

“BENCH AND BAR OF WASECA COUNTY” *

IN

HISTORY

OF

**STEELE AND WASECA COUNTIES,
MINNESOTA.**

AN ALBUM OF HISTORY AND BIOGRAPHY,

**EMBRACING SKETCHES OF THE VILLAGES, CITIES AND TOWNSHIPS; EDUCATIONAL, CIVIL, MILITARY
AND POLITICAL HISTORY; PORTRAITS OF PROMINENT CITIZENS, AND BIOGRAPHIES
OF OLD SETTLERS AND REPRESENTATIVE MEN.**

HISTORY OF MINNESOTA,

**EMBRACING AN ACCOUNT OF EARLY EXPLORATIONS, ORGANIZATION, A REVIEW OF ITS POLITICAL
HISTORY, TOGETHER WITH AN ACCOUNT OF THE INDIAN OUTBREAK OF 1862.**

ILLUSTRATED.

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CHAPTER XI.

BENCH AND BAR.

The fundamental principle underlying all law has been recognized from the beginning of the world. The Divine command to our first parents, "In the day thou eatest thou shalt surely die," is as much a law with the penalty for its violation attached, as is a statute enacted by the Legislature of a State, or the Congress of the United States. Man in a state of semi-barbarism had but little need of written law, for his possessions were but few and the people so scattered as to make courts impracticable. But with the first dawn of civilization, came a different state of affairs. Tracing back through the dim corridors of time to the oldest civilization known, that of Egypt, we find them with a complete code of laws, and all the machinery of regularly appointed courts. And from thence up to the present time courts presided over by judges, and advocates to prosecute or defend cases have always existed in almost every land and clime. Almost the first thing in this bright land of ours when a settlement is made, is the appointing of the proper law officers, that disputes may be adjusted, life and property be protected, and criminals be punished. In view of this fact, the framers of our State constitution instituted certain courts of justice, each with well defined powers. Changes have been constantly made in the laws, and some in the jurisdiction of the courts, from time to time, but the rights of all, be they high or be they low, have been carefully protected. Some of the ablest men in the State have adorned the bench from time to time. In many a court has been heard the brilliant pleading of some legal light for some wrong sustained by his client, or listened to the scathing, withering denunciation of some criminal act. A history of the courts of a county, of its judges, and of its lawyers, is an important component of the whole and should not be neglected.

THE FIRST LAWSUIT IN WASECA COUNTY.

The first lawsuit in what is now Waseca County, took place in the

summer of 1856. The history of the case was about as follows: Two brothers, William and John Jaques, came here from Iowa, some time in June, and made a pretense of looking for some government land. Their first camp was in the neighborhood of Mr. Sutlief's cabin. They were eternally asking questions about claims; who had preempted; who claimed more land than the law allowed; who had claims to sell; who had lived up to the requirements of the law, and who had not; and numerous others of the same tenor. Passing along through the settlement they plied these questions to all they came in contact with. In what is now St. Mary Township they thought they found just the case that suited them.

It seems that a small German settlement had been made here in 1855, and among them, one Gotlieb Prechel, who had taken a farm about three-quarters of a mile below St. Mary village, on the line of the Winnebago reservation. During the winter of 1855-6, he had entered his land and received his papers therefor. During the summer he had erected a log cabin and broken up some five or ten acres. He had a crop in, and was fencing it, when these two broth-[507]-ers came that way, and as it was not generally known that Prechel had paid for the land, and judging from what they heard, they determined to jump this claim. Nobody but a Dutchman claimed it; he could be driven or frightened off. There was a house ready to their hands, breaking and fencing begun; there was a fine piece of land, prairie, and water; why not enter into possession.

They accordingly moved into the cabins, Mr. Prechel, on account of the proximity of Indians and a natural timidity on the part of his family, not having yet occupied it boarded with Martin Krassin, three miles distant. As soon as Prechel heard of the unwarrantable seizure of his place, in company with his brother-in-law, Krassin, took a team, and proceeding to the farm, commenced chopping and getting out fencing. The Jaques boys heard the sound of the axe, and soon came to see about it, and ordered the Germans off the premises rather roughly. Neither of the Teutons could speak understand much English, but tried hard to make the intruders understand that the land was theirs, and that it had been paid for. This they would not believe, or failed catch the meaning of,

