon" man of his class, and that for many years he was the leading pattern for those lawyers in St. Paul who wished to lead a life of otium cum dignitate (leisure with dignity).

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James Gilfillan, of St. Paul, served as Chief Justice of the Supreme Court for nearly a score of years. I recall seeing him engaged in opinion-writing in his sanctum at the State Capitol with a stubby pencil in his hand and suggesting that he lighten his labor by use of a shorthand amanuensis. He died before the expiration of his term in 1895. He was, concededly, a great jurist.

C. D. Gilfillan, brother of the Judge, was also a lawyer of ability and served several terms from St. Paul in the State Senate. During the sessions of 1878 and 1882, he acted as one of the Judges in the impeachment trials of Judges Harlan Page and E. St. Julien Cox, and was responsible for my appointment as official reporter of these trials. He was a man of vision and enterprise and successfully accomplished the project of furnishing St. Paul with its first general water supply, obtained through mains connected with Lake Phalen, forming the nucleus of our present magnificent water supply system.

Greenleaf Clark was for a time justice of the Supreme Court, and in the practice of law was a partner of Charles E. Flandrau.

Harvey Officer was attorney for the first trust company established in St. Paul and was looked upon as an authority on wills and probate matters.

Lorenzo Allis was an excellent lawyer who seldom if ever indulged in any beverage stronger than tea—which he kept conveniently near in his office on Wabasha street to be heated on his wood stove.

Homer C. Eller compiled the first Minnesota Digest, doing his own typing in that long and laborious task on a No. 1 Remington typewriter which printed only capital letters.

John D. O'Brien, brother of C. D., was highly esteemed by all who knew him, not only as a well-read law-

yer of sound judgment but as a man of the highest personal character.

R. B. Galusha was one of the early attorneys for Mr. Hill, who aided him in securing title to railroad property.

Gordon E. Cole was for many years attorney for the Milwaukee Road. His home was at Faribault, his office in St. Paul—between which he made daily trips except Sundays and Mondays.

Ignatius Donnelly, "The Sage of Ninninger," lawyer, legislator, orator, author, wrote very interestingly about Lord Bacon and Shakespeare. Several of his political speeches and sparkling after-dinner addresses I enjoyed reporting for the public press.

William P. Warner was an original thinker who first prepared his case and then examined the law books to see if they verified his ideas. He was not only a very able lawyer but a gentleman of innate honesty. His personal attire and style of speech were somewhat odd. One warm, summery day, in Supreme Court, the presiding Judge suggested that he present himself, when in court, wearing a coat. Mr. Warner retired and shortly reappeared in a long linen duster trailing on the floor, with sleeves rolled above his elbows. As he was rather short of stature, his standing in court on this occasion was quite amusing, if not entirely dignified. For many years he was a partner of our well-known lawyer Harris Richardson.

R. R. Nelson was Judge of the United States District Court. His home was in a large red brick building on upper Third street near the foot of the Selby tunnel, and he made it a practice of entertaining the Federal Circuit Judges who visited St. Paul in the line of their judicial duties.

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Samuel F. Miller, of the Federal Circuit Court, was a great Judge whom I had high pleasure to see and hear and talk with. (Our Judge Charles D. Kerr studied in his law office.) As a member of the Electoral Commission, Judge Miller is said to have cast the decisive vote which gave the presidential office to Rutherford B. Hayes instead of Samuel J. Tilden. He came to St. Paul from time to time to hold court and I reported one of his very important oral decisions for a St. Paul daily newspaper and the West Publishing Company. Afterward I met him on a train from New York to Chicago and found him a delightful conversationalist. He said to me, "You have only one statesman in Minnesota-Cush Davis," (meaning Gov. Cushman K. Davis). In the course of our chat he told me why he had never become addicted to the use of tobacco. He said, (I quote from memory):

"My father owned a tobacco plantation in Kentucky, and when the time came to harvest the crop the men took me with them to the field. The first thing they did when they got there was to roll some dry leaves into cigars and smoke them. Wishing to appear manly, I asked them to make one for me, which they obligingly did and I smoked it all before I felt any uneasiness. Then I became very sick, and they said, 'Boy, you better go home.' I started, but when I reached a grove of trees, they seemed to be dancing and zig-zagging, and I embraced one of them to keep from falling. The next thing I remember, I was lying in bed, with the family physician standing over me wearing a very anxious face. That was my first and last cigar. But the lawyers seem to get so much quiet enjoyment from use of the weed, I think that perhaps if I had my life to live over again I might learn to smoke."

