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Anderson, James Sibree, 1841-

[Manitowoc, Wisconsin]: [Manitowoc Pilot], 1921

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Pioneer Courts and Lawyers
of
Manitowoc County, Wis.

by
James Sibree Anderson

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To August Schuette

With the highest regards and
best wishes of

J. S. Anderson

Golden Wedding anniversary
July 17th 1925

Pioneer Courts and Lawyers
of
Manitowoc County, Wis.

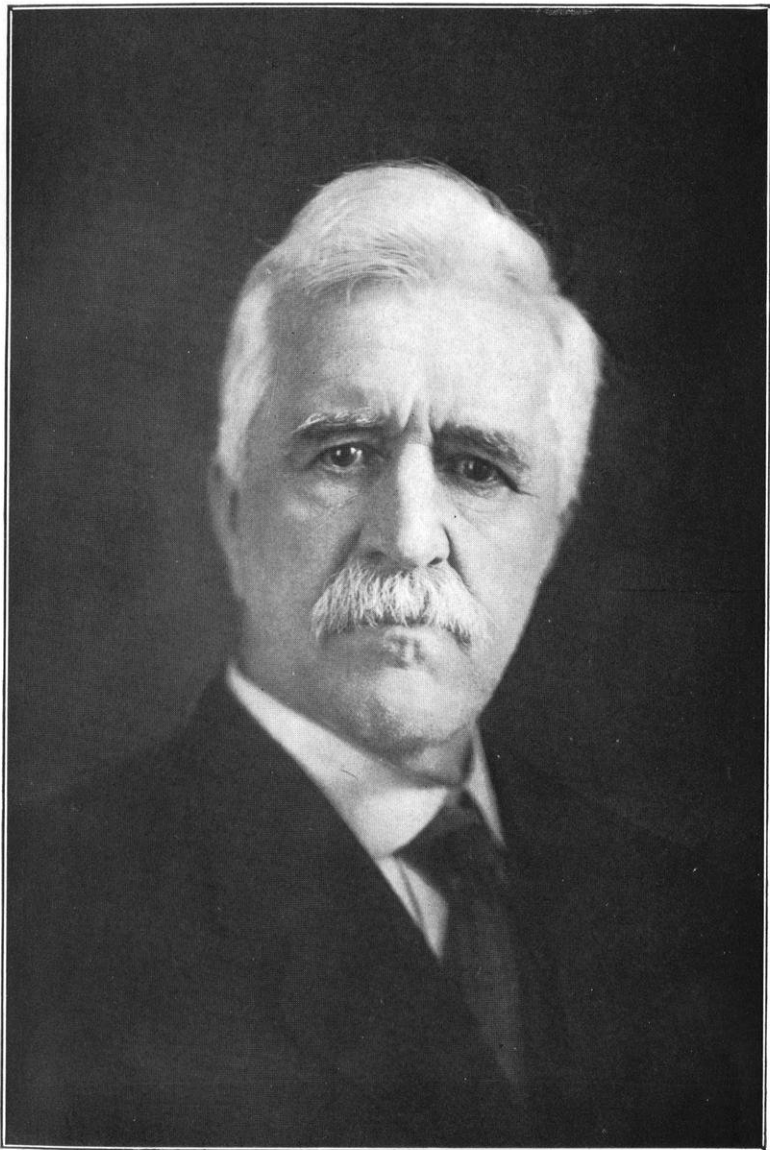


Collections and Recollections
by
James Sibree Anderson



"Forsan et haec olim mememisse juvabit"

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JAMES SIBREE ANDERSON

INTRODUCTORY

It has been said by high authority that "a preface, being the entrance to a book, should invite by its beauty. An elegant porch announces the splendors of the interior." But what follows is not so pretentious as a book and this introduction is not written by the gifted author of what is introduced. That author having said too little of himself, it seems fitting that while he memorializes a group, some of that group should memorialize him. That is the dominant purpose of this introduction. To explain how this booklet or pamphlet happened to appear is only a minor purpose; while least of all will effort be devoted to a preparation of the reader for the contents that follow. The sketches fittingly and favorably introduce themselves.

The author made his "debut" in the literary field long before these sketches were undertaken. Some years ago he read a paper before the Manitowoc County Historical Society entitled "Indians and Indian Remains of Manitowoc County." That paper was afterward published in the "Wisconsin Archaeologist" and also in the regular historical collections of the Wisconsin State Historical Society. To that publication the editor, the late Reuben G. Thwaites, appended the following biographical footnote:

James Sibree Anderson was born near Glasgow, Scotland, Christmas day, 1841. He came with his family to Manitowoc, in September, 1852, and settled in the town of Kossuth. In April, 1855, he removed to the neighboring city of Manitowoc, of which he has since been a resident. Mr. Anderson enlisted in April, 1861, as a private in Co. A., 5th Wisconsin Infantry, being later promoted to corporal and sergeant. Serving until July, 1864, he was wounded in each of the battles of Golden's Farm, Mine Run, and Spottsylvania Court-house. After an elementary education in private schools in Scotland and the public school of Manitowoc, Mr. Anderson graduated from Lawrence College at Appleton, in 1870. He then studied law, and was admitted to the bar in December, 1871. He has served as police judge and city attorney of Manitowoc for

several terms; was assemblyman from Manitowoc County in 1889; and was county judge of Manitowoc County, 1895-1901. Mr. Anderson was editor and proprietor of the Manitowoc "Lake Shore Times" (weekly), 1883-86. He is also well known as a public speaker and writer on literary, historical, and political subjects.

These sketches and reminiscences first appeared in print in the columns of *The Manitowoc Pilot*. They were contributed from time to time as their author found available leisure to devote to them. Expressing, as they in large measure did, first hand knowledge treasured up by a retentive and trustworthy memory, they at once commanded local attention and soon awakened interest at many other places within and without the state. The surprising calls for copies of the newspaper containing sketches of the early judges and lawyers of Manitowoc County demonstrated not only a widespread interest in the memorials of the departed, but also a quick and glad appreciation by those who still survive of the magnitude of the labor of love, the graceful and appropriate style and the fine literary attainments of the author. The completion of these newspaper publications and the occurrence of the fiftieth anniversary of the author's admission to the bar were so nearly contemporaneous that the Manitowoc County bar was moved to celebrate those concurring events by a dinner in his honor, which was given on February 15, 1921, and was attended by every member able to be present. The assemblage, though possessing festive features, was a sincere token of appreciation by the bar of Judge Anderson as a lawyer, a judge, an accomplished writer, and, better still, as a valued friend. On that occasion Circuit Judge Michael Kirwan, responding to an appropriate sentiment, among other things said:

My acquaintance with Judge Anderson began in 1870 when we served together as members of the last grand jury that was assembled in this county. Up to that time the constitution of the state provided that no one could be brought to trial for felony except upon the indictment of a grand jury. We were both young then. I was superintendent of the schools of the county and Judge Anderson was a law student in the office of J. D. Markham. A man prominent in public life and later a representative in Congress, Joseph Rankin, was Chairman of that grand jury. I remember that the examination of witnesses before the grand jury was conducted largely by the chairman and by District Attorney Treat, but that Judge Anderson as a

student of the law took considerable part in the examinations.

Judge Anderson was admitted to the bar in 1871. The leading members of the local bar, as I now remember them, were then J. D. Markham, Charles H. Walker, S. A. Wood, Don A. Shove, E. B. Treat and G. A. Forrest. They are all gone excepting Judge Anderson and Mr. Forrest. It is now fifty years, or nearly two generations, since the Judge's admission to the bar. In that period of time one hundred and forty-four volumes of the reports of our Supreme Court have been issued, and they contain much the greater part of the common law which has been promulgated or declared by that tribunal. As an attorney of that court, Judge Anderson has contributed his full share to the formulation of the law embodied in its decisions during his professional career. I have not made an examination of the volumes for the purpose of ascertaining just when he made his first appearance in that court, but I can remember that he was one of the attorneys in the case of *Donohue vs. Thompson* which is reported in Volume 60; and the last of his cases in that court which I am now able to recall was *Hattabaugh vs. Boynton*, in which he was associated with Mr. Hougen, and which involved some interesting features of the law of extradition and is reported in Volume 140. (Judge Anderson's first appearance was in 1875 in *Reimer vs. Jahnke*, 37 Wis. 258, and his last appearance was in *Kavanaugh's Will*, 143 Wis. 90, in the year 1910. Committee.) This is a long time, and in that time he not only rendered distinguished service at the bar, but he also performed valuable service as city attorney of this city, and as a member of our State legislature and as county judge of this county.

We are met tonight to honor not a tyro, but a veteran in the service of our profession. * * * From the time he entered it until today he has been a diligent and philosophic student of the law and has loved it for its own sake. I know you will agree with me in the statement that he possessed the ability to discharge creditably and efficiently the duties of any judicial position created by the laws of Wisconsin, not excepting a place upon the bench of its Supreme Court. This is not said by way of flattery, * * * but because it is a compliment which our guest well merits. We assure him of our regard and our affection, and we hope that for many years to come he will be able to pursue

his reading and study in his own quiet and judicious way and enjoy a state of dignified leisure unto the end.

The bar of Manitowoc County is unique, not in the mere fact that one of its members has practiced for a full half century and is still practicing, for several counties of the state enjoy that happy distinction, but because its Nestor has lived his entire professional life and more than sixty-nine years of his natural life within the County, and more than sixty-six years within the City of Manitowoc, where he still resides in health, comfort and happiness, respected and loved by all. As a token of this love and as a measure, though wholly inadequate, of their appreciation, the bar have undertaken this republication of the newspaper publications in a more convenient and enduring form, but all under the editorial supervision of the author.

Manitowoc, Wis., December 1, 1921.

L. J. NASH
ALBERT HOUGEN
HERBERT L. MARKHAM
EDWARD L. KELLEY
ARTHUR J. WYSEMAN
Committee of the Bar.

PREFATORY

The pages which follow were a series of papers published in the Manitowoc Pilot during the winter of 1920-1921.

At the June Term of the Circuit Court of Manitowoc County for 1919, the bar had held memorial exercises for a member who died some time previously. Among others the writer spoke in tribute to the deceased, and alluded to the fact that by reason of his residence in the county for more than sixty years he had personally known every lawyer who had practiced at the Manitowoc bar, since its organization in 1848.

Like most men who have passed middle life he became reminiscent and spoke of some of those who were pioneers in the early work of the Court, who had passed away and lived only in local tradition. Those present became interested and said their story should be preserved. One remarked, "Why do you not write it? You are the only one left who can." Such is the fact. With the passing away of the late S. A. Wood Esq. on August 12th, 1908 all personal knowledge of the beginnings of these institutions ended.

My personal contact with these early lawyers began in the year 1852 but my impressions at that early date were only those which a boy was likely to have of men who were the leaders in the little village community which Manitowoc then was and for many years continued to be. But I was in daily contact with them in one way and another until in the natural course of events they passed away, some by removal to other spheres of action and influence in life, and now all of them, save those who came later, by death, the inexorable.

When, nearly twenty years after in 1871, I came to the bar of which they were the founders and sustainers, my memory of them was still fresh and I was capable to judge of their work and the difficulties which surrounded them. I was in daily association with some of those who knew them and cherished their memories, and my own recollections were refreshed and deepened.

Both the bench and bar of Manitowoc County and the Fourth Circuit of which it was a part were composed of men of education and ability. I had long felt that some memorial of their work in the upbuilding of our institutions should be

preserved, but it had not occurred to me to take any part in the work of preparing such memorial until my fellow member of the bar placed the burden on my shoulders, by the remark, "You are the only one left who can do it."

Viewing the task imposed in the light of a duty I began writing. Pioneer settlers cognizant of the facts or some of them or their descendants reared in the traditions handed down, took great interest in the papers as they appeared. The members of the bar were also interested in the story of their early predecessors. It is to their interest and liberality that republication in this form is due.

CHAPTER ONE

The Founders

There were lawyers located in Manitowoc before there was a Manitowoc bar, or even before there was a Manitowoc county for judicial purposes. For, although, Manitowoc county was geographically created by law in 1836 and partially organized in 1839 it was considered too sparsely settled to have a complete organization and the law creating it provided that it should remain attached to Brown county for judicial purposes. But the country along the west shore of Lake Michigan was beginning to attract settlers and in the early '40's four lawyers had already squatted in Manitowoc and let it be known that they were out for law business, should any venture into this neck of the woods.

As early as 1836-1837, the natural advantages of Manitowoc as a location for a city had been recognized and a plat had been surveyed. Another plat of land at the Rapids had also been surveyed and the two locations were rivals in the field of future development.

As a matter of fact there was considerable work to do in the land business. Investors were willing to pay the \$1.25 an acre, which was all Uncle Sam asked for lands now selling at \$150 to \$200, and hold them for the inevitable rise in price. Men of smaller means were looking eagerly for a good "eighty" or "quarter-section" to be had for \$100 and \$200, respectively, on which to found a home.

Many of these needed the advice and assistance of men who were presumed to know something of the laws and regulations of the land office of the district established first at Green Bay and later at Menasha.