and again ordered them off. Prechel, being a timid man, kept quiet, and was for going away and taking counsel on the matter, but Martin was made sterner stuff, stood boldly to the front, and in turn ordered the intruders away, as they, Prechel and himself, had the best right there. This brought on hostilities, John Jaques immediately making an assault upon Krassin, and pounded the poor German about the face and eyes, that soon he was hardly able to see. The Germans then withdrew, and being quite indignant, started off to invoke the majesty of the law. John Jenkins, then justice of the peace, was duly consulted, but as lawyers were then an unknown quantity in the new settlement, some difficulty was had; but after some study, an affidavit to the facts was made, and a warrant for the arrest of the aggressors placed in the hands of John G. Greening, then acting constable, who summoning a posse, started for the apprehension of the culprits, and found William alone, his brother being absent. Going to a neighbor's they caught sight of him, but he fled. They pursued him and he took refuge in the river. On one side of it stood the posse, on the other the constable. Being ordered to surrender he refused, whereupon the officer drew a pistol, but Jaques threw a club which he had in his hand at his would-be captor, who shut his eyes and dodged. Taking advantage of this, Jaques jumped to the land, rushed past the constable, and took to the woods. After spending some time in search of him, the discomfited official started back, taking William Jaques with him, and brought him before the court. But he being the wrong party, was discharged. Considerable search was made for John, but he could not be found.

A suit was now brought for willful trespass upon the premises, as the brothers had considerable property with them, and Mr. McCarty was employed to prosecute. William Jaques was again arrested and required to plead to the charge of trespass. He set up the plea of not guilty, and defended his own case; but the prosecution was too much for him, and made out a clear case, and judgment for damages was rendered against him.

John Jaques, in the meantime, was skulking about the county to avoid arrest, but on the conclusion of the trial they did not want to settle in this county, so shook the dust off their feet and departed. They settled in

Brown County, on the Minnesota River, and became the terror of the people in that section of country. They afterward made a trip to this county and stole a horse, but on being arrested settled with Mr. Patrick McCullough, the owner of the beast.

DISTRICT COURTS.

At the village of Wilton, then the seat of [508] justice of Waseca County, on the 12t.h day of October, 1857, Hon. Charles E. Flandrau, at that time associate justice of the supreme court of the Territory of Minnesota, opened the first district court in this county. From the records it may be learned, that, on the first day of the court, “the grand jury being absent, and no civil business appearing,” the court adjourned until afternoon, when, on reassembling, the grand jury was impaneled.

After due deliberation, the grand jury, on the morning of the 14th, returned an indictment against William H. Chamberlain, *et al.*, on which the judge ordered that a bench warrant be issued for the apprehension of the parties, and that they be held in the sum of \$250 each, as bail. This was a trivial case, and at a subsequent term the indictment was quashed.

An indictment against Peter Farrell, for murder, was by the grand jury returned, and the court ordered that a bench warrant be issued for the apprehension of the guilty party. It seems that on the day previous, at an election held in the precinct of Empire, now Iosco, there was some kind of a drunken row. Peter Farrell having imbibed a large quantity of “corn juice,” grew pugnacious. A fracas occurred, during which Farrell stabbed Jacob Hagadorn, a neighbor, with whom he had been on the best of terms. Many stories are rife in regard to this, but it is generally believed that his intention was to kill some other person but in his drunken fury mistook his man, or that, in the melee, could not distinguish friend from foe. Indictments were also presented against John H. Wheeler and Richard Toner, as accessories to the murder.

Farrell was arrested and sent to Stillwater to be put in the jail. He managed to escape and left the country, and was never seen here again but it is reported that during the war some of the residents of this county saw and recognized him, at New Orleans. Wheeler and Toner were put upon trial, but were finally acquitted by the jury and discharged by order of the court.

At this term of court, John Bradish applied for admission to practice as an attorney in the courts of the Territory, and his suit was granted and his name enrolled as an attorney by the court.

On the 2d of September, 1858, the second term was commenced, with Hon. N. M. Donaldson, judge of the 5th judicial district, on the bench. At this session Alfred B. Webber and P. Brink Enos, on application were recognized as practicing attorneys in the courts of this State. The first civil suit tried in Waseca County came before this court. It was that of Joseph T. Dexter vs. David A. Springer, a case of appeal from justice court. At the April term, Alexander Johnston and Hial D. Baldwin were admitted to the bar, as full-fledged lawyers.

At the April term, 1859, the first petit jury was impaneled to try the case of Richard Toner, spoken of above. It consisted of the following names A. J. Watton, John McCue, L. P. Stowell, Caleb Northup, Michael Kinney, Daniel Riddle, J. A. Wheeler, C. O. Norton, C. F. Williamson, F. Glover, J. M. Blivens and Ole. Knutson.

Hon. N. M. Donaldson, the first judge over the 5th judicial district, of which Waseca County has always formed a part, held this position until 1872.

At the February term, 1872, Hon. F. M. Crosby appeared at Waseca and held court but this was but temporary, for at the session held in May of the same year. Hon. Samuel Lord took the position of judge, and remained in that capacity until 1880.