Col. W. P. Clough, in 1882, was the leading attorney for the board of managers of the Page Impeachment trial—which I reported for the State—and made a two-days'

argument at the conclusion of the testimony before the State Senate. Governor Davis appeared for the accused, also made a two-days' speech, and there was an acquittal. In 1883, during the presidency of Henry Villard of the Northern Pacific Railway Company, and for many years afterward, Col. Clough was general counsel of this company. On September 8th of that year the "golden spike" was driven at Gold Creek, Montana, at the completion of the road, and the celebrations at St. Paul, Minneapolis and all cities enroute to Portland and Seattle were enthusiastic and spectacular. The excursion train to the Coast—consisting of three sections, six Pullmans in each -contained distinguished guests from this country and abroad, among whom were William M. Evarts, Carl Schurz, General U. S. Grant, Sir Robert Peel, governors of states and mayors of cities. Col. Clough employed me to report the speeches, beginning at the banquet at Minnetonka given by the Twin Cities, and following at each city of importance throughout the trip, and I occupied the private coach of the president and acted as his amanuensis and reporter. When the train reached Bismarck, the cornerstone of the new capitol building was laid, and among the attractions of that occasion was Sitting Bull attired in typical Indian costume, feathers, etc. Out in Montana, after the last ties and rails had been laid and the last spikes driven, speech-making began, from a rude platform extemporized for the occasion, and lasted about an hour. At sight of General Grant, loud shouts from many voices were heard, demanding a speech. When Mr. Villard had concluded his address, General Grant stepped forward and told the "Old Boys" how glad he was to meet them on this grand occasion, and concluded by saying that the sinking sun reminded him that he must be brief, and said no more. That night there was horseracing and an Indian Pow-wow. "Dog-soup" was made

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and served by the Indians; there was a huge drum, and the drumming, yelling and singing that night were so loud and long and hideous that nobody could sleep. Early the following day the trains proceeded westward, and upon reaching Portland, the *then* western terminus, the opera house was filled and William M. Evarts, then Secretary of State, made the speech of the occasion, which I reported for the Oregonian.

The following day the excursionists went by rail to Tacoma, thence by water to Victoria, then to Seattle, where we visited the State University, occupying a frame building, on the site now occupied by the magnificent eleven-story White-Henry-Stuart buildings, covering an entire block in the heart of the business district. At that time Seattle was a city of stumps and frame buildings but full of faith in its future, to be realized as soon as the Northern Pacific should make it a western terminus.

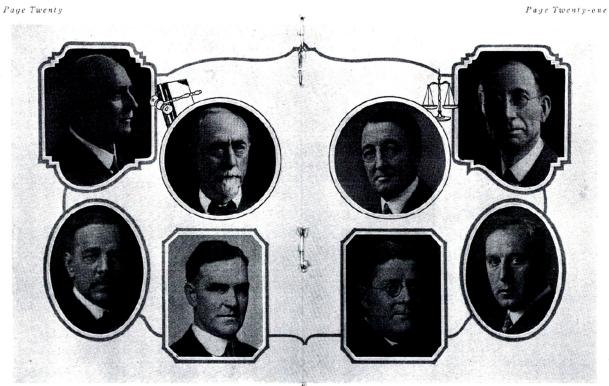
George L. Otis, brother of Judge Charles E. Otis, was always a noticeably well-dressed man and enjoyed a lucrative practice. Also Morris Lamprey.