The first lawyer to settle in Manitowoc county was Jeremiah H. Colby, who arrived here at a very early date, I think between 1845 and 1846. He was a very scholarly man, a graduate, if I remember rightly, of Dartmouth college. He was slender in build, about medium height and was thin and ascetic in appearance caused no doubt by his ill health. He had come from the East hoping that the comparative open air life in the new country might restore him or give him a greater

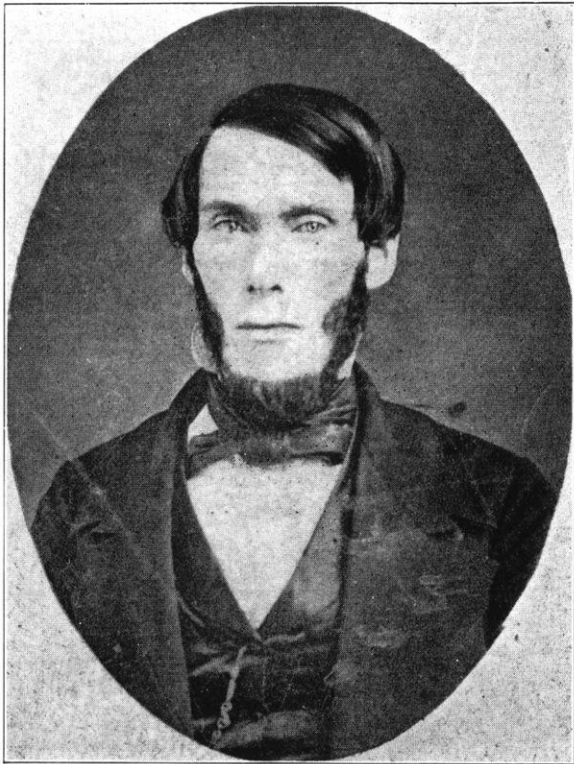
measure of robustness. A picture of him in the possession of the family of the late Perry P. Smith, brought him vividly to my memory as I saw him a year or so previous to his death. He was a man of winning personality, gentlemanly and dignified in manner and was spoken of affectionately long after his death, by those who had known him as "Jerry Colby."

He was born in New Hampshire in 1822. In the autumn of 1850 he was married to Emily Jones, daughter of Benjamin Jones, one of the founders of the city of Manitowoc. He had the honor of being the first postmaster of Manitowoc, and was also the first county judge of Manitowoc county. His death occurred on May 10, 1853. He died of the tuberculosis which he had sought to escape by coming to the western pineries.

About a year after Judge Colby had settled here came James L. Kyle. I must have seen Kyle for he lived here for nearly two years after my family settled in the county and my wanderings were frequent about the village, which was then small enough for everybody to know everybody else. However, I cannot recall seeing him as I saw Judge Colby. He must have been a man of winning manner, for he was sincerely mourned at the time of his death as a great loss to the little community. He was a bachelor and somewhat convivial in habits, for a legend persisted for many years in Manitowoc of the "Noctes Ambrosianae" he and Dr. Preston and other kindred spirits spent at the bachelor rooms of "Jim Bennett," merchant and one time president of Manitowoc village, over a steaming bowl of "black-strap." Black-strap was a compound of boiling water, molasses, a scrape of nutmeg, cinnamon or other spice with a very liberal addition of New England rum. It was a potent cure for a "cold" and equally good as a preventative. This was varied occasionally by "Egg-nogg" another preservative of life. I have tasted black-strap (medicinally) but cannot conscientiously recommend it as a steady beverage.

Kyle must have been immensely popular in the community for he was much quoted and as a rule what Jim Kyle said, went. I have tried hard to find out something about Kyle's antecedents, but can learn nothing definite. I have been told that he was a Vermonter, and was related to the Merrill family, early lumbermen here, but know nothing definite. He was member of assembly in 1854. He fell a victim to the cholera epidemic of 1854. His old friends cared for his grave at Evergreen for many years, but as they died or removed to other places it became neglected.

Contemporary with Kyle was Ezekiel Ricker, a young lawyer from the state of Maine. They must have arrived in Manitowoc about the same time, which was first cannot be



JUDGE JEREMIAH H. W. COLBY (The First Lawyer)

ascertained. Ricker arrived in the late fall of 1846. He took hold of things at once and the early records show him to have been a worker. He was a man of good education, not collegiate, but of good academic training, and had himself been a teacher in advanced academies in Maine and Rhode Island. When the circuit court was organized at the Rapids, he was appointed the first clerk of the court and his records of the early sessions still to be seen at the court house indicate that he knew his business.

Ricker was Democratic in politics, while Kyle was an ardent Henry Clay Whig and the members of these parties gathered around them as leaders. In local matters these affiliations appeared to cut little figure and the early members of the bar divided the county offices with great impartiality, each holding one, and sometimes two.

Ezekiel Ricker also fell a victim to the cholera epidemic.

The latest member of the original four which formed the first bar of Manitowoc county, was E. Holmes Ellis. He came from Green Bay, where he had been a student in the office of Henry S. Baird, known as the first lawyer in Wisconsin territory, and was admitted to practice there. He must have come to Manitowoc in the fall of 1847, as he told me he came to Manitowoc and located at the Rapids in anticipation of the county having its own judicial organization which was not accomplished until April, 1848. My early recollection of him was of a slim youthful appearing man of medium height, although his rather slender figure made him appear taller than he really was.

These four persons constituted the entire legal force of Manitowoc county. They could hardly be called a Manitowoc bar, for in the absence of all courts, all law business, probate work, criminal administration, entering of lands, and all suits at law involving application to a court of general jurisdiction, etc., had to be transacted at Green Bay, county seat of Brown county of which bar they were members. It was not an infrequent incident that these lawyers, mounted an Indian pony and with a few papers in their saddle bags, took to the "Military Road" as the Green Bay road was then called, for the long ride to the legal center at the Bay. Sometimes the pony was lacking, and then a pack was made up, strapped on their backs and with a stout stick and a stouter heart they footed the long trail through the unbroken forest to their destination.

An appearance in court involved at least three days' time. In these railway and automobile days we leave Manitowoc after breakfast, transact business in court, and are home for supper.

CHAPTER TWO

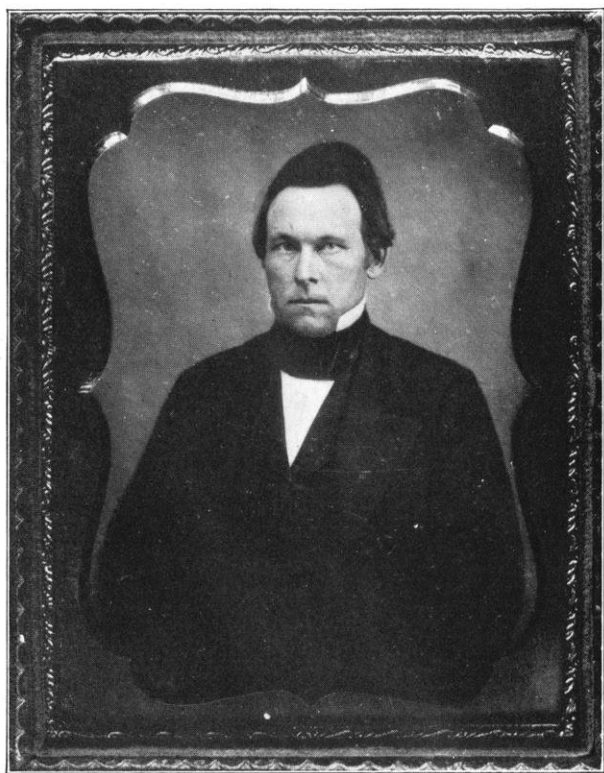
The First Court

The state constitution having been adopted in April, 1848, was followed by a session of the legislature which created the Fourth Judicial Circuit, consisting of the counties of Brown, Manitowoc, Winnebago, Calumet, Fond du Lac, and Sheboygan.

In the formation of the district the legal apron strings which had bound Manitowoc to Brown county "for judicial purposes" were cut and the county given a full independent organization. In the election for judges, which was held as soon as possible, Alexander W. Stow of Fond du Lac was chosen judge and by his associates elected as chief justice of the Supreme Court. On September 15 of that year he came to the Rapids and organized the court by appointing Oliver W. Hubbard as sheriff, and Ezekiel Ricker clerk of the court. There was no business and in the evening the court adjourned.

After the organization of the Circuit Court, followed by the election of J. H. Colby as probate judge for the county which set the county judiciary in motion, and also the election, following the appointment, of Ezekiel Ricker as clerk of the Circuit Court and E. H. Ellis as district attorney; Manitowoc county found itself fully equipped for the "Judicial Purposes" for which it had been previously attached to Brown county, and was going it strong by January 1, 1849. It seems a little strange that Justice Stow did not, while he was putting the new court machinery together and appointing a sheriff and clerk, at the same time appoint a district attorney, but the fact appears to be that he did not do so, and the county was without that very useful and essential officer until the first state election was held in November following, and E. Holmes Ellis chosen for the place.

On March 19, 1849, Justice Stow again appeared at the Rapids for the purpose of holding a term of court. A county house had been built, the officers appointed or elected the autumn previous had been functioning, both grand and petit juries were in attendance, and a calendar of seven civil cases was on the docket. Three indictments were brought in by



HON. EZEKIEL RICKER, (The Second Lawyer)

the grand jury, and the whole machinery of the new state system thoroughly tested and found to work well. There were no accessions to the bar at this session and after two days' work the court adjourned.

The September term of that year opened on the 27th of that month at the new county house built in the Rapids village. Judge Charles H. Larrabee of the Third Circuit presided in place of Justice Stow who was holding court elsewhere. The session appears to have been a stirring one. One of its first incidents was that upon the roll call of the petit jury eight jurymen failed to appear, whereupon the judge promptly fined each of them \$5 and costs of the venire, for contempt of process and ordered peremptory execution in favor of the state. Judge Larrabee demonstrated his capacity to dispatch business by disposing of a calendar of sixteen cases. Three contested jury trials were had, one civil and two criminal, and two contested cases tried by the court. Others were continued, dismissed or otherwise disposed of and on the evening of the second day court adjourned.

At this term the first criminal trial by jury was held and conviction had. It was also the first real jury trial held in the county. It may interest some of our citizens to know that on the panel sat the following old pioneer residents: Christian Anderson of this city who for many years was lighthouse keeper, and Norris Ross also of the city, Elijah Hothersoll and John Spencer of Kossuth, E. M. Soper and John Whitcomb of Cato. All these remained here and spent the balance of their lives in the county, becoming well known to later settlers.

At this session of the court there is a record of admission to the bar of one Joseph M. Taylor, who was admitted on motion of James L. Kyle. I never knew or heard of this new comer, but have a hazy recollection of being informed that he located at Sheboygan for a short time. He departed thence, and was known no more. After the organization of the court in 1848, it seems to have ran on for five or six years without much change or addition to the bar. There were two exceptions. During the year 1850, George Reed, a lawyer who had resided for a time in Waukesha county, settled in the village of Manitowoc and began an active practice. Mr. Reed had been quite prominent in the early history of Wisconsin territory, had been a member of the first constitutional convention and also represented Waukesha county in the first state legislature. He was county judge here in 1853-1854.

Sylvester A. Wood, a cousin and fellow student at law of Ezekiel Ricker, under Hon. Nathan Clifford of Maine, made application for license to practice and was admitted to the

bar on March 25, 1853.

Mr. Reed having already been admitted to practice at the Waukesha and Milwaukee bar, no formal record of his admission here was necessary, or appears to have been made. Both these gentlemen were trained lawyers and members of the profession in the East, the former from New York state, while the latter had been admitted to practice in Maine.

A curious condition as to the admission of attorneys to practice in the courts existed for many years in this state. Knowledge of the law was not considered necessary nor was any educational qualification requisite. The statutes of 1849, Chapter 87, Section 26, is as follows:

"Whenever any person shall apply to the Supreme, Circuit, or County Court to be admitted to practice therein as an attorney, and shall show satisfactorily to such court, that he is a resident of the state, and is of good moral character, the judge or judges thereof shall grant to such applicant a license to practice in the said courts respectively in which he or they may preside."

That is all. No education whatsoever, not even the indispensable "three Rs," is needed, and the law is imperative. The judges shall grant a license to every ignoramus "of good moral character" who resides in the state whenever he chooses to ask for it. This let down the bars to the entrance of an ancient, honorable and learned profession with a vengeance and many persons whose self-conceit exceeded their capability availed themselves of the opportunity to write "attorney at law" after their names, in every part of the state. Clerks of court, justices of the peace, notaries, bankers and other persons on a mere affidavit of residence and moral character, on motion were licensed to practice and the rolls of the courts were swelled with the names of incompetents, unable to do the work and cases of scandalous conduct were not infrequent. Many of these availed themselves of this easily obtained title of "lawyer" to exact exorbitant fees for the most ordinary clerical or conveyancing work, especially from new arrivals to this country from Europe, under the pretext of professional knowledge. I shall make scant mention of those who made no effort to perform professional work, opened no office and were in no sense a part of the working bar. But there were among the early German settlers some very highly educated men who in good faith entered the profession and made the law a real study, after their easy entry. One of the first of these was Nicholas Wollmer, who was a partner of Ezekiel Ricker in a real estate business. After the death of Ricker and Kyle, he was appointed to succeed the latter as district attorney and filled out the remaining part of his term of office

ending on January 1, 1855.

Another was Oscar G. C. Malmross, generally called George Malmross, who did a good deal of conveyancing and notarial work, also made some appearances in justice courts as well as in the circuit. He left after a few years here and went to Sheboygan, where he continued practice. Malmross was a man of good parts, strict integrity and was held in high esteem among the early German settlers. He was elected member of assembly in 1857 and represented Manitowoc county, then composing a single district. There are still a few living in the city who are able to remember him.

CHAPTER THREE

The First Judge

The previous paper brought the history of the bar down to 1854. Both bench and bar had been working smoothly. In the intervening years, the county had received a large influx of settlers, largely Germans, who had left their country on account of the Revolutionary troubles of 1848. The village of Manitowoc was increasing in population and business importance and in those respects had outstripped the Rapids.