On the 16th of March, 1880, the court was opened with the new judge, Hon. Thomas Buckham on the bench. Mathew Keeley was the sheriff

and James B. Hayden clerk. The judge has continued to occupy this exalted position until now, being the present incumbent.

ATTORNEYS.

Probably the first resident lawyer in Waseca County was John Bradish, who was [509] admitted to practice in the courts of the Territory of Minnesota at the first term of the district court, held in October, 1857, at Wilton. He is still a resident of the county, being engaged in the real-estate and insurance business at Janesville. Mr. Bradish was somewhat of a retiring disposition, and seldom if ever did much practice in the district court, confining his practice to justice courts.

Alfred Webber and P. Brink Enos were the next lawyers, having been recognized as such at the September term of court, 1858. Webber was a resident of Faribault at the time and afterward.

E. Brink Enos came to this county from Woodstock, Ill., early in 1858, and located at Wilton. He was a talented man, full of fun but reckless, and soon got into bad habits. He left here and went to Nebraska, where he died.

Hial D. Baldwin and Alexander Johnston applied to the court in April, 1859, for admission to the bar, and upon motion the judge, Hon. N. M. Donaldson, appointed P. B. Enos, H. C. Lowell and A. J. Tanner a committee of examination. The two latter gentlemen named were residents of Faribault, Rice County, at that time. They having returned a favorable report, the two applicants were brought into court and duly declared authorized to practice before the courts of the State.

Baldwin was officially connected with the county and mention of him is made the chapter devoted to county representatives.

Alexander Johnston came to this county with his father-in-law, W. N. Buckhout, from New York State, in 1856, and settled for a time in Janesville. Later he removed to Wilton, and in company with S. J. Willis commenced the journal known as the *Waseca Home Views* in the spring

of 1861. About year or two later Mr. Johnston removed to Faribault, and from there to St. Paul, where he now lives.

W. T. Kittredge was probably the next attorney to locate in this county. He was born in Cleveland, Ohio, where his father was an eminent physician. He was considerable of a scholar, being a graduate of one of the leading colleges, and on attaining his majority, came west and located at Wilton. On the breaking out of the war, he entered the Fourth Minnesota Infantry as a lieutenant, and afterward rose to the rank of captain, assistant adjutant general, and major. After the close of hostilities he returned to Wilton, and, in company with H. D. Baldwin, opened a law office and banking institution, which they afterward removed to Waseca. There they failed, as is detailed in the annals of that city. He is now a resident of the West.

James E. Child, so long connected with the journalism of Waseca County, was admitted to the bar at the February term of court, 1863. A sketch of this gentleman is given in the chapter devoted to the history of the press of the county.

At the August term, 1863, George La Dow was, on motion of H. D. Baldwin, admitted to practice in the courts of the State of Minnesota. He had studied law with Judge Stroud, of Illinois, and, on being admitted to the bar, went to Waupaca, Wis., where he commenced practice. In the summer of 1863 he, in company with Edgar Cronkhite, came through Wilton, on their road to Mankato, where they calculated to open offices. Meeting H. P. Norton at Wilton, they were induced to stay here. Mr. La Dow was an excellent speaker, good lawyer and excellent company, and, being quite portly, was the subject of many jokes. In 1867 he was interested in the town of Clear Lake City, which did not materialize to his satisfaction, so he left this county and went to Oregon, where he was elected to Congress, but died of heart disease before taking his seat.

P. H. Swift, one of the first attorneys to locate in the rising town of Waseca, in February, 1868, entered into a partnership [510] with C. E. Lewis, but before May of the same year they dissolved. In the early part

of 1870 Mr. Smith removed from here to Renville County, which district he has since represented in the State Legislature.

J. N. Powers, mentioned elsewhere, was a practicing attorney for a little while at Wilton in an early day.

W. E. Young, a young and able attorney, for several years was in practice in Janesville, but in 1887 left there, going to Mankato, where he is one of the firm of Brown & Young.

M. D. L. Collester, a practicing attorney, settled at Waseca in 1872, and remained in that city until 1885, when he moved to Mankato, where he is following his profession. He was born in Marlboro, N. H., in January, 1839. He fitted for college at Power's Institute, Bernardstown, Mass., graduated from Middlebury College, Vermont, in 1865, and read law at Newport, N. H., where he was admitted to the bar. He came West in 1867, remaining for a while in Minneapolis, but during the following year moved to Faribault, where he was engaged in teaching in the Shattuck School, and from there came to the city of Waseca.

W. R. Kinder came to this county about the year 1877, from Hamilton, Ohio, where his father was engaged in the practice of law. He first located at or near Janesville, but later came to Waseca, where he studied law with Lewis Brownell, and after a course or two at the Cincinnati Law School, was admitted to the bar in this county and practiced here until 1884. On the 13th of August of that year he died.