Uri L. Lamprey, brother of Morris, was fond of duck-shooting and used a heavy shotgun of remarkable range and heavy recoil. He was a member of the St. Paul Gun Club and was sometimes present at Lake Como when we practiced trap-shooting at wild pigeons. When the pigeons became scarce or extinct, we practiced on clay pigeons. Lamprey's Pass is still a well-known resort for a few favored hunters fond of duck-shooting.

William W. Erwin devoted his legal talents to criminal practice and by the power of his eloquence, and, at times, without the evidence, saved many a man from the gallows, but signally failed in the case of Harry Hayward. He was known quite generally under the nom de plume of "The Tall Pine."

James J. Egan was a special favorite of Judge Wilkin, and many happy evenings after court they spent together. Shortly after the Indian uprising, in August 1862, Egan went on horseback to New Ulm to help save the settlers. He said to me, "I was sleeping under the wagon, with my saddle for my pillow, when, early in the morning, I heard the shout of the sentry, 'Indians!' and I instantly fell on my knees and said the Lord's prayer!" He was elected county attorney and later district judge and held the latter office for a dozen years.

Charles E. Flandrau who came to Minnesota in 1853, organized the fighting forces at New Ulm to defend the villagers, and after the loss of ten killed and fifty wounded, succeeded in driving the savages away. During the six weeks the Indian war lasted a thousand whites were murdered and much property destroyed. Flandrau became a justice of the Supreme Court, was an excellent and experienced lawyer and was the author of a valuable history of Minnesota. Shortly after my appointment as reporter at St. Paul I came in touch with him in the court-room during the trial of a case before Judge Brill. As was the custom in those days, he was writing down testimony in narrative form. Occasionally he would stop the witness and ask him to listen to a record of his testimony. As considerable time was being consumed in this way, Judge Brill remonstrated and said, "Judge Flandrau, I wish you would go on with the trial of this case; you are taking too much time writing down testimony; we have a shorthand reporter here now who takes down everything." Judge Flandrau seemed quite nettled at a second reminder of this sort, and, rising to his feet, exclaimed: "Your Honor, I propose to have this testimony, I've had all the experience with court reporters I want!" and continued taking notes. I well recall the embarrassment I felt at this aspersion against court reporters, al-



Upper Row: Senior Judge, Olin B. Lewis Lower Row: Judge Chas. Bechhoefer

PRESENT JUDGES OF DISTRICT COURT

JUDGE GRIER M. ORR
JUDGE JOHN W. BOERNER

JUDGE R. D. O'BRIEN

JUDGE JAMES C. MICHAEL JUDGE C. F. MCNALLY

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though I had heard of his unfortunate experience with a certain patent attorney whose side line was shorthand note-taking. At the conclusion of the trial I gained permission to furnish him a free transcript of the record, which, a few days later, I delivered at the office of Bigelow, Flandrau & Clark, on Third street. Shortly afterward I met Judge Flandrau on the street and he said to me, "Hillman, I've got a lot of cases in the Federal Court, I'm attorney for the Milwaukee road, and I want you to report them." As I had considerable leisure in those days, I gladly availed myself of this employment which netted me ten dollars a day and 15 cents per folio.

Lawyers Well Read But a Few Exceptions

The Ramsey county bar at that date was generally composed of men well read in the law, but the *modus operandi* of admission to practice was occasionally quite perfunctory. I have seen a committee of lawyers appointed by the Court to examine applicants for admission who took the candidates to a corner of the court-room, asked them a couple of questions, such as "Have you read Blackstone?" "Have you read Kent's Commentaries?" then moved their admission, and they were sworn in

Style of Writing

All pleadings, legal documents and court proceedings were in longhand, some of which were quite illegible and at times more or less halted court proceedings. During the trials of cases the judges and lawyers all wrote, in longhand, as much as they could, which they often had trouble reading when the notes "got cold." The settlement of a case or bill of exceptions was often a tedious and troublesome matter, as the versions of respective attorneys would often differ regarding testimony, objections and rulings.