The court calendars grew longer each term, and litigation of an important character was increasing. A change had taken place in the court, caused by the retirement of Judge Stow, on January 1, 1851. As he was rather a remarkable man, I have compiled the following sketch of him, drawn from various sources:

HON. ALEXANDER W. STOW

Judge Stow was the first chief justice of the state of Wisconsin, and at the same time the first judge of the Fourth Circuit. To understand this apparently anomalous situation, it is necessary to explain the judicial system then existing.

Then the several circuit judges held courts in the counties of their circuit, hearing and deciding causes as at present. On appeals being taken, all, or at least four of them, sat together—en banc, as it is called, and the appeal was argued and heard before the full bench, constituting the Supreme Court.

Thus each judge was a trial judge for his circuit in the first instance and also a justice of the Supreme Court which met at stated terms to consider appeals at the Capitol in Madison.

The term of office for these judges was fixed at six years, but the law governing their first election provided that the judges then chosen should be divided into five classes, class one to hold office for two years, class two for three years, and so on, so that one of the judges of the five circuits should be elected each year. The terms of the first judges were decided

by the secretary of state drawing lots. In this proceeding, Judge Stow drew the short term of a little over two years, expiring January 1, 1851. His associates unanimously chose him chief justice.

Alexander W. Stow was born at Lowville, New York, February 5, 1805. His father, Silas Stow, was a prominent Federalist in the early political struggles of that state. He was chief justice of the county court and associate judge of the Supreme Court, and also served a term in congress. He appears to have been considered a man of superior ability and culture.

The son inherited much of the talent of the father. His studies appear to have been under his father's supervision and the association with, and influence of, the eminent men with whom he was brought in contact made him almost by intuition an accomplished scholar. His only regular schooling of which mention is made is that at the age of sixteen years, he was placed in the military academy at West Point, where he remained only a year and then returned to enter a law office in his native village.

In due time he was admitted to practice and formed a partnership with Honorable Justin Butterfield at Sacketts Harbor, New York. Here he had several years of general practice. In the intervals of practice he spent some months of travel in Europe which brought him to the period when he came to Wisconsin Territory, some two or three years before its admission as a state.

He settled at Fond du Lac, and being for those days a man of considerable wealth, purchased a large number of tracts of land near that city, on one of which he founded a large farm, though he was never considered much of a farmer. He entered upon the practice of law in Fond du Lac and also opened an office in Milwaukee, dividing his time between the two places so that he became widely known throughout the Territory.

All accounts agree that his eccentricities were many and peculiar. He was by turns rough, uncouth, harsh and vulgar, heedless of form and conventionality, and then the polished gentleman, polite in manner, careful and exact in expression, dignified in bearing.

The late Judge Morgan L. Martin of Green Bay, who had known him in New York, in a monograph wrote of these mannerisms: "There were some by which his general character was judged of harshly and unfavorably by those little acquainted with him, there were many which should go far to redeem it from reproach."

And Chief Justice E. G. Ryan, the greatest of those men

who followed him in the exercise of the great office, also writes: "The writer is proud to say that they were intimate and fast friends. . . . Those only who knew him well, knew that beneath an outside rarely gentle and often harsh, he had a generous and noble nature and led a life of genuine kindness and consideration for all whom he honored with his intimacy. . . . None of his peculiarities arose from mean or false qualities. . . . All his eccentricities were excesses of strength. A high integrity pervaded his whole character."

There is an incident in Judge Stow's life of which little is said, which is, nevertheless, of interest. It is mentioned in Berryman's history, and Justice Winslow also alludes to it. It is a notorious fact that many men who came to the frontier either in government employ or impelled by love of adventure formed irregular connections with the Indian women.

The case of General Sibley, United States Army, who married a Chippewa woman, and thereafter lived with her on the frontier till he died; kept there at his own request, is one of many. There were evidences of a strong infusion of Indian blood in many of the "first families" of the early day in Wisconsin. Most of these unions were temporary in character and broken off sometimes under circumstances which reflected little credit on the man.

Judge Stow had formed a connection of this kind (Justice Winslow calls it a common law marriage) with a woman of the Winnebago tribe. If it was a mistake on his part he was at least manly enough never to repudiate the relation, recognized her as a wife, lived with her till his death and made suitable provision for her support. She survived him many years. Pioneer settlers of Calumet County have told me that she was known as "the Widow Stow," and was much respected in her neighborhood, for her kindness and helpfulness to poorer neighbors and in cases of sickness, and trouble.

I recall an incident in relation to the above, which now interests me much more than it did at the time. When I returned from the army in August, 1864, much broken in health, I took some time to rest and recuperate before attempting any business.

My uncle, Reverend Walter McFarlane, was a minister of the Methodist Episcopal church, at Taycheedah, Fond du Lac County. I spent a couple of weeks at his parsonage near the shores of Lake Winnebago and accompanied him in his drives around the country.

Returning late one afternoon he drew his horse down to a walk and called my attention to a rather rambling farm house which stood a few rods back from the road. In front was a garden filled with shrubbery and flowers in which was a lithe,

dark-faced woman of about middle age gathering flowers. He asked me to notice her and after we had passed on, said: "This is the Stow farm," and told me the story of her relations with the Judge, then deceased, with dubious shaking of the ministerial head. Long afterwards I wished I had come in closer contact with her. One can but wonder whether there were not some traits of strong character in this half savage woman to attract and hold a man of the mentality of Chief Justice Stow.

The first chief justice had an intense and deeply rooted aversion to the principle of an elective judiciary. When the people of the Fourth Circuit recognizing his great ability and personal integrity almost unanimously demanded that he be a candidate for election as their first judge he long refused and finally consented on the condition that he would under no circumstances be a candidate a second time.

In regard to this, Chief Justice Ryan says, "that honorable but mistaken pledge cost the state a great judge; how great his short judicial service can only indicate. . . . He revered the judicial office; and while he held it he made all men respect it. He had a high sense of judicial dignity and authority; and there was no trifling with the court in which he presided on the bench, he looked what he was—a great judge."

Perhaps this strictness on the bench may furnish the explanation to a singular proceeding recorded in the early records of the Manitowoc Circuit Court held at the Rapids on September 27, 1850. This was the last day of the last term the Judge presided, for his term expired January 1, 1851.

The work of the court was ended and the grand jury had come in and made its final report. The clerk of the court, Perry P. Smith, then records:

"His honor, Aleander W. Stow, here made a few remarks to the grand jury and bade them farewell! Kyler K. Jones, a member of the grand jury, rose and made a motion that this jury tender their thanks to his honor, the Judge, for the very able and distinguished manner that he had discharged his duties while he had acted as a judge—which motion was adopted, after which his honor, the Judge, again remarked to the jury that he was not entitled to their thanks, but that in the discharge of his duties he had acted according to the dictates of his own conscience and not from any selfish motive and, further, that he preferred the name of a judicial tyrant to that of a judicial coward."

With this episode, certainly a curious one, perhaps possibly only in such pioneer conditions and primitive surroundings the connection of the bar and people of Manitowoc

County with its first circuit judge ended. I never saw Justice Stow, and so far as I know he never again visited Manitowoc. He never resumed the practice of his profession after his retirement from the bench. He lived a retired life on his farm near Fond du Lac, dying there five or six years later.

CHAPTER FOUR

HONORABLE CHARLES H. LARRABEE

I have hesitated about publishing this sketch of the above gentleman, for he cannot be classed either as a member of the court or bar of Manitowoc County. But he came in contact with the bar and the people here in so many ways and capacities that in the interest of history he is worthy of mention. Even in the manner of his birth, he was in touch with the territory which comprises our county. He was born in Rome, Oneida County, New York, November 9, 1820. He was the son of Major Charles Larrabee, United States Army, who greatly distinguished himself by gallant services in the war of 1812. It so happened that when Judge Larrabee was born, the father was commandant of Fort Howard, at Green Bay, then and ever after the county seat of Brown County of which Manitowoc was a part. He went with his parents to Cincinnati, Ohio, where he received his early education, supplemented by graduating at Granville College. He studied law in Springfield, Ohio, and later was admitted to the bar at Pontotoc, Mississippi. He settled at Chicago in 1844, edited a paper there and served one term as city attorney. He removed to Wisconsin in 1847, settled at Horicon, Dodge County, and was elected delegate from that county to the second constitutional convention, which framed our present constitution. I have written elsewhere of his holding the term of court for Judge Stow and of his manner of rushing business, getting through with a calendar of sixteen cases, including three jury trials and two court trials in two days.

When the separate Supreme Court system was adopted, Judge Larrabee was a candidate for chief justice against Edward V. Whiton in the spring election of 1853 and made a canvass of Manitowoc County where he had made some acquaintances, but was defeated. He was re-elected as judge of his circuit, however, and acted in that capacity until 1858.

In that year he became a candidate for Congress in the Third Congressional district which again brought him in touch with Manitowoc County. It was in that campaign I first saw him. It was an exciting time for the country was getting

warmed up over the slavery question and he and his opponent, Charles Billingham, stumped the district, with great energy.

Judge Larrabee spoke at the courthouse here in that campaign. It was the first political address I had ever heard and I can recall vividly the fiery energy of his fierce denunciations of the abolitionists and their disregard for the constitution and the sovereign rights of the states. His energetic speeches were effective to the extent of carrying the county and district by a decisive vote. He was our representative in congress during the years 1859-60, and at the solicitation of Honorable Joseph Rankin then member of assembly for the second district comprising Mishicot and the northern towns succeeded in having a new postal route established through that section. One of the offices on the line was named "Larrabee" in recognition of his efforts, and though the postoffice was discontinued when the rural routes were established, the little village is still called Larrabee.

Berryman's History of the Bench and Bar quotes Judge Larrabee as saying that he resigned his place on the bench to make the canvass for congress at the request of Hon. Stephen A. Douglas. Undoubtedly his residence in Chicago and his prominence as editor and lawyer had made him well acquainted with Douglas, who was then the prospective Democratic candidate for the presidency. Whether such request was made or not, I know Judge Larrabee was an ardent admirer of Stephen A. Douglas and strenuously preached his doctrine of "Squatter Sovereignty" as the Republicans derisively called it, both in Manitowoc and Two Rivers where he delivered speeches. At the end of his first term he was re-nominated as candidate for reelection, with Hon. A. Scott Sloan as opponent. He canvassed the district vigorously, advocating the election of Douglas and referred to the Breckenridge Democrats in scathing terms in all his speeches. He went down to defeat with the ticket he represented, national, congressional, state and county.

I was much interested in this campaign of 1860, though not yet a voter, and heard both Larrabee and Sloan, deliver addresses during the canvass. Larrabee and Sloan were residents of Dodge county, they were both strong men, natural leaders and belonging to opposite parties were pitted against each other in nearly every political contest. Sloan defeated Larrabee once for the office of circuit judge and later for congress, while Larrabee did exactly the same with Sloan.

Later events in my life brought me in some respects in close contact with both of these gentlemen.

In 1861 when the Civil war began, I was in my nineteenth year and like most lads of my age volunteered in the first

company Manitowoc raised for the war. The company was assigned to serve in the Fifth Wisconsin regiment.

Judge Larrabee, like Gen. Bragg, Gabe Bouck, Matt. Carpenter and most of the Douglas democratic leaders was intensely loyal to the Union. He enlisted at once as a private and was immediately appointed a major and assigned to the Fifth Wisconsin. Thus I was brought into such daily association with him as a man in the ranks is likely to have with a field officer of his regiment, not very intimate in garrison or camp duty, but in a campaign, at times very close. He lacked many of the elements which go to the make up of a good military officer. He was too impulsive, lacked steadiness, and coolness in a crisis, though personally brave and courageous. Still he was fairly well liked by both officers and men of the regiment. He left us to join the Twenty-fourth Wisconsin, of which regiment he had been appointed colonel. That regiment was sent west and was assigned to the brigade commanded by Gen. Phil Sheridan. There was, after the battle of Stone River, considerable quiet talk to the effect that Colonel Larrabee made some changes in the disposition of his regiment, while under fire, which were neither ordered nor approved by the brigade commander. There was a clash, and Phil. Sheridan was a bad man to clash with. Whatever the reason, Col. Larrabee soon after resigned and took no further part in the war.

As I recall him now, after the lapse of more than fifty years, I think that a man of his temperament, impulsive, abrupt, arbitrary and dominating, judged by his manner alone, would impress an ordinary lawyer as being very unpromising material from which to create a judge. And yet, any one, who now reads his judicial opinions printed in the early volumes of Wisconsin reports, cannot fail to recognize the essential elements of a strong judicial mind and character. They are marked by wide learning in the law, good literary composition, strength and breadth of argument and keen incisive power of discrimination. Had he remained longer upon the supreme bench, especially after it became a purely appellate and separate court, I think he would have made a reputation as a great judge ranking with Whiton, Dixon and Ryan, whose decisions made the Wisconsin judiciary famous.

At the close of the Civil war he removed to the Pacific coast, settling in Oregon Territory, where he entered upon the practice of the law and was rising to great prominence in professional and political life, when he met an untimely death in a frightful railway accident.

As stated, Judge Sloan succeeded Judge Larrabee as congressman for the Third District of which Manitowoc was a

part. His son, Harry E. Sloan, later a prominent lawyer of Superior, joined the Fifth Wisconsin in the winter before the Wilderness campaign and his father visited the regiment where I met and conversed with him. Soon after I was admitted to the bar I made several appearances before Judge Sloan then presiding over the Thirteenth Circuit. My recollection of his early contests with Judge Larrabee and comradeship in the army with his son made a basis for acquaintance and we became very friendly. I have a strong impression that Judge Sloan came to Manitowoc and held court either for Judge Campbell McLean or Judge David Taylor to dispose of some cases in which one of them had been counsel, but have not been able to find the record and may be mistaken. Judge Sloan served the Thirteenth Circuit as judge for fourteen years and died in April, 1895 while still in that office.

