

# “Bench and Bar of Stearns County”

By

James E. Jenks

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# 1. Foreword

By

Douglas A. Hedin

Editor, MLHP

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A chapter on judges and lawyers was a standard feature of the dozens of county histories published between the 1880s and the First World War. James E. Jenks' chapter on the "bench and bar" in the history of Stearns County differs from others because of his sketches of four district court judges who served in the Seventh Judicial District in the nineteenth and early twentieth centuries – James M. McKelvy, who served from 1866 to 1883, Loren W. Collins, who served 1883 to 1887, when he was appointed to the state supreme court, Dolson B. Searle, who served from 1887 to 1906, and Myron D. Taylor, who served from 1906 to 1913, when he was appointed a commissioner on the supreme court. While earlier histories profiled individual judges, Jenks' contain more detail about the work habits and personalities of these four. They surely were based on "war stories" he heard from his elders, including Myron Taylor with whom he practiced from 1898,<sup>1</sup> when he was admitted to the bar, to 1906, when his partner accepted appointment to the district court.

In addition, he portrayed several members of the trial bar so colorfully that they are almost irresistible subjects for further research – John D. Sullivan, David T. Calhoun and Hanford L. Gordon, a/k/a "Thundering Gordon," for example.

It seems to an outsider that state trial judges and the lawyers who appear before them are often overlooked by professional legal historians in this country. Jenks' sketches help fill that void in the history of this state.

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<sup>1</sup> James Edwin Jenks was admitted on March 7, 1898. 1 *Roll of Attorneys: Supreme Court, State of Minnesota, 1858-1970* 44 (State Law Library, 2011).

Jenks included his self-portrait in the "Biography" section of the chapter. It has his photograph, information on his family, education, law practice, marriage and children. But it omits a delicate subject – his health. At the time he was researching and writing this chapter, he suffered from a serious illness. In fact, he was dying. Forced to stop practicing law in 1914, he turned his attention to the history of the county "bench and bar." His chapter appeared in *The History of Stearns County* published the following year.

He died on December 2, 1917, at age forty-six. The *St. Cloud Daily Journal-Press* carried his obituary the next day:

**JAMES E. JENKS  
DIED YESTERDAY**

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**ILLNESS OF THREE YEARS RE-  
SULTS IN DEATH OF PROMIN-  
ENT CITIZEN**

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**BODY TO BE TAKEN TO AUSTIN,  
WHERE FUNERAL WILL BE  
HELD TOMORROW.**

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News was received in the city yesterday of the death of James E. Jenks, one of St. Cloud's most respected citizens, who has been a patient at a Minneapolis hospital for many months.

The deceased was forced to retire from active practice three years ago and since that time has been slowly failing in health, though until a short time ago his friends held hopes of his ultimate recovery. His death yesterday, though not unexpected, has caused sorrow among a wide circle of acquaintances. Until his illness made activity impossible, Mr. Jenks was one of St. Cloud's most enthusiastic promoters and his energetic efforts for advancement were in large measure responsible for the adoption of the new city charter and other forms of government now in operation in the city. He was also an active member of the Commercial club and of the Automobile club and an untiring worker for maintenance

of the highest code of ethics among members of the Bar association.

.....

James E. Jenks was born at Clearwater, August 9, 1871, and lived on the home farm until 15 years of age, when he came to St. Cloud to school. He received his common and academic education in the public schools of Clear-water, the St. Cloud state normal school, and Carleton College at Northfield. He taught for two years and then went to Washington, D. C., where he received his law degree from Columbian in 1897. In 1898 he began the practice of law in St. Cloud in the office of Myron D. Taylor, with whom he was associated under the firm name of Taylor & Jenks until Mr. Taylor became district judge in 1906. From 1906 to 1913 Mr. Jenks practiced alone. On June 16, 1913, he formed a partnership with James J. Quigley.

Mr. Jenks was instrumental in organizing and served as president of the League of Minnesota Municipalities, an organization affiliated with the extension division of the University. He served for 12 years as member of the state board of law examiners and resigned only when ill health made it imperative for him to do so. As a member of that board he upheld the highest ideals of the legal profession and was active in the successful prosecution of several unconscionable practitioners.

Fraternally Mr. Jenks was a member and past master of North Star Lodge No. 23, A. F. & A. M., and a member of St. Cloud Lodge No. 516, B. P. O. E.

The following tribute, paid to the life of James E. Jenks by Rev. E. V. Campbell, his close friend and spiritual adviser, voices the sentiments of the people of St. Cloud upon the death of one of the city's most respected and beloved citizens:

"The people of St. Cloud are greatly saddened by the news of Mr. Jenks' death, for his friends were all who knew him. His genial ways and his readiness to give a helping hand and a kind word, made every one feel that he found pleasure in the touch of his fellow men. His work as a lawyer had his first thought and crowded his

time to overflowing, yet he was accessible to every one who needed advice or other help. In his profession he had been remarkably successful, for he attained a position among his legal brothers not often reached by a man of his age. He had a thorough and accurate knowledge, not only of the letter, but the underlying principles, also, of law and with a mind clear and keenly alive and sensitive to the moralities, he was a safe counselor. So generous he was, that he gave financial aid to his predecessor in office as city attorney during his sickness, turning over to him all the emoluments of the office. In social life he was easily at case (sic) and no one would suspect that he was carrying about with him some problem that would have made social life impossible to most men.

“But just this, doubtless, prepared the way for the disease that struck him down. For nearly two years he made a most brave but unavailing fight, for he loved life—life meant so much to him. Mr. Jenks studied law at Washington, D. C., and this put him into touch with many of the great matters of our country and he formed the acquaintance of many of the leading men of the country and he loved to talk about such things.

“He was a member of the Presbyterian church in this city, a member of the Session, and for some years he was the faithful and efficient superintendent of the Sabbath school. Whatever he did, he did well.

“It was my privilege to know somewhat of his spiritual life. Sometimes we differed, but his frankness assured me that he was sincere and that Jesus had the supreme place in his heart.

“Mrs. Jenks will have the sympathy of a host of friends in this city—friends who will sincerely wish that they could be of help to her in her great bereavement.”<sup>2</sup>

The *Sauk Rapids Sentinel* quoted James Quigley’s recollections of his law partner:

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<sup>2</sup> *St. Cloud Daily Journal-Press*, December 3, 1917, at 5 (photo and funeral arrangements omitted).

“He was a fearless lawyer, honest and conscientious, and I believe did more to elevate the standards of the legal profession than any other single man in the state during the last years of his practice,” Mr. Quigley said.

“In a political way, Mr. Jenks, perhaps was not eminently successful, because he had always stood unflinchingly in support of his views. His life was an open book and I deem his death not only a personal loss to the bar of St. Cloud but to that of the state as well.”<sup>3</sup>

An editorial in the *St. Cloud Daily Journal-Press* expressed the city’s deep debt to him:

#### JAMES E. JENKS.

Stricken in the prime of life by an illness that proved to be fatal, after many months of illness, death came to James E. Jenks as a relief from a hopeless struggle, but not without a most heroic contest.

Mr. Jenks was a splendid type of citizen, a young man who had won success in good measure thru his own efforts and sterling worth. He was well educated, and as gifted with an unusually keen mind, which was enriched by study of not only the best in literature, history and biography, but he was a student of present conditions.

He took a most active interest in good government, and devoted much time to working out an improvement in the management of this city. He was a member of the charter commission and the first city attorney under the commission government. He was one of the founders of the Minnesota Municipal League, which has grown to be one of the strong organizations of the commonwealth.

Those who were favored with his friendship best appreciated the ability and the kindly, courageous spirit of the man, who look beyond the range of his own interests, and was ever ready to aid in bettering conditions for his friends, his city, his state and his country. To his faithful wife, who has been most devoted during the weary

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<sup>3</sup> *Sauk Rapids Sentinel*, December 6, 1917, at 1.



months of his illness, a host of friends thruout the northwest, will extend heartfelt sympathy.<sup>4</sup>

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“The Bench and Bar” appeared first as Chapter 29, pages 494-540, of the first volume of *The History of Stearns County*, edited by William Bell Mitchell, published in 1915. Biographical data on distant relatives of several lawyers have been deleted, and a few typographical errors and misspellings have been corrected. A few lengthy paragraphs have been divided. Section headings have been numbered. Footnotes are by the MLHP.

Following Chapter 29 are excerpts from Chapter 30, accurately called “Tragic Events,” which appeared on pages 540-598 of volume 1. These anecdotes relate crimes, court proceedings and sentencing. Both chapters have been reformatted to make them easier to read online. □

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<sup>4</sup> *St. Cloud Daily Journal-Press*, December 3, 1917, at 4.

“BENCH AND BAR”

IN

HISTORY  
OF  
STEARNS COUNTY  
MINNESOTA

BY

WILLIAM BELL MITCHELL

VOLUME 1

1915

## CHAPTER XXIX.

### BENCH AND BAR.

**Fourth Judicial District and Its Judges—Seventh Judicial District and Its Judges—The Probate Court—Municipal Courts—Early Cases and Lawyers—Bar Association—Leading Cases—Conclusion—By James E. Jenks.**

#### A. FOURTH JUDICIAL DISTRICT AND ITS JUDGES

The original constitution of Minnesota provided that the state should be divided into judicial districts of as nearly as practicable equal population. Six districts with one judge each were established by the constitution.

Stearns county was in the Fourth district, which comprised practically the whole state north and west of St. Paul. The other counties were Hennepin, Carver, Wright, Meeker, Sherburne, Benton, Morrison, Crow Wing, Mille Lacs, Itasca, Pembina, Todd and Cass. Later Anoka county was added making fifteen in all. Practically the whole district had to be covered by means of horses, either in saddle or with vehicle of some sort. In order to hold court in each county the judge must needs travel in this manner from fifteen hundred to two thousand miles annually.

The first district judge was James Hall of Little Falls who was appointed May 24, 1858, and served until October 1, the same year, at which time he resigned. Judge Hall sat in Stearns county but once and then only for business in chambers.

E. O. Hamlin of Sauk Rapids succeeded Judge Hall. Judge Hamlin was one of the first lawyers to come to this section, if not the first. He settled in Sauk Rapids in 1854, where he and a land surveyor, named Lancaster, had an office together. After his appointment to the bench he came to St. Cloud to live and he presided over the first general term of the state district court held in Stearns county. This was in March, 1859.

It appears from the clerk's records that prior to this, two terms of the Territorial court were held at St. Cloud; the first in June, 1855, and the second in May, 1856. At these terms the Hon. Moses Sherburne, United States district judge, presided.

Judge Hamlin was an able man and although he served but a short time he made an enviable record. The country was new. There were few precedents and it was necessary to make law at first hand. Bishop Henry D. Whipple, in a paper read at the Fiftieth Anniversary of the Minnesota Historical Society, St. Paul, November 15, 1899, on "Recollections of Persons and Events in the History of Minnesota," narrated the following incident:

"I could call over a long roll of the legal profession of our state, the peers of their brethren of the most favored cities of the East. Let me mention one name, that of Edward O. Hamlin of St. Cloud, the honored judge of that circuit. A murder had been committed, and the exasperated citizens judged the criminal by mob law, and hanged him. Some of the most prominent citizens of the county notified Judge Hamlin that he must not charge the grand jury with reference to this deed, and that if he did he could never again be elected. Judge Hamlin paid no attention to the threat, but charged the jury in one of the most manly appeals which ever came from a judicial bench. When I read it, I said to my friend, 'Hamlin, I would rather have made that charge of yours than to be President of the United States.'" <sup>5</sup>

This occurrence was in the adjoining county of Wright, and led to what is known as "The Wright County War." A company of militia was sent up by the governor to quell the disturbance. Judge Hamlin resigned after the fall term in 1859 and entered private practice in St. Cloud. He remained one of the leading practitioners until some years after the Civil War. In common with many of the lawyers of the county he took a lively interest in public affairs and was the first mayor of St. Cloud upon its organization as a city in 1862.

Judge Hamlin was succeeded by Judge Charles E. Vanderburgh. Judge Vanderburgh was a Yale graduate, taught school, studied law,

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<sup>5</sup> Bishop Henry D. Whipple, "Recollections of Persons and Events in the History of Minnesota," 9 Minnesota Historical Society Collections 576-601 (1901) (address delivered first to Historical Society on November 15, 1899).

was admitted in New York, came to Minnesota in 1856, and was made judge in 1859 at the age of 29 years. Notwithstanding his youth he made good and was the first of three judges who sat upon the Stearns county district bench to ascend to the Supreme bench of the state. Judge Vanderburgh held general terms in St. Cloud twice each year from April 2, 1860, to April 12, 1866, except that the September term in 1861 was held by Judge Thomas Wilson, and Judge C. E. Palmer presided at the April term in 1863.

When the Seventh Judicial district was established by the legislature of 1866, Judge Vanderburgh remained judge of the Fourth district until 1881 when he went to the Supreme court and served as a justice of that court till 1894.

## B. SEVENTH JUDICIAL DISTRICT AND ITS JUDGES.

The new judicial district included everything west and north of St. Cloud to the Canadian line. The total population was only 14,000, of which about half lived in Stearns county, except for Stearns, Benton and Morrison counties the entire district was guiltless of lawyers. The first judge of the new Seventh district was James M. McKelvy, who was appointed in 1866, and served until 1883, during which time he presided over ninety-six terms of court, general and special, in Stearns county. Judge McKelvy came to St. Cloud from Pennsylvania in 1858, so he was among the early arrivals of those in his profession. He was appointed by Judge Hamlin at the second general term in Stearns county as acting county attorney. In 1859 he was elected county attorney, and served till 1862 when he resigned to enter the army. He was again elected county attorney in 1865 and served till August, 1866, when he again resigned, this time to go upon the bench. As stated by one of his contemporaries, he was a mere boy in appearance even when he went upon the bench, but he was an exceptionally brilliant man and was long regarded as one of the ablest district judges in the state. Judge McKelvy resigned as judge in April, 1883, to enter private practice.

There appears elsewhere in this work an extended account of the life and work of Judge McKelvy, as well as the lives and works of all his successors to the present time. It is inappropriate, therefore, to give

here more than a few general facts and side lights with reference to any of them.

Upon the resignation of Judge McKelvy, Loren W. Collins was made judge and held his first term in April, 1883. He was the second Stearns county district judge to be honored with a seat upon the state supreme bench. This was in 1887, so Judge Collins served only about four and a half years upon the district bench. Judge Collins was very methodical in his work and followed a practice which many of the lawyers of today would find to their profit to follow. He made it a rule to prepare his cases thoroughly a long time in advance of trial. When county attorney he always prepared his indictments immediately after the preliminary hearing. At the same time he took statements of all his witnesses and reduced them to writing. These statements together with the indictment and a list of authorities bearing on the case were placed in his file. When the grand jury met everything was in readiness and he was not hurried or worried.

He served as county attorney in 1867 and 1868, and again from 1870 to 1872. A story is told of Judge Collins when he first went upon the bench which, though something of a "grind," was enjoyed by the judge as much as by anybody. It is invariably true that when a strong advocate goes to the bench, he finds it difficult for a time to hold his conclusions in abeyance. Judge Collins had been an exceptionally strong advocate and he was no exception to the rule. At an early term held in Sauk Rapids, a criminal case was on trial, Oscar Taylor being for the defendant. Judge Collins was convinced of the guilt of the defendant and his charge was somewhat favorable to the prosecution. The jury after consideration, acquitted the defendant. At dinner that day a number of lawyers were together at the hotel table and Judge Collins expressed his disapproval of the verdict. Captain Taylor wore a long silky beard, reaching to his waist. He had a habit of combing this beard with his fingers as he talked, and he was noted for his caustic tongue. "Well, Judge," said the captain, combing his beard, "I don't think you ought to complain. It's the first case you've lost this term." Judge Collins carried his careful methods of preparation to the bench and he ranked high as a jurist. He retired from the supreme court to become a candidate for governor. This led to the famous Dunn-Collins fight, in which he was defeated. He then opened an office for private practice in Minneapolis, where he remained until

his death. He was always loyal to St. Cloud, however, and retained his legal residence here. For a time, also, he had a branch office in this city, in charge of James A. Martin, under the style of Collins, Martin & White.

When Judge Collins was made Supreme court justice, D. B. Searle became judge at St. Cloud. Judge Searle was county attorney from 1882 to 1884. Prior to that time he had been city attorney of St. Cloud, and was for a time United States district attorney. He had been unusually successful as a practitioner and he made an excellent judge. He was re-elected several terms without opposition and was in continuous service on the bench longer than any of the other judges elected from this county, a period of nearly twenty-one years. Judge Searle was not only a good judge, but a genial and hospitable host. It was his custom for many years to entertain all the lawyers of the county at his home, and these occasions were always thoroughly enjoyable. Like Judges McKelvy and Collins, Judge Searle served in the Union army in the Civil War and was always active in the affairs of the G. A. R. It was on the occasion of an address on Memorial day at Long Prairie in 1906 that he was stricken almost unto death. In fact he never recovered so that he was able to resume his duties on the bench. He resigned in November, 1906, and died in the winter of 1907.

The seventh judge to sit in St. Cloud and the third to go from the District court to the Supreme court was Myron D. Taylor. Judge Taylor was born in Maine, but came to Stearns county when only three years old, so he was almost a native son. He was elected in November, 1906, to succeed Judge Searle, but as his regular term would not begin in due course until January, 1907, he was appointed by Governor Johnson so as to be able to hold the December term. Judge Taylor was and is pre-eminently a general-principle lawyer, and, therefore, particularly well fitted for judicial work. He has a wonderful power of concentration and when he sets himself to a task, he can digest and assimilate more law than any man ever known to the writer. He has also an exceptionally retentive memory. The writer has seen him turn to a whole series of cases bearing upon a given point, running through a number of volumes of Minnesota Reports, without looking once at either a digest or an index.

Judge Taylor served his apprenticeship with Sylvester Kipp at Henderson and Mr. Kipp always took a lively interest in him. In rendering his decisions when on the district bench he used frequently to add notes which were most illuminating. His decisions were rarely reversed by the Supreme court, and commenting on this Mr. Kipp said, "Just as long as M. D. (he was always known among his intimates by his initials) keeps writing those notes to keep the Supreme court straight, he isn't going to have any trouble." Judge Taylor was city attorney of St. Cloud for twelve years and is the father of the best part of the city charter and most of the ordinances. He was register of the United States land office at the time of his appointment to the bench. The legislature of 1913, in order to relieve the burden of work resting upon the Supreme court provided for two additional judges under the title of Commissioners who should be selected by the court itself. Judge Taylor and Judge Dibbell of Duluth were the two men chosen. A farewell banquet was given in St. Cloud in honor of Judge Taylor before his departure for St. Paul, which was attended by representatives from the bar of every county in the district and by Chief Justice Brown of the Supreme Court. In speaking of the selection of Judge Taylor the Chief Justice said that the majority of the court were not personally acquainted with Judge Taylor but they had all learned to know him through the decisions he had rendered which came to their court for review, and they knew he was the man they wanted as an associate to help keep the calendar clean. That was certainly a fine tribute to Judge Taylor's judicial ability, and his work upon the supreme bench has proved it to be well founded. Judge Taylor's appointment was in March, 1913. His first intimation that he was being considered was a long distance call from the Chief Justice, offering him one of the new Commissionerships. That afternoon as many of the members of the bar as could be reached were called together and they were informed of the offered appointment.