New Court-House

Court-house Square was given to the public by Vetal Guerin, January 11, 1850. The first court-house built thereon, in 1851, cost \$5,000. Ground was broken for the present court-house and city hall, October 9, 1884, and was completed and furnished December 1, 1889. The material used in its construction was selected Kasota limestone, and its cost, including furniture and approaches, was \$1,000,000. The contractor Matthias Breen, the architect E. P. Bassford. It was built under the supervision of Dr. David Day, with William Dawson, W. G. Hendrickson, H. R. Bigelow and C. D. Gilfillan acting as special commissioners. County Auditors J. J. McCardy, James O'Brien and M. F. Kain were successively secretary of the commission. The mayors of St. Paul successively chairman of the commission were Christopher D. O'Brien, Edmund Rice and Robert A. Smith.

A Larger Bench

As population increased and business demanded, additional judges were from time to time added to the bench—William Louis Kelly, Charles D. Kerr, a veteran of the Civil War; L. M. Vilas, Charles E. Otis, W. D. Cornish, Olin B. Lewis, John W. Willis, Edwin A. Jaggard, James J. Egan, George L. Bunn, Oscar Hallam, Frederick M. Catlin, Frederick N. Dickson, Charles C. Haupt and John B. Sanborn, Jr.; Judges Hallam, Bunn and Jaggard were elevated to the Supreme Bench. The Ramsey County bench is now composed of Olin B. Lewis, Grier M. Orr, Hugo O. Hanft, James C. Michael, John W. Boerner, Carlton F. McNally, Charles Bechhoefer and Richard D. O'Brien. Every legal principle, written and unwritten, civil, criminal and special, comes before these judges for consideration and determination.



PRESENT COURT-HOUSE AND CITY HALL BUILT AT A COST OF \$1,000,000

Should Be Held in Affectionate Remembrance

Judge Charles E. Flandrau's name is, and always should be, held in affectionate remembrance by the citizenry of this community, for largely through his voice and influence St. Paul (not Minneapolis) remains upon the map as the capital city of the North Star State. At the 1895 session of the Legislature certain enterprising people of our sister city presented the alluring proposition to donate Loring Park, Minneapolis—consisting of some thirty-six acres—as a site for the new state capitol building, and a delegation of representative citizens of that city came to St. Paul to urge before the judiciary committee the location of the new building in Minneapolis. The State had already acquired the ground now occupied by the building, but no appropriation had yet been made for the splendid edifice which now adorns the spot, costing the State the very reasonable sum of four and a half millions. On the evening of March 25, 1895, the Legislature convened in joint session in the old capitol building to hear and consider the arguments for and against removal to Minne-Three sharp, shrewd lawyers of Minneapolis, Messers. Fish, Cohen and Rockwood, appeared at the hearing and presented their briefs and arguments, and Judge Flandrau then, in vigorous and persuasive style, replied, stating the reasons why St. Paul and not Minneapolis should secure the necessary appropriation for the new building. As I made a verbatim report of the discussion on that occasion (published next morning in the Pioneer Press), I have a distinct recollection of what occurred. Judge Flandrau maintained that Minneapolis had no power to donate Loring Park, or any other park, to the State or anybody else, because of vested rights of owners in and about the Park, and that, therefore, the offer was an absurdity. He then explained how St. Paul became the seat of government, why it should retain the



CAPITOL BUILDING BUILT AT A COST OF \$4,500,000

honor, and described the "solid compact" entered into before Minnesota's admission to the Union. In 1848 when Wisconsin went into the Union without including territory west of the St. Croix river, embracing the four towns, Stillwater, St. Anthony Falls, Mendota and St. Paul, men like General H. H. Sibley, Henry L. Moss, Morton S. Wilkinson, Henry M. Rice, William R. Marshall, John McCusick, Joseph R. Brown and other representative citizens, got together and agreed that the shares of governmental patronage in this territory should be apportioned as follows: General Sibley to be a delegate to Congress from Mendota, the capital to be at St. Paul, the University at St. Anthony Falls, and the penitentiary at Stillwater—a compact even superior to the Constitution of the State, because it was the original plan of the men who founded the government.