CHAPTER FIVE

The Second Judge

HON. TIMOTHY O. HOWE

When Chief Justice Stow persisted in his decision not to be a candidate for reelection, the people and especially the lawyers of the Fourth Circuit began to discuss the matter of a successor.

Sentiment finally crystalized in favor of Hon. Timothy O. Howe of Green Bay and in the spring election of 1850 he was duly elected to take his seat on the first of January following. Although there was no contest to speak of at the election he was not without some opposition. The political trend during Territorial times had been unmistakably Democratic and Tim Howe, as he was known, was an enthusiastic Whig and devoted admirer of Henry Clay. But he was known as a man of the most strict integrity, a scholar and man of letters and in addition a learned and capable lawyer.

He was born in Livermore in the State of Maine, February 24, 1816. His father was a country physician with quite an extended practice. He received a good common school and academic education, and after studied law, first in the office of Hon. Samuel P. Benson of Winthrop and later with Judge Robinson of Ellsworth. He was admitted to the bar in 1839 and began practice at Readfield in that state. He served as a member of the Maine legislature in 1845, taking an active part and was regarded as a young man of unusual promise.

In the latter part of that year he moved to Wisconsin Territory and opened a law office in Green Bay. He held closely to his law practice, taking little or no part in local or general politics and soon became widely known throughout the Territory. Upon admission of the state in 1848, he was the Whig candidate for congress, but the district being strongly Democratic he was defeated by James D. Doty, former Territorial governor. His election as judge of the Fourth Circuit and ex-officio associate justice of the supreme court was the first office held by him in Wisconsin. It so

happened that when the time came for him to assume his duties the December term of 1850 for the Supreme court was still in session and his first official acts were those of associate justice of that court.

On March 20, 1851 Judge Howe held his first session of court at the Rapids. There were present William F. Snyder, Sheriff, J. H. Colby district attorney, P. P. Smith was clerk. Quite a large crowd was in attendance to welcome the new judge. Among others was a Methodist circuit rider and Judge Howe following an old New England custom invited Rev. D. H. Lewis to open court with prayer, which was done. My uncle, the late Gilbert Burnet, was in attendance as a witness and I have heard him tell, with great glee how the good preacher implored divine assistance for the new judge and how much he needed it in his "condition of helplessness and ignorance."

The roll of the grand jury was called and H. H. Smith of Two Rivers appointed foreman. The record of P. P. Smith continues: "His Hon. Judge Howe then charged the jury in a clear manner, not to be misunderstood, when the jury waited upon by an officer of the court retired for business."

Among the members of that jury were the following persons whose relatives and descendants still live in the county, Oliver C. Hubbard, George Dusold, Richard Steele, Jos. Edwards, Michael Fellows, Socrates Hill, and Pliny Pierce.

Among the petit jurors were Clifford King, O. H. Platt, Frank McAllister, Henry M. Brown (better known as "Honey" Brown), Harry Johnson, John Hollenbeck, Thomas Plumb, Sebastian Boldus and Wm. Playfair.

There was a calendar of eight state cases and eighteen civil cases. Several cases were removed to Washington county, the judge having been of counsel. My relative, Gilbert Burnet, and Patrick Bolen, father of late Sheriff John Bolen, were recognized to appear as witnesses in a criminal case to be tried at next term. The session ended the second day.

The September term of that year lasted four days.

Judge Howe continued to act as a justice of the supreme court until 1853 when the legislature created what is now known as the separate supreme court with three justices. This relieved the circuit judges from their duties as supreme court justices and limited their jurisdiction to their circuits.

Judge Howe continued to serve as the judge of the Fourth Circuit until early in 1855, when he resigned the office. The county seat having been removed from the Rapids to Manitowoc, he held his last term of court at the school house on the south side of the river in that village on January 8,

1855, no courthouse having yet been provided. He had served the people of Manitowoc county as their circuit judge a little over four years when he resigned and returned to the practice of the law at Green Bay.

He was unquestionably a great judge; in my humble estimation fully equal to his predecessor Chief Justice Stow. That he was a learned and skillful lawyer is beyond question. Any one who has read the report of the great quo warranto case of State ex rel, Bashford vs. Barstow brought to oust the governor of the state of Wisconsin from office, will readily concede it. He and Chief Justice Ryan were there pitted against the greatest intellects of the Wisconsin bar and were successful.

It was my good fortune in after life to be brought in contact with Judge Howe in many ways. In my army life his brother was for a time chaplain of my regiment, while his future son-in-law the late Hon. Enoch Totten of Washington, D. C., was first a lieutenant and later major commanding the regiment.

After my admission to the bar, like many others, I dabbled somewhat in politics at the period when Judge Howe was United States Senator, and had much to say in Wisconsin politics. This brought me into correspondence with him, and I received many letters, some of which I still preserve. I cherish my memories of him and rank him as the greatest man intellectually it was my fortune to meet intimately. I frequently introduced him to Manitowoc audiences and am proud to have spoken with him from the same platform.

Judge Howe's activities in political life has obscured his fame as a lawyer. But, nevertheless, any one who followed his career in the senate can see that his success was largely due to his legal training and ability. He was at his best when debating some question of constitutional or international law. That his learning in the law was recognized by his associates in the government is well attested by the fact that he was tendered the appointment of Chief Justice of the Supreme Court of the United States by President Grant upon the resignation of Chief Justice Chase. He declined the appointment because the Wisconsin legislature was then Democratic and would choose his successor.

The people of Manitowoc county and the old Fourth Circuit may well take pride in the fact that in the early days Hon. Timothy O. Howe presided over their court.

Judge Howe was possessed of a peculiar dry humor not unmingled with sarcasm which was very effective both on the bench and in his public speeches. One instance of this long survived in the county. He had tried a court case, and the

attorney for the plaintiff had piled up a large number of books on the table and began to speak. The judge said, "I do not wish to hear anything from the plaintiff." The lawyer protested that his client expected him to make the effort, that he had carefully prepared his argument and ought to be heard, that he would need about two hours to develop it properly, etc.

The judge answered, "I can't give you all that time but I am willing to compromise with you—if you will give up your argument I will give you judgment as demanded in the complaint."

I call to mind another instance: Some time in the late "seventies" Charles Francis Adams wrote and published in the *North American Review* an article in which he rather severely arraigned the policies of the Republican party during and after the Civil war. In it he had the questionable taste to allude to his descent and connection with the illustrious Adams family.

In a scathing reply which Senator Howe published in the *Madison Journal* he availed himself of this opening and said of the writer, "On examination of his pedigree we may fairly concede that he has been sired by two presidents and a half."

This article is not the place to speak of Judge Howe's political career. It comprised two terms as United States senator, Commissioner to negotiate a treaty with the Indians for purchase of the Black Hills, Postmaster-general in President Arthur's cabinet.

He was a great lawyer, a great judge, a great statesman, and an honest, incorruptible and unselfish man. He died at Kenosha, Wis., on March 25, 1883.

CHAPTER SIX

The Third Judge

WM. R. GORSLINE

Upon the resignation of Judge Timothy O. Howe as stated in the last chapter, William R. Gorsline of Sheboygan was appointed to fill the vacancy on February 24, 1855, and in April following was elected to fill out the remainder of Judge Howe's term. In the spring election of 1856 he was elected for the full term. The Sheboygan bar of that period had a number of able lawyers, among them Bille Williams, E. Fox Cooke, and General Conrad Krez, but Judge Gorsline was looked upon by the lawyers of the circuit as being one whose make-up had most of the judicial character of any.

William R. Gorsline was born in Manlius, Onondaga county, New York, June 28, 1823. He was left an orphan at an early age, but through the care of an uncle received a good common school and academic education and being naturally of a studious bent, began the study of the law in his native town in a law office located there.

He came to Milwaukee early in 1845, and after a few months of study in the office of Frank Randall Esq., a lawyer of that city, was admitted to the Wisconsin bar and in the same year opened a law office in Sheboygan.

It would almost seem as if the county offices in those days were the regular perquisites of young lawyers for we find, as in Manitowoc, that Judge Gorsline (to be) became for a part of 1845 and 1846 the register of deeds for Sheboygan county while waiting for law practice, which in due time came to him.

During the years 1850 and 1851 he was county judge of that county, and proved himself a very capable and efficient public officer. The term of office of county judges in those days was two years and the office in fact was really a desirable one, especially to a rising young lawyer. Their compensation was two dollars per day for each day of court actually held and in addition a schedule of fees for services performed in each case chargeable to the parties. They had also a schedule of fees for services as Judges of Probate and Circuit Court

Commissioners so that in the more populous counties they received more than the fifteen hundred dollars of salary which was all then paid to their superiors, the Circuit Judges. Moreover, they were not debarred from practice in the Circuit and Supreme Courts.

At the close of his term Judge Gorsline resumed his practice until, as stated, he was appointed as circuit judge.

About two weeks after his appointment Judge Gorsline came to Manitowoc to hold the regular March term of court. I think it must have been the first term of court at which he presided.

I was then a lad in my sixteenth year. Wandering around one day on the South side of the village, some one made the remark that the circuit court was being held over there. "Over there" was George Dusold's dance hall. Curiosity impelled me to go upstairs and see what a circuit court was like. I edged my way through a small group of men standing in the hallway, stepped inside the door and had a full view of the pioneer court. A bare plastered room guiltless even of whitewash, as I estimate now about 32 by 40 feet, wholly innocent of all attempt at decoration, nothing to break the monotony of the bare wall except a few tin candlesticks hung at intervals, windows only along the north and west sides. Along the side a line of unplanned pine plank benches, without backs, and over in the northeast corner near the curtainless windows were three similar benches in a row, one behind the other presumably, for the jury. Placed near them were two ordinary kitchen tables made of pine boards, unpainted like the benches, without cover of any kind. At one of them sat old "Squire Reuter" (Charles R. Reuter), deputy clerk of the court, writing the records. Eight or ten feet in front of him, at the other table a couple of lawyers sat on plain wooden chairs. At the right of the clerk's table at the end stood the judicial bench, a big wooden rocking chair, without cover or cushions. All were on the same level, no raised platform or elevation of any kind. There sat Judge Gorsline, the third judge of the Fourth Judicial Circuit, representing the sovereignty of the six-year-old State of Wisconsin. A number of men, lawyers and spectators, were scattered around the room, sitting on the benches or standing, leaning against the wall, listening to an argument by some attorney. The place was cold and cheerless; I soon tired of it and stole quietly out.

Such was my first view of the court in which most of my work during fifty years of law practice, was to be done, though I had then no anticipation of it. The completion of the new courthouse the following year changed these primi-

tive conditions very much for the better.

Moses Hooper Esq. of Oshkosh, a leading member of the early bar of Winnebago county, in a published monograph on the early judges, says of Judge Gorsline, "He was a suave, polished, self-possessed judge;" and such is my recollection of him as I saw him then and afterwards when holding court in the new (now old) courthouse. One impression I carried away was that he looked extremely youthful for a judge. His age when he went on the circuit bench was about 32 years, but he was then smooth shaven, and certainly looked much younger. He had a scholarly, studious appearance and bore himself with a dignity which became him well upon the bench.

He served as judge of the Fourth Circuit until July, 1858, when he resigned and went to Colorado. He began practice of the law in Denver and continued until 1860, when President Buchanan appointed him one of the United States district judges of the Territory, and was later reappointed by President Andrew Johnson.

During the period 1867 to 1870 he was one of the justices of the supreme court of Colorado Territory, filling the office with marked ability as may be seen by referring to his published opinions in the third volume of Colorado reports. After that period he resumed his practice in the city of Denver, and so continued until his death which occurred on March 30, 1879.

There are still some in Sheboygan who can recall Judge Gorsline and have some connection with him. One of the very early settlers of Sheboygan was a gentleman named Lapham. In his family were two very attractive daughters of marriageable age. Judge Gorsline and Billie Williams, then young practicing attorneys, married these young ladies. About two or three years after her marriage the wife of Judge Gorsline died, and later the Judge married a Sheboygan lady named Newcomb. She accompanied the Judge to Colorado when he removed to that territory and after his death returned to Sheboygan and resided with some distant relatives until her death about five or six years ago.

Through the marriage of Billie Williams into the Lapham family his son, Francis Williams, now a prominent lawyer in Sheboygan, is a nephew of Judge Gorsline. So far as I can learn there is no direct descendant of Judge Gorsline by either marriage.

Judge Gorsline bequeathed to the generation following him the reputation of a learned lawyer, an incorruptible judge, careful, painstaking and conservative. His short career in Wisconsin (only thirteen years) has made him comparatively unknown and he is well nigh forgotten by all except a few

who have outlived their allotted time; but his after life in Colorado shows that he fully measured up to the high standard set by his predecessors.

It is worthy of note here that Colorado also obtained another very capable and worthy circuit judge from the bar of the Fourth Wisconsin Circuit; for Hon. John R. Bentley who for several years practiced at the Manitowoc bar in its early period, removing later to Sheboygan, and after a few years removed to Colorado and became judge of the Denver circuit. He there won the reputation of being a very able and conservative administrator of the laws.

