

“Bench and Bar of Clay County” *
IN
HISTORY
OF
Clay and Norman Counties
Minnesota

THEIR PEOPLE, INDUSTRIES AND INSTITUTIONS

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AND

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Genealogical Records of Many of the Old Families

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CHAPTER XII.

BENCH AND BAR OF CLAY COUNTY.

In all civilized countries of the world there is a demand for the trained lawyer and in every succeeding decade this demand increases. As a community becomes thickly settled and as its commercial interests are multiplied, there must of necessity be attorneys to carry on the legal business. Again, by reason of skill in this direction, lawyers are among the foremost lawmakers, and from this profession more men are sent to state and national legislative halls than from perhaps any other two. Moreover, the majority of the great statesmen of our country seem to have been members of the legal profession. There are those in every community who cast reproach upon the lawyer, but they are usually those who know but little of the legal profession. As a rule, this profession is made up of high-minded and conscientious men, whose influence is of great weight in the community. It is true that there are good and bad lawyers, but the profession is a high and honorable one and the world cannot do without it.

Here in Clay county the bar, as well as the bench, has been no exception to that found in most other western counties. It has been made up of honest, able and upright men, with here and there a trickster. The last named, however, should not militate against the real lawyer, who prides himself with being among the honorable workers for the betterment of the whole community. This chapter will discuss briefly, first, the judges who have served on the benches of the various districts in which this county has been situated, and, secondly, the various lawyers who have practiced here.

THE BENCH—DISTRICT COURT JUDGES.

When Clay county was organized, it was part of the territory comprising the seventh judicial district which included practically the entire northern part of the state north of a line drawn east and west through St. Cloud. It was successively a part of the eleventh and fourteenth districts until

1893, when it was again transferred to the seventh district, where it now remains. The first district judge was E. O. Hamlin, of St. Cloud, who died long before the organization of Clay county, and never held court here. [224] He was succeeded by James M. McKelvey of the same place, who was the first judge to preside over a term of court in Clay county. He resigned in 1883 and L. W. Collins was appointed as his successor.

The judges of the judicial district of which Clay county has been a part since its organization, besides those already mentioned, have been as follow: O. P. Stearns, Duluth; Ira B. Mills, Moorhead; L. L. Baxter, Fergus Falls; D. B. Searle, St. Cloud; M. D. Taylor, St. Cloud; C. A. Nye, Moorhead; W. L. Parsons, Fergus Falls; John A. Roeser, St. Cloud. A brief review of the life and career of each is here given.

Judge O. P. Stearns was born in St. Lawrence county, New York, in 1831; came to Minnesota in 1860; was appointed judge of the Eleventh district in 1874 and held the office continuously until his death in 1893. In 1862 he raised a company for the Ninth Regiment, Minnesota Volunteers, for the Union cause, and he was made its first lieutenant. In 1863 he was commissioned colonel of the Thirty-ninth United States Infantry, a colored regiment. In 1871 he was elected United States senator to fill the unexpired term of Senator Norton.

Judge Ira B. Mills was born in Orange county, New York, January 4, 1857; came to, Minnesota in 1881 and practiced law here until 1886, when he was elected judge of the fourteenth judicial district. He removed to St. Paul in 1893 and was appointed by Governor Nelson a member of the Railroad and Warehouse Commission in the same year. He has been successively elected to that office and has the reputation of being among the best students of railway rates and transportation in the entire country.

Judge L. L. Baxter, a life-long Democrat, was born at Cornwell, Vermont, June 8, 1832; studied law with Horatio Seymour at Middlebury, Vermont, and came to Minnesota in March, 1857. He served in the Union army during the Civil War for over two years, first as major of the

Fourth Minnesota and later as lieutenant-colonel of the First Minnesota Heavy Artillery. He was first appointed judge in 1885 and served continuously until 1911. He died in 1914.

Judge D. B. Searle was born at Franklinville, New York, June 4, 1841. He enlisted in 1861 as private in Company I, Sixty-fourth New York Volunteers, served two years and was discharged on account of disability. He came to Minnesota in 1871, and practiced law at St. Cloud from that year until 1887, when he was appointed one of the judges of the seventh judicial district, which position he held until 1906. In that year he resigned on account of sickness and died in 1907.

Judge M. D. Taylor was born on December 30, 1855, at Byron, Maine, [225] and came to Minnesota in September, 1858. He graduated from the University of Minnesota in the class of 1878—the first class. He practiced law at St. Cloud in partnership with D. I. Calhoun and was appointed judge of the district to succeed Judge Searle in 1906, holding that office until 1913, when he was appointed one of the justices of the supreme court.

Judge Carroll A. Nye was born in St. Croix county, Wisconsin. Later he located at Moorhead in 1887, where he practiced his profession until elected judge of the district court in 1910. Judge Nye was commissioned captain in the United States army in January, 1917, and is now stationed at Fort Sheridan, being assigned to the quartermaster's department.

Judge William L. Parsons was born at Westfield, New York, in 1858. He is a graduate of Hamilton College and was engaged as a teacher in Adelphi Academy, Brooklyn, New York, from 1878 to 1881. In 1882 he was admitted to the bar and practiced law at Fergus Falls from 1883 until elected judge of the district court in 1914.

Judge John A. Roeser was born on January 28, 1867, in Stearns county, Minnesota. He was admitted to the bar in 1898 and practiced his profession at St. Cloud. He was elected one of the judges of the district court in 1914.

These judges have all been men of unquestioned honesty and ability, who had a profound respect for the law. A faithful and rigorous application of the laws is one of the essentials of justice, and a judge who does not himself respect the law can never properly apply it. It can be said of these men that they have all honestly endeavored to apply the law to all alike without regard to rank or class.

CLAY COUNTY ATTORNEYS.

The first to practice law here was J. S. Carvell, an eccentric character. He was a native of Maine, and finally died in New Hampshire. But little is known of him except that he was the first real lawyer the county had, as he came before the date of the county's organization and remained a few years.

The next to practice at this bar was S. G. Comstock, who arrived in 1871 before the county was really organized and he has been a resident here ever since. He has not been in active practice since the eighties or nineties, but has had large real estate and commercial interests. The subjoined is taken from the *Official Register* of Minnesota, concerning Mr. Comstock, the man so highly esteemed by every citizen in this county: [226]

“Solomon Gilman Comstock (Republican), Moorhead, was born in Argyle, Maine, 1842; received an academic education; studied law with Judge Humphrey at Bangor, Maine; attended law school at the University of Michigan, was admitted to the bar at Omaha, Nebraska, in 1869, and came to Moorhead in 1871. Has practiced law and has dealt in real estate ever since. He was a member of the state Legislature in 1875, serving until 1882, except the one year of 1878. He was elected to the State Senate in 1882 and served until 1886. He was chairman of the finance committee of the House, and also of the judiciary and temperance committees of the Senate. He received the Republican nomination for Congress from the Fifth congressional district of Minnesota in 1888 and served one term.”

The third attorney to locate at Moorhead was Frank J. Burnham, a native of Vermont, who practiced law in Chicago for a time and arrived here about 1872. He was county attorney at one time, also president of the First National Bank. His general interests in Clay county were considerable.

In 1883 the bar consisted of these gentlemen: Messrs. Welcome, Mills, Douglas, Gould, Webster, Coleman, Lambertson and Benedict. The following facts have been gleaned from various sources concerning these men:

John B. Welcome came to Moorhead in 1882, coming from New Hampshire, where he had been admitted to the bar. He began practice here as a lawyer, wrote insurance, ran a loan business and was soon elected justice of the peace. In 1884, he with George E. Perley, also a young lawyer from New Hampshire, formed a partnership under the name of Welcome & Perley, which continued for three or four years, the firm for a time having an office at Minot, North Dakota. The partnership was dissolved and Welcome moved to Butte, Montana, where he engaged in the practice of law and as a broker. He married and continued to reside in Butte and near there upon a large stock ranch owned by Mrs. Welcome. He is now deceased,

Ira B. Mills came to Moorhead in the early eighties, when the boom was at high tide. He formed a law partnership with Frank J. Burnham, which was afterward enlarged to include William R. Tillotson. The firm, which was known as Burnham, Mills & Tillotson, was for years one of the prominent law concerns of the county and for the Red River Valley as well. Subsequently, Mr. Mills was elevated to the district bench, taking his seat in 1887. He continued to preside until he was appointed as member of the Railroad and Warehouse Commission in 1893, which position he has held either by appointment or election continuously to the present time. Judge Mills is a very able lawyer, and has been for years chairman of this com-[227]-mission with a national reputation,

which has had to deal with the many and varied railroad problems arising under the Minnesota laws.

Wallace B. Douglas came to Moorhead in the early eighties from Illinois and formed a law partnership with Ole Mosness under the firm title of Mosness & Douglas. For a number of years this was one of Moorhead's prominent law firms, during which time Mr. Douglas held the office of county attorney for several years. Later he removed to St. Paul upon his election as attorney-general of the state of Minnesota. After he held this office two terms, he was appointed by Governor VanSant as associate justice of the supreme court to fill out the term of a deceased justice. Owing to an unfortunate dissension in the Republican party, Mr. Douglas failed to be elected to this office and entered upon the practice of law in St. Paul, where he is recognized as a leading lawyer. For recreation, Mr. Douglas visits his dairy near Bellingham, on the Puget Sound, and never forgets to come to Clay county each year to hunt during the chicken, cluck and goose season.

W. K. Gould was a former partner of F. J. Burnham, but the firm was dissolved by death or removal prior to 1884.

E. L. Webster, who practiced at Moorhead before 1884, was of the firm of Webster & Clement. He was an able advocate, but was not here many years.

R. W. Coleman came here prior to 1884, and during that year formed a partnership under the firm name of Coleman & Von Bornstedt, lawyers. Later the concern was dissolved and Mr. Coleman died before the nineties.

Benedict Howard practiced here prior to 1884, and was a highly respected member of the legal fraternity. His death occurred several years ago.

Ole Mosness was a member of the law firm of Mosness & Douglas, and at another date was associated with F. D. Larrabee at Minneapolis,

where for a number of years he was also of the firm of Mosness & Fosseen. He has been dead a number of years. His legal practice in Moorhead was carried on prior to 1884, and it is known that he was an able and highly successful lawyer in those days.

F. E. Briggs was elected probate judge of Clay county before 1883, holding that office until about 1888. Later he removed to Chicago. There he engaged in fire insurance business, and died several years ago.

F. A. and George H. Elder probably studied and practiced in the courts of this county, but it is generally conceded that their chief business here was [228] their association with F. E. Briggs in the real estate business. Later they moved to Duluth, from which one of the brothers went to the Pacific coast.

M. Syron studied law somewhat late in life and was admitted to the bar late in the eighties. He practiced a few years in a small way, was justice of the peace and variously engaged in business, owning one or more business houses in Moorhead. He has been dead many years and is only recalled by the older members of the bar.

Marshall S. Spooner and Frank D. Larrabee were the members of the law firm well known in Moorhead years ago. They commenced about 1881-2 and continued several years, the firm being considered among the leading ones of this county. Subsequently, they dissolved partnership and both removed to Minneapolis, where they resumed law practice. Later Mr. Spooner removed to Bemidji, where he is still in legal practice. He was an able man, and held the office of district judge in the fifteenth judicial district of Minnesota. Mr. Larrabee remained in Minneapolis, where he is still in practice. His specialty was personal damage cases, and is today perhaps one of the best attorneys of that city,

K. M. Murphy was probably admitted to the bar here in the late eighties. Before that date he had been engaged in business in Moorhead. He never built up a large practice and only remained here a few years.

A. R. Holston came to Moorhead in the early nineties and was associated with Ole Mosness for a time, under the firm name of Mosness & Holston. He removed to other parts after practicing three years, and nothing is now known of him.

Carroll A. Nye is mentioned in the *Legislative Manual* as follows: "Judge Carroll A. Nye, a Democrat, was born and reared on a farm in St. Croix county, Wisconsin, 1864, and educated in the common and State Normal schools of that state. He took up the profession of law and studied under his brother, Hon. Frank M. Nye, Minneapolis, and with Robert M. LaFollette of Wisconsin. He attended Wisconsin University, graduating in 1886, having earned his own way through school by farm labor and teaching school. He located at Moorhead, Minnesota, in 1887, and has there practiced law ever since. He was city attorney five years; county attorney eight years; and mayor of Moorhead four years; member of the State Normal School board two terms and elected district judge in 1910. In May, 1917, he reported for duty at Ft. Sheridan, Illinois, and has been assigned to the quartermaster's department. He tendered his resignation as district judge to the governor, but it was not accepted. It was arranged that he enter the army with the understanding that when he returns [229] he might again resume his duties on the bench. Judge Nye is the youngest brother of the well-known humorist, "Bill" Nye. He comes of a patriotic ancestry."

PRESENT MEMBERS OF THE BAR.

In 1917 the following attorneys were practicing in the courts of Clay county as members of the county bar. Many of these lawyers have biographical notices in this work, hence are not mentioned at length in this chapter. They are: Edward Adams, S. G. Comstock, C. G. Dosland, James A. Garrity, George W. Hammett, N. B. Hanson, H. A. Johnson, N. I. Johnson, C. S. Marden, P. H. Peterson, George E. Perky, C. H. Pomeroy, William Russell, Garfield Rustad, William H. Rasey, E. E. Sharp, Julian S. Thompson, William Tillotson, and James M. Withrow.



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