The first act in carrying out this compact was the election of Henry H. Sibley a delegate to Congress, who secured the passage of an act organizing the State of Minnesota, known as the Organic Act, in which Act the capital was located at St. Paul. The first legislature of the state met in 1849 but did nothing on this point, because the capital had already been located. In 1851 the legislature again met and a statute was passed which carried out the compact entered into by the old settlers, and St. Paul was made the permanent capital, St. Anthony Falls the site of the university—the word "Minneapolis" not yet having been coined—and Stillwater the site for the penitentiary. In 1857 a constitutional covention was held-of which Mr. Flandrau was a member-which reiterated the old settlers' agreement and located these several institutions as above stated. Judge Flandrau then proceeded to show that during the forty years since the passage of the fundamental law of the state, Minneapolis had enjoyed the fruits of the compact to the extent of Page Twenty-eight

four millions of dollars to aid in sustaining the university. An excerpt from his argument illustrates his personal sentiments:

"Now, what do they ask? They come here and say they want to steal the capital from St. Paul and carry it off! I don't want to say one word against Minneapolis, but I say it comes with bad grace, infernally bad grace for those who have enjoyed the fruits for nearly forty years of a compact, and appropriations such as no other state institution has ever had, with an institution more valuable than any other (its numerous students), to now come in and say 'We repudiate this whole thing, we ask that everything be raked into Minneapolis.' Why, the next thing you will see, if such a thing should be possible to go through, of the next legislature they would want the penitentiary from Stillwater—and I don't know but it would be a very admirable location for it if they should get it! (Laughter.) Now, gentlemen, if you want to do anything of that kind, go on and do it, but you will never afterwards have a good night's rest with a good, square conscience, according to my judgment. That's all I want to say about it." (Laughter and applause.)

Judge Flandrau won his case.

Another Galaxy

A galaxy of lawyers other than those already mentioned embraces more than one hundred noteworthy names.

—among whom are the following: W. S. Moore, Charles N. Akers, Thomas Wilson, C. F. Masterson, H. V. Rutherford, John V. I. Dodd, George C. Squires, Charles G. Lawrence, B. J. Shipman, Joseph T. Avery, S. C. Olmstead, John W. Pinch, James J. McCafferty, Frederick C. Stevens (Congressman), William G. White, Thomas R. Benton, P. J. McLaughlin, Daniel W. Lawyer, W. D. Dwyer, David Peebles, J. P. Hilscher, C. E. Hamilton, James Schoonmaker, C. R. St. John, Armand Albrecht, Thomas McDermott.

Charles N. Bell was a student and practitioner in the office of Judge Palmer and drew the Wilder wills with the debatable phrase "Worthy poor."

Cyrus Wellington was blind in one eye, but his legal vision was such that for many years he was James J. Hill's legal adviser and trial lawyer.

E. J. Hodgson was rated as a good lawyer, though seldom appearing in court. He bore an excellent reputation for honesty.

Cyrus J. Thompson was always well dressed and of good personal appearance. He was greatly respected for his honesty and ability. An expression he frequently used, with uplifted hand when addressing the Court, was "Now notice!"

H. W. Childs was Attorney General of Minnesota for several years.

Hiram F. Stevens was in active legal practice and for several successive terms was state senator for St. Paul.

Warren H. Mead, a soldier in the Civil War, was in general practice here for many years and was a member of the House of Representatives which preferred impeachment charges against Sherman Page, of Austin, Minnesota, and was a member of the board of managers who conducted the prosecution before the state Senate sitting as a court of impeachment. The trial lasted several weeks, and as the official reporter I furnished the members of the court and counsel a daily transcript of the testimony and proceedings.

T. R. Palmer was an excellent lawyer and became president of the Minnesota Mutual Life Insurance Company.

Leon T. Chamberlain was in general practice and very efficiently served for several years as Corporation Page Thirty

Counsel of St. Paul. He suffered for several years with lung trouble and died in California.

Edmund S. Durment studied law in the office of C. D. O'Brien and gained a large and lucrative practice in connection with his partner, A. R. Moore.