CHAPTER SEVEN

The Bar

One of the first acts of the commissioners of Manitowoc county after its organization in 1839 at which time the first election was held, was to erect a county building at the Rapids. Here the county offices were located and records kept, but it did not attain the dignity of a "courthouse" until 1848 when, as stated, the judicial power which had been retained by Brown county was bestowed upon us. The original "county house" cost the sum of \$650. When it became a "courthouse" it was enlarged and changed somewhat, and that indispensable annex to a well ordered judicial system—a county jail, was built on. It had been used also as a schoolhouse and hence the early records, speak of Justice Stow and Judge Howe, holding court in the schoolhouse. On April 30, 1852, it was destroyed by fire and advantage was taken of the fact to bring about the removal of the county seat to Manitowoc. This was duly accomplished in 1853 and thereafter the courts were held in that village. The sessions were held in various temporary places. Once at the private residence of Col. Peleg Glover, other times in the South Side school house and the dance hall of George Dusold at the corner of Seventh and Jay streets, until the courthouse was completed in 1856 on the site now occupied by the present county building.

The first two chapters of this series brought the history of the bar to the year 1854, at which time it consisted of six members, three of the original four present at the organization of the court in 1848 and the addition of George Reed, Nic Wollmer and S. A. Wood. Meanwhile the county had been developing rapidly. The flood of German immigration brought many desirable citizens, some of them persons of considerable wealth and also good business ability. This was supplemented by a considerable Bohemian immigration which settled up a large tract of territory now comprised in the towns of Kosuth, Franklin and Gibson. All this made for business and in one way and another the little bar had plenty of profitable work.

But 1854 was a tragic year in the legal history of Mani-

towoc. The cholera epidemic which made its first appearance in 1850 and made its presence known by sporadic cases from time to time afterwards, broke out with great virulence that year all over Wisconsin. Among many other deaths were those of Ezekiel Ricker and James L. Kyle within a few weeks of each other, Judge J. H. Colby had died in May of the previous year and E. Holmes Ellis had returned to Green Bay to take up practice there. There were left only two trained lawyers in the county, George Reed and S. A. Wood. George Reed was never, in fact, a general practitioner and to the best of my recollection had ceased even then to maintain an office. He was busy in corporation projects. He had organized the Manitowoc and Menasha Plank Road company, a toll road, and constructed about five miles of it. He had also organized a railway corporation, the Manitowoc and Mississippi Railway Company to which he devoted a great deal of his time, and in addition had established a quite extensive mercantile business which, however, only lasted two or three years.

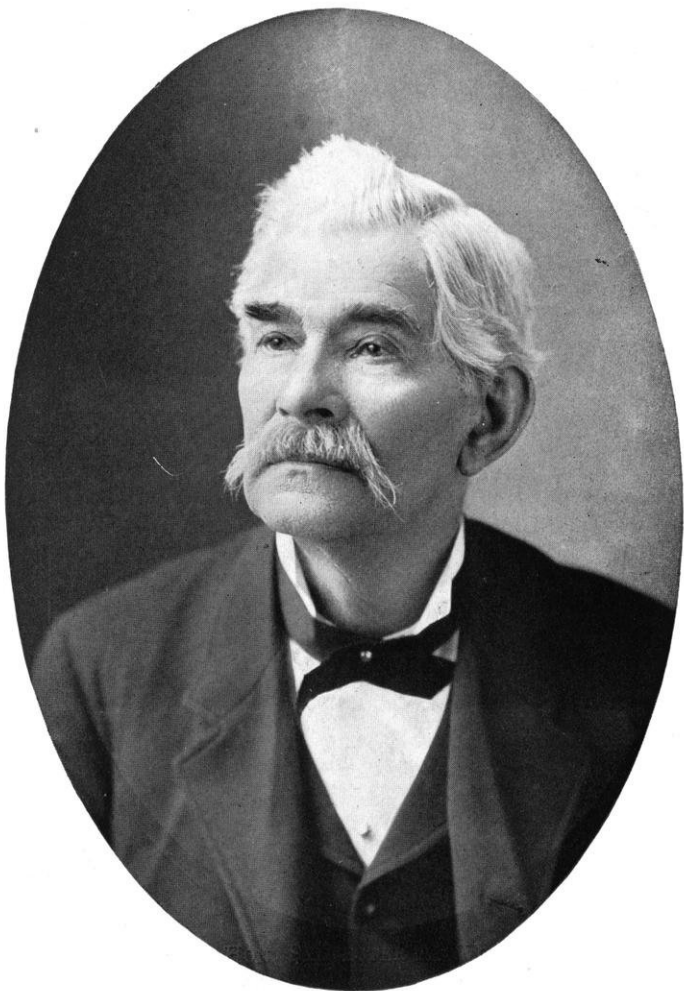
This situation accounts largely for the fact that at the September term of the court for 1854, S. A. Wood was sole attorney for sixteen of the twenty-three cases on the calendar, and was sole attorney in six of the seven chancery cases at special term the following January.

The rapid growth of the county and village, the breaking of ground for the building of a railway, much talk of other projects, and especially the loss, by death and removal, of two-thirds of the working lawyers of the growing section, soon became known throughout the state, and lawyers looking for a location thought the chances good.

So in the late fall and winter of 1854 came to the Manitowoc bar, L. T. Warren, George C. Lee and Charles H. Walker from outside places, while Edward Salomon, a resident of Manitowoc, later governor of Wisconsin, appears to have come to the bar about the same time, though the date of his license to practice does not appear.

George C. Lee and Charles H. Walker joined their forces and formed what was the first real law partnership in Manitowoc under the firm name of Lee & Walker. The earlier firm of Ricker & Wollmer was in fact only a real estate partnership, Wollmer not being a member of the bar when it was formed.

The supply of lawyers appears to have kept pace with the demand for at the March term in 1855, William H. Hamilton, who to the best of my recollection had previously been located at Racine, Wis., joined the bar, moved his family here and settled down to work in general practice. At the same time came Isaac H. Parrish from some place in Michigan, who also



HON. SYLVESTER A. WOOD

was enrolled, sent for his family, built what was then a somewhat pretentious home for them and became a hard working and influential member of the community. I have always remembered Judge Parrish, as he afterwards became, because I was very chummy with some of the boys in his neighborhood, and soon after I entered the profession, I purchased the house he then built in the Second ward and made it my home for forty-six years. At the same term Charles Esslinger, one of the leading pioneer Germans, obtained a license to practice and he and Judge Parrish formed the law firm of Parrish & Esslinger which lasted two or three years.

With the exception of Edward Salomon and Charles Esslinger all these newcomers were trained lawyers and had more or less experience in practice before coming to Manitowoc. All were married men with families, excepting L. T. Warren and George C. Lee, some of them with grown up children. This marked the difference in conditions from the lawyers of ten years previous who were all young men, fresh from their schooling and recent admission to the bar.

L. T. Warren soon cast off his bachelorhood by marrying Harriet Steele, the eldest daughter of Richard Steele, a pioneer farmer at the Four Corners, a very attractive and handsome young woman, sister to the late Mrs. E. S. Bedell of the Rapids.

The inflow of lawyers still continued and at the September term of 1856, John D. Markham and George Rice, both from New York state, and John A. Daniels, made their first appearance. I have no recollection of Mr. Daniels whatever, neither of seeing him or hearing him referred to in later years. I am inclined to think that he must have been an attorney who located in some other county of the circuit and desired to obtain his license, which, of course was operative throughout the circuit.

J. D. Markham became identified with the Manitowoc bar during the whole of his life thereafter, brought his wife and built a home now occupied by his lawyer son, Robert Markham.

George Rice, also brought his wife and family, built a home on Buffalo street, being the building later owned and occupied by Honorable Joseph Vilas and still later owned and occupied by A. J. Schmitz, Esq. He worked up a considerable practice, taking an active part in local matters, and acquired considerable influence. He was then in middle life, and had an interesting family. His two older children were my classmates in school.

In the following year three more lawyers appeared and joined up. At the April Term, 1857, there were admitted

Benjamin J. Sweet, who at once joined with George Rice to form the firm of Rice & Sweet, attorneys-at-law, whose "shingle" remained nailed on a building on York Street, long after both of them had left the city.

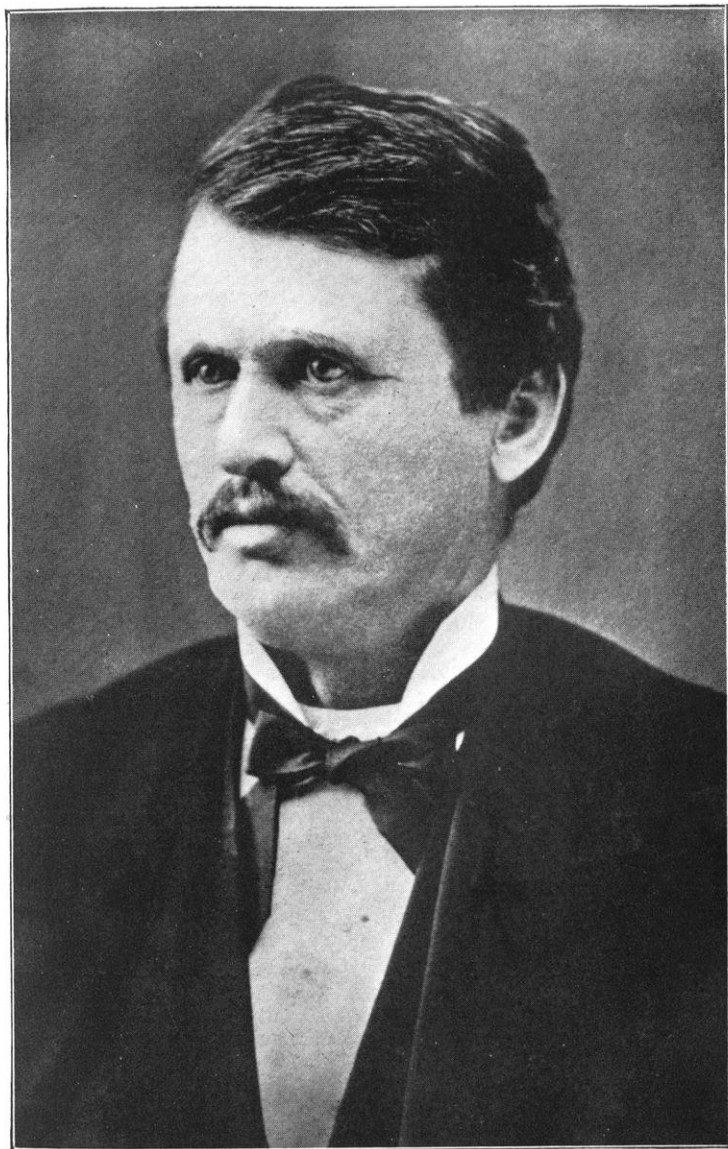
William M. Nichols, a former resident and lawyer of Orange, New York, sent for his wife and small daughter, settled down to work for himself and Manitowoc, especially for himself. He built a good home on the site now occupied by the residence of Honorable L. J. Nash, and practiced law strenuously for several years.

A little later came the last of the trio, John R. Bentley, a very able and accomplished young lawyer, who rented an office on Eighth Street on the North Side, and hung out a modest sign to inform the people that he was an "attorney-at-law."

After about two years' practice the firm of Rice & Sweet dissolved, Sweet going to Chilton, Calumet County. In 1860 Sweet was elected state senator, the district then comprising the counties of Calumet and Manitowoc.

John R. Bentley continued in practice in Manitowoc some five or six years and then removed to Sheboygan and continued practice there. After the Civil War he formed a partnership with the late United States Circuit Judge W. H. Seaman, the firm being Bentley & Seaman. Both B. J. Sweet and John R. Bentley became men of national reputation, though not precisely in the field of law.

Now came an ebb in the tide of legal immigration which had been flowing into Manitowoc County. The year 1858 shows no accessions to the bar. The bright prospects of Manitowoc becoming a metropolitan city had faded away to mere shadowy hopes. The railroad projects on which so much depended had come to a standstill, blocked by petty quarrels among the projectors. Financial panics lasting from 1856 to 1859 made hard going in all lines of business and law business suffered with the rest.



HON. JOHN D. MARKHAM

CHAPTER EIGHT

The Bar

There had been steady accretions to the bar every year from 1854 to 1858, most of whom were trained and experienced lawyers, and also scholarly men. In 1859 a young lawyer, named W. R. Crissey, came from some part of the East and opened an office on York Street. Unfortunately for him his location was nearly along side of Charley Camp's billiard hall. He was not disposed to be studious, though he had for those days a good equipment of books. He loved company and spent a good share of his time punching billiards, with the result that after eight months or a year practically wasted he left for some other field.

Two well-known local men also were admitted about the same time. Henry S. Pierpont and George N. Woodin.

Pierpont lived at Two Rivers, where he had been connected with a furniture manufacturing company. He was quite prominent in politics, on the Democratic side; was elected county judge and served a term. My recollection is that Pierpont never studied law before coming to Wisconsin, but was admitted before repeal of the "easy statute." He was a man of good education and of much natural ability in many directions, was a pleasing and vigorous writer as he demonstrated when editor of the Two Rivers Chronicle. He never entered into general practice and was never active in court, though he did a good deal of the office work of the profession. I doubt if he ever tried a contested case.

George N. Woodin, however, became attached to the bar, practicing generally until his death many years later, and became locally a noted character. He came to Manitowoc County about 1855 as a millwright, a trade now wholly obsolete and absorbed by "industrial architects." He was first a justice of the peace and opened an office where he tried a goodly number of cases. He had naturally a good mind, quick to see the force of an argument or a proposition he got a taste for law work which led to a study of Cowen's Treatise, Wisconsin form book, and the Statutes of 1858, and so became a full-fledged lawyer, doing a large share of the justices' work and also appeared frequently in circuit court.