John Carmody practiced law for several years in Waseca, settling there about 1870. He is now a resident of Hillsboro, D. T. He was the first to occupy the office of municipal judge in Waseca.

In the fall of 1884, the legal firm of Washburn & Maddox opened an office in Waseca, and practiced their profession. In June, 1887, the firm dissolved, Washburn removing to Austin, Minn., where he is the proprietor of the *Austin Transcript*. Maddox remained until the last of July, 1887, when he, too, left to look up a place in which to pursue his profession.

James Quirk was among the attorneys of the county, having been located at Waseca for several years. He is now engaged in the practice of his pro-fession at Waterville, Minn.

The present bar of Waseca County is represented by the following named attorneys who are all engaged in practice : P. McGovern, W. G. Ward, E. B. Collester, Lewis Brownell, B. S. Lewis, S. P. Crump, C. E. Leslie, W. D. Abbott and John Moonan, of Waseca and A. J. O'Grady and L. D. Rogers of Janesville.

Benedict S. Lewis was born in Cortland County, N. Y., December 20, 1839. His parents, in the year 1851, removed to Columbia County, Wis., and in the latter State, B. S. received the most of his education, although well grounded before he left his native State. He attended the University of Wisconsin, at Madison, and Union College, State of New York, graduating from the latter in 1864. After that he taught school for about two years, and then began the study of law at Madison, Wis., with Gregory & Pinney, and was admitted to the bar in 1867. For about a year he practiced his profession at Lodi, Wis., but in 1868 came to the then young village of Waseca, and commenced the duties of his chosen profession, and has been identified with the history of the bar, of this county ever since. July 7, 1869, B. S. Lewis and Mary Eaton, a native of Wisconsin, were united in marriage, and they have been the parents of three children : Harlow E. ; Esther Irma and Mary E. In 1884, in addition to his otherwise large practice, Mr. Lewis was made attorney for the Minneapolis & St. Louis Railroad for this and several adjacent counties. He is a member of Tuscan Lodge, No. 77, Ancient Free and Accepted Masons, and of Waseca Chapter, No. 26, Royal Arch Masons. Close attention to [511] to his business and to the interests of his clients has won for him an enviable reputation, both as a man and as a lawyer, and he the respect and esteem of all.

Eugene B. Collester was born in Gardner, Mass., December 20, 1847, and received his education in the excellent schools of his native city. He entered Amherst College, which he graduated with honors in 1873, and later moved to New London, Conn., he became principal of

Bulkeley high school, and remained in that capacity until 1880, when he came to the city of Waseca and entered upon the practice of law, he having read for that profession previously. April 6, 1875, he and Sarah Jane Hollande, a native of Connecticut, united their destinies in marriage, and they are the parents of one child, Alice M., born September 26, 1877. In the Spring of 1887, Mr. Collester was elected mayor of the city of Waseca, and now fills that onerous office. He is a member of Tuscan Lodge, No. 77, Ancient Free and Accepted Masons, and of Comee Lodge, No. 25, Independent Order of Odd Fellows. A comparatively young man, blessed with a liberal education and great native talent and energy, he is one of the rising attorneys of this part of the State and has a bright future before him.

W. D. Abbott, of the firm of Sawyer, Abbott & Sawyer, is one of the prominent attorneys of Waseca. He is a native of Clinton Falls, Steele County, Minn., and is the son of Asa J. and Mary (Piper) Abbott. He was reared on his father's farm, attending the district schools when his help was not required at home. Entering the Pillsbury Academy of Owatonna, he graduated there from in 1879, and then attended the Carleton College. In September, 1883, he commenced reading law with Sawyer & Sawyer, of Owatonna, and applying himself diligently to his studies was duly admitted to the bar, in Steele County, June 5, 1884. He remained in that city until March, 1886, when he came to Waseca, and opened the present office of the firm, the other members of which remained in Owatonna. October 7, 1886, he was united in marriage with Lorena M. Adams, of Rice County, this State. Mr. Abbott is a member of Waseca Lodge, No. 44, Knights of Pythias, of which he is the present chancellor commander.

A. J. O'Grady, an attorney of Janesville, came to that village in May, 1878, opened an office and has remained there ever since. He is a native of Ireland, born in July, 1847, but came to this country with his grandparents, in 1849. They located in the State of New York, where they lived until 1855, when they moved to Wayne County, Pa. In 1858, they came west and settled in St. Mary, Waseca County, where the old people died. A. J. resided with them until January, 1864, when he enlisted in Company H, Tenth Minnesota Infantry, under Col. J. H.

Baker, and was with the corps commanded by Gen. A. J. Smith, until his discharge August 19, 1865. Then returned to Waseca County, and in 1876 commenced to read law, and March 23, 1878, was admitted to the bar, and then came to Janesville, hung out his shingle, and commenced the practice of his profession.



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