Edwin S. Thompson for more than forty years was in general practice. During all of this time he was very much handicapped by paralysis of one leg which caused the foot to drag. His mind, however, was bright and clear. He had many personal injury and divorce cases. His style of pleadings and arguments was quite unique and often very amusing.

Edward C. Stringer and McNeil V. Seymour were very successful practitioners, but both died before reaching maximum age, each leaving a son who is following in the footsteps of his father in the practice of law.

Cordenio A. Severance was for many years a member of the firm of Davis, Kellogg & Severance, and was in active practice until shortly before his death. He was honored by presidency of the American Bar Association, was a man of charming personality, fond of good society, frequently entertained in his charming palatial home at Cottage Grove, among other distinguished guests, members of the American Bar Association. In his last will and testament, dated January 1, 1924, he gave the bulk of his large estate to his wife, Mary Frances Severance, who in her last will, dated May 29, 1925, bequeathed to Carleton College, of Northfield, Minnesota—their alma mater—the sum of one hundred thousand dollars to establish "a suitable memorial" to her husband.

Emerson Hadley was a member of the law firm of Bunn, Hadley & Armstrong, and for several years prior to his death was assistant general attorney for the Northern Pacific Railway Company. He was dignified and possessed all of the attributes of the true gentleman.

- Mr. James W. Lusk was an experienced trial lawyer of marked ability. For some ten years prior to his death he was president of the National German American Bank of St. Paul, now the Merchants National Bank. He was highly respected, not only by members of his profession but by all of the community who had the honor of his acquaintance.
- O. H. O'Neill was county attorney and corporation counsel for some years, an excellent lawyer and highly esteemed in the community. His lawyer son is now assistant corporation counsel.
- T. R. Kane served as county attorney and was highly respected by the bar and the community.

Newell H. Clapp practiced many years in St. Paul in partnership with Mr. Macartney. They had a large clientele, among which was the widely known lumberman, Mr. Weyerhaeuser and his associates.

- E. H. Ozmun was appointed by President McKinley, at the instance of Governor Knute Nelson, to a foreign consulship, in which he served until his death.
- J. B. Beals, son-in-law of Senator McMillan, was a very promising attorney, whose career at the bar was terminated by a sudden fatal illness. His son Walter is now a judge of the superior court at Seattle.

Hiler H. Horton studied in the office of C. D. O'Brien and was state senator for many years.

N. M. Thygeson was for many years a partner of M. D. Munn, and they represented the St. Paul City Railway Company in many court actions.

Stan J. Donnelly was in active practice in St. Paul and displayed many of the mental qualities of his distinguished father, Ignatius Donnelly.

B. H. Schriber studied law in the office of Judge Willis. He was aggressive and had a successful practice,

but did not attain the Scriptural "three score years and ten." His son is a member of the Ramsey county bar.

James D. Denegre was in general practice and served in the State Senate many years after the death of his partner, Hiler H. Horton.

S. P. Crosby was born and educated in the Pine Tree State. The major part of his adult life was spent in St. Paul, where he practiced law. His orotund voice and

genial personality were notable characteristics.

In 1889 there were more than 160 practicing members of the Ramsey County bar, but now less than half that membership survive, and since that date eighteen of the Minnesota judges under whom I have worked have departed this life.

Their names are: John L. MacDonald, A. G. Chatfield, F. M. Crosby, William Mitchell, Vanderberg, Young, Wilkin, Simons, Brill, Egan, Kerr, Cornish, Otis, Bunn, Jaggard, Kelly, Haupt, Willis.

Esprit de Corps

During all of the time I have had the honor of being official reporter of this court, the *esprit de corps* of the judges and lawyers has been pleasurably noteworthy and our bench and lawyers have invariably sustained as good or better reputations for ability and character than the lawyers and judges in other similar jurisdictions.

Railroad Rate Cases

Judge Otis, after retirement from the district bench, was appointed special master in the federal court and took testimony and heard arguments in the highly important railroad rate cases, begun in 1908 and continuing with interregnums for more than two years. These cases, covering thousands of pages, I reported, furnishing daily transcripts.