In 1860 there were no additions to the bar, but at the April Term for 1861, True M. Bailey and Temple Clark were duly licensed. Neither of them ever had any further connection with Manitowoc courts or bar. I remember Bailey as a rather studious and retiring young man who worked in some of the local firms as clerk and bookkeeper for some two or three years. I think he was directed and advised in his reading of law books by W. H. Hamilton. He left Manitowoc and I never heard anything further about him.

Temple Clark came to Manitowoc about 1856 in connection with the government harbor work. He was a brother of the once well-known "Sat Clark," famous as a Democratic politician and railroad lobbyist. "Temp," like his brother, had a natural bent for politics and had hardly taken his seat in Manitowoc when he became candidate for state senator and was elected, representing the district during the years 1857-1858. I have no knowledge whether he had any serious intention of becoming a lawyer. If he had it was soon terminated.

The Civil War was upon us. It could have been only a few days after the admission of True M. Bailey and Temp. Clark when news of the attack and surrender of Fort Sumpter was received and the country at once blazed with war excitement. Captain Clark, as he was thereafter called, set about organizing a military company and led to the front the first contingent of Manitowoc volunteers.

The writer hereof went with him. Captain Clark rose high in military life. He was detached from his company; went to the West, becoming adjutant general on the staff of General Rosecrans, commanding the Army of the West. He was severely wounded; shot entirely through the body. He recovered measurably, and spent the balance of his life as a salaried clerk in the government departments at Washington, D. C. So ended his dream of life as a lawyer.

The effects of the war upon the bar were very marked. While it was in progress no new names were added of candidates studying for the profession, and only two who were already lawyers. A lawyer named C. A. Boynton came here some time in 1863, from where I do not know. He entered into partnership with George N. Woodin, but after a few months' trial of the experiment the connection ended. He went elsewhere and we knew him no more forever.

The other new comer was Ellery B. Treat, who had been in practice at Sheboygan Falls. He entered at once into partnership with W. H. Hamilton, and the firm became a busy one. Personally, they were wholly unlike but they fitted well together as a firm. Hamilton was a good lawyer of the office type, while Treat was a pastmaster in the art of hustling for

business. Before the war ended Hamilton removed to Racine, where he had formerly lived. War changes in the bar at that place had made an opening for him there. His two sons had entered the army and one had been killed. Hamilton, though in advanced years, tried to enter the army and was commissioned as lieutenant in the Seventh Wisconsin Battery in which his sons served, but was discharged before the organization left the state, I think, on account of his age.

Three young men who had been studying for the profession, Ed. H. Waldo, Don A. Shove, and H. H. Markham, all volunteered. Waldo, who was a captain in the Fourteenth Wisconsin was killed at Shiloh. Henry H. Markham, who was a lieutenant in the Thirty-Second Wisconsin, was severely wounded in a skirmish in South Carolina. He and Don A. Shove, who in the meantime had risen to be a captain in the Fourteenth Wisconsin, returned later to become members of the profession.

The war not only stopped accessions to the bar by carrying off to the field the young men preparing to enter the profession, but it also took some of the most able and active of the leaders.

George Rice, who had influential friends in New York, returned to that state and entered the military service from there, in what capacity I cannot recall, if indeed, I ever knew. His son, William Rice, who was my schoolmate and playfellow and who was about my age, also went into the fight. How it fared with them I never knew.

In the change of political administration in 1861, Charles Esslinger had been appointed postmaster and withdrew from law practice, which ended the firm of Parrish & Esslinger, and before the war ended Judge Parrish returned to Michigan. Benjamin J. Sweet, who although he had removed to Chilton, still retained considerable of his Manitowoc County practice and was also state senator for the county, entered the army at once as major of the Sixth Wisconsin Infantry. A little later Charles H. Walker resigned his county judgeship, raised a company of Manitowoc men for the Twenty-first Wisconsin regiment, led it to the front and served to the end of the war. He returned as major commanding the regiment. Nicholas Wollmer, who was still with the bar and had a desultory practice volunteered in the Twenty-sixth Wisconsin regiment, was promoted to a lieutenantcy, and later killed in the battle of Peachtree Creek, Georgia.

In the summer of 1863, W. M. Nichols "folded his tent like the Arabs, and silently stole away" back to Orange, New York. His course in the war alienated every friend he ever had. He was a bitter Breckenridge Democrat and his

associates in the old party were nearly all followers of Douglas and they hated him worse, if possible, than the Republicans. The character of his practice was calculated to make him unpopular. He did a good deal of tax title speculation and squeezed for all there was in it.

The war broke up every law firm in Manitowoc, and also caused the removal in one way or another of nearly all the individual working members of the bar, causing much confusion and unrest in the legal life of the community.

At the end of the war in 1865, B. R. Anderson (no relative of the writer) and Charles W. White, who had been members of the Calumet County bar, came to Manitowoc and settled down to work. Mr. Anderson remained a number of years trying to establish himself, but had a rather hard time of it. He was a peculiar character, was a great student, had a great fund of isolated facts of which he made no use and which were of no practical use to him or anybody else. He closed his office at intervals and taught school. He was in fact a good teacher and in some lines might almost be called learned, but he was wholly impractical and, of course, unsuccessful in the law.

White was almost his opposite. He had comparatively small knowledge, but knew how to apply it and make the most of it. He had a genial personality, and with it did more business and accomplished more than many better lawyers.

After Charles H. Walker returned from the army, he and White entered into partnership under the name of Walker & White, but dissolved after a year or so, and White later, about 1871, formed a partnership with Gustavus A. Forrest, which for several years did a very large business. White perished in a railway accident in Texas many years ago while on his way to California.

About the same time there was admitted on examination in court, Henry Sibree of Manitowoc. The records indicate this was the first admission under the law which repealed the "easy statute." He was then a man of middle age, largely self-educated. He had been a pronounced abolitionist and had mingled in the literary circles of New York City, which were interested in that reform. He had acquired a fine literary taste; was well read in the best literature, and was a good, strong writer and speaker. He read law first in his home and later in the office of J. D. Markham, and was soon in active practice.

As I have intimated, Charles H. Walker had returned from the army, reopened his office and rapidly regained his practice, and about the same time Henry H. Markham and Don A. Shove returned from the war, brushed up their studies

and were duly admitted.

H. H. Markham and his brother, George C. Markham, a New York lawyer, spent some months in the office of their brother, J. D. Markham, studying up Wisconsin practice and then removed to Milwaukee, where they were very successful as admiralty lawyers, having a reputation which extended all along the Great Lakes.

Don A. Shove remained in Manitowoc. He was soon elected justice of the peace, and appointed court commissioner. He did practically all the small judicial work of the county for many years, and was a most excellent magistrate. Had a good knowledge of law, was fair, just, and most exact in keeping his records.

After 1865 there was no change in the bar for several years. In fact, it may be said Henry Sibree was the only new addition to the bar since 1859. The others were simply neighboring lawyers who had "drifted in" to fill the place of the removals. In 1870 the ebb tide changed and began to flow in. In that year came Gustavus A. Forrest. His advent marked the beginning of a new period and there for a time we rest.

CHAPTER NINE

The Fourth Judge

JUDGE DAVID TAYLOR.

Upon the resignation and removal of Judge W. R. Gorsline to Colorado Territory in July, 1858, Honorable David Taylor of Sheboygan was appointed his successor.

David Taylor was born at Carlisle, Schoharie County, New York, on March 11, 1818. He was one of the products of the great American "melting pot" for his father's ancestry was Irish, while his mother was a descendant of the Dutch immigration along the Hudson river. His early education was had in local public and private schools. This was followed by his graduation at Union College in 1841. He then studied law in the offices of local lawyers, and was admitted to the bar at Cobleskill, New York, and practiced there for about two years when he came West. He visited several localities, including Milwaukee and Green Bay, but decided to locate at Sheboygan and in July 1846, formed a partnership with a lawyer named Cyrus P. Hiller which lasted until he was called to the circuit bench. Judge Taylor was a man fully six feet tall with a well proportioned physique, indicating a robust constitution. He had a florid complexion, reddish or sandy hair, a good example of the type known as the "Red Irish."

He developed great strength as a lawyer. He was well equipped both in general scholarship and law learning and his exceeding energy, and a tireless industry which became proverbial made him a strong man at the bar. The firm of Taylor & Hiller became known over a large section of the state, especially in the Lake Shore region, and it had a very large practice; the court work being chiefly conducted by Judge Taylor. His appearances at the Manitowoc courts were frequent, for it must be remembered that the old fashion of "traveling the circuit" was still in vogue.

Although busy and hardworking at his profession, he paid considerable attention to politics. He was an ardent Whig while that organization existed, and when the Republican party was organized an equally ardent supporter of that party. He was looked to as a leader in political movements

during that stirring period extending from the Mexican war to the election of Lincoln. He represented Sheboygan in the Assembly in 1853, was state senator in 1856-57 and again in 1869-70. He brought to his legislative work the same energy and industry he exerted in his law efforts, and was universally recognized as a leader in legislation.

Perhaps the first notable thing for which the people of Wisconsin are indebted to Judge Taylor was the successful effort to induce the legislature of 1856 to enact the law adopting the New York Code of Procedure, and changing the common law in that respect. I became well aware of Judge Taylor's tireless efforts to pass that bill through the senate, from my father-in-law, the late Judge Joseph T. Mills, of Grant County, who was at the same time a member of assembly and had charge of the measure in that house while Judge Taylor looked after it in the senate. The New England lawyers, of Massachusetts, Vermont, and contiguous states, trained in and devoted to the common law forms of pleading were almost solidly opposed to the measure in both houses, but they were strongest in the senate.

It happened that Judge Mills had been a student in Kentucky when that state had adopted its code (being the first state to do so), and could bear testimony to the necessity and value of the reform. He and Judge Taylor worked together. The bill passed the house in good shape, the senate by a small margin, was approved by the Governor October 6, and was published in supplement January 6, following, thus becoming a law. Judge Mills in many conversations spoke of the untiring efforts of Judge Taylor to win support for the measure and his patience, skill and industry in drafting amendments and changes to avoid the objections and win the support of the common law advocates.

When Judge Gorsline resigned, Judge Taylor was appointed by the Governor to fill the vacancy until an election could be held, then elected to fill the unexpired term, and was then elected for a complete full term, so that he presided over the Fourth Judicial Circuit until January 1, 1869. At the previous spring election he had been a candidate, but was defeated by Campbell McLean of Fond du Lac. Political considerations had a good deal to do with bringing about this result. Judges Gorsline and Taylor both had been Whigs and later Republicans. Both had been residents of Sheboygan County and it was urged that it was time for a change, both politically and geographically. The argument counted. Meanwhile, the county of Brown had been detached from the circuit. Kewaunee County had been created and attached to Manitowoc County for judicial purposes. Fond du Lac had

become the metropolitan city, and besides the circuit was heavily Democratic.

Judge Taylor, while a good political leader on principle, was no great hand to canvass for his personal advantage and the result was as stated. If he was in any way affected or chagrined he never manifested it. He stepped down from the judicial rostrum to the ground floor and at once resumed his practice as if nothing had happened to interrupt it. In the fall election the people of Sheboygan sent him again to represent them in the state senate, in which body he served during the sessions of 1869-71. In the year 1872 he removed to Fond du Lac where he entered into partnership with J. M. Gillett and upon the death of Mr. Gillett, which occurred about two years later, with George E. Sutherland, later a circuit judge in Milwaukee. All this time and until 1878 he was in active practice. In that year the legislature added two additional judges to the Supreme Court and he was one of those selected. In that court he remained till the day of his death, having been elected to a second term.

When called to that high position no man was ever so prepared by practical life as a lawyer. In addition to his large and continuous general practice, he had been district attorney, member of the legislature, senator for four years, and for eleven years a circuit judge. He was college trained, a scholar in the best and most practical sense and above all devoted to the science of the law. An English judge has said: "The law is a jealous mistress and brooks no rival." There was no room for jealousy in the life and conduct of Judge Taylor. He devoted every power of his strong mind, every item of his great knowledge, every effort of his great energy and untiring industry to her services.

It was as a compiler and annotator of the statutory law that he was most successful and best known. He was one of the three commissioners appointed by the legislature, who compiled, arranged and published the Statutes of 1858. In 1871 he compiled, arranged, annotated and published the statutes then much needed and known as Taylor's Statutes, a private enterprise. Later he was one of the commission appointed by the state to arrange and publish the Statutes of 1878, which work was completed about the time he was called to the Supreme bench.

The late United States Senator William F. Vilas, who was associated with him in accomplishing that revision said of him:

"He and I worked much together. . . . He was the old well stored lawyer, surcharged with a life of study, long professional and judicial service and specially expert in judi-

cial knowledge as one of the revisors of twenty years before and the compiler of a later edition. . . . Yet the just precedence of these circumstances he never manifested in anything but their value to the duty before us. . . . Any man more free of the mere pride of personal opinion, less impatient of correction, more ready to receive any benefit of another's thought, so that it truly informed his own, I never encountered.

"Judge Taylor's most distinguishing peculiarity . . . was the constancy and intensity of his devotion to the labors of the law. . . . To the law he addressed a capacity for labor unexcelled and rarely equaled. No task was formidable to his simple steadfastness. Throughout all the hours of the day, day after day, week in and week out, year upon year, without excitement and without ceasing he bent his mind to the tasks before him, toiling on with each to its complete and satisfactory accomplishment and entering upon the next as readily as he finished that in hand. Relaxation and recreation were nothing to him . . . holidays and vacations were merely interruptions."