After expressions of regret that the district was to lose Judge Taylor's services, the lawyers present fell to discussing who was best qualified to succeed him. After canvassing the situation up one side and down the other, it was finally agreed by all present that John A. Roeser should receive the unanimous endorsement of the bar for appointment to succeed Judge Taylor, and a committee was appointed to inform Mr. Roeser who was not present at the meeting but was



attending to some business in Minneapolis; and if he would accept to present his name to the Governor. After some difficulty, Mr. Roeser was located and apprised of the action of the bar, and after the first shock of surprise, for he knew nothing of Judge Taylor's appointment, he said he would accept if appointed. Senator Sullivan was in St. Paul and he was communicated with by telephone, as was also Governor Eberhart, with the result that Judge Roeser was appointed that same evening, March 15. Judge Roeser assumed his official duties April 1, 1913, and held his first term of court in Mille Lacs county.

Judge Roeser is a fine example of a self-educated and self-made man. His only opportunity for schooling, except in the common schools and in the University of Experience, was at the Normal School in St. Cloud between the ages of twelve and fifteen. At fifteen he was obliged to earn his own living and contribute to the support of others; and he then taught his first school. After some years of teaching he came to St. Cloud and worked for a time at the fiber mill in lower town, then in the German American National Bank, then for a short time with John D. Sullivan, and finally with George H. Reynolds, with whom he remained as a clerk until he was admitted to the bar in 1898, and then as a partner until Mr. Reynold's death. Judge Roeser is a close student and a hard worker. Thoroughness has always been his watchword and it was this fact which singled him out as the man for judge. His appointment was purely on merit and he has ratified the judgment of the bar by service upon the bench of a high character. At the November, 1914, election, he was elected for a six-year term without opposition and bids fair to be a most worthy successor to the line of illustrious judges who have preceded him.

### C. THE PROBATE COURT.

The statutes do not require that a judge of probate shall be a man "learned in the law." This has resulted in many counties in an unfortunately weak administration of the affairs of this most important court. Stearns county, however, has been fortunate in this regard. Practically all its probate judges from the very beginning have been lawyers and some of them among the most capable in the state.

The first judge of probate in Stearns county was N. N. Smith, who served in 1855 and 1856.

He was succeeded by Henry C. Waite. Judge Waite was the first lawyer in Stearns county and next to Judge Hamlin was the first lawyer in this section of the state.

When he came to the state the law practice was largely in Justice court and before the United States land office, and Mr. Waite in pursuit of his professional duties to clients used to travel to Little Falls and as far as Crow Wing, on foot, and following the custom of the pioneer community, as well as for the sake of economy, he carried his shoes in his hands, between courts. Mr. Waite served as a Democratic member of the Constitutional Convention and was the first county attorney of Stearns county. He was judge of probate from 1856 to 1860. He went into business shortly after retiring from the Probate court, and while he was always active in the affairs of the county and state, and never forgot that he was a lawyer, he did not again engage in active practice. W. D. Davis succeeded Judge Waite.

Following Judge Davis, L. A. Evans became probate judge and holds the record for long service, having been judge of that court from 1862 to 1882, with the exception of two years when the office was held by Peter Brick. Judge Evans had his office in the Broker block, which was the big building of the town in the early days. The Broker building burned in 1872 and with it all the probate records up to that time. Judge Evans was the eleventh man admitted to the bar in Stearns county. He was city justice for many years, but was not in active practice during the later years of his life.

Peter Brick was elected judge of probate in 1876, defeating Judge Evans, but only served two years at that time. He was again elected in 1882 and was Probate judge until 1887. Judge Brick was county attorney from 1872 to 1876 and was very active both in politics and business for many years. He is still in practice in St. Cloud.

Theodore Bruener became judge of probate in 1887 and served for seven years. During Judge Bruener's term some very important cases were determined in his court and he proved himself a most competent judge.

Just prior to his election as judge of probate he had served two terms as county attorney and he resigned his judgeship to become register of the United States land office. Since leaving the land office he has been in active practice and is still so, being the senior member of the firm of Bruener & Ahles.

Judge Bruener had to fight for his office of county attorney after he was elected, as did J. D. Sullivan. When elected Mr. Bruener was only twenty-seven years old, and was persona non grata with the then chairman of the board of county commissioners. In order to bring the elections on even year, provision was made for holding three year instead of two and young Bruener presented for approval a bond for three years. The county board refused to recognize the bond for the reason that it covered three years. Mr. Bruener promptly obtained an alternative writ of mandamus to compel them to approve the bond. The statute provided for service on the chairman, which was done. F. E. Searle was retained by the board and asked for a dismissal on the ground that since a writ of mandamus was enforceable by contempt proceeding, there must be personal service on each member of the board. This contention was sustained, but Mr. Bruener, nothing daunted, proceeded to sue out a new writ, which was served on all the members of the board and resulted in his bond being duly approved as originally presented.

Following Judge Bruener, A. Barto served by appointment for the remainder of the former's term. Judge Barto had formerly lived in Sank Centre and had been active and prominent in public affairs. He was at one time lieutenant governor and was also register of the land office.<sup>6</sup>

Hubert Hansen succeeded Judge Barto in 1895. He was defeated by D. T. Calhoun in 1900, but was again elected in 1904 and served in all eight years. He was an excellent judge and is now in practice in St. Cloud, making a specialty of probate law.

It is no discredit to any of the men who have served as judge of probate to say that D. T. Calhoun was the strongest man who ever acted in that capacity. He was the acknowledged leader of the bar of

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<sup>6</sup> Alphonso Barto (1834-1899) served two terms in the state House of Representatives, 1872-1874, and one term as Lieutenant Governor, 1874-1876.

this county for a number of years and the following just tribute was paid him by George H. Reynolds in a published article in the 1907 Jubilee Number of the Journal Press:

“Without any desire to disparage the ability or standing of any of the present or past members of the bar of Stearns county, we are constrained to say that David T. Calhoun was the profoundest lawyer that does now or ever has practiced at the St. Cloud bar. His character was so many-sided, and his literary and legal attainments so diversified and numerous, it is almost impossible to give any idea of the man in a few words, no matter how well chosen they may be. Mr. Calhoun, or ‘Cal.,’ as his fellow-members of the bar were wont to call him, was in every field of thought explored by him, broad gauged and liberal-minded. He was a voracious reader, not only of the books generally pertaining to his profession, but also an ardent student of the sciences, philosophy, religion and politics. Mr. Calhoun’s studious habits along all lines of ancient and modern thought, and his profound knowledge of the principles of the common law, plus his technical knowledge of the law of evidence, gave him an equipment which specially fitted him for the field of advocacy, where his success was marked, and almost phenomenal. Mr. Calhoun was a great lawyer, a ripe scholar, a courteous gentleman, a patriotic citizen, a kind, tender and loving husband and father.”

Judge Calhoun was succeeded by A. H. Klasen, who was elected in 1906 and served until January 4, 1915. Judge Klasen is a graduate of the University of Minnesota and was for a time associated with Judge Bruener under the style of Bruener & Klasen. He is a native of Stearns county, having been born at Freeport. During his incumbency of the office he served as president of the Probate Judges’ State Association. He has been attentive to the duties of this important office and has made an excellent record.

Joseph B. Himsl assumed the office of Probate judge January 4, 1915. He is a graduate of the Law School of the University of Minnesota, and in addition to his present office he has been assistant county superintendent of schools and county attorney, holding the latter position for two terms, from 1909 to 1913. Judge Himsl’s experience and training have well qualified him for his present office and he will make an excellent Judge of Probate.

#### D. MUNICIPAL COURTS.

There is but one Municipal court in Stearns county, that at Sauk Centre. This was established by special act of the legislature approved March 28, 1889, and it continued to operate under this special law until 1897 when the City council adopted the provisions of Chapter 229 of the General Laws of Minnesota for 1895. The court is still working under the provisions of this latter law.

The regular terms of the Court are held on Tuesday of each week. It is a court of record with jurisdiction for Stearns county in all criminal matters which may properly come before a court of a justice of peace and in all civil matters in which the amount in controversy does not exceed \$500. The business of this court has at all times been handled by competent and efficient men and the court is well regarded throughout the county. The minutes, dockets, and filings have been well kept at all times and furnish many interesting facts relative to the history of the citizens of Sauk Centre. During the thirty-six years of the existence of this court its business has been presided over by only five judges. The first judge was Lyman R. Barto, who was appointed by Governor Merriam in March, 1890, and was elected judge in April, 1890. He served until 1894, when he took up the active practice of law and was succeeded by David Wilcox who presided over the Court until the date of his death in the latter part of 1906. W. A. Morse was appointed by Governor Johnson to complete the unexpired term of Judge Wilcox and served until June, 1909, when he resigned.

W. S. Dean was appointed by the governor to complete the unexpired term of Judge Morse and held office until April, 1913, when he removed from Sauk Centre and resigned his position.

The present judge, the Hon. Cary Diehl, was appointed by Governor Eberhart, April, 1913, and was elected to the office in the following year. He is a man of wide experience and in addition to his office as municipal judge, he holds the office of court commissioner of Stearns county at the present time. He was born in 1854 in Ohio and received a post-graduate normal school education at Grinnell, Iowa. He taught school for a few years and then served in the operating and

accounting departments of the Northwestern Railway Company for twenty-five years. In 1900 he moved to Ruthton, Minnesota, and from there to Sauk Centre.

#### E. EARLY CASES AND LAWYERS.

The first case filed in the District court of Stearns county was an appeal from the Justice court of J. F. Noel, and was entitled, James F. Kennedy, Plaintiff, vs. R. A. Smith, Defendant. This was an action for "Work and labor bestowed at the defendant's request for him in the sum of forty-nine dollars and forty-five cents on or about the thirteenth day of November, A. D., 1858." The defense was a counterclaim for lime and other articles sold and delivered amounting to \$57.00. Stephen Miller, afterward governor of the state, represented the plaintiff, and Henry C. Waite, the defendant. The case was evidently hard fought on both sides in the Justice court, as there are several written rulings of the Justice in the file, but apparently it was not tried at all in District court.

Under date March 15, 1859, is noted the first general term, which was held in "Wilson's Hall." Court came in and proceeded to business. The district attorney being absent, the Court appointed C. C. Andrews prosecuting attorney for this term." All jurors both grand and petit who were absent were fined \$5.00 each. The first case called was S. J. Wheeler vs. Anton Edelbrock and by consent judgment was entered for plaintiff, this being the first judgment ever actually entered in the District court. This first general term lasted four days. There were apparently but four attorneys in attendance, viz., Henry C. Waite, J. C. Shepley, C. C. Andrews and William H. Wood. Two were admitted at this time.

The record says under date of March 15: "Moved by H. C. Waite, Esq., that Thomas C. McClure be admitted as an attorney to practice in the courts of this state, and moved by William H. Wood, Esq., that Stephen Miller be admitted to practice in the same. The court ordered that the following gentlemen be a committee to examine the above applicants, viz., H. C. Waite, William H. Wood and C. C. Andrews." "March 16, court in session. The committee appointed to examine applicants for admission to the bar reported favorably as to Stephen

Miller and Thomas C. McClure, and they were duly admitted as attorneys and counsellors at law.”

Neither Mr. McClure nor Mr. Miller ever practiced law for a livelihood. Mr. McClure was deputy clerk of the district court when N. P. Clarke was clerk and was afterwards clerk himself. After leaving the clerk's office he and Mr. Clarke were in business, and for many years he was one of the prominent figures in Stearns' county history.

Mr. Miller came to St. Cloud in 1858 and was engaged in the Justice court cases which comprised the principal litigation of the time. His principal occupation was in the mercantile line and he remained in business in St. Cloud until 1861, when he left to enter the Union army. He was lieutenant colonel of the First Minnesota and was later made colonel of the Seventh regiment. Shortly after his promotion he suffered a severe fall from his horse. While recovering from this injury he was elected governor of Minnesota. Governor Miller was prominent in public affairs for a number of years and died at Worthington, where he had made his home in later years.

Of the other lawyers at this first term only three were Stearns county men. Mr. Wood was a Sauk Rapids man, and although he practiced in this county, he never lived here.

Mr. Shepley was Mr. Waite's partner, the firm being Waite & Shepley. He was a native of Maine, and a nephew of Chief Justice Shepley. He came to St. Cloud shortly after Mr. Waite and they were both prominent in the affairs of the new state and both were talented men. Mr. Shepley served, as did Mr. Waite, in the Democratic wing of the Constitutional Convention.

Following the custom in pioneer communities, one of the principal social events was the weekly lyceum or debating society. Both Mr. Shepley and Mr. Waite were active in this lyceum and at times the discussions waxed so warm that the entire community was likely to be torn asunder.

General C. C. Andrews, now state Forestry commissioner, came to St. Cloud in the summer of 1857. He was admitted to the Massachusetts Bar in 1850 and to the bar of the United States Circuit court

in Washington, D. C., in 1857. Prior to coming to St. Cloud he was for two years in the office of the solicitor of the United States Treasury department and came to Minnesota as a special attorney for the government in an action then pending in the United States District court for the district of Minnesota. General Andrews was not only the first acting county attorney as shown by the record above quoted, but he was the first city attorney, having been appointed by the council in 1857. He was attorney for the successful litigant in the first case called for trial in District court and also in the second case called, which was the first case to be tried by a jury. General Andrews entered the Union army as captain of Company I, Third Minnesota Volunteer Infantry, was promoted to be lieutenant colonel and afterwards colonel of the regiment. He was promoted to be a brigadier general and was brevetted major general. After the close of the war he was a candidate for congress in the famous Ignatius Donnelly fight, but was defeated.<sup>7</sup> He was then appointed as United States Minister to Sweden, where he served nine years and thereafter served two years as United States Minister to Brazil. General Andrews is still living, being now a resident of St. Paul, and in recent years he has done a great work in protecting the forests of the state.<sup>8</sup>

In the fall of 1857 George Barstow, who was an eloquent orator and who had been prominent in New Hampshire politics, came to St. Cloud. His wife was a sister of Mr. Shepley and he formed a partnership with his brother-in-law. Mr. Barstow remained in St. Cloud only about a year, and then moved to San Francisco, and later became speaker of the House of Representatives of California.

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<sup>7</sup> In 1868, General Andrews, who had the Republican party endorsement, and Ignatius Donnelly, who ran as a Republican without party designation, split the Republican vote, permitting Eugene M. Wilson to win:

Christopher C. Andrews (R).....	8,595
Ignatius Donnelly (R).....	11,229
Eugene M. Wilson (D).....	13,506
Write-ins.....	89

Bruce M. White, et al, *Minnesota Votes: Election Returns by County for Presidents, Senators, Congressmen, and Governors, 1857-1977* 69 (Minn. Hist. Soc., 1977).

<sup>8</sup> He also edited a history of the capitol city: Christopher C. Andrews, *History of St. Paul, Minn.* (1890).



Following Mr. Barstow came James M. McKelvy in 1858; and William J. Parsons also in 1858. Mr. Parsons came here from Minneapolis, where he had practiced for some time. He was defendant and appellant in the first reported case which was appealed from Stearns county to the Supreme court. It is traditional among attorneys that however ardent they may become in their cause, they do not permit their ardor in a client's cause to stand in the way of pleasant personal relations and friendships. Sometimes, however, attorneys as well as others have differences between themselves. As expressed by one of the men now practicing in St. Cloud, "Usually I get mad only for my client, but in this case I got mad for myself." It is interesting to note, therefore, that this first case to go to the Supreme court was a fight between lawyers. It appears that some time after Judge Hamlin retired from the bench, he loaned some money to his brother attorney, William J. Parsons. For security Mr. Parsons gave a mortgage on his house and lot, said lot being numbered six. Mrs. Parsons owned lot seven, adjoining lot six. For reasons best known to himself, Mr. Parsons moved the house from lot six to lot seven. This left lot six vacant, unoccupied and unimproved, and as such not of sufficient value to pay the mortgage. Thereupon Judge Hamlin evidently "got mad for himself," for he sued Mr. Parsons and his wife in an action to foreclose the mortgage on lot six and have it declared a lien on the house then standing on lot seven. The District court so ordered and the Parsons appealed to the Supreme court, which held the house to be still subject to the mortgage and that it could be sold to satisfy the debt.

This first appeal from Stearns county was not until 1866, eight years after the District court was established. It is reported in 12 Minnesota, Page 108, "Edward O. Hamlin vs. William J. Parsons and wife."<sup>9</sup>

Since that time many cases of first impression have been decided on appeals from this county, some of them involving very important and far-reaching principles of law.

The only admissions to the bar noted upon the records prior to the war, in addition to those already mentioned, were William A. Caruthers and Milton S. Slocum, both of whom were admitted on order, September 19, 1859. Mr. Slocum never practiced here.

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<sup>9</sup> Hamlin v. Parsons, 12 Minn. (Gil. 59) 108 (1866) (Berry, J.).

Mr. Caruthers was register of the United States land office, first at Sauk Rapids and then at St. Cloud, but left at the beginning of the war to join the Confederate army. Mr. Caruthers was a very ready speaker and it is told of him that once he became so eloquent in the defense of his client in a criminal case that the defendant took advantage of the spellbound attention of the Court, the auditors, and the sheriff, and made his "getaway." After the close of the war Mr. Caruthers practiced in the South where he died a number of years ago.

The last of what may be termed the first generation of lawyers in Stearns county was William S. Moore. He was a Yale graduate, and noted for his subtlety and technical knowledge. Woe to the lawyer who appeared against Mr. Moore with imperfect pleadings. An amendment with \$10.00 costs was the rule. Mr. Moore succeeded James M. McKelvy as county attorney being appointed in August, 1862, and serving until January, 1863. S. B. Pinney having been elected in November, 1862.

Mr. Pinney was county attorney for one term, and was followed in the office by Mr. Moore, who was elected in 1864.

The first clerk of the District court evidently thought the county an exceedingly law-abiding one, for he began marking his criminal files by letters instead of numbers. Case "A," the first criminal case in the files, is one in which Thomas Blaney was arrested on the complaint of Amos Dodge for "feloniously shooting said Amos Dodge with both barrels of a double barrel shot gun." The primitive manner of living is indicated by the testimony which is written in long hand.

Amos Dodge testified: "Yesterday about noon we stopped upon the hill to cook some dinner, and I throwed my blanket on the ground and lay down a few minutes when he, Blaney, commenced to abuse me in language." The story goes on to relate how he got up, put the gun in the wagon and started off with his ox team but was followed by Blaney, who started to take the gun out of the wagon. Dodge in trying to prevent this got shot in the arm.

The defendant conducted his own cross-examination which was as follows:

“George (meaning Mr. Dodge) were you sober when you laid down there?”

“I was sober.”

“Had you dranked a quart of liquor that day?”

“No, nor a gill.”

“Did you drink out of the jug?”

“No, out of a small bottle.”

“How many times was that bottle filled?”

“I don’t know.”

“Did you see me pay for a gallon of whiskey?”

“I did.”

“That’s all.”

The other witnesses were Sam Arseneau and “a girl of seven years and a half.”

The defendant was found guilty and committed to jail.

Criminal case No. 1 was an appeal from Justice court, wherein the defendant, Phillip Spinaweaver, had been convicted by Joseph F. Noel, justice of the peace, “for having on the 27th day of November, 1858, in St. Cloud Town, in said County, did willfully and metitiously (sic) and unlawfully steal one buck deer from M. P. Noel, supposed to be about eight months old and the value of about \$10.00.” The evidence was purely circumstantial and consisted, so far as connecting defendant with the crime, in comparing tracks in the snow with defendant’s boots. The jury in the District court found defendant “not guilty.”

#### F. SECOND, THIRD AND FOURTH GENERATION.

After September, 1859, no attorneys were admitted to practice law in Stearns county for a period of nearly five years, the next name

appearing on the roll being that of R. Channing Moore, admitted in 1864.

Oscar Taylor was also admitted in 1864 and remained in continuously active practice longer than any other man at this bar. Mr. Taylor first came to this section of the state in charge of a United States Government surveying party in 1857 or 1858. He was in the Union army during the war and was made captain. After the war he settled in St. Cloud for the practice of law and remained in practice here till about 1900, when failing health demanded his retirement. Captain Taylor was county attorney, succeeding Mr. Moore in 1866, and was again county attorney from 1886 to 1891, having succeeded in keeping J. D. Sullivan out of the office for one term. He had a notoriously caustic tongue, and his associates did not always approve his methods, but he was a brilliant man and probably the most gifted man in the history of this bar, as an orator.

Following Oscar Taylor the record shows seventy odd admissions down to 1891. Many of these men never practiced their profession, or if so, for only a short time, but a list of the men with the dates of their admission to the bar is of more than passing interest.

E. M. Wright, April 14, 1864; Charles D. Kerr, October 4, 1865; Clinton B. Robinson, October 4, 1865; L. A. Evans, October 27, 1866; George L. Hays, August 29, 1868; A. Barto, June 22, 1870; Charles Walker, June 22, 1870; Joseph Mitchell, July, 1870; John Brophy, February, 1871; Dolson B. Searle, June 17, 1871; Peter Brick, June 26, 1871; J. V. Brower, June 26, 1873; John M. McNair, December 8, 1873; Charles F. Sawyer, December 8, 1873; Alvin M. Crowell, June 12, 1874; Frank E. Searle, June 25, 1876; Lorentz Weir, June 24, 1876; C. A. Gilman, L. T. Storey and A. F. Storey, December 16, 1876; James R. Bennett, Jr., February 3, 1877; R. P. Briggs, June, 1879; David T. Calhoun, December 11, 1877; Frank E. Hamlin, June 22, 1878; William L. Wilder, June 22, 1878; D. D. Webster, June 22, 1878; Oliver K. Chance, June 22, 1874; Theodore S. Stiles, December 7, 1878; Charles S. Mitchell, December 6, 1881; Frank Tolman, December 6, 1881; Henry Dressler, June 24, 1882; W. A. Gates, June 24, 1882; John C. Foster, June 17, 1882; Theodore Bruener, December 8, 1879; E. H. Morse, and L. R. Swift, June 24, 1882; D. C. Van Camp, June 24, 1882; L. M. Davis and M. C. Kelsey, December 20, 1882; D. W. Bruckart, June 16, 1883; William

Westerman, June 16, 1883; John M. Galtz, June 19, 1883; O. W. Baldwin, June 20, 1883; Charles L. Hinckley, June, 1883; Harry S. Locke, June 22, 1883; C. A. Lindbergh, June 22, 1883; Fred E. Redick, September 29, 1883; H. M. Dye, December 17, 1883; Simon J. Barnes, February 1, 1884; George W. Stewart, December 9, 1884; George S. Spencer, June 19, 1884; P. B. Gorman, December 9, 1884; L. R. Barto, December 9, 1884; E. W. Taylor, December 23, 1885; George M. Bennett, January 30, 1886; E. G. Mills, March 24, 1886; J. D. Sullivan, July 7, 1886; Charles W. Hoyt, December 1, 1886; T. H. Van Dyke, December 14, 1886; David Burrows, July 19, 1887; Edward R. Lynch, July 19, 1887; John W. Shepard, July 19, 1887; L. S. Thomas, December 23, 1887; Charles H. Foot, July 3, 1888; William H. Thompson, July 3, 1888; Nathan B. Wharton, December 10, 1888; Benjamin F. Wright, January 4, 1889; John E. C. Robinson, March 3, 1891.

It would appear from the records that Mr. Robinson was the last of those admitted under the old system of examination by a committee appointed by the Court. The other lawyers of the county have been admitted either upon diploma or after examination by the State Board of Law Examiners. A few were admitted in other counties or states and later came to practice in Stearns county. Prominent among these were N. H. Miner, for many years the leading lawyer of Sauk Centre, and George H. Reynolds, who came here from Douglas county.

The present bar of Stearns county comprises practitioners of what might be termed three generations or periods.

Eight of those named in the foregoing list are still in practice in Stearns county: Peter Brick, James R. Bennett, Theodore Bruener, P. B. Gorman and J. D. Sullivan of St. Cloud; D. C. Van Camp and M. C. Kelsey of Sauk Centre, and F. Tolman of Paynesville. Of the same generation are M. D. Taylor, R. B. Brower and Hubert Hansen, all of whom were admitted to practice upon the diploma of the State University; Judge Taylor in 1879, Judge Hansen in 1882 and Mr. Brower in 1890.

The next generation comprises John A. Roeser, James E. Jenks, J. B. Himsl, John B. Pattison, and James H. Maybury, of St. Cloud; W. F. Donohue and W. J. Stephens, of Melrose. Of these Judge Roeser

and Mr. Jenks were admitted by the State Board of Examiners in 1898; Messrs. Klasen, Himsl, Pattison, Donohue and Stephens all graduated from the University of Minnesota Law School; Messrs. Donohue and Stephens both in 1896; Mr. Pattison in 1900, and Judges Klasen and Himsl, both in 1903.

Mr. Maybury graduated from Wisconsin and practiced for several years at Crookston, whence he moved to the Pacific Coast on account of his health, but returned to his native town of St. Cloud about two years ago for the practice of his profession here.

Mr. Donohue is the senior member of the firm of Donohue & Stephens of Melrose and served four years as county attorney and also as a member of the legislature during the session of 1899. He is now city attorney of Melrose.<sup>10</sup>

The third and last generation of present day practitioners are the following: Paul Ahles, the present county attorney, Henry H. Sullivan, son of J. D. Sullivan; Warren H. Stewart, son of George W. Stewart; L. L. Kells of Sauk Centre, son of Lucas Kells, and James J. Quigley. Of these Mr. Kells and Mr. Quigley are graduates of the University of Minnesota, in 1908 and 1910, respectively; Mr. Sullivan attended the University for a time but finished his studies in his father's office and was admitted through the Board of Law Examiners, as was Mr. Stewart, who is a Michigan graduate. Mr. Ahles was a teacher for some years after graduating and then became county superintendent of schools, which office he held for eight years. He was admitted on examination of the State Board of Examiners.

Mr. Kells is the present city attorney of Sauk Centre and is taking an active part in the development of his section of the county.

Mr. Quigley was born at Minneapolis. After graduating from the law school he went with the legal department of the Great Northern Railway Company and was in the Great Northern employ when he came to St. Cloud in 1913.

It used to be said that the only requisite for admission to the bar in the old days of committee examination, was the wherewithal to buy a

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<sup>10</sup> For more, see "William F. Donohue (1862-1932)" (MLHP, 2013).

dinner with a few trimmings, for the members of the bar. That this is a base libel, however, is amply proved by the high class of men who were so admitted. Some of them have been recognized as among the strongest lawyers not only in the county but in the state.

It is impossible to give individual sketches of all of the men who have been admitted in the county. Some never practiced and some moved elsewhere; but a goodly number remained in the profession and for the most part, to its honor.

E. M. Wright was county attorney from 1868 to 1870, practiced in St. Cloud for a considerable time and then moved to Fergus Falls.

Charles D. Kerr was in practice in St. Cloud for some time and then removed to St. Paul, where he was made judge of the Ramsey County District court by the unanimous endorsement of the bar of that county, and served in that capacity for many years.<sup>11</sup>

George L. Hayes was a brother-in-law of Judge Kerr. He came from the south and formed a partnership with Judge Kerr, but he only remained in St. Cloud about a year.

J. V. Brower was the father of R. B. Brower, now in practice in St. Cloud, and has been in many ways a remarkable man. His work, however, has not been along the line of the law and is more fully treated elsewhere in this history.

Frank E. Searle is a brother of Judge Searle. He practiced both at Sauk Centre and St. Cloud and is now in New York City.

C. A. Gilman has helped make history from the beginning of things in this county. He had for a time as a partner a man named Barrett, who was a brilliant man but not altogether dependable and who returned to New York after a short period of practice. Mr. Gilman has occupied many public offices and is now at eighty-two years of age in the

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<sup>11</sup> Charles Deal Kerr (1835-1896), a civil war hero, served on the Second Judicial District Court from 1889 to his death on December 25, 1896. An article on Charles Kerr will be posted on the MLHP at a later date.

legislature, as active and energetic as many of the men who are much younger in years.

L. T. Storey and A. F. Storey both practiced in Sauk Centre.

James R. Bennett, Jr., has the distinction of being the only man ever admitted to the bar in this state by a special act of the legislature. He had completed his studies and passed his examinations before he was twenty-one years of age. On the recommendation of Judge McKelvy, who was then on the bench, the legislature passed a special act for his admission.<sup>12</sup> Mr. Bennett is still practicing in St. Cloud, being the surviving member of the firm of Calhoun & Bennett. He served for some years as city attorney, and has been a prominent leader in politics.

Charles S. Mitchell never practiced law, but he has been prominent in the affairs of the state and is now editor of the Duluth News-Tribune.

Frank Tolman studied law in the office of D. B. Searle and after admission to the bar was associated with D. B. Searle and his brother under the style of Searle, Searle & Tolman. He was also a member of the firm of Tolman & Baldwin, the other member being O. W. Baldwin, now of Minneapolis. Mr. Tolman removed to Paynesville, in this county, some years ago, where he now enjoys a very good practice covering the towns in Western Stearns and along the Soo and Great Northern lines into the adjoining counties.

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<sup>12</sup> Under 1877 Special Laws, ch. 126, at 200, the courts of the state were authorized to admit Bennett as an attorney "provided that upon due application and examination, he shall be found qualified in all respects, except age, for such admission."

He was not, however, "the only man ever admitted to the bar in this state by a special act of the legislature." The first was William W. Billson, also underage, admitted by 1868 Special Laws, ch. 129, at 431.

Nor was he the last. In 1891, an act permitted the admission of the court commissioner of the Thirteenth Judicial District (1891 Laws, ch. 35, at 116). In the 1920s the legislature passed acts authorizing the admission of a member of narrowly defined classes—one served and was disabled in World War I, and an adult who had been a court reporter for five years and who had three years of legal education. The Supreme Court declared both acts unconstitutional. *In re Application of George W. Humphrey to Practice Law*, 178 Minn. 331, 227 N.W. 179 (1929) (Taylor, Commissioner); *In re Application of Walter E. Grantham to Practice Law*, 178 Minn. 335, 227 N.W. 180 (1929) (Taylor, Commissioner).

An article on these cases will be posted on the MLHP in the near future.



E. H. Morse and L. R. Swift were admitted together and practiced together for a time. Mr. Swift is still living in St. Cloud and is now city assessor, but has not been in practice for some years.

D. C. Van Camp is a native of West Virginia, was first admitted to the bar in Indiana and came to Sauk Centre in 1882, at which time he was admitted. He is now in practice at Sauk Centre.

M. C. Kelsey settled at Sauk Centre and is still practicing in that city. He was born in Pennsylvania and came to this county in 1867, being then even years old. He was a member of the first class which graduated from the Sauk Centre High School. After graduating he studied law with Searle & Storey and Searle & Tolman.

D. W. Bruckart was one of the picturesque figures of St. Cloud for a good many years. He was an able jury lawyer and an all-round good fellow. He was associated with George Reynolds at one time and also with R. B. Brower. He removed from St. Cloud to the North Pacific Coast, where he died some years since. He was at one time mayor of St. Cloud.

William Westerman was for many years the general agent of the McCormick Harvester Machine Company and while he never practiced on his own account, he did much of the legal business for his company. He died in California in the spring of 1914.

Harry S. Locke is now practicing in St. Paul. He served for many years as city justice in St. Cloud.

C. A. Lindbergh was a student in the office of Searle & Searle and was admitted here although he practiced at Little Falls. He is the present member of Congress from the Sixth District.

George W. Stewart was one of the very able lawyers of Stearns county at a time when the Stearns county bar was recognized as the strongest bar in the state outside of the three large cities. Mr. Stewart was graduated from the State Normal School, taught for a time and then studied law in the office of D. B. Searle, with whom he was at one time associated as a partner. He was a diligent worker and a

stubborn fighter, albeit he was a very pleasant man in the trial of a lawsuit, being always courteous and genial. He was a member of the board of education for twenty years. He was city attorney for a number of years and served as a member of the State Reformatory Board till it was displaced by the Board of Control. Mr. Stewart died very suddenly while hunting, October 8, 1911.

Mr. Stewart was the fourth eminent member of this bar to be stricken in apparent health, the other three being Judge Searle, Judge Calhoun and George H. Reynolds.

Ripley B. Brower was for eleven years associated with Mr. Stewart as a partner under the firm name of Stewart & Brower. He is a son of J. V. Brower, who has played a very prominent part in the history of Minnesota. He is a graduate of the State Normal School as well as of the Minnesota University and is one of the leading practitioners of the present time, being an exceptionally able jury lawyer. Mr. Brower served two terms in the state senate, where he was counted as a leader and was for a short time city attorney of St. Cloud.

George H. Reynolds was a son of Judge Reynolds of the Eleventh Judicial District, of Minnesota, and was a Michigan University man. He began practice at Alexandria as a partner of the Honorable Knute Nelson, now United States senator. After coming to St. Cloud he was associated first with Mr. Bruckart, then with Mr. Stewart, and finally with Judge Roeser. Mr. Reynolds was not only a first-class lawyer but he took a lively interest in the higher things of life and was literary to a marked degree. He never served in public office, except as a member of the Library board, but he always took an active part in the affairs of the community and his death was a distinct loss. On the day he died, he had argued a motion in a matter then pending in District Court. He went home at noon apparently in his usual health; an hour later he was dead.

George S. Spencer never practiced law but he was one of the well-known and well-beloved citizens of St. Cloud until he moved to New England some four years ago.

P. B. Gorman was county superintendent of schools for some years before he began to practice law. He served several terms in the

legislature and has always been specially interested in civic affairs. He is the sole remaining veteran of the Civil War, in the ranks of the Stearns County Bar.

E. W. Taylor was a son of Oscar Taylor and is now practicing in Kansas City.

Since the death of D. T. Calhoun it has been difficult to place with exactness the leader of the Stearns County Bar, but that distinction would probably be conceded at the present writing to John D. Sullivan. Mr. Sullivan is a Canadian by birth and was educated in Canada. He was elected to the office of county attorney in 1890. Oscar Taylor was then county attorney and denied the right of Mr. Sullivan to take the office because he was not qualified under the constitution to hold the office at the time of the election in November. Mr. Sullivan conceded that on account of his Canadian birth he was not qualified in November to hold the office but contended that he would not under the statute take the office until the following January, and that before that time he had complied with the naturalization laws and so was eligible. The matter was considered by the Supreme Court, *Taylor vs. Sullivan*, 45 Minn., 309, and is one of the leading cases.<sup>13</sup> They decided that he must have been qualified at the time of the election in order to hold the office, and that the subsequent qualification was not sufficient. As a result of this decision Capt. Taylor held over. At the next election, however, Mr. Sullivan was elected and was re-elected for five successive terms. He was city attorney for some years and is now serving his second term in the State senate, where he is recognized as one of the strong men of that body.

Charles W. Hoyt was a brother of Dr. F. A. Hoyt, of St. Cloud. After practicing in St. Cloud and Duluth he moved to Spokane, where he died some years ago.

T. H. Van Dyke left St. Cloud shortly after his admission and is now practicing at Long Prairie.

L. S. Thomas practiced in St. Cloud a few years and then went to Seattle.

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<sup>13</sup> *Taylor vs. Sullivan*, 45 Minn., 309, 47 N. W. 802 (1891) (Dickinson, J.).

Charles H. Foot was at Royalton for a time, and is now in Montana. W. H. Thompson never practiced on his own account but he was for a good many years in the employ of the McCormick Harvesting Machine Company and the International after the reorganization, in charge of collections.

John E. C. Robinson was born in Ireland in 1865. After coming to this country he served in the United States army; and in the Ute campaign in New Mexico and Colorado, he was made first sergeant of his company. He studied for the priesthood but decided to take up law instead, and registered in the office of Taylor, Calhoun & Rhodes. He was a member of the library board, city assessor, mayor of St. Cloud four terms, state senator and city attorney. He died in February, 1912.

There were a number of lawyers who have at one time or another practiced in this county who were admitted in other counties.

Perhaps the most picturesque among these was H. L. Gordon, known as "Thundering Gordon." He came to St. Cloud from Wright county and was very successful as a criminal lawyer. He was not only a lawyer but a poet, and some years ago published a volume of his writings, among which are a number of poems written while in St. Cloud. He is now living in Los Angeles.

N. H. Miner was for many years the leader of the Sauk Centre Bar and one of the strong men of the county. He was born in Vermont in 1833, admitted to the bar in 1856 in New York, and died at Sauk Centre, in 1905. Mr. Miner was a member of the famous First Minnesota Regiment in the Civil War, but did not come to Sauk Centre until 1866. From that time until his death, a period of nearly forty years, he practiced law in this county. D. T. Calhoun was, as a young man, associated with Mr. Miner, and speaking of him, Mr. Calhoun said: "If, as has been said, the law is a jealous mistress, she had no cause for complaint against N. H. Miner. During his long life he devoted himself to the business of his profession and to no other. Financial rewards seem to have had but little temptation for him. He had a fine legal mind, was modest, unassuming, and though non-assertive for the most part, no lawyer was ever more loyal to the interests of his clients. No man ever left Sauk Centre more generally

and genuinely regretted." Mr. Miner was at one time mayor of Sauk Centre and served two terms in the legislature.

Andrew C. Robertson was, for many years, a practicing lawyer in St. Cloud. He was extremely methodical in all his work and conscientious to a fault. From choice he never appeared in a contested case, but by reason of his painstaking care in all details he acquired a large clientage in probate practice and real estate law. He removed to Los Gatos, California, some years ago on account of his health and died there.

James A. Martin, now practicing in St. Paul, was for twenty years or thereabouts, a prominent figure in local and state politics. He was graduated from the St. Cloud State Normal School and for a time taught in that institution. He was city clerk and city justice for a number of years and in active charge of several political campaigns. He was executive clerk to Governor Van Sant and for a time a member of the State Board of Control. After the Collins campaign for governor Mr. Martin opened an office for the practice of law in St. Cloud, the firm being Collins, Martin & White, but soon he moved to St. Paul, where he has a very good practice.

The latest man from abroad is W. W. Barron, formerly of Brainerd, who came to Albany two years ago to conduct the county seat fight in behalf of that enterprising village, and still remains there.

#### G. BAR ASSOCIATION.

On April 25, 1885, pursuant to a call issued by A. Barto, L. R. Storey, N. H. Miner, Oscar Taylor, and D. B. Searle, practically all the lawyers then practicing in this county met and organized the Bar Association of Stearns County. The meeting was called to order by Captain Taylor, Governor Barto was temporary chairman, and after the adoption of a constitution and by-laws, officers were chosen as follows: N. H. Miner, president; P. E. Searle and L. T. Storey, vice-presidents; O. W. Baldwin, secretary; Peter Brick, treasurer. The object of the association, as stated by the constitution, is: "To cultivate the science of jurisprudence, to promote proper reform in the laws of this state; to facilitate the administration of justice; to elevate the standard of integrity, honor and courtesy in the legal profession;

to encourage a thorough and liberal education; and to cherish a spirit of brotherhood amongst the members thereof." For a period of something over ten years regular annual meetings were held, at which various matters of interest and value to the legal fraternity were discussed in papers and addresses, and the association took an active interest in promoting the objects stated in its constitution. A banquet was a regular feature of the annual meetings and the following account clipped from a newspaper of the period indicates that these occasions must have been both pleasant and instructive:

"In the evening twenty of the legal lights attended a banquet at the West house in honor of the memorable occasion. Col. Peteler had prepared a very tempting array of good things with a little something at intervals to sharpen the appetite, and a very happy evening was passed. F. E. Searle presided as toast master and called upon the following gentlemen: Judge Collins, "The Judiciary;" H. Jenkins, of Alexandria, "The Bench and Bar;" Senator Waite, "The Lawyer and the Statesman;" the Hon. D. B. Searle, "The Federal Court;" L. T. Storey, "The Senior Bar;" Capt. Taylor, "The Junior Bar;" D. W. Bruckart, "The Bar of Stearns County;" Col. C. D. Kerr, of St. Paul, "The Seventh Judicial District;" Col. Westerman, "The Bar at the Bar;" the Hon. A. Barto, "The Ladies." The other attorneys present were : Messrs. Steel, M. D. Taylor, Miner, Baldwin, Locke, Tolman, Gates, Street, and Judge L. A. Evans."

Following Mr. Miner the following have acted as president under the old regime: Oscar Taylor, D. B. Searle, A. Barto, D. W. Bruckart, Theodore Bruener, D. T. Calhoun, John D. Sullivan, and George H. Reynolds. The secretaries during the same period were: O. W. Baldwin, Hubert Hansen, E. G. Mills, R. B. Brower, J. E. C. Robinson, James A. Martin, and John A. Roeser.

From 1895 down to December, 1914, no regular meetings were held. The association was called together on the occasions of the death of members and a few times for social occasions, most notable among these being the banquet tendered to Judge Taylor upon the occasion of his retirement from the District Bench to become Commissioner of the Supreme Court. Aside from these occasional meetings the association was inactive, though the regular organization was kept up for many years by George H. Reynolds.

On December 23, 1914, at the suggestion of Judge Roeser, the association was resuscitated. E. B. Brower was elected president and James E. Jenks secretary.

An effort is now being made to obtain for St. Cloud the annual convention of the State Bar Association for 1915 and it is hoped that in June, 1915, there may be a regular old-fashioned annual meeting with a feast of reason and a flow of soul.

#### H. LEADING CASES.

Stearns county cases appear with considerable frequency in the State Supreme Court Reports after Volume 12. Some are of considerable importance as leading cases and others are of interest by reason of the peculiar facts involved. An interesting and instructive volume might be written reviewing these cases but the compass of this chapter forbids more than a passing glance at a few.

The county of Stearns, as a municipal corporation, does not often appear as a litigant in the printed reports. Most of the cases where it does are tax cases. One, however, out of the ordinary, is *County of Stearns vs. St. Cloud, Mankato and Austin Railroad Company*, 26 Minnesota, 425, in which it was held that the county had the right to enjoin a railroad company from constructing and maintaining its road along and through an established and traveled highway.

The City of St. Cloud appears as a litigant in a variety of cases. One of these is *Wright vs. City of St. Cloud*, 54 Minnesota, 94. In the opinion in this case the rule is practically established that if one insists on living in a country where weather conditions are as uncertain as they are here, he must take a chance on what will happen, and cannot recover from the city for injuries sustained in falling on a slippery sidewalk.

One of the most important decisions involving the City of St. Cloud is that reported in 88 Minnesota, 329 – *City of St. Cloud vs. Water, Light and Power Company*. This was an action to annul the franchise granted to the defendant, for the reason that the water furnished to the city and its inhabitants was not pure. The franchise ordinance

provided that the water should be obtained from the Mississippi or Sauk rivers, or from springs, and be filtered or purified before being pumped into the mains. The water company contended that the city must show a standard of purity established by the State Board of Health and failure to meet that standard before forfeiture could be enforced; and that the city had put up with the same kind of water for fifteen years, during which time the company had greatly extended and improved its plant at great expense, so that it could not now be heard to complain. The Supreme court held with the city, that the water company must furnish pure water or quit; and that it was not necessary to have specifications from the Board of Health. The result of the litigation was that the city itself took over the waterworks plant at an extremely favorable figure.

Another branch of the same controversy was involved in *Sykes vs. City of St. Cloud*, 60 Minnesota, 442. Here the court held that the failure to supply pure water did not relieve the city from paying for water furnished for fire protection.

*Powell vs. Heisler*, 45 Minnesota, 549, involves an interesting situation. In 1878 a special law was passed enabling the town of Lake Henry to issue town bonds for the purpose of raising money to supply seed wheat to sufferers from the ravages of grasshoppers. These bonds were issued and sold to Charles F. Powell by Martin Heisler, acting as chairman of a committee for the town. The money except \$256 was used by Heisler to buy seed wheat, which was distributed to the Lake Henry farmers. Powell sued Heisler to recover the whole sum, but the court held he could only recover the amount not spent for wheat, as he was not individually responsible.<sup>14</sup>

Another bond case of interest is *Rumsey vs. Sauk Centre*, 59 Minnesota, 316. In this case the town of Sauk Centre issued bonds for \$12,000 to aid in the construction of the Little Falls and Dakota Railroad Company's line. When the village of Sauk Centre was organized in 1875, the legislature apportioned the burden of these bonds between the town and village in proportion to taxable values. In 1889 the city of Sauk Centre was organized out of the territory

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<sup>14</sup> For a social history of government relief to farmers who suffered from the grasshopper plagues of the 1870s, see Annette Atkins, *Harvest of Grief: Grasshopper Plagues and Public Assistance in Minnesota, 1873-1878* (Minn. His. Soc., 1984).



formerly occupied by the village, and 880 acres of the town outside the village. It was contended by the city of Sauk Centre that the special law apportioning the burden of the bonds was void; and further that it was impossible to ascertain what part the 880 acres in the city, but not in the village, should bear. The Supreme court held the city liable.

One of the most hotly contested cases in the records is *Will vs. Sisters of the Order of St. Benedict*, 67 Minnesota, 335. This case went through six different courts before final determination and is a leading case. Sister M. Julia Will was a member of the Order of St. Benedict at St. Joseph. Prior to her death she made a will, giving all her property to the order. This was contested by her brother, Frederick J. Will, on the ground that the will was made pursuant to a vow of the order that she should serve without compensation and give all her property to the order ; and further that it was witnessed by two sisters of the order, and that as they were members of the corporation and therefore interested, the corporation could not take. The Supreme court held that since the witnessing sisters had under their vows given all their property present and future to the order, they could have no such personal interest as would disqualify them as witnesses. It further held that the vows of the order were taken freely and voluntarily after three years of probation, and that there was nothing to indicate that she would not have made the same will in any event, so that the making of the will pursuant to the vows of the order was no indication that it was made under undue influence or duress.

Perhaps the most celebrated case from Stearns county is that of *Kray vs. Muggli*, 77 Minnesota, 231 and 84 Minnesota, 90. This arose out of an attempt of some forty farmers living along the Sauk river above the Cold Spring dam to remove the dam, thus draining and reclaiming a vast quantity of land. In one phase or another practically all the lawyers in the county were involved in this law suit. The main action was tried twice in the District court and twice in the Supreme court. It was eventually held that the dam could not be removed. Judge Searle, when the case was first tried in the District court, held that the dam could not be removed. On the first appeal Judge Searle was reversed on a three to two decision, the majority holding that the dam could be taken out. Judge Collins, then on the Supreme bench, wrote a very vigorous dissenting opinion, insisting that the dam could not be

removed. The case was sent back for a new trial and after the second trial in District court, was again appealed. On the second appeal the Supreme court adopted the reasoning of the Stearns county jurists, Judges Collins and Searle, and held that the dam could not be removed. On pages 93 and 94 the court says: "When the action was here on the former appeal it was determined adversely to plaintiff on the theory of comparative equities. . . . The reasoning of the opinion on the former appeal we are satisfied, after mature reflection, was erroneous and cannot be followed. . . . To follow the reasoning of the former decision would result in confusion and flagrant inconsistencies." The dam was built more than forty years before the law suit and the final determination was that the right to maintain the dam was acquired by prescription and that there grew out of the relations between the parties reciprocal rights and privileges – the right on the part of defendants to maintain the dam, and the right on the part of the plaintiff to insist that it be maintained.<sup>15</sup>

The most recent leading case from Stearns county is *State ex rel Stearns County vs. Klasen*, 123 Minnesota, 382, which was a proceeding to test the validity of the so-called Mothers' Pension Law. The decision sustains the law and outlines the methods of its application. It is of interest to note, as stated in 49 L. R. A., N. S. 597, that this case is the first in the United States in which a law of this kind is passed upon.<sup>16</sup>

## I. CONCLUSION.

In the course of sixty years a multitude of incidents have arisen in connection with administration of the courts of this county; some sordid, some dramatic, some humorous, many of more than passing interest. It has been impossible to give in this article much attention to the side lights, which are often more interesting than the main facts. Only an outline account of the courts, the judges, the lawyers and the cases has been attempted.

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<sup>15</sup> Philip H. Kray v. Anton Muggli, 77 Minn. 231, 79 N. W. 964 (1899)(Canty, J.; Collins, J., dissenting, joined by Buck, J.); rehearing denied, 77 Minn. 231, 79 N. W. 1026, 1064; after retrial on remand, 84 Minn. 90, 86 N. W. 882 (1901) (Philip Brown, J.; Start, C. J. dissenting).

<sup>16</sup> *State ex rel. Stearns County vs. Albert H. Klasen*, 123 Minn. 382, 143 N. W. 984 (1913) (Philip E. Brown, J.).

The writer acknowledges his indebtedness to the practicing lawyers of the county for help in various ways; and to General C. C. Andrews and Governor C. A. Gilman for accounts of early day conditions and men.

### 3. BIOGRAPHY.

Dolson Bush Searle. When in the history of any locality, there is a certain individual who goes his quiet, unostentatious way; conscientiously, faithfully, cheerfully, following his duty; and by so doing, infuses his own splendid personality into the very spirit of the community, attains the highest success in his chosen profession, excels in several other lines, and puts into his own life and the lives of those with whom he comes in contact, the fullest and richest of meanings; it becomes the duty of his contemporaries to preserve for future generations the details of his career; that young men and young women, in the years to come, studying his aims, motives and results, may be inspired as was he, to make the world a better and happier place in which to live. To do his work day by day, never shirking that which was difficult, to lend a hand wherever help was needed, to give brightness, cheer and succor whenever he found the necessity, even though himself bowed with sorrow and care; to put into every task the best that was in him, to carry everyone a little further along the path than he found them, to bring every venture to a higher development than when he first undertook it; and to do all with the most modest self-effacement – this was the spirit that prompted the career of Dolson Bush Searle, jurist, stock-raiser, and useful citizen. His record was replete with honorable achievement, his character irreproachable, and in his judicial capacity he was acknowledged to have no superior in the state.

Judge Searle came from the sturdiest stock, his two grandfathers, Elijah Searle and John Scott, both of whom were pioneers of Whitehall, New York, having fought in the War of 1812, while two of his great-grandfathers participated in the Revolutionary and Colonial wars. His father, Almond D. Searle, was a prosperous farmer living near the village of Franklinville, Cattaraugus county, New York. The Searle family is of English descent and was prominent in the history of England, the first Lord-Mayor of London having been a Searle. The mother of the subject of this sketch, Jane Ann (Scott) Searle, was of

Scottish extraction, a lineal descendant of Sir Walter Scott, and lived to the good old age of eighty-four years.

Dolson B. Searle was born June 4, 1840, on the family homestead near Franklinville, New York. His boyhood was passed on his father's farm, and in attendance at the district school, as well as in the academy, in his native town, from which he graduated. He was one of the first to respond to the call for men when the Civil War broke out, and enlisted in August, 1861, as a private in Company I, 64th New York Volunteer Infantry. During his term of service, which continued for about two years, he was engaged in the following battles: The Seven Days' Fight Before Richmond, Fair Oaks, Seven Pines, Gaines' Mills, Savage Station, White Oak Swamp, Malvern Hill, the Second Battle of Bull Run, the Battle of Antietam, and other notable engagements. At the Battle of Fair Oaks he was acting as orderly sergeant of the company and stood close to General O. O. Howard, then in command of the brigade, when that officer lost his arm from an exploding shell, and had a horse shot from under him. He helped to carry the general to the rear. Then, the three commissioned officers of his company being disabled, he assumed command. The fight began early in the morning and lasted until the middle of the afternoon, when the Confederates were driven from the field at the bayonet point. The losses on both sides were severe, his company went into the fight with eighty men, and only eighteen answered to the roll call at the close. In the spring of 1863 he received his discharge by reason of disability. Although naturally possessed of a strong, sound and vigorous physique, the two years of exposure, privation and hardship such as are always found in the strenuous life of the soldier in time of war, necessitated a rest. In the following June, he re-enlisted in the regular army, and was soon thereafter assigned to duty in the War Department at Washington, D. C. After a year he was discharged from the military service by order of the Secretary of War, to accept a civil position, and was then placed in charge of an important bureau in that department. In his official position he was brought in close relations with President Abraham Lincoln, Secretary-of-War Stanton, the Adjutant General of the Army, and others at that time prominent in public life. He was in attendance at Ford's Theater, April 14, 1865, and witnessed the assassination of President Lincoln, an event which ever thereafter remained vividly in his memory. While discharging his duties in the War Department he entered the law

department of Columbian College, at Washington, and in 1868 graduated with high honors, standing near the head of a class of over one hundred. The same year, before his graduation, he was examined, and admitted to the Bar of the Supreme Court of the District of Columbia, and thereafter was admitted to practice before the Supreme Court of the United States. In the spring of 1871, he was tendered a commission as first lieutenant in the regular army and offered an assignment on the staff of the general in command of the department of California. Though he had a liking for military life, he felt it best to decline this offer.

In June, 1871, he resigned his position in the War Department to enter the practice of law. He immediately came to the Northwest to examine various pine lands. Upon reaching St. Cloud he decided to locate here, and accordingly formed a partnership with Edward O. Hamlin, who had formerly been judge of the Fourth Minnesota Judicial District. Judge Hamlin being at that time advanced in years, retired from practice in the fall of 1873, and returned to his old home in Honesdale, Penn. Mr. Searle continued to practice alone for a few years until he became senior member in the firm of Searle, Searle & Tolman. When F. E. Searle withdrew from the firm in order to engage in the banking business, the law-firm of Searle & Lamb was formed. A year later, it was succeeded by the firm of Searle & Stewart, which continued until November, 1887, when Mr. Searle retired from practice, and went on the bench of the Seventh Judicial District.

Not the least of Judge Searle's activities found expression in the politics of the nation, state, county and city. While always an ardent Republican he was not so firmly committed to party rule that he followed it blindly, but wherever and whenever criticism was due he did not hesitate to criticise, to condemn, and to suggest new lines of thought and action. His political belief was that this is a country of law declared through the medium of party, and that the will of the people finding expression in party platforms should be carried into practical effect by those elected upon such platforms. He held many important political positions and was the recipient of political favors at the hands of the chief executive of the nation, the chief executive of the state, and the people of his district, his county and the city of his home.



*Dolson B. Searle*

In the spring of 1875 he was elected city attorney of St. Cloud, and served continuously for eight years. At the general election of 1880 he was elected county attorney of Stearns county, and though the county was strongly Democratic he received a majority of over eleven hundred. He was appointed United States District attorney for the District of Minnesota, in April, 1882, and served until December, 1885, when he resigned to give President Grover Cleveland the opportunity of appointing his successor. He took an active part in the Republican state and national campaign in the fall of 1884, and was a member of the Republican State Central Committee in 1886 and 1887.

On November 12, 1887, he was appointed district judge of the Seventh Judicial District, by his friend, Governor A. R. McGill, and was re-elected without opposition in 1888, 1894 and 1900; and had his health continued would have been elected again in 1906.

In 1892, after a vigorous contest with H. C. Kendall, of Duluth, he was nominated as the Republican candidate for Congress at the Congressional Convention held at Duluth. In the district outside of St. Louis county he ran ahead of the state ticket headed by Governor Knute Nelson and the national ticket headed by President Benjamin Harrison, over a thousand votes, but the opposition in St. Louis county defeated him by a bare 254 votes.<sup>17</sup> He made an enviable record on the bench, and won special credit by his decision in the notorious "Pine Land Ring" and other cases.<sup>18</sup> The same qualities which united to make Judge Searle a good lawyer served him equally

<sup>17</sup> The results of the 1892 election for the Sixth Congressional District were:

Dolson B. Searle (Republican).....	16,941
Melvin R. Baldwin (Democrat).....	17,317
A. C. Parsons (People's).....	3,973
Edward L. Curial (Prohibition).....	1,692

Bruce M. White, et al, *Minnesota Votes* 82 (Minn. Hist. Soc. Press., 1977).

<sup>18</sup> See generally William Watts Folwell, 3 *A History of Minnesota* 500-15 (Minn. Hist. Soc. Press, 1956)(published first, 1921).

well in discharging his duties as a judge. He was honest, painstaking and trustworthy. In the investigations essential to a correct decision, he was just as patient and just as thorough as if conducting a case in a court for a client of his own. There was perhaps no judge of his period in this state more industrious in the examination of authorities, and none more desirous of reaching the right conclusions. In the cases of criminals he felt that no man was so bad but what some good could be found in him, he believed that the good could be brought out and developed by right surroundings; he made his sentences as light as was compatible with justice, and he never sentenced a prisoner without words of encouragement as to what he might in the future do with a life of which he had thus far made such shipwreck.

In going upon the bench, Judge Searle sacrificed a large law practice, for aside from his general practice he was local attorney for the Northern Pacific; St. Paul, Minneapolis & Manitoba; Great Northern, and "Soo" Railroads, and his personal clients were numbered by the hundreds.

Judge Searle was ready at any time, and at all times to lend a hand to help any enterprise that promised to promote the material welfare of his fellow man, his city, county, state or nation. The extent of his benefactions will never be known. It was his delight to aid the poor or the needy, without letting the giver be known, and he joyed in finding worthy boys and young men and bestowing help, not in the way of charity, but in a spirit of older brother helpfulness. His daily progress to and from his office left a trail of cheer and comfort, and no matter how dreary the day or depressing the circumstances, no one ever met the judge without feeling better.

The principal avocation of Judge Searle when not occupied with his law books, was farming and stock-raising. In his boyhood years, in western New York, where he lived on a farm with his father, it was considered the best evidence of thrift, prosperity and character, to be the owner of broad acres of fertile farming lands, and of fine herds of blooded stock. Judge Searle's earliest ambition was to excel in the business of his kinsmen, and the ideals, cherished for so many years, began to bear fruit when he purchased a tract of wild land on the banks of Lake Pleasant. He cleaned off the first brush from this tract,

erected houses and barns, and gradually bought other land until his property entirely encircled that beautiful lake. He established one of the finest herds of full-blooded Shorthorn cattle in the Northwest, and won prizes not only at the Minnesota State Fair but also at the International cattle exhibit at the Columbian Exposition at Chicago in 1892. Everything about the place was in keeping with his cattle. All the stock was of the best, and the judge and his good wife took a deep interest in each individual animal. A splendid herd of Angora goats was another feature of the place. The great tract of Lakeview, stretching away from the picturesque lake on all sides was as beautiful an estate as one could imagine. Neat buildings, beautiful groves, fertile tilled land, rippling brooks, sunlit meadows, and browsing cattle and goats, all tended to make a landscape pleasing to the eye and gratifying to the senses, and placed Judge Searle among the pioneers who had brought the wilderness under control and contributed to the agricultural prosperity of the state. Judge Searle lived to see his hopes for this farm realized in the fullest sense, and after he was stricken, this beautiful place was one of his great comforts and delights, his active mind still directing its work.

Judge Searle was a man of wide experience, of keen intellect, of sound judgment, broad sympathies and forceful character. While his chief work, it is true, was for over forty years the study, practice and administration of the law, and while his farm occupied his spare time in his adult years, nevertheless he always took an active interest in the social, industrial and political affairs of the state and nation as well as in the activities of his own immediate locality. Socially he was a member of the Masonic body, being a Master Mason, a Royal Arch Mason, and a Knight Templar. He was also a member of the Knights of Pythias, the B. P. O. E. and of the Grand Army of the Republic. In the latter organization he was especially prominent. He was a charter member of James McKelvy Post, No. 134, of St. Cloud, and on October 24, 1896, was appointed aide de camp, with the rank of colonel, on the staff of the commander in chief. During the succeeding year he was a member of the National Council of Administration, and held the position of senior vice-commander of the Department of Minnesota for 1898, and attained the high honor of department commander in 1899.



In the prime of his life, at the height of his success, at the period of his greatest usefulness, Judge Searle was suddenly stricken. Ever mindful of his duty as a patriot he had gone to Long Prairie, in Todd county, to deliver an address on Memorial day to the soldiers and citizens, and in that place, at the hotel, on the night of May 29, 1906, he suffered a paralytic stroke which rendered him unconscious for a time, and from the effects of which he never fully recovered. The best medical attention, the constant services of a specially trained nurse, the loving care of his devoted wife, to a great extent alleviated the suffering incident to his illness, and these with his own brave spirit, kept him comfortable and hopeful of ultimately regaining his former activity. For three and a half years he and his friends continued their endeavors and their hope for the restoration of his health, only to be disappointed at last, when, after a second and third stroke, the end came at 9:30 o'clock on the evening of December 12, 1909.

The bar, the press and the public united in tokens of esteem and sorrow. Humanity had lost a friend. The world recognized that he was a wise and fearless judge, whose capacities were equal to all demands made upon him. He was a brave soldier and served his country well and faithfully. He was a most excellent citizen, public spirited and progressive. He stood for all that was good in life and against all that was vicious. A wise judge, a brave soldier, an able lawyer, a patriotic citizen has gone to his eternal reward. The world is better for his having lived, and has lost much by his death.

Dolson B. Searle was married February 16, 1875 to Mary Elizabeth Clarke, the daughter of Anson B. and Mary Ann Clarke. She was born in Hubbardston, Mass., and spent her early life in Worcester, Boston and Cambridge, in Massachusetts. In his wife, Judge Searle found an intelligent, sympathetic and understanding helpmeet. They worked and planned together, and it was at the moment which it seemed that all their fondest hopes had reached fruition that the judge was so fatally stricken. The Searle home was brightened a brief time by the presence of a daughter, Ethel Elizabeth. The brightness of her parents' hearts, the sunshine of the neighborhood, she died at the age of three years and a half, and left a vacant place in the home that was never filled.

Loren Warren Collins was born at Lowell, Mass., April 7, 1838, of old New England stock. He was the son of Charles P. and Abigail C. (Libby) Collins, and was descended from Benjamin Collins, who was born in England and settled in Salisbury, Mass., in 1660, and John Libby, who settled near Boston, Mass., about 1638. His ancestors served in the French and Indian War of 1760, King William's War, the defense of Fort Edward and Black Point, and in the Revolutionary war. They also held many positions of trust and responsibility in civil life. One of them was the last colonial governor of New Hampshire.

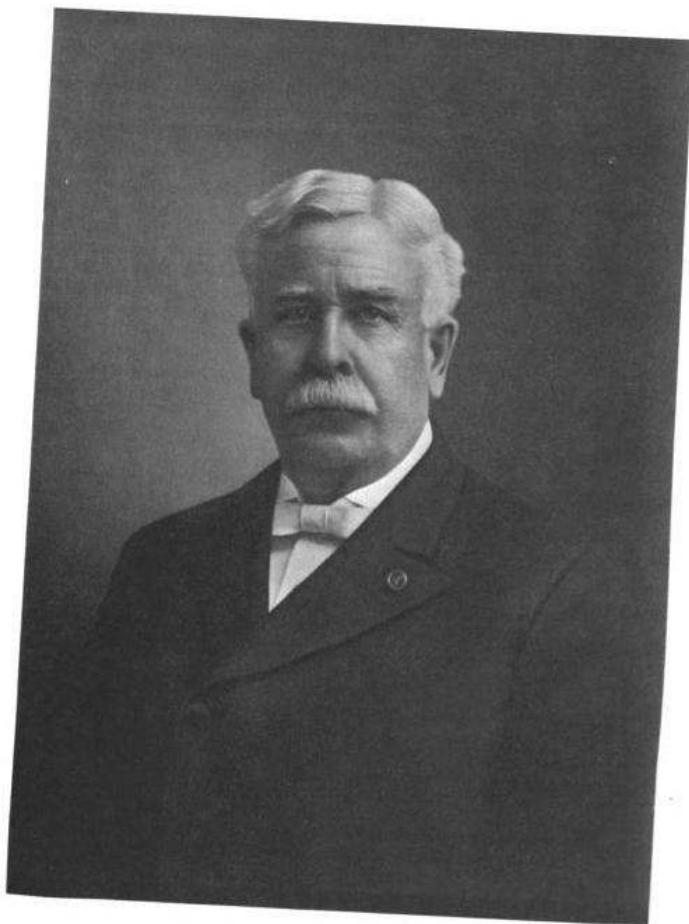
Loren W. Collins' first business venture was raising water melons and the market was St. Anthony Falls, now a part of Minneapolis. The transaction netted him \$10 and required a three day trip. The cattle were fed in a grove near where the Nicollet hotel now stands, and the river was crossed in a ferry, about where the stone arch bridge now is.

In the fall of 1855 Charles P. Collins and his family returned to Massachusetts. In the spring of 1856 he returned to Minnesota and settled at Lewistown on the Canon river about five miles from Northfield. There he built a hotel. In the fall of 1856 Loren Collins returned to Minnesota and joined his father at Lewistown. In the fall of 1858 the boy obtained a position as teacher of a small country school about two and one half miles up the river from Canon Falls. For teaching a four-months' term he received \$60 and with this as his sole asset he went to Northfield in the fall of 1859 and began the study of law in the office of Smith & Crosby.

In 1862 the firm of Smith & Crosby dissolved and Loren Collins remained with Judge Crosby until August when he enlisted as a private in Company F of the Seventh Minnesota Volunteer Infantry. The company had been recruited at Hastings by Captain John Kennedy. Ten days afterward he was commissioned second lieutenant of the company, the men having indicated their choice by ballot.

Loren W. Collins served through the entire war with the Seventh regiment. With the command he participated in the first and second Sibley campaigns against the Sioux Indians. The first expedition ended with the battle of Wood Lake, where the Indians

were routed, five white captives recovered and several hundred Indians taken prisoners. Among the prisoners were the 38 Indians afterward hanged at Mankato, Company F was on duty at the execution. In the spring of 1863 the regiment participated in the second Sibley campaign, marching into North Dakota.



*D. W. Collins*

At the close of the Indian war, in the fall of 1863, the regiment was ordered south. At St. Louis Lieutenant Collins was detached from his regiment and detailed to the provost guard military police. The city was at this time under military control and for three months Judge Collins served as head of the military police, a position of great responsibility. He then rejoined his regiment in the south and until the close of the war was engaged in the operations against the Confederate forces.

At the decisive battle of Nashville, Lieutenant Collins was on the staff of Colonel S. G. Hill, commander of the Third Brigade, First Division, Sixteenth Army Corps, and was with Colonel Hill when the colonel was killed. Shortly after the battle Colonel William R. Marshall of the Seventh regiment recommended the promotion of Lieutenant Collins for gallantry and efficiency in the service. His recommendation was acted upon and Lieutenant Collins, who had become a first lieutenant January 8, 1863, was made a brevet captain.

Mustered out with his regiment in St. Paul in August, 1865, Captain Collins returned south and for six months served in Alabama as an agent of the Federal department of the treasury. He then returned to Minnesota and settled in St. Cloud in May, 1866, forming a nominal law partnership with Seagrave Smith, who later moved to Minneapolis and became a district judge.<sup>19</sup> In 1868 Captain Collins formed a law partnership with Colonel Charles D. Kerr which continued until Judge Kerr moved to St. Paul in 1872. He was also associated in the practice of law with Theodore Bruener.

In the fall of 1866 Captain Collins was elected county attorney as a Republican in the face of a heavy Democratic majority. He served three terms. He was city attorney for four years and mayor of St. Cloud in 1876, 1877, 1878 and 1880. In 1881 and 1883 he was a representative in the Minnesota legislature. In the term of 1881 he was chairman of the Normal School Committee and had an important part in the location of the Normal School at St. Cloud. In the session of 1881 he was one of the house board of managers in the impeachment proceedings against Judge E. St. Julian Cox. In 1883 he was chairman of the committees on finance and temperance.

In April, 1883, Captain Collins was appointed judge of the Seventh Judicial district by Governor Lucius F. Hubbard to fill a vacancy caused by the resignation of Judge James M. McKelvy, his personal friend. In 1884 he was elected. In November, 1887, Governor A. R. McGill appointed him associate justice of the Supreme court to succeed John M. Berry. In 1888 he was elected by a majority of 46,432. Judge Collins increased this majority in 1894 to 49,684. In this campaign he ran against Judge John W. Willis who was nominated on a fusion Populist and Democratic ticket. These were the largest majorities that any candidate on the state ticket had received

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<sup>19</sup> Seagrave Smith (1828-1898) served one term in the Minnesota Senate, 1868-70. He ran for judge of the First Judicial District in 1864, losing to Charles McClure; he ran for judge of the Fourth Judicial District in 1884, losing to Arthur H. Young; he ran for Chief Justice of the Minnesota Supreme Court twice: in 1888, losing to incumbent, James Gilfillan, and in 1894, losing to Charles M. Start. He was appointed judge of the Fourth Judicial District in 1889, elected to a full term in 1890, and re-elected in 1896. He died in office on November 2, 1898.

up to that time.<sup>20</sup> His work on the supreme bench for the 17 years of his service is embodied in more than 1,500 written opinions.

On December 28, 1900, Judge Collins was tendered the office of United States senator to succeed Senator Cushman K. Davis. The offer was made by Governor John Lind following Senator Davis' death. The high honor Judge Collins refused for personal and political reasons.

Judge Collins resigned from the bench in 1904 to become a candidate for the Republican nomination for governor.<sup>21</sup> He was defeated in a bitter pre-convention campaign which resulted in the election of John A. Johnson, a Democrat.

Retiring from the bench at the age of sixty-six, Judge Collins took up the active practice of the law in Minneapolis. He served one year as president of the Northwestern National Life Insurance Company, but resigned to devote his entire time to his law practice. At the time of his death he was in partnership with Leo K. Eaton.

While returning from the national encampment of the Grand Army of the Republic in Los Angeles in September, 1912, Judge Collins was stricken with a recurrence of heart trouble. Two years before he had recovered from a serious attack of the same disease, but although he made a brave fight he died September 27 in his Minneapolis home. The funeral services were held in Unity Church, St. Cloud, September 29, and interment was in the North Star Cemetery. At the funeral services, conducted by Rev. Paul Dansingberg of the Unitarian Church, assisted by Rev. E. V. Campbell, of the Presbyterian Church, addresses were made by Judge Ell Torrance, of Minneapolis, former commander in chief of the Grand Army and one of Judge Collins'

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<sup>20</sup> The results of the 1894 election were:

Loren W. Collins (Republican incumbent).....	162,701
John W. Willis (Democrat & People's).....	113,019

Collins received 59% of the vote while Willis received 41%. His plurality was 49,682. 1895 Blue Book, at 468-9.

<sup>21</sup> For a lively account of this contest see "The Dunn-Collins Contest for Governor in 1904" in Harlan P. Hall's, *Observations: Being More or Less a History of Political Contests in Minnesota From 1849 to 1904* 317-44 (1904). It will be posted on the MLHP some time in the future.

closest friends; S. H. Towler, commander of the Minnesota Commandery of the Loyal Legion; W. P. Robers, state commander of the G. A. R.; C. F. Macdonald, commander of James M. McKelvy post, G. A. R., of which Judge Collins was a member; former Governor S. R. Van Sant and United States Senator Knute Nelson.

Judge Collins was a member of the Grand Army of the Republic, the Military Order of the Loyal Legion, the Society of the Colonial Wars, and the Sons of the Revolution. He served as state commander of the Grand Army and the Loyal Legion and as judge advocate general of the Grand Army. For many years he was a member of the nation council of administration of the Grand Army and at the time of his death was a member of the executive committee of the council.

Judge Collins was a Mason and an Elk. He was a Unitarian and served as president of the State Unitarian Society.

October 22, 1912, the state supreme court held a memorial session for Judge Collins. Addresses were made by Chief Justice Charles M. Start, Marshall B. Webber, Wallace B. Douglas, Charles W. Farnham, J. N. Searles, Ell Torrance and L. K. Eaton.

In his address Judge Torrance said, "He was a learned, clear headed, right minded, honorable and just judge. He met all the requirements of his great office. He had great capacity for work, and was a man of extraordinary industry. Patient, tireless, painstaking, he could not rest content with a single duty unperformed. He had an attentive mind and retentive memory. He grasped with readiness the facts in a case, even to the minutest detail, and with ease arranged them in orderly sequence so that, with the law clearly in mind, he could speedily reach a conclusion.

"Among the illustrious names that have adorned the bench and bar of Minnesota none will shine with a clearer or steadier radiance than that of Judge Collins. He was a lovable man, a good citizen, a true patriot, a devoted husband, an affectionate father and a sincere friend. He was a many sided man, but at all times and everywhere he was sincere, steadfast, and dependable. He had a sane and wholesome mind, always hopeful, optimistic and of two evils he rejected both. He looked upon the bright side of life and the windows

of his soul opened to the south and to the sunshine. He did not, as many do, regard the age in which he lived as a sordid one. While recognizing the evils in society and the importance of their correction, he believed that the world was growing better every day and that belief helped to make the world better.”<sup>22</sup>

Judge Collins married Ella Stewart, a member of the St. Cloud Normal School faculty September 4, 1878, at Berlin, Wis., Miss Stewart's home. Three sons were born to them: Stewart Garfield, a civil engineer of Duluth; Louis Loren, city editor of the Minneapolis Journal, and Loren Fletcher, an architect of Minneapolis. Mrs. Collins died in St. Cloud May 31, 1894. A daughter, Estelle, the eldest child died in St. Cloud May 31, 1894.

Henry Chester Waite. Minnesota was fortunate in the type of men who were in charge of her destinies in her formative period. The territory escaped the lawless life that has been a part of the early history of so many of the western states. The men who came here were for the most part, not transient adventurers, but men of worth, ability and probity, looking for a place to establish themselves permanently. Some of the best of the sons of the Eastern states found their way to the upper Mississippi valley, and with courage and high resolve set about establishing communities where education, righteousness and character should be the foundation stones. Among these men, the subject of this sketch deserves a prominent place.

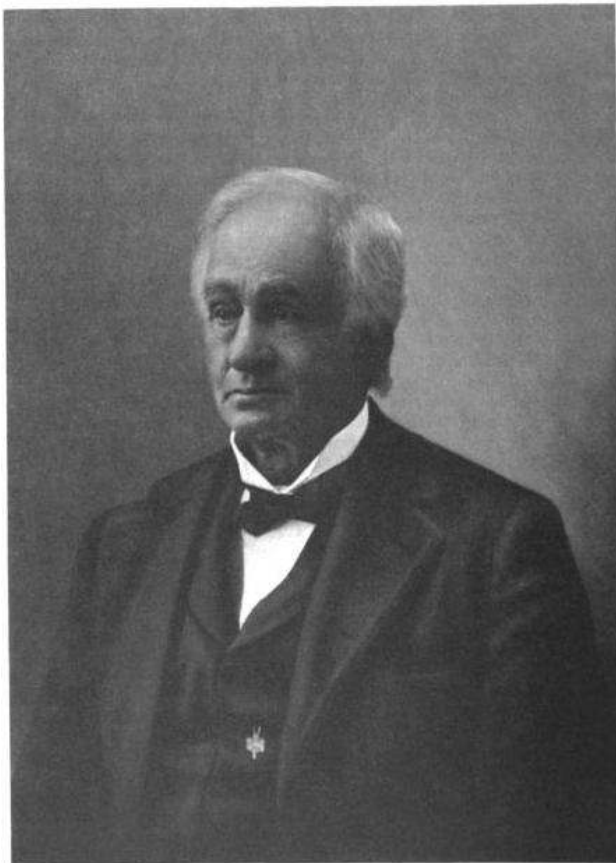
The first lawyer in St. Cloud, an early miller, merchant and investor, a member of the Minnesota Constitutional Convention, occupying a seat at different times in both houses of the Minnesota Legislature, a deep reader and student, a poet of considerable ability, and a man of spotless character; he was a gentleman of the old school, and the real extent of his influence on the growing city of St. Cloud can never be measured.

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<sup>22</sup> For the complete transcript of the memorial, see “Proceedings in Memory of Associate Justice Collins and Honorable William Lochren,” 119 Minn xix (1913), and “Loren W. Collins” in *Testimony: Remembering Minnesota's Supreme Court Justices* 132-138 (Minn. Sup. Ct. Hist. Soc., 2008).

Henry Chester Waite was born June 30, 1830, in Rensselaerville, Albany county, New York, and was taken as a boy of four years to Chautauqua county, in the same state, spending his youth in Pomfet and Gerry.

He prepared for higher studies at Fredonia and Jamestown, and in 1849 entered the junior class of Union College, at Schenectady, N. Y., from which institution he was graduated at the age of twenty-one. He read law with Emory F. Warren, of Sinclairville, and was admitted to the bar at the term of court held at Angelica, Allegheny county, in 1853.



*H. C. Waite*

Spring. With this beginning he branched out into numerous enterprises, and his interests were extensive. He was a member of the firm of Clarke, Waite & McClure, which operated extensively in dealing and contracting in the northern part of the state. He was interested in several mining ventures, he had mining interests, he

He at once came west to Wisconsin, and made the acquaintance at Madison of Alexander Botkin and Thomas Hood with whom he formed the law firm of Botkin, Hood & Waite. In the spring of 1855, he came to St. Cloud, and was the first attorney to open an office here. He at once became interested in public affairs, and was sent to the constitutional Convention, taking his seat on the Democratic wing of that famous body.

Soon after his arrival in St. Cloud, he joined his brother-in-law, Thomas C. McClure, in a private banking business. In 1865 he became registrar of the United States land office. Four years later he engaged in milling operations at Cold



engaged in merchandising, he invested in many lines, and in connection with all this made a hobby of managing and operating his splendid farm of 640 acres near the city limits of St. Cloud.

He sat in the lower house of the Minnesota legislature in 1863 and in the upper house in 1870, 1871, 1883 and 1885. He also occupied various other offices of private trust and public honor. Mr. Waite was one of the pioneer settlers of central Minnesota, and being a man of strong convictions and force of character, was one of the leaders in the development of this part of the state. Although his business activities were extensive, he was in reality a student, and his greatest pleasure was found in the fields of literature. He was fond of poetry and wrote verse of no inferior merit. His last years were spent on his farm, where he passed away November 15, 1912, holding the respect and esteem of all who knew him, On New Year's day, 1860, Mr. Waite married Mrs. Maria D. Paige, daughter of Dr. Shepard Clarke, of Hubbardston, Mass. She died in St. Cloud, June 27, 1909. Their elder son, John Chester, died in November, 1887. The younger son, Clarke, lives in St. Cloud.

Myron D. Taylor. The problem of how to enable the court of last resort to handle the increasing volume of litigation is a difficult one. One of the means taken by the state of Minnesota to facilitate the handling of cases before its Supreme court was to authorize that court to appoint two Supreme Court Commissioners, to assist them in the performance of their duties, thus, in effect, adding two additional members to the court.

To Stearns county came one of these new seats unexpected and unsolicited. Busy with his judicial duties on the district bench, Judge Myron D. Taylor was not even aware of the introduction of the legislative act until he learned of its passage, and a few hours later he was informed by Chief Justice C. L. Brown that he had received one of the two new appointments. When the news became known, a St. Cloud newspaper said: "This is an appointment eminently fit to be made. Judge Taylor, during his term upon the district bench, has made an excellent record. His decisions have been uniformly able and sound, and seldom reversed by the higher tribunal. He has essentially a judicial mind, and his presence upon the Supreme

Bench will add to its strength.” Commissioner Taylor assumed his new duties, April 1, 1913.<sup>23</sup>



MYRON D. TAYLOR

Myron D. Taylor was born in Byron, Oxford county, Maine, December 30, 1855, son of Morvalden A. and Sarah J. (Bernard) Taylor. He was less than three years old when his parents brought him to Minnesota in 1858. They located at Albion, in Wright county. In 1862, the family moved to Melrose. Myron D. received the education that the district schools afforded, and later entered the University of Minnesota, from which he graduated in 1878. Then he became principal of the schools at Henderson, Minn., for two years. While engaged in school work he studied law in the offices of S. and O. Kipp, there being

at that time no law schools in Minnesota. Early in 1881 he was admitted to the bar, and came to St. Cloud. During his practice here he had as partners, Oscar Taylor, D. T. Calhoun and James E. Jenks. He was city attorney for twelve years and register of the land office at St. Cloud for eight years. He was a member of the Republican State Central Committee in 1888. Elected in November, 1906, to take office

<sup>23</sup> Myron D. Taylor (1855-1946) served as a Commissioner of the Minnesota Supreme Court from April 1, 1913, to August 1, 1930, when he retired. For the transcript of his memorial at the court, see “Proceedings in Memory of Commissioner Myron D. Taylor and Associate Justice Andrew Holt,” 226 Minn. xxviii (1948), and “Myron D. Taylor” in *Testimony: Remembering Minnesota’s Supreme Court Justices* 244-246 (Minn. Sup. Ct. Hist. Soc., 2008).

on January 1, 1907, Judge Taylor commenced service as district judge one month earlier by appointment from Gov. John A. Johnson, Judge Searle being ill, and the local attorneys having expressed their desire for the appointment of Judge Taylor. He was re-elected,<sup>24</sup> but had served only three months of the six year term when he took his place on the Supreme Court bench. Judge Taylor belongs to the Blue Lodge, Chapter, Commandery and Shrine of the Masons, and to the Elks, the Modern Woodmen and the Knights of Pythias. Myron D. Taylor married Anna Frank, a native of Neusalz, Province of Silesia, Germany. They have two children, Zama and Louise.

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John A. Roeser, jurist, is the first native of Stearns county to rise to the dignity of the district bench in Minnesota, and the first native Minnesotan to preside over the court of the Seventh Judicial District.



JOHN A. ROESER

John A. Roeser was born in St. Augusta, this county, January 28, 1867, son of Nicholas and Margaret (Kraus) Roeser, the former a native of Luxemburg, and the latter of Wisconsin. John A. attended the district schools, and later took the full course at the St. Cloud State Normal School. Then he taught in the rural districts for seven years. In the nineties he began the study of law with George H. Reynolds, and was admitted to the bar in March, 1898. He practiced with his preceptor until the latter's death, August 17, 1910, since which time he has been alone. In March, 1913, just fifteen years after he was admitted to the bar, he was, upon the unanimous recommendation of the bar of St.

<sup>24</sup> Taylor, unopposed, received 23,674 votes in the election on November 5, 1912. 1913 Blue Book, at 514-15.

Cloud, appointed to the vacancy on the district bench, his term of office to expire at the close of 1914.

At the time of his appointment it was said that Judge Roeser was the most profound scholar and student in the legal profession in Stearns county. He has been an officer rather than a trial lawyer, and took his seat on the bench well qualified to maintain the honored traditions of the position. Judge Roeser is a member of the Bar Association, the Elks, the Knights of Columbus, the Modern Woodmen and the Modern Samaritans. John A. Roeser was married November 4, 1894, to Mary Thomey, and they have two sons, Arnold N. and Waldemar C.

George Warren Stewart. The life of the subject of this brief sketch constitutes one of those stories of success under adverse circumstances which demonstrate the sturdiness of American manhood, and form an inspiration to those of the younger generation who are less fortunately placed than their fellows, – the story of a boy who at ten years of age was left without a father, who labored to support his mother at an age when most boys are scarcely more than infants, and who at the age of fifty had become a distinguished lawyer, an able official in educational matters, a man whose spotless character made his friends better, and an estimable advisor whose services were sought through the state in legal matters and in the administration of some of the affairs of the commonwealth.

George Warren Stewart was born at Bellevue, Morrison county, Minnesota, June 18, 1859, son of Joseph and Joanna H. (Hill) Stewart. Joseph Stewart was a true pioneer. In 1853 he left his home in Prince Edward's Island, Canada, and finding his way into what was then the wild country of the upper Mississippi river, he located in Bellevue, and for the next ten years engaged in farming and in lumbering, meeting with many thrilling adventures, and laying the foundations for modern civilization. In 1863 he heard the call of his adopted country, and enlisted in the Union army. He went south with the Seventh Minnesota, Volunteer Infantry, and gave his life for his country, dying of smallpox at St. Louis, Mo. He was of Scotch blood, having been born in Greenock, Scotland. His good wife came of American Colonial stock, her parents having moved from Maine to New Brunswick, Canada, where she was born. George Warren Stewart, left fatherless at the age of ten, helped his mother, and made

his way in life as best he could. When circumstances permitted he attended the district schools. Possessed of great energy and determination, willing to work hard for what he obtained, he was finally enabled to enter the St. Cloud State Normal School, and there he completed the advanced academic course.

Inspired by his reading, and determined to emulate some of the heroes whose achievements had fired his youthful imagination, he entered the law offices of Taylor & Taylor at St. Cloud. His ambition was realized December 14, 1882, when, having passed the examination with honors, he was admitted to the bar. He tried and won his first case the following January. From that time until his death which occurred October 8, 1911, he practiced his profession to a highly successful degree. He was the junior member of the law firm of Taylor & Stewart until he entered the office of Judge D. B. Searle. In November, 1887, when Judge Searle went on the bench, Mr. Stewart formed with George H. Reynolds, a partnership which continued for three years. From January 1, 1891, he practiced by himself until 1900 when the law firm of Stewart & Brower was formed. Mr. Stewart was a Republican and took an active interest in the affairs of St. Cloud. He was a member of the State Reformatory Board until that board was abolished. He was also a member of the board of governors of the Minnesota State Bar Association. For nineteen years he was a member of the St. Cloud Board of Education, and during that time held every office on the board, such as president, treasurer, secretary, and committee chairman. He was for six years a member of the city council, and for one term sat as president of that body. From 1898 to 1901 he was city attorney of St. Cloud.

Mr. Stewart attained the position he held in life entirely through his own efforts, and it can be truthfully said of him that he was a great lawyer. A life such as his is a potent influence in any community, and its memory is a treasure to be cherished. George Warren Stewart will long be remembered by the citizens of St. Cloud, as a man who served well his day and his generation, one who was held in honor and esteem, and who left a name without spot or blemish. Mr. Stewart was married, August 23, 1888, to Mary L. Huntsman, and there are two sons, Warren H. and Donald.

David T. Calhoun. Descended from a line of pulpit orators, the son of a noted clergyman, and the grandson of one of Minnesota's devout missionaries to the Indians, it was inevitable that David T. Calhoun should be designed for one of the learned professions. He chose the bar, and for a quarter of a century his voice was heard in the courts pleading the causes which he believed to be just and right. In all the relations and duties of life, he aimed at what was true, pure and good and his dignified character and fraternal spirit made him generally beloved by all his associates. His intellectual gifts, liberal culture and great learning made him a prominent member of the bar of the state. Mr. Calhoun was all his life a voracious reader, not only of books pertaining to this profession, but also of books of general literature and he brought to his profession a thoroughly cultivated mind. On account of his intellectual attainments, nobility of character, profound judgment, and keen and highly developed sense of humor, his companions and friends recognized his leadership while living, and the irreparable loss of his death.

David T. Calhoun, sixteenth Worshipful Master of North Star Lodge, No. 23, St. Cloud, was born at Pikesville, Tenn., June 22, 1853. At the age of four years he came with his parents to St. Cloud, where he spent his young boyhood. In 1864 the family moved to Iowa, and in 1870 to Pierce City, Missouri. David T. attended the public schools, took courses at McGee College, North Missouri, and graduated from Cumberland University, at Lebanon, Tenn., being admitted to the bar in 1874. Thus equipped, the young lawyer opened an office in Pierce City, Missouri. But his thoughts turned towards the county where his boyhood had been spent. Consequently he returned to Stearns county in 1877 and located at Sauk Centre, where he practiced his profession until 1879, when he moved to St. Cloud, and entered into partnership with Captain Oscar Taylor. In 1881 he went to Little Falls, Morrison county and practiced in partnership with A. F. Story. While there he became county attorney of Morrison county. In 1884 he once more returned to St. Cloud, and in 1885 formed a partnership with M. D. Taylor, the two gentlemen continuing to practice together for a little over half a decade. In 1886 he was elected county attorney for Stearns county. In 1887-89 he was mayor of St. Cloud, and for a time was a member of the board of education. In 1890 he was a Democratic nominee for the office of attorney general, but was

defeated by a small majority, by Moses E. Clapp.<sup>25</sup> He was judge of probate for four years. In 1895, Mr. Calhoun entered into partnership with James R. Bennett, Jr.

Mr. Calhoun died October 19, 1906, after a useful life, well spent. With all his busy life he found time for fraternal association, and was a member of the Elks, the Masons, the Royal Arcanum, and the Old Settlers Association, as well as of the Bar Association. He was especially enthusiastic as a Mason, serving his lodge with conspicuous ability. A perfect ritualist, he presided with grace, dignity and great efficiency, and under his watchful care the lodge attained a high state of perfection. Mr. Calhoun was an initiate of North Star Lodge, No. 23, raised June 4, 1881. He withdrew January 9, 1882, and affiliated with Little Falls Lodge, No. 140, of Little Falls, Minn. On February 13, 1893, he again affiliated with North Star Lodge, No. 23. He became prominent in Chapter and Commandery Masonry. He was appointed Grand Orator of the Grand Lodge of Minnesota, in 1900, and at the annual communication of the Grand Lodge held in St. Paul in 1901 he delivered an oration which commanded the closest attention of all present and was highly commended.

Mr. Calhoun was married June 29, 1886, at Mobile, Alabama, to Lida B. Toomer, a native of that place, daughter of Benjamin and Lucinda (Huddleston) Toomer. There are two children, Robert L. and Thomas Edward. Robert L. was born December 30, 1896, and is now studying theology at Carleton College, at Northfield, Minn. Thomas Edward was born June 1, 1900, and attends the St. Cloud schools.

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Benjamin Toomer was born in Charleston, South Carolina, September 22, 1805, son of Joshua Toomer. The Toomers came from Wales in 1693, settled in Charleston, S. C., and became interested in cotton plantations. Benjamin Toomer received a thorough education

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<sup>25</sup> The results of the election on November 4, 1890

Moses E. Clapp (incumbent Republican).....	98,187
David T. Calhoun (Democrat).....	85,821
Robert Taylor (Prohibition & Alliance).....	55,610

in Charleston. As a young man he moved to Mobile, Alabama, where he became a successful cotton broker. He died there at the age of eighty-four years. It is worthy of note that on the Georgetown road, ten miles from Mt. Pleasant, opposite Charleston, South Carolina, stands the old Toomer residence built in 1742. On the same road, seven miles away, is the famous Trapaton church, built in Colonial days, about which are buried members of the Toomer family dating back to the founder of the American branch of the clan. Henry Toomer, a brother of Joshua Toomer and uncle of Benjamin Toomer, was a major in the Revolutionary war under General Marion. Benjamin Toomer married, May 2, 1833, Lucinda Williams Huddleston, who was born May 8, 1814, and died December 23, 1904. The Huddlestons came from Yorkshire, England, in 1748, and became identified with the business life of Georgia. The family is noted for the longevity of its members. Elizabeth Huddleston, mother of Lucinda W. Huddleston Toomer, lived to be ninety-six years old, and saw her great-great grandson, Edward T. Toomer, the oldest son in a family of nine of which Mrs. Robert T. Calhoun, of St. Cloud, was the youngest.

James E. Jenks, of the firm of Jenks & Quigley, St. Cloud lawyers, was born in Clearwater, in Wright county, this state, August 9, 1871, son of James and Sarah E. (Noyes) Jenks, pioneers. James Jenks, the father, was born in Cumberland county, Nova Scotia, and was there reared. In 1856 he and his wife came west and located at St. Anthony Falls, in this state. From there they moved to Fair Haven where he was postmaster for a time and thence to Maine Prairie in this county. There in the old log fort of which he superintended the building they underwent the terrors of the Indian uprising. After the Civil War they moved to Clearwater, where they lived till 1889 when they came to St. Cloud. James Jenks died in St. Cloud in July, 1903. His wife died in 1895.

James E. lived on the home farm until fifteen years of age when he came to St. Cloud to school. He received his common and academic education in the public schools of Clearwater, the St. Cloud State Normal School, and Carleton College at North-field, Minn. He taught for two years and then went to Washington, D. C., where he received his law degree from Columbian in 1897.



In 1898 he began the practice of law in St. Cloud in the office of Myron D. Taylor with whom he was associated under the firm name of Taylor & Jenks until Mr. Taylor became District judge in 1906. From 1906 until June, 1913, Mr. Jenks practiced alone. On June 16, 1913, he formed a partnership with James J. Quigley who came to the new firm from the legal department of the Great Northern Railroad at St. Paul. Mr. Jenks is a good lawyer and a public-spirited and useful citizen. He has served as a member of the school board and has been active in the work of the Commercial Club for a bigger and better St. Cloud. He is at this writing secretary of the Charter Commission and city attorney of St. Cloud.



JAMES J. JENKS

Mr. Jenks was instrumental in organizing and is the president of the League of Minnesota Municipalities, an organization affiliated with the Extension Division of the University, and aiming toward greater economy and efficiency in municipal administration throughout the state. He is also a member of the governing board of the State Automobile Association and has been for twelve years a member of the State Board of Law Examiners. As a member of this board he has successfully prosecuted a number of disbarment cases before the Supreme court, which have resulted in weeding out some of the unconscionable practitioners of the law.

Fraternally he is a member and past master of North Star Lodge, No. 23, A. F. & A. M., and a member of St. Cloud Lodge, No. 516, B. P. O. E. Mr. Jenks was married, June 13, 1900, to Marion S. Shaw, daughter of O. W. and Sarah (Rollins) Shaw, of Austin, Minn.

James McGown McKlevy was born in Wilkensburg, near Pittsburg, Penn., April 19, 1835, son of James and Rosanna (Swisshelm) McKelvy, the former of Scotch-Irish and the latter of German blood. His early life was spent on his father's farm in Wilkensburg. He attended such schools as the neighborhood at that time afforded, and with the aid of private instruction he was enabled to enter the Allegheny College at Meadville, Penn., in 1850. He was graduated with honors at the head of his class in 1854, and was awarded the distinction of preparing the Latin essay of that year. During his

vacations he had studied law in the office of E. M. Marshall, of Pittsburg. In 1856 he was graduated from the Albany Law School, at Albany, New York. In 1857 he came to Minnesota, and settled in St. Cloud, where he began at once the practice of his profession. In 1858 he was elected prosecuting attorney of Stearns county, and filled that position until he went on the bench, with the exception of the time he was in the Civil War. On April 14, 1861, he was married to Margaret Garlington, of St. Cloud.

In July, 1862, he enlisted in Company I, Seventh Volunteer Infantry, and entered the service as first lieutenant of that company. Later he was promoted to the position of captain. He was wounded at the Battle of Nashville, December 16, 1864, and after being confined to the hospital until March, 1865, he resigned his commission and returned to St. Cloud, where he resumed the practice of law. In May, 1865, he was reinstated as county attorney.

On August 1, 1866, he was appointed first judge of the Seventh Judicial District by Governor William R. Marshall. He was elected to the position several months later, and served by re-election until April 19, 1883, when he resigned by reason of ill health and was succeeded by L. M. Collins. After he retired he attended to such private practice as his health would permit. Though not a strong partisan, Judge McKelvy voted the Republican ticket. He was one of the most popular men in the county, and it was said that he could have been elected to any office within the gift of the people of Stearns county. He died July 31, 1884.

Paul Ahles. Among those who are taking an important part in the modern progress of Stearns county, there is an active, energetic group of young men who are distinctively products of the county, born, reared and educated here. The sons of pioneers who have helped to make the county, these young men have a deep appreciation of local conditions, and an inbred loyalty which gives them a keen insight into present needs and future possibilities. In this group is the county official about whom this brief mention is made.

Paul Ahles, county attorney, was born at Rockville, this county, May 26, 1872, son of John and Lucy (Bauer) Ahles. He was reared on the home farm, and attended the district schools until sixteen years of

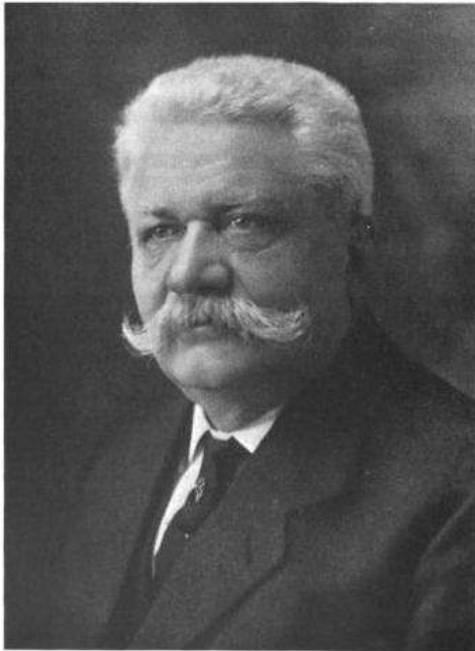
age. By home study and wide reading he prepared for the teaching profession, and presided over rural schools in various districts for some fifteen year. His ability won recognition, and he was made county superintendent of schools, a position he occupied for eight years. After having taught for a number of years he was enabled to once more become a student, and in 1901 he graduated with honors from the St. Cloud State Normal School. For some years he took the correspondence course in law with the Sprague School, of Detroit, Michigan, and supplemented this with studies in the law office of Theodore Bruener. He was admitted to the bar in 1910, and on January 1, 1911, became a partner in the firm of which he was a member for two years. He was elected county attorney in 1912, and is giving excellent service in that position. Mr. Ahles is district deputy for the Knights of Columbus, 9, member of the Catholic Order of Foresters, and a member of the State Federation of Catholic Clubs. Mr. Ahles married Marie A. Bruener, daughter of Theodore and Mary (Kuntz) Bruener, and they have two children, Louise Marie and Wilfred Theodore.

Theodore Bruener. The years immediately following the Centennial celebration, have often been designated as the halcyon period of the St. Cloud bar. The lawyers then practicing here, or who soon afterward located here, constitute a distinguished body, and bore names that became well known in the courts of the county, the state, and even the nation. They were lawyers of the old type, the family friends who settled many a difficult matter out of court, and who brought to their practice not only a kindly human charity, and an acute legal mind, but also a broad culture, and a wide acquaintance with an extensive range of literature and science. The names of these men are readily recalled. Among them may be mentioned the one whose name heads this sketch, now the second oldest lawyer practicing before the Stearns county bar.

Theodore Bruener was born in Recklinghausen, Westfalen, Germany, April 11, 1856, son of Bernard and Annie (Fischer) Bruener. He came to America in the spring of 1874, and after a short stay in Illinois became professor at the Normal School in St. Fran-cis, Milwaukee county, Wisconsin. In 1877 he entered the University of Michigan, at Ann Arbor, and was graduated from the law course there in 1879. He opened an office in Milwaukee, but a few months later determined to seek the wider opportunities that opened in St. Cloud. Since that time,

with intervals of public office holding, he has been in continuous practice here.

After a few weeks he became associated with Judge L. D. Collins, and remained with him until 1882. Then he practiced alone. January 1, 1910, his son-in-law, Paul Ahles, became his partner, which



THEODORE BRUENER

partnership continued until January 1, 1913. Judge Bruener has been judge of probate for eight years, county attorney three years and register of the United States Land Office for four and a half years. He is president of the Bar Association. Theodore Bruener was married August 12, 1880, to Mary Kuntz, a native of Milwaukee. They have seven children: Marie A., Theodore B., Clara, Louise, Albert, Celia and Rosa. Marie A. is the wife of Paul Ahles, and they have two children, Louise and Wilfred. Theodore B. married Caroline Stewart and lives at Aberdeen, Washington. Louise is the wife of William J. Seifert, of Oakes, N. D.

Patrick Brandon Gorman, attorney at law, St. Cloud, was born in County Sligo, Ireland, March 10, 1845, son of Mark and Mary (Brandon) Gorman, who came to America in 1848, lived for a while on the banks of the Niagara river, near Lewiston, N. Y., and then moved to a farm in Ash township, Monroe county, Mich.

The subject of this notice lived with his parents until 1862, when he enlisted in Company A, Twenty-fourth Michigan Volunteer Infantry, and served through the Civil War, being discharged honorably in July, 1865. After the war he returned home. The next few years he spent in

teaching and in study, taking lessons at the Ann Arbor High School, from which he graduated in 1868, and having also the advantages of a two years' literary course in the University of Michigan. In 1873 he was appointed principal of the schools of Lanesboro, Minn. Four years later he came to Stearns county, and after teaching for some years, was county superintendent for two terms.



*P. B. Gorman*

He read law in the office of Judge James M. McKelvy, and was admitted to the bar in December, 1884. Since then he has been in constant practice in St. Cloud. In 1886 he was appointed register of the United States Land Office at St. Cloud, and served for four years. In 1892 he was elected to the lower house of the Minnesota legislature and served one term. He is a member of the Stearns County Bar Association.

Mr. Gorman married Jane Abigail Miller, now deceased, daughter of Dr. Luke Miller, a native of Peterborough, New Hampshire, one of the leading citizens of southern Minnesota, and a prominent lawyer of Minnesota in the

early days. Mr. and Mrs. Gorman have four children: Louise, Mary G., Lydia M. and Arthur M. Louise lives with her father. Mary G. teaches in St. Paul. Lydia M. taught for several years, and is now an accountant in the agricultural department of the University of Minnesota. Arthur M. is secretary to Congressman Charles A. Lindburgh, in Washington, D. C. He is a graduate of the academic department of the University of Michigan, and is spending his spare time studying law at the Georgetown University, at Washington.

John D. Sullivan. In the early days of the United States, it was considered necessary that the expounders of the law should be the

law makers of the country. The law was a stepping stone to high political honors, and the presidents, the leading senators and congressmen, and the influential assemblymen and legislators of the states had all been trained in the law. With modern times circumstances have changed. Educators, business men and farmers occupy high positions and have a leading part in framing national, state and local legislation. But the lawyers still have their place; and their experience, education, and keen legal minds are a necessary accompaniment of the councils which terminate in the enactment of new laws. Among the lawyers who have, in recent years, had an important part in the legislation of Minnesota is the attorney whose name heads this sketch.

John D. Sullivan, lawyer and statesman, has been one of the most successful prosecutors in the state of Minnesota. He was born November 25, 1862, at Peterboro, Ontario, and as a boy attended the public schools of his native town. Afterward he graduated from the Collegiate Institute there. After teaching school for four years he resumed his studies by taking a law course. In 1884 he came to St. Cloud, and took up the study of law in the law office of Taylor & Taylor. He was admitted to the bar in July, 1886, and has since remained in continuous practice in St. Cloud. A Democrat in principles, he began to take an active part in politics soon after his admission to the legal profession. In the fall of 1890 he was nominated by his party for the office of county attorney and was elected by a plurality of about 1,000. But by a defect in his citizenship he was deprived of the office that term. But two years later, his friends elected him by a majority of about 3,600. He held the office of county attorney eight years and was also city attorney three years. In 1910 he was elected state senator and has made an excellent record. Mr. Sullivan was married in 1886 at St. Augusta, Minn., to Elizabeth M. Schmidt, and they have four children: Frank J., Henry H., Charles J. and Margaret E.

John B. Pattison, lawyer, was born in St. Cloud township, this county, December 25, 1876, son of William and Mary (Duncan) Pattison. He attended School District No. 2 (of which his father was treasurer for many years), and graduated from the St. Cloud High School in 1893. In 1898 he went to the Philippine Islands as quartermaster sergeant of Company M, Thirteenth Minnesota Volunteer Infantry. He saw

active service with his company, returned to San Francisco, California, October 3, and was mustered out there October 13, 1899. Mr. Pattison read law in the office of D. W. Bruckert, graduated from the law school of the University of Minnesota in 1900, and was admitted to the bar the same year. Then he entered the office of Ripley B. Brower. In 1903 Mr. Pattison engaged in the practice of law on his own account. In 1913 he married Anna Hartflel. Mr. Pattison is a member of the Benevolent and Protective Order of Elks.

Hubert Hansen, attorney, was born June 16, 1858, son of Michael and Mary Johanna (Bormann) Hansen, the pioneers. He was the first white boy born in Rockville, in this county. After attending the public schools, he entered St. John's University, at Colledgeville, Minn. He studied at the St. Cloud State Normal School during the terms of 1875, 1877, and 1879, graduating the latter year. During these years he also taught school, and by this means, in connection with hunting and trapping, earned the money to pay expenses. He taught school in District No. 13, Le Sauk; District No. 40, Maine Prairie; District No. 106, Farming; all in this county; and in District No. 5, Minden, Benton county.

He graduated from the law course of the Iowa State University, June 20, 1882, and with intervals of public office holding has been in continuous practice in St. Cloud since 1884. Mr. Hansen was city justice from 1892 to 1896; and judge of probate from 1895 to 1901, and from 1905 to 1907. He has a flourishing insurance business and good law practice, and makes a specialty of probate matters.

The family worships at the Catholic Church. Judge Hansen was married July 31, 1884, to Mary De Wenter, a native of St. Joseph, this county, born January 9, 1865, the daughter of John and Louise (Evers) De Wenter. They have five children: Marie Louise, John H., Alphonse J., Cyrille J. and Hubert H. Marie Louise was born August 16, 1891. She was married May 12, 1913, to William G. Ryan, of Northampton, Mass. John H. was born March 4 (Inauguration day), 1893, and is located in Great Falls, Mont. Alphonse J., born October 11, 1894, is at home. Cyrille J., born June 10, 1900, and Hubert H., born April 15 (Easter Sunday), 1906, are at home.

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**J. I. Donohue**, patent and pension attorney of St. Cloud, was born in Pilot Mound township, Fillmore county, Minnesota, July 30, 1865, son of Jeremiah and Jane (Donavan) Donohue. Like other boys of his neighborhood he attended the district schools, and received a good elementary education. Later he entered the University of Minnesota, being graduated from the College of Science and Art, in 1884, and from the School of Agriculture in 1887. For a time he was assistant chemist to Dr. H. W. Wiley, in the Department of Agriculture, at Washington, D. C., and later he became special examiner in the United States Pension Bureau there. Mr. Donohue came to St. Cloud in 1890, and has since devoted much of his attention to patents and pensions, in which particular work he has been especially successful.



**J. I. DONOHUE**

He has also found time to take an active part in the affairs of the city. From 1893 to 1896 he served as alderman. In 1894 he was elected a member of the school board, and served continuously until 1906, occupying every office on the board. His influence on that body is still felt in many progressive measures for the benefit of the educational system. His terms as county commissioner from 1900 to 1912 were also memorable, and resulted in many forward movements in county affairs. His work as city justice, in which office he has served continuously since 1902, has also met with wide approbation. Mr. Donohue's education, his wide

reading, and his extensive experience in Washington have admirably fitted him for a splendid citizenship. He is well versed in the affairs of state and nation, a convincing and easy speaker, and a pleasing conversationalist.

By extensive study he keeps well abreast of the times, and his professional opinion as to the real import of various important national



laws is often sought. Mr. Donohue married Edith P. Howes, and they have two children: Florence and Dorothy. Jeremiah Donohue was born in Ireland, and came to America about 1846. After living a few years in Cincinnati, Ohio, he came to Minnesota, reaching Fillmore county, October 10, 1856. He secured a farm in section 24, Pilot Mound, and there resided until his death, February 12, 1888. His wife still lives on the old homestead.

Peter Brick, attorney at law, St. Cloud, was born in Waterloo county, Ontario, Canada, December 25, 1848, son of Peter and Katherine (Kaiser) Brick. He graduated from St. Jerome's College, of Berlin, Ontario, and entered the office of Mr. Bowlby, the Crown's attorney, where he read law two years. In 1870 he came to St. Cloud and taught school for a short time. Then he entered the law department of the University of Michigan, at Ann Arbor, and was graduated in 1871. After returning to St. Cloud he was admitted to the bar, in June, 1871, with Judge D. B. Searle. With this preparation he entered upon the practice of his profession. He engaged actively in the work of bettering public conditions, and was honored with various city offices.

A still wider field, however, demanded his attention, and he was county attorney four years and judge of probate eleven years. He is a member of the Stearns-Benton County Bar Association, and belongs to the Woodmen of the World and the St. Joseph Society. In 1873, Peter Brick and Peter E. Kaiser started the German paper known as "Der Nordstern."

Peter Brick married for his first wife, Johanna Melenowski, and this union was blessed with six children. Peter E. died at eighteen years of age. John lives in Oregon City, Oregon. Leo is a dentist in Great Falls, Montana. Carl is in the jewelry business in Great Falls, Montana. Rupert is chief clerk in the Great Northern shops at St. Cloud. Katherine M. lives at home. Lizzie is the wife of Edward Armstrong, and has one daughter, Marjorie. The present Mrs. Brick was Marie E. Mueller, daughter of Philip Mueller, of Stillwater. They have two sons, Othmar, who is studying dentistry in the University of Chicago, and Bayard, who is at home. Mrs. Brick is one of St. Cloud's prominent women, and has been public librarian for several years.

Albert H. Klasen, judge of probate and attorney at law, was born in Milwood township, this county, April 3, 1870, son of Henry H. and Helen (Luebbers) Klasen. He was reared on the home farm, and attained the usual training of the district schools. After perfecting himself in the academic branches at the Moorhead State Normal School, St. John's University, at Collegeville, this county, and Valparaiso Normal, at Valparaiso, Indiana, he entered the University of Michigan, at Ann Arbor, and was graduated from the law course of that institution with the class of 1903. Then he took up the practice of his profession in the office of Judge Theodore Bruener, at St. Cloud. He was elected to his present office in the fall of 1906, and is now serving his fourth term. Eminently fitted by nature and training for the responsible duties entrusted to his care, he has won and retained the confidence and regard of his fellow men. He is a member of the Stearns-Benton County Bar Association, and of the Knights of Pythias. Judge Klasen married Matilda G. Hermann, daughter of John Hermann, and they have two children, Mildred E. and George J., the former born April 28, 1908, and the latter November 19, 1912.

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J. B. Himsl, St. Cloud attorney, was born in Austria, February 6, 1872, son of Alois and Marie (Moestl) Himsl. In the fall of 1883 he started for America with his mother. They landed at Baltimore, Maryland, and on November 13, 1883, reached Avon township, Stearns county, where the father had settled the previous spring. J. B. was reared on the farm, attended a log school near the present site of Collegeville, and finally entered St. John's University, at that place. With this preparation he became a teacher. For a year he taught in the Eclectic Business College at Minneapolis. He was also for some time a teacher in the country schools of Stearns county. He took an active interest in the communities in which he taught, and became an important man in public affairs. While in Milwood township he was town clerk and justice of the peace. His ability was soon accorded wider recognition, and he was made assistant superintendent of schools in Stearns county, being the first person to occupy the position. In 1900 he gave up his teaching and entered the law department of the University of Minnesota, from which he was graduated in 1903. For a year he practiced in Albany village. In the fall of 1904, he was elected county attorney, and moved to St. Cloud. After he served eight consecutive years with distinguished ability, he

felt that his private practice required more of his attention, and he accordingly declined to present himself as a candidate for further election. In the spring of 1913, he left for an extended trip through Europe. He visited his old home in Austria, traveled through the Austrian Alps, and took in the sights of the principal cities of Austria, Germany, Switzerland and northern Italy. For his return voyage from Hamburg to New York, he took passage on the "Imperator," of the Hamburg-American Line, one of the largest vessels afloat, then on her maiden voyage. Upon again reaching St. Cloud he took up the practice of law. He has offices in the Court house, is well known in this vicinity, and enjoys a large and successful practice.

Mr. Himsl has entered intimately into business, fraternal and educational life in St. Cloud. He served on the St. Cloud board of education six years, concluding his services in that capacity by reason of his trip to Europe. He is a director in the Zapp State Bank, and vice-president of Der Nordstern Publishing Co. The St. Joseph Benevolent Society and the Knights of Columbus count him as a valued member. J. B. Himsl was married September 14, 1897, to Elizabeth Rau, who was born January 9, 1876, daughter of Mr. and Mrs. Peter Rau, of this county. They have five children: Rudolph, Valeria, Herbert, Maria and Joseph. Rudolph is a student at St. John's University, at Collegeville, this county. The family are members of the Roman Catholic Church.

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Hanford Lennox Gordon, lawyer, poet, and man-of-affairs, was born at Elm Valley, near Wellsville, Allegany county, New York, December 30, 1836, son of William Brewster Gordon and Louisa McDonald Pearson, and the grandson of William Wallace Gordon (a near relative of Lord Byron's mother), and Rhoda Gordon Douglass. The grandparents came to America from Scotland in 1788, and after living awhile in Massachusetts, moved to Unadilla, New York, where both are buried. The parents moved to Wellsville, New York, when Hanford Lennox was a small boy. There the father built a sawmill and a gristmill. Hanford Lennox received his early education in the district school at Wellsville. In 1854 he was tendered an appointment to West Point but was prevented from accepting by his father, who was opposed to military life. That same year, Hanford L. lost his mother and went to live and study law with his uncle, Hon. Samuel Gordon, of Delhi, New York, a wealthy and distinguished jurist, and a former

member of Congress. Our subject was admitted to the bar at Ithaca, New York, October 20, 1857.

February, 1857, he received an appointment to the Naval Academy at Annapolis, but after considering the matter for some time declined it. In April he joined his father on a trip to the West. They went down the Ohio river, reached St. Louis, from there went up the Missouri to Fort Leavenworth, went into the interior, then returned to St. Louis, eventually took a boat for St. Paul, where they landed June 3, 1857. June 10 they started up the river from St. Anthony Falls. From Clearwater they went to Clearwater lake, and built a camp of poles and bark. A short time later, the father bought the claim of "Lije" Doble, on the east shore of the lake, and the two took up their residence in a "shack" which they built on this claim. In the fall, Hanford L. returned to the East, visited friends, was admitted to the bar, and on February 22, 1858, married Sylvia Smith, of Ceres, N. Y., soon after which he came west again. He settled in Clearwater, and for the next few years devoted his energies to anything that would help support him in this new country, practicing law, teaching school, trapping, farming and fur dealing.

In the fall of 1859 he was made court commissioner and county commissioner of Wright county, and soon afterward he became county attorney, which position he held till 1868. It was in the fall of 1859 also that his wife arrived with their little daughter, Ada. They spent the winter with his father, and brother Charles at Clearwater Lake. In the summer of 1860, H. L. Gordon and his wife moved into a house which he had purchased in Clearwater.

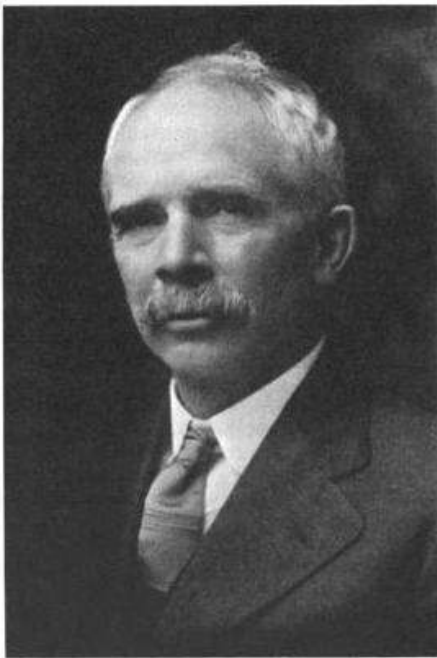
May 21, 1861, he was mustered into the Union service as corporal of Company D, First Minnesota Volunteer Infantry. At the Battle of Bull Run he was captured, but neatly turned the tables by capturing and bringing into the Union lines, a sergeant of the Second Mississippi Rifles who had been detailed to guard him. He was slightly wounded while on picket duty near Ball's Bluff, October 21, 1861. After several more skirmishes, he received his discharge, the rigors of infantry life being too great for his constitution. With letters of the highest recommendation from his superior officers he returned to St. Paul, seeking military service more suited to his strength. Inspired by a promise of a junior first lieutenant's commission by the governor, he

spent energy, influence and money in recruiting the Second Battery, Minnesota Light Artillery. Instead of the commission which he was promised, he was offered a commission as second lieutenant which he indignantly declined. He returned to Clearwater, where he was soon appointed postmaster, which position he held till he moved to Monticello. In 1864 having been fortunate in the fur trade, he moved to Monticello, and opened a law office there. In the fall of 1864 he was offered by Governor Miller a commission in the First Regiment, Minnesota Heavy Artillery, but declined it, and on March 30, 1865, he was commissioned Major General, Second Division Minnesota State Militia. In the fall of 1866 he was elected senator from the Sixth Senatorial District, and ran some 1,000 votes ahead of the Republican ticket on which he was nominated. He served in 1867 and 1868, and made an admirable record. In July, 1868, he moved from Monticello to St. Cloud, and formed a law partnership with L. W. Collins, under the firm name of Gordon & Collins.

July 4, 1870, he left St. Cloud, with his wife and daughter, seeking a new home in California, where his wife's health might be benefited. They visited various points on the Pacific coast, but in April, 1871, they again returned to St. Cloud, where Mr. Gordon resumed the practice of law. October 30, 1871, he was appointed register of the land office at St. Cloud, a position he filled until several months after his resignation, May 27, 1874. In the meantime his wife's health appeared to improve for about two years, but it again declined, and she died in March, 1877. Mr. Gordon's own health was in a precarious condition, and late in 1876 he went to Florida, where he remained until called home by the approaching death of his wife. In June, 1877, he and his daughter moved to Minneapolis, where he devoted his time to looking after his lumber interests. Most of his winters for some years thereafter were spent in the south. In December, 1887, he moved to San Jose, California, and bought four ranches, three of which he planted to fruit trees. On December 22, 1878, his daughter, Ada, married Dr. Alfred H. Hedderly, and at the same time and place, Mr. Gordon married Mrs. Mary L. (Carpenter) Thompson, by whom he has three children, Huntley Lennox Gordon, Mary L. Gordon (Brassey) and William Wallace Gordon. Mr. Gordon now lives in Los Angeles, to which city he moved in 1894. He is practically retired from the more strenuous duties of life.

Throughout his life, Mr. Gordon has been active in public affairs, and has taken an active part in the political life of Minnesota and California. Aside from his other activities he has done considerable literary work which has received wide and favorable notice. Among his published works may be mentioned: "Pauline and Other Poems" (1878 – G. P. Putnam's Sons, New York and London); "Legends of the Northwest" (1881– St. Paul Book & Stationery Co.); "Feast of the Virgins and Other Poems" (1891–Laird & Lee, Chicago); "Indian Legends and Other Poems" (1910– Salem Press Co., Salem, Mass.); "Laconics" (four editions, 1910, 1912, 1913, 1914–Holmes Book Co., Los Angeles and San Francisco).

Frank Tolman was born at Winnebago Prairie, Stearns county, on November 14, 1857; attended the public schools at St. Cloud and



FRANK TOLMAN

graduated from there in 1876; attended the State University for one year immediately following his graduation from the high school at St. Cloud; read law in the office of D. B. Searle at St. Cloud; was admitted to the practice in 1881, and remained at St. Cloud in the practice of the law until April, 1894, when he removed to Paynesville, where he has since resided and is engaged in the practice of his profession. He was married on January 17, 1889, to Mary F. Wheelock, of Moscow, New York, and has four children. Mr. Tolman is at present president of the board of education of Paynesville. □

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## 4. Tragic Events

*The following law-related anecdotes are taken from chapter 30, pages 540-598 of Volume 1 of History of Stearns County.*

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### CHAPTER XXX.

#### TRAGIC EVENTS.

Unhappy Incidents in the Life of Stearns County—Murder and Suicides—Accidents Which Have Resulted in Death—Rivers and Lakes Prove Fatal To Many Youths—Railroads and Unruly Horses Claim Their Share of Victims—The Tragedies of Nearly Six Decades.

1856. The first murder to stain the annals of Stearns county occurred on the nation's natal day, July 4, 1856. A dance was given at St. Cloud in a hall in a building where the Grand Hotel now stands, which was kept by Anton Edelbrock. The majority of the people then in St. Cloud were Germans, while Sauk Rapids and Watab were settled mostly by Americans. A dispute arose along racial lines, as to which nationality should have control of the dance, and a free-for-all fight followed, all kinds of weapons (except fire arms) as well as fists being used. During the melee Henry Becker was struck on the head, receiving injuries from which he died July 22. A man named Clemens Mulman (known as "Clemens, the sailor") was arrested charged with the murder. Joseph Edelbrock was sheriff of Stearns county at the time and Mulman was kept as a prisoner in his charge, under guard, there being no jail. He was afterwards taken to St. Anthony Falls to be confined in the jail there for safe keeping, but made his escape and was not afterwards recaptured. A bill rendered by the sheriff of Hennepin county for Mulman's board was presented to the board of county commissioners at the session, January 5, 1857, and rejected, the commissioners evidently believing that if the sheriff could not keep a prisoner until wanted he was not entitled to any compensation.

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1862. A large part of the April 17 number of the Democrat was taken up with a report of the trial of Anton Edelbrock for the murder of Michael Rieder; Judge C. E. Vanderburg was the presiding judge; the prosecution was conducted by Attorney General Gordon E. Cole and County Attorney James M. McKelvy; the attorneys for the defense being E. O. Hamlin, H. C. Waite and J. C. Shepley. The jurors were R. M. Richardson, J. C. Wilson, Albert Smith, Thomas Dibb, Peter Thielman, M. R. Brown, N. S. Capser, W. A. Gates, S. O. Crawford and Henry Lansing. The trial began April 10, concluding on the fourteenth. A large number of witnesses were examined, the testimony being to the effect that Rieder, with several other men, had gone to Edelbrock's house, at St. Joseph, which was also a store where groceries and liquors were sold, on the afternoon of Sunday, May 5, 1861; the door was closed and shutters were up; Rieder came to the door and attempted to open it; a shot was fired from within and afterwards another, this one being fatal, the gun being charged with buckshot. The jury after an absence of two hours and a half returned a verdict of not guilty. The case had excited wide interest throughout the country, and was the second case of homicide.

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1869. The body of Charles McManus, a corporal of Company E, Tenth United States Infantry, in camp near St. Cloud, was found in the brush on the old Lowry farm, on the morning of June 18, with a bullet hole in his neck. Suspicion pointed to three men with whom he had been in a saloon drinking, Hanison Carhart, Fred DeForest and William Trainer. The latter was discovered with a government train and arrested. He made a confession, which implicated the other two men, charging that DeForest was the man who had actually fired the shot. The murder had been committed five days before the body was found and the other two had made their escape. Carhart was captured and arrested at Quincy, Ill., July 8, and brought to St. Cloud and confined in the jail with Trainer. The trial of the two prisoners took place, beginning December 27, and ending January 1, 1870. The prosecution was conducted by E. M. Wright, county attorney, while the prisoners were defended by L. W. Collins. After the case had been concluded and the jury retired it was found necessary, after two ballots had been taken without an agreement, to dismiss the jury on account of the serious illness of H. J. Fowler, one of the jurymen. The second trial began January 24, 1870, and occupied a week, resulting



in a verdict of not guilty, and the prisoners were discharged. The expense of the two trials to the county was about \$4,000.

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1872. On the afternoon of Sunday, January 14, a man named John Beaver, in St. Cloud, attacked his wife with a billet of wood with which he beat her to insensibility and then finished his fiendish work with a hatchet, after which he coolly left the house, and was soon after arrested. Their three children, the eldest nine years of age, were the sole witnesses of the crime. Beaver had frequently ill treated his wife, threatening to kill her. He was tried, found guilty and sentenced to state prison for life. A number of years afterwards he was pardoned on condition that he would return to his home in Germany.

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1873. At St. Cloud in the evening of July 24, Robert Leitch was shot and almost instantly killed by Theodore Steinberg in the latter's saloon. Both men were under the influence of liquor; ugly words had passed between them, when Steinberg took a large revolver from a drawer and shot Leitch, who stood in front of him, on the outside of the bar, only a few feet distant, the ball entering the breast and passing entirely through the body. Steinberg was arrested and was held by the coroner's jury on the charge of murder in the first degree. He was released December 13 on \$8,000 bail. The trial came on at the June, 1874, term of court, when Steinberg was acquitted, on the ground that the shooting was accidental and not intentional.

Word was received in St. Cloud that the body of Caleb W. West, for many years a resident of the city, had been found near the "draw" of the railroad bridge at Hastings on the evening of August 3. The injuries showed that death could not have resulted from a fall, and the coroner's jury returned a verdict that it was due to violence. The general belief was that he was murdered. The deceased was a brother of Capt. J. E. West and printed the first paper published in St. Cloud, the Minnesota Advertiser. The body was brought here for burial. Mr. West was thirty-eight years of age and left a wife and adopted son.

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1874. As a result of troubles over a road in the town of Krain, August 15, John Holler's wife was killed and Holler was severely injured by a neighbor named Henry Moonen. Mrs. Holler's body showed three

terrible cuts inflicted with a knife, either of which would have been fatal. Holler had seven cuts, only one of which was dangerous. Moonen was arrested and brought to the county jail, and when tried at the December term of court was acquitted.

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1875. John Wright, for a number of years a resident of St. Cloud, the family living at this time at Dayton, Otter Tail county, was murdered September 16 by Indians while herding cattle near Bismarck, D. T., with George Lewis, of St. Cloud.

During a quarrel between members of Luther Laughton's family living near Clearwater, October 23, Orin Laughton, who had been at one time proprietor of the old West House in St. Cloud, was shot and killed by his brother, Nathan C. The latter was arrested and committed to await trial at the next term of the district court, held in March, 1876, at Buffalo, when he was found guilty of murder in the second degree and sentenced to imprisonment in the state penitentiary for life.

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1876. As the result of a quarrel over the contents of a keg of beer, at Two Rivers July 12, Peter Thienes, Sr., a resident of this county, was shot and killed by Michael Butala. The latter escaped but was found in the town of Eden Lake on the 23rd by Sheriff Geissel and arrested. He was tried at Little Falls at the December term of the district court, found guilty of manslaughter in the second degree and sentenced to five years in state prison,

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1879. Michael Muede was brought November 10 to the Stearns county jail by the sheriff of Todd county, charged with having in company with his brother John deliberately murdered two men, named Colway and Steinhuber. The crime was a most fiendish one. John, who was first arrested, was taken to Long Prairie for a hearing, where he made a full confession, and was lodged in the county jail. This was broken into the night of November 8, by a party of armed men disguised and the culprits hanged to a tree. The other brother, Michael, was found between Lake George and Lake Henry, in this county, taken to Hartford, where he had his preliminary examination, and was brought here for safe keeping. At the March, 1880, term of

the district court for Todd county he was found guilty of murder in the first degree and sentenced to imprisonment for life.

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1882. Philip Richter was beaten over the head with billiard cues and clubs in William Otto's saloon in St. Cloud on the evening of November 23, receiving injuries from which he died at noon the 25th. The coroner's jury's verdict was that he had died from blows inflicted by William Otto, John Smith, his bartender, Ignatz Grell and John Meyer. Otto was arrested, as was also Grell at Westport, to which place he was traced. Richter was a son of John Richter of the town of St. Cloud, and left a wife but no children. The trial of Otto and Grell took place at the December term of the district court, both being found guilty of manslaughter in the second degree and sentenced each to five years and six months in the penitentiary. The other parties were never arrested or found. Otto was pardoned by the governor in 1885.

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1886. During a row in Frank Beaudreau's saloon at East St. Cloud on the evening of August 1 (Sunday), Scott M. Justice was kicked in the stomach by Ed. Clower, receiving injuries from which he died two days afterwards. Clower was arrested and bound over to the district court. His trial took place in January, 1887, at Sauk Rapids, when he was found guilty of manslaughter in the second degree and sentenced to eighteen months at Stillwater.

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1888. As the result of a quarrel about a cow George W. DeBill, a well known laboring man of St. Cloud, was shot by Albert Blanz, a German boy employed at the Minnesota House barn, March 10, dying a few hours afterwards. Blanz was arrested, and at the June term of court was found guilty of murder in the second degree and sentenced to imprisonment for life.

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1893. John Barchard, of the town of Brockway, was brutally murdered, October 9, by his son Gustave, as was charged. The latter fled but was arrested two days afterwards by Constable Waltz and H. F. Meyer, of Albany, about seven miles south of that village and brought to the county jail. The two men had lived alone, the father being 94 years of age and the son 33. The latter had a bad reputation

and had subjected his aged father to much ill treatment previous to the murder. The trial came on the December term of the district court, when Barchard was acquitted, the evidence not being deemed sufficient to convict. He was afterwards examined, declared to be insane and sent to the Fergus Falls asylum.

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1894. While on his way from his farm in the town of Mayhew Lake, Benton county, to St. Cloud, February 8, Joseph Stanley was shot and instantly killed by August Jahnn, and his son, William Stanley, was at the same time wounded by a shot in the body. The shooting was the result of a dispute over the right of way to the road over which both parties were hauling wood and had to pass. Mr. Stanley, who had spent his boyhood and had married at Maine Prairie, in this county, was well known in St. Cloud and had relatives here. Jahnn was arrested the same day and lodged in jail, claiming the shooting was done in self-defense. The case was presented at the January, 1895, term of the district court, and the jury refused to return an indictment, on the ground that the shot was fired in self-defense. A bill for assault in the second degree was rendered against Jahnn for shooting young William Stanley, the trial resulting in an acquittal.

While Chief of Police James E. McKelvy was attempting to arrest some tramps for highway robbery at St. Cloud, May 23, one of them drew a revolver and aimed it at the chief's face. The latter instantly drew two revolvers and began firing, three shots taking effect in the tramp's head and body, causing his death that afternoon. He gave his name as Frederick Clifton. The fourth shot wounded William Henderson, another of the gang. Three more of the tramps were arrested and held as witnesses. The coroner's jury exonerated Chief McKelvy from all blame.

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1902. Robert Charles was shot and fatally injured at Eden Lake, March 12, by John Hurd, who lived on a neighboring farm. Hurd was arrested and admitted the shooting, but claimed self-defense. His trial came on at the June term of the district court, the jury returning a verdict of not guilty.

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1903. W. F. Street, for many years a prominent attorney in St. Cloud, was shot and killed, July 30, at Bemidji, by the accidental discharge of

a gun in the hands of his brother-in-law, Louis Bland. He was 52 years of age.

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1906. Michael O'Conner, a retired farmer, was knocked to the floor, stamped upon and killed July 12, by Frank Bonsell, in a saloon, at Melrose. The murderer was arrested and brought to the county jail. At the trial held in St. Cloud, at the December term of the district court, Bonsell was convicted of manslaughter in the second degree and sentenced to four and a half years in the state penitentiary.

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1907. William Ratford, constable at Freeport, shot and almost instantly killed John Tonyon in that village on the night of Sunday, August 18. Tonyon was a member of a gang who had been drinking and creating a disturbance, driving through the streets. Repeated warnings from the officer were unheeded. A shot was fired in front of the horses without effect. Another, after midnight, when the men refused to behave, was fired, the bullet taking effect in Tonyon's neck. The constable, who claimed that the shot was fired simply as a warning, was arrested, but was fully exonerated by the coroner's jury. The case was afterwards presented to the grand jury, which refused to return an indictment.

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1908. During a row in Martin Lahr's saloon at Opolo, on the night of May 18, Vinus Esser, a young man living in that locality, was shot by Lahr, dying a few days afterwards. Lahr claimed that the shooting was done in self defense and he was exonerated by the coroner's jury. The case was presented to the grand jury at the December term of the district court and an indictment found, but after a trial the petit jury returned a verdict of not guilty.

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1910. Charles O'Brien, a barber in St. Cloud, was shot and killed December 21, by Harry Albrecht, following an altercation in Woodmen hall, in the Kerr block. Albrecht, who was conducting a restaurant in the rear of Lindenberg's saloon, was under the influence of liquor at the time. He was arrested and held for appearance before the district court. At the May, 1911, term he was found guilty of manslaughter in the first degree and sentenced to the state

reformatory, with a possible parole after five years, the maximum being twenty years.

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1911. Anton Donbrava, a farmer of Raymond, shot and fatally wounded his wife, September 21. Donbrava, who was 65 years of age, was arrested and brought to the county jail. He had been confined in the Fergus Falls hospital for the insane, together with one of his sons, in May, 1906, remaining there until the following January. He was examined by a lunacy commission, declared to be insane at the time he committed the murder and was sent to the Fergus Falls asylum.

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1914. While in a fit of insanity Mrs. Annie T. Schindler, of East St. Cloud, wife of Peter H. Schindler, August 17 killed an adopted child, Irma, aged four years, by beating it to death. The body was discovered by Mr. Schindler when he came home in the evening, the child being in bed in its nightgown. The woman was examined, declared to be insane and sent to Fergus Falls. ■

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