Thomas D. O'Brien, who for a while sat on the Supreme bench of Minnesota, appeared with Attorney General E. T. Young on behalf of the state in the trial of these cases, and the state's contention was finally established in the United States Supreme Court.

Pierce Butler appeared in these cases on behalf of certain railroad stockholders. He is now Associate Justice of the highest court of our country.

Statesmen

Frank B. Kellogg prosecuted to a successful issue the Standard Oil case and is now Secretary of State with office at Washington, D. C. He has held the offices of United States Senator from Minnesota, President of the American Bar Association, and Minister to England, and is supposed to enjoy the widest acquaintance with lawyers and public men in this country and abroad.

Robert E. Olds, member of the Ramsey County bar,

is Under Secretary of State, Washington, D. C.

William D. Mitchell, son of Judge William Mitchell (former justice of our Supreme Court), is now Solicitor General of the United States.

Presidential Recognition

The selection by our Chief Executive of this coterie of lawyers from Ramsey County for these highly important offices at Washington has attracted the attention of the nation and serves to inspire in the Ramsey County Bar Association a high degree of pride and satisfaction.

Chief Official Reporter

Until four years ago I was held responsible for the selection and payment of all assistants in my office, and my present position is that of Chief Official Reporter. All of our official court reporters act as private secretary to their respective judges.

Court Reporter Impartial

Throughout my reportorial career it has been my conviction that the court reporter should be as impartial as the judge on the bench; that he should show, neither by smile, or look, or gesture, how any phase of the testimony or court proceeding impresses him.

Occasionally, an attorney, worried or doubtful, asks the reporter his opinion of the case. If the reporter gives an honest opinion, he may add to the apprehension of the attorney; or, on the other hand, when the jury returns a verdict, may conclude that either he or they have made a mistake.

System of Shorthand

The shorthand chiefly used here in reporting is Pitmanic, the system most used in Congress and in the higher courts of this country, England and Canada. A great advantage is secured by the use of a standard system of shorthand which enables one reporter to read the notes of another. The court reporter is a sworn officer and occupies a highly responsible position, for usually, as regards the facts of a case, he is the court of last resort. The work is arduous and requires the utmost skill and attention. One of our judges modestly characterized the reporting in his court as being with "deadly accuracy."

Pensions

In several of the states pensions are granted court reporters after they have served a certain number of years.

Future System of Reporting

What the mode of reporting may ultimately be, we can hardly imagine. Possibly the principle of the radio—which I regard the greatest discovery of all time—may be utilized in such a manner that a correct and expeditious

record may be obtained. On the evening of May 3rd, 1927, when President Coolidge was addressing the United States Chamber of Commerce at the Auditorium in Washington, D. C., at my home in St. Paul I adjusted the speaking tube of my dictaphone to the mouth of the loud speaker of the radio, and now I can reproduce his very words and accents at pleasure. This may be termed "long-distance dictation." I also caught, in the same manner, on the same occasion, the music of the Marine Band and singer.

The dictaphone and typewriter have immensely lightened the labor of the reporter. The former is much used by Congressional reporters and in offices requiring a large amount of daily copy. Lawyers of the Twin Cities rarely resort to daily transcripts, finding excerpts of salient points of testimony less liable to befog or frighten a jury.

Era of Speed

Fortunately or unfortunately, this is an era of speed, and lawyers generally are talking faster than was the fashion fifty years ago. No doubt the shorthand reporter has had some influence in accelerating the use of language, for no longer does the lawyer bother himself by writing down in longhand what is said in the court-room.

There is, naturally, a great variety of style among attorneys in the trial of lawsuits: one may be deliberate and careful, another rapid and careless; one formal in stating grounds of objection, another contented in telling the Court in many words his opinion regarding the admissibility of evidence, during which the judge asks him to state the ground of his objection if such it really is; one aftorney may, when summing up, shout at the jury as though they were a mile away; another speak to them so confidentially that on occasion the reporter may, for the purpose of obtaining a record, be obliged to take his

position in close proximity to the speaker's coat-tail, for concededly improper and prejudicial remarks of an attorney in the presence of the jury when duly excepted to may be ground for setting aside a verdict.