I have quoted largely from the testimony of a great lawyer regarding the distinguishing characteristic of Judge Taylor, because his words furnish the key to his character and great success, "unceasing labor."

But I realize that I have been led away from my real topic, which is the relation to the place and people of Manitowoc, sustained by this man, and my own recollections and observations. I came much in contact with Judge Taylor, beginning in the later '50s before he went upon the bench. As a lad I had begun to dream about some day becoming a lawyer, and in my leisure hours loafed around the justices' courts and frequently visited J. D. Markham's office. Markham counseled much with Judge Taylor in the period of about two years before he went upon the bench and when court convened I would see him. I was only about sixteen then, but I had heard of him as a learned lawyer and observed him closely. When Circuit Court was in session I was an interested spectator and listened to the proceedings, most of which I little understood, but I was interested in observing the personality of the lawyers. One of my earliest recollections of the Court was a contest over a point of law between E. Fox Cooke and Judge Taylor. The case had been called and a witness sworn. Judge Taylor then objected to any evidence because the complaint did not state a cause of action and spoke briefly in support of his contention. Cooke answered by breaking into a violent tirade against the code of pleading which it will be remembered Judge Taylor had been instru-

mental in having adopted by the legislature and eulogized the certainty of pleading under the common law forms.

When Judge Taylor replied he knocked out the props from under his opponents argument by showing that if he had had a good complaint at common law, it would have been good under the code but it was essentially bad at either the code or common law. He dryly remarked that all that was necessary in pleading under the code was the exercise of a little common sense in stating plainly the facts constituting the cause of action.

Judge Gorsline held with Judge Taylor, but permitted the old Common Law proceeding of "withdrawing a juror," and amending on paying costs of the term.

In the winter of 1860 I had made up my mind to study for the legal profession and as preliminary was preparing to go to college in the fall of 1861. Next spring the Civil War was on and I was swept out of school into the great war vortex and gave four years of my life to that service. When I returned from the army in August, 1864, the old project of law study again recurred to me, but like many others, I felt I had lost so much of my best years for study that I must get into business. The mills in the back country, at the Branch, Cato, Clark's Mills, and other places were turning out much lumber, shingles, and other products, which were hauled by teams to Manitowoc for shipment. I took what little money I had, invested in a couple of teams and equipment and went to work at that business. My health was not good. I had broken down in the Wilderness campaign. Three or four slight wounds were still a trouble to me. The handling of square timber and large planks was heavy work, for which I found myself unfit.

I was offered a position as assistant to the deputy provost marshal, John F. Guyles, and I went into that for the rest of the war. I used one of my teams in that and operated the other with hired help.

When the war finally ended in the summer of 1865 I closed out my business, decided to carry out my original plan and entered college in September of that year. I spent my school vacation with Judge Meyer of Appleton and with J. D. Markham, when at home, earning what money I could and reading text books in the law in all my spare time. I graduated from college in June, 1870, taught school for a year, and in the summer of 1871 entered the office of J. D. Markham as a clerk and copyist. In the winter of the same year I was admitted to practice on examination in open court. I had not intended to apply so soon but my lawyer friends especially Markham and Charles H. Walker urged me to do so, and en-

couraged me in every way.

At this period up to 1869 Judge Taylor was still on the bench, and during the sessions of court, which were then held in June, I was in constant attendance, watching and studying the proceedings and learned much of value to me in future years.

Judge Taylor never interfered much in the trial of cases, allowing evidence to come in freely. He decided promptly when objection was made cutting off argument when he felt it was unavailing, rarely asking questions of his own motion.

One day an occurrence took place which made a deep impression on me. It was during the trial of a woman for murder of her husband. The district attorney asked to be excused from the prosecution as he had been of counsel for the prisoner before his election and a member of the bar was appointed in his place.

In the course of the trial, this attorney called his law partner to the witness stand and proceeded to examine him as to threats the woman had made against the husband some time previous. The judge was absorbed in making notes of the testimony. The defense had made no objection. Suddenly the judge straightened up and sharply said, "Stop." Turning to the witness, he said: "Mr.—, you have testified that you were attorney for the defendant in the proceeding pending between her and her husband, was it in the course of your talks with her about that case that she made these statements? 'Yes.' The prosecuting attorney is your law partner? 'Yes.'" Outside of this, have you any personal knowledge of this matter?—"No." Go to your seat, sir.

"Gentlemen of the jury, all the testimony of this witness is stricken out. When you come to consider the case, let it be as if it had never been said, as if no such witness had ever testified."

Turning to the witness, he said, "You have been a lawyer long enough to know that the statements of a client to his attorney are confidential, privileged and sacred, never to be divulged to any one. The defendant is entitled to this protection. The prosecuting attorney is your law partner and you have been present apparently taking part in this prosecution. If your testimony was competent, it would not be free from suspicion of bias and interest. No lawyer who has any connection with the trial of a cause ought ever to be a witness. If his testimony is necessary and material the parties are entitled to it freed from all burden of suspicion, and above all that, the State in its administration of justice has the same claim upon him.

"When it becomes apparent to a lawyer that he is a necessary and material witness, there is but one thing for him to

do, sever all connection with the case at any cost, so that his evidence may be received at its full value, as that of a competent and disinterested person."

What I have written gives but a faint idea of the whole scathing and severe rebuke. It was not the less severe that much of it was addressed to the bar generally. It was a lesson in professional ethics that I for one never forgot, and I know that others received it in much the same way.

It was not my fortune to try a case before Judge Taylor at the circuit. When I came to the bar he had been superseded by Judge McLean and he was upon the floor of the court as a practicing lawyer. He impressed me as an especially strong trial lawyer as to his examination of witnesses, getting from them without apparent difficulty the facts pertaining to the case, and carefully avoiding irrelevant and immaterial matters. He was equally strong in his presentation of the case to the jury, stating clearly the issues involved and the evidence in support or denial of them and his attack or defense, as the case might be, was equally difficult to break.

Though by no means an orator in the sense of appealing to sentiment and emotion, he never failed to command the close attention of a jury by the strength of his argument and his grouping of the testimony on the salient facts. He was equally careful in a contested trial where his objections were overruled to record proper exceptions, so that in case of a review the matter would be properly before the appellate court.

Judge Taylor was possessed of a peculiar and rare mentality. No man I ever knew had his thinking faculty so completely under the control of his will. All brain-workers find more or less difficulty in changing suddenly from one class of mental labor to a different one.

Such changes never disturbed him. He could calmly lay aside the work in hand and in a moment be completely absorbed in another and different field of thought.

Carlyle says, "Blessed is the man who has found his work." Judge Taylor found his, and few men worked as he did. He laid to heart the admonition of scripture, "work ye while it is yet day for the night cometh wherein no man can work."

On April 3, 1891 he had gone to his room in the capitol at Madison in perfect health. He devoted the day as usual to the work in hand and as the shades of evening drew on, folded his papers, closed his desk, and walked to his home. Hardly had he crossed the threshold when—"God's finger touched him, and he slept."

Within an hour the strong heart and busy brain were stilled forever.

CHAPTER TEN

The Fifth Judge

JUDGE CAMPBELL McLEAN.

Campbell McLean, who succeeded Judge David Taylor as judge of the Fourth Judicial Circuit, was born in Washington County, New York. While he was still a child his parents removed to Keesville, Clinton County, in that state, where he grew to manhood. He received a good common school and academic education, but did not attend any college or university. He studied law in the office of George E. Simmons of Keesville, a very prominent lawyer in that part of the state, and was there admitted to the bar about 1854. After a year or so of practice he came to Wisconsin in the summer of 1856 and after looking the field over located in Fond du Lac, in October of that year. I have a hazy impression that he was for a time associated with Charles E. Eldridge, a very prominent lawyer about that period, who was spoiled as a lawyer by being elected to congress, and then failing of re-election, abandoned the law to become a rather poor Washington lobbyist, for many years. Judge McLean had fair success as a lawyer; was looked upon as a good counselor rather than a trial lawyer. He mixed somewhat in politics and was elected member of assembly in 1862. In 1868 he received a democratic nomination as circuit judge and was as stated elected over Judge Taylor, taking his seat January 1, 1869. Six years later he was re-elected, serving till January 1, 1881.

Judge McLean was in many things almost the exact opposite of Judge Taylor. He was easy going and some of the lawyers found his manner a relief from the strictness and driving business methods of the latter. While Judge Taylor would begin at the head of the calendar and go right on through with it, McLean would call the calendar, hear a few motions, if any were presented, and if no one was ready with a case for trial, adjourn till next day. Next day it would be about the same. Lawyers not ready, parties not present and some one would offer to take up some ex parte business while the jury was sitting around idle. Finally a case anywhere on the calendar would be brought on for trial and when it ended another

would not be ready and half a day would be lost while parties and witnesses were hunted up and sent for. The order of cases on the calendar received little attention. Lawyers would arrange among themselves to take up cases out of their order, substituting one case for another without consulting the judge till the time came for trial. The court made no objection, if only some case was ready. In the end this system, or want of system, reacted upon the attorneys themselves, who would be ready for trial and find themselves shut out for three or four days with parties and witnesses all on hand, when in fact they had the right of way under the calendar.

At other times when lawyers would take chances against being obliged to wait and none were ready for the court, and the judge and jury were compelled to be idle for a half or a whole day, Judge McLean would have a spasm of querulous fault-finding and deliver a series of threats and demands for reforms on the part of the bar, but there were no teeth in the rules laid down and matters would soon lapse to the old slipshod way.

I think lawyers today, especially those who had some experience with the old order, are satisfied that the present system of rigid adherence to the order of the calendar with a reasonable allowance for exceptional cases gives better results on the whole than the loose methods of those times.

Like Judge Taylor, Judge McLean was of Irish ancestry. I had taken it as a matter of course from his name that he was Scotch, for Clan Campbell and the Clan McLean are even today the purest of the Celtic stock of Scotland. As I am the grandson of a certain Jean McLean, who came from the highlands and married my grandfather, and had in my possession a seal engraved with the battle-axe and crossed branches of palm and laurel, the insignia of the Clan McLean, I talked with the judge who assured me that his family came from Ireland and were indigenous to that soil.

I tried to maintain to the judge that his ancestry was certainly Scottish and that he ought to be proud of it, for the McLeans were the most famous cattle thieves, plunderers and free-booters in all Scotland; that the presence of a few of them in Ireland was accidental, as they were compelled to go there to escape hanging, and be able to curse the Sassenach (English) in safety, as they do to this day. The judge, however, preferred to be classed as Irish and so we are compelled to consider him.

In some ways Judge McLean had a pleasing personality, and for a time was very popular, enough so to secure his election for a second term. He delighted in small talk and persiflage, society talk, liked company, and was very hospitable

in his home. Unlike Judge Taylor, whose mind seemed to be always at work, he seemed nearly always at ease, and impressed you as one who loved to take his ease. As a lawyer, he impressed the bar as a fair average, and that was just about his status. He was a little unfortunate as a judge in coming immediately after Judge Taylor, for that was a standard which needed a large man to measure up to, and he was equally unfortunate in being succeeded by Judge N. S. Gilson, for he was not to be put in the same class.

Judging him by the disposal of appeals from his decisions, Judge McLean maintained a fair average, perhaps a little above. But even those who were partial to him were compelled to admit that he was not a strong man on the bench. He had not the scholarly appearance and quiet courtesy of Judge Gorsline nor his firmness in adhering to a decision, and he lacked the strong commanding bearing and dignity of Judge Taylor, whose very appearance on the bench commanded respect and whose decisive manner in announcing decisions compelled acquiescence and confidence in their correctness.

He was undoubtedly honest and conscientious, and disposed to be fair and just, but his vacillating and petulant manner was calculated to impair confidence in him. I have alluded to his genial ways and elements of popularity. It was a popularity which did not wear well. At the end of his first term there were very considerable elements of opposition. As he was approaching the end of his second term, calls were circulated throughout the circuit for him again to become a candidate, which of course obtained a large number of signers. He announced his candidacy.

In the meantime opposition had been organizing, both within the bar and among the people. A Democratic judicial convention was called which placed N. S. Gilson of Fond du Lac in nomination. Every county in the district was Democratic and the party machinery was used to reach and appeal to the people. Members of the bar, without regard to party affiliations, or at least a large majority of them, went to work to defeat him. Personally, I was very friendly to him. I was admitted to the bar before him, and while I was a novice, he was tolerant, patient and kindly. I was one of the few members of the bar who stood by him to the end.

The result was as foreseen. Judge McLean received a crushing defeat. His opponent was elected by over 8,000 majority.

In a certain sense, Judge McLean was "hoisted by his own petard." He had been elected over Judge Taylor by the

partisan nomination of a Democratic convention, and now the same method was pursued to defeat him,—a Democrat.

Pained and chagrined by his overwhelming defeat, he finished his term and returned to New York. He died there some years ago.



GUSTAVUS A. FORREST,

CHAPTER ELEVEN

The Bar (1870-1881)

The last paper referring to the bar announced the coming of G. A. Forrest. I stated half jocularly that his arrival marked an era in the history of the bar. It is, however, the fact that he was the first of a group of young men of about the same age and educational attainments who afterwards did a goodly share of the law work in Manitowoc County. Forrest had a university training, having taken the full course at Lawrence University. Later he graduated in the law department of the State University, being a member of the first class which that institution sent forth. He practiced alone for about a year or so, making his headquarters in the office of E. B. Treat, and later entered into partnership with C. W. White. The firm lasted for about six years and did a very large business. About 1880 he formed a partnership with G. G. Sedgwick, who came from Kewaunee about that time and so continued for about two years. After an interval he formed a partnership with C. A. Blesch, who came to the bar here about 1881, a connection which lasted only a year or two. Since then Mr. Forrest has practiced alone, and at the present time, after fifty years, is still "carrying on."

The following year Oscar F. A. Greene was admitted. He came here as a teacher in the Second Ward School, and taught there for two years. He was a native of Maine and fought through the Civil War till disabled by wounds. After his discharge, he attended Bowdoin College and graduated from there. After his term of teaching he entered the office of Charles H. Walker, and studied until his admission, and remained there for a time, continuing his studies. The following Spring he entered into partnership with his teacher, the firm being Walker & Greene.

In 1874, the firm was dissolved and the firm of Greene & Nash was formed with L. J. Nash as partner. The firm lasted only about six months, being broken by the removal of Mr. Greene to Colorado. Mr. Greene located at Boulder, Colorado, and was quite successful, attaining considerable prominence. He was a hard student and very scholarly, but rather eccentric.

J. S. Anderson was the next to be admitted. He came to

the bar at the December Term, on examination in open court. He opened an office for practice in June, 1872, remaining in the office of J. D. Markham till that time.

L. J. Nash came to the bar on December 14, 1872, and has maintained his connection with it up to the present. It is hardly necessary to write of his achievements. For many years he was one of the busiest and hardest working members. After his short partnership with O. F. A. Greene he practiced alone until October, 1875, when he formed a partnership with Adolph J. Schmitz, under the name of Nash & Schmitz, which lasted till January 1, 1881, when he entered into partnership with his brother Edward G. Nash under the firm name of Nash & Nash which lasted until a few years ago, when he was appointed by the justices of the Supreme Court to the office of Revisor of Statutes, which office he held until about a year ago, when he resigned. At present he is nominally not in practice, but can nearly always be found in the offices of Nash, Nash & Ledvina, the firm consisting of his brother, E. G. Nash, and his son Archie Nash, and L. Ledvina, a younger member of the bar. A younger son of L. J. Nash, named Francis Nash, became a member of the bar in 1913 and was with the firm until the outbreak of the World War, when he went to the front with a Red Cross Ambulance Corps, at the very first, not waiting until the United States declared war. Like those previously mentioned, L. J. Nash was college trained, graduating from Lawrence University in 1870, in the same class with the writer. G. A. Forrest was an attendant at college in that same period and for a time we were members of the same classes. William A. Plaice was admitted at the same time as Mr. Nash. He never practiced here. He was a student in the office of J. D. Markham.

The year of 1873 brought no accessions to the Manitowoc bar, but at the January Term of 1874, Charles E. Estabrook was admitted. Mr. Estabrook came to Manitowoc to fill the position of principal of the First Ward School, which he taught for one year. He had the law profession in view before coming to Manitowoc, and for a time read law in the office of William E. Carter, a prominent lawyer of Platteville, Grant County, and while here continued his reading in the offices of J. D. Markham up to the time of his admission. In April following his admission he was elected city attorney and opened an office for general practice. He held the office of city attorney until December, 1880, when he resigned, having been elected a member of the legislature. He represented the city in the legislature three successive annual terms, ending with the year 1884. In 1887 he was elected to the office of attorney-general, and two years later was re-elected, serving to 1891.

In the meantime he had formed a partnership with his brother-in-law, William A. Walker, the firm being known as Estabrook & Walker, which later was added to by the addition of Emil Baensch, the firm being known as Estabrook, Walker & Baensch.

In June, 1893, he removed to Milwaukee and engaged in practice there until the time of his death several years ago, after a short illness. While in Milwaukee he represented his district in the legislature for three terms. He had much to do with matters of legislation, some of which proved valuable to the people.

In June, 1875, came William J. Turner from Ozaukee County, where he had been admitted to practice. He opened an office on Eighth Street, South Side, and almost at once acquired a large practice. He was a tireless worker and had a genial winning manner which gave him a large following. In the next year his father, a veteran lawyer, removed his residence from Port Washington to this city, and the firm of H. G. & W. J. Turner was formed. Their practice was large and varied, and looking for a larger field the firm removed to Milwaukee in 1885.

After a long and lucrative practice in which several law firms were made and dissolved, W. J. Turner was elected circuit judge in 1908, which position he held until his death in 1919, being twice re-elected. Though I believe he was not a graduate, Judge Turner had collegiate training, having attended Beloit college and was also a graduate of the Albany Law School. His great success as a lawyer was in the trial of cases, and for the period of his active life, he tried more and more varied cases than any other lawyer in the state.

At the June Term, 1875, William A. Walker was admitted. He, like Mr. Estabrook, came to Manitowoc as a teacher and was principal of the Third Ward School. He read law in the intervals of his school teaching. I cannot recall what law office he entered, if any, but he spent a year or so before his admission in the office of Mr. Estabrook, and for two or three years after. He did not at once enter active practice. He was elected county superintendent of schools in the fall of 1875, and served in that capacity during the years 1876-79, after which he went into partnership with C. E. Estabrook. He served as district attorney from 1881-86, and proved himself a good working lawyer. He removed to Milwaukee about the same time as Mr. Estabrook and practiced there until his death a few years ago.

A. J. Schmitz was enrolled about the same time as Walker, having previously graduated from the Wisconsin University Law School. Mr. Schmitz is purely a Manitowoc

product, having been born in the county. Much of his history has been told in connection with others. He was a hard worker with the firm of Nash & Schmitz and later with the firm of Schmitz & Kirwan. Later he removed to Milwaukee, entering into partnership with ex-Attorney-General J. L. O'Connor, the firm being O'Connor & Schmitz. He is still a resident of Milwaukee, actively engaged in his profession—and politics.

At the June Term of 1877, Edwin G. Nash and William Bach were enrolled. As the latter never practiced as an attorney it is not necessary to mention him further. E. G. Nash had read law with his brother, L. J. Nash, and remained with him. In 1881 the partnership of Nash & Nash was formed and continued until L. J. Nash was appointed State Revisor, when he became head of the firm of E. G. & A. L. Nash, the latter a son of L. J. Nash. The existing firm is Nash, Nash & Ledvina, the last named being one of the later accessions to the bar.

At the June Term of 1878, Michael Kirwan was admitted. He had been preparing for the law for some years in the intervals of his work as teacher and County Superintendent of Schools and was already elected to the office of County Judge in which capacity he served until January 1, 1882. After that the law firm of Schmitz & Kirwan was formed, which lasted for several years, doing a large business in general practice, in all the courts, in which Judge Kirwan actively engaged.

In was a training which stood him in good stead, when in April, 1898, he was elected as Circuit Judge, which position he still holds.

There were no additions to the bar until June Term, 1881, when Emil Baensch and Charles A. Blesch were enrolled. About the same time George G. Sedgwick came from Kewaunee County, where he had been engaged in practice several years.

CHAPTER TWELVE

The Sixth Judge

N. S. GILSON.

Norman S. Gilson, who was so sweepingly elected to succeed Campbell McLean, can certainly be called "100 per cent. American." He was descended from pre-revolutionary stock on both his father's and mother's side. His paternal ancestor, Joseph Gilson, came to America from England in 1650. His descendants fought in the earliest French and Indian wars, the Revolutionary War and the War of 1812. His grandfather, Daniel Gilson, was a Revolutionary soldier, and was one of those who moved to the Western Reserve of Ohio, receiving land grants for military service. He founded the family home at Middlefield, in that state, in 1817.

In that old farm homestead, Judge Gilson was born in 1839. His early life was that of a farmer's son. He assisted his parents in the farm work, attending school in winters. But as he neared manhood his choice of a vocation turned to the profession of the law and he attended Farmington Seminary, where he acquired an academic education and later taught school in that vicinity, in the year 1859 and 1860. In the latter part of that year he came to Wisconsin and began the study of the law in the office of Leander F. Frisby of West Bend, Dodge County, a very able lawyer who later was attorney-general of Wisconsin.

Mr. Frisby was his uncle, being brother of Judge Gilson's mother, and of course was interested in his young kinsman. In Dodge County, while reading law, Judge Gilson like most of the young men in like circumstances, sustained himself by teaching school for a couple of terms. He also acted as a postoffice clerk.

By this time the Civil War was on and the fighting blood inherited from his revolutionary ancestry could not long resist the call to battle.

In September, 1861, he enlisted as a private in the Twelfth Wisconsin Infantry, one of the fighting regiments. After a few months of service he was promoted sergeant-major of the regiment. His first service was in Missouri and

Kansas, but later the regiment was transferred to the Army of the Tennessee and he was on detached service on the staff of Brigade General Robert B. Mitchell. He served with that army until after the taking of Vicksburg and Jackson, Mississippi, in July, 1863. In August following he was commissioned first lieutenant of Company H, Fifty-eighth Regiment United States Colored Infantry. He was at once appointed adjutant. His promotions thereafter were rapid and he finally became lieutenant-colonel in command of the regiment.

His great ability and industry was noted by his superior officers and he was detached from his regimental command and placed on the staff of Major-General Davidson, where his knowledge of law led to his assignment as judge advocate of the Natchez, Mississippi district. Later on he was promoted to the position of assistant judge-advocate general of the department of the Mississippi on the staff of Major-General Osterhaus, and later on to the same position on the staff of Major-General Thomas J. Wood.

In the summer of 1865 his regiment was mustered out of service which ordinarily would have led to his discharge, but by special order of the secretary of war he was retained in service as judge advocate of the court-martial for the trial of Captain Speed, commander of the Steamer Sultana, sunk in the Mississippi as the result of an explosion of her boiler, with the loss of 1100 lives, mostly paroled prisoners. The captain was charged with criminal negligence in overloading his vessel. The trial was one of the most important military trials growing out of the war. As judge-advocate of courts-martial, Judge Gilson tried many other important cases, and for him it was a very valuable experience in legal training.

Judge Gilson was mustered out of the military service on June 19, 1866, having served nearly five years. In a special order the secretary of war appointed him to the rank of Colonel by Brevet for "efficient and highly meritorious service."

He at once returned to Wisconsin to resume his law studies but decided to attend the Law School at Albany, New York, where he entered at the fall term as an advanced student and graduated with the Class of 1867, taking the examinations in the full course. He was also there admitted to practice in the courts of New York State. He returned to Wisconsin, and early in 1868 opened an office for practice in Fond du Lac and soon built up a large business. He was for a time in partnership with Colonel Gerrit Thorne, who was a very able lawyer; the firm being Thorne & Gilson. In 1874 he was elected city attorney of Fond du Lac, and later was elected and served as district attorney of Fond du Lac County



NORMAN S. GILSON, Circuit Judge

during the years 1877-78.

As hereinbefore stated, he received the Democratic nomination for circuit judge in March, 1880, and was elected to succeed Judge Campbell McLean by over 8000 majority. He was re-elected in 1886 and again in 1892 without opposition. At the close of his third term he declined to be again a candidate.

More than any other man it has been my fortune to meet he respected the judicial office. That was noteworthy of him when he was upon the floor as a barrister and still more so when in the fullness of time he sat upon the judicial bench. He was a large man, more than six feet in height and his military life of over four years, most of the time as a commanding officer, had given him an erect and soldierly bearing which lent dignity to the environment of his court.

It was stated that during the eighteen years Judge Gilson presided over the courts of the Fourth Judicial Circuit there were on the calendars of the four counties 6500 cases; more than one case for each working day of the year. These cases were all tried or otherwise disposed of by him personally, except one term in Kewaunee County held by Judge Parrish, while Judge Gilson held a term for him in Taylor County, and part of a term in Sheboygan County held by Judge Pulling, when he was called away by the death of a relative.

Many of these cases were of great importance, both intrinsically and as precedents for the future. These thousands of cases led into almost every field of statutory and common law, and called for every variety of legal and equitable relief. Some were tried under circumstances of great popular interest and excitement.

To appreciate Judge Gilson, one needed to know him well enough to meet him in private life. Those who saw him only when engaged in his public duties in court, absorbed in the discharge of the task in hand, austere, authoritative and dignified, could make no just estimate of the man.

Very soon after he had taken his seat as Judge, it became necessary for me to visit him at Chambers in Fond du Lac on some ex parte business. I was received at his office with some formality, stated my business and submitted my papers for his perusal.

After a few questions the orders I desired were signed and I rose to take my leave. He remarked my train would not leave for some time, and asked if I had any other engagement. I answered No. He then invited me into his rooms adjoining. We sat down, lighted our cigars and had, for me at least, a very pleasant and interesting visit of nearly two hours. All the aloofness and restraint of the judicial character

was laid aside and we chatted on equal terms as congenial acquaintances.

That line of conduct was not singular nor confined to me. His attitude towards others was the same. In court, dignified, dominating, somewhat austere and with an impressive air of reserved authority; off duty the genial and companionable but always gentlemanly and polite fellow-lawyer.

His conversation was always improving. He kept abreast of the times in other matters than the law, and his views upon public affairs were broad and sweeping, not hampered or narrowed by his political party preferences. His opinions and judgments on such matters were worth hearing, even though the listener felt obliged to dissent.

He was not without a sense of humor. He enjoyed a joke or a good story and his laugh was hearty. He could tell a good story and tell it well, but his mind and talk was clean and healthy and a certain type of what are called "smoking-room stories" was met with a repressive silence.

I have, in common with others, thought that some of the judges I have been privileged to know denied themselves the pleasures of social intercourse far too much. All men are by nature social and enjoy companionship. It is true that people generally expect and appreciate a certain aloofness and austerity as inherent in the judicial office and character. But that can be