These judges and lawyers I have known during the past half-century all were justly loved, respected and honored in their respective spheres. Most of their faces I can no longer see, nor voices hear, but memory of them cannot be obliterated.

Before closing this very inadequate paper, I feel like expressing the opinion that as long as human nature remains what it is, there will always be work for judges, and lawyers, and reporters, and stenographers, and typists, and printers.

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Reminiscences

Of Judge Simons

Here is a personal experience, wherein, upon the peremptory advice of Judge Simons, some fifty years ago, I learned a little law. I had bought a barrel of granulated sugar from the wholesale grocery house of Lamson & Boyden, on lower Third Street, handing them a \$50 certificate of deposit and taking their check for \$26 in change. This check I carried in my vest pocket for a couple of weeks, when I was informed by Deputy Clerk Charley Manship that the firm had just filed an assignment and advised to at once present the check for payment at the bank on which it was drawn. This I did, and Mr. E. H. Bailey, the then paying teller of the First National Bank (now chairman of the Executive Committee), then located on Third Street between Cedar and Minnesota, wrote across its face "NSF." The next morning I walked into Judge Simons' chambers in the old courthouse fronting Fourth Street, and after our cordial good mornings told him I had come "for some legal advice." He remarked, "Well, I guess you've come to the wrong place." I proceeded: "A few days ago I went down to Lam-

son & Boyden's wholesale grocery store and bought a barrel of sugar, and-" "Stop right there!" he said. "Don't you know any better than to come to me about a matter of that kind? Why, that case might come right up before me for trial! GO TO A LAW-YER!" (In those days I had plenty of hair on the top of my head, and, speaking metaphorically, I felt it rise.) I took his advice and went to Lawyer George L. Otis, whom I found, neatly attired, in the office of the assignee, Col. C. W. Griggs, at his wood-and-coal office, corner of Third and Cedar, and then and there explained my dilemma, the certificate of deposit having been cashed by the defunct grocery company. Mr. Otis then kindly gave me some valuable legal advice. He remarked, "I suppose it is simply a question of whether or not you used due diligence in presenting the check for payment." It seemed clear to me that I had not done so. However, Mr. Otis kindly interceded with the assignee, remarking that it would be "too bad for Hillman to lose his money," and inquired if there were not a little money left in the bank. Col. Griggs replied that he believed there was about \$136. Mr. Otis said, "Hadn't we better pay the check?" The Colonel said "Yes," wrote something on the check, I took it to Mr. Bailey a second time and it was paid. This is how I learned some law.

OF JUDGE SAMUEL F. MILLER

In one of Judge Miller's important decisions his diction seemed rather commonplace, for so important a decision and I thought I would do him the courtesy of permitting him to look it over before it was printed, so I took it to him in the old postoffice building, top floor, where he was holding court, and he said, "Well, when I get time I'll look it over." I went home to dinner, and about one o'clock that afternoon, upon returning to the courthouse, I met him and Judge R. R. Nelson on their way to dinner. I stopped my horse in the street, about opposite the site of the present postoffice building and asked him if he had had time to look over his decision of that morning. With some emphasis he said, "NO, SIR." I said, "Judge, the paper wants to print that decision tonight." He said, "Young man, if you print that decision before I look it over, I'll make it warm for you!" I got it in due time and there was no change worth mentioning.

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L. M. VILAS



Chas. E. Otis





W. D. CORNISH





WILLIAM LOUIS KELLY



James J. Egan



EDWIN A. JAGGARD

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CHAS. C. HAUPT



JOHN W. WILLIS



GEO. L. BUNN





FREDERICK N. DICKSON





OSCAR HALLAM



FRED M. CATLIN



JOHN B. SANBORN

FORMER JUDGES OF DISTRICT COURT RAMSEY COUNTY, MINNESOTA

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George N. Hillman, "Reminiscences." (MLHP, 2016) (Published first, 1926).

Jackie Young, "A History of Court Reporting in Minnesota." (MLHP, 2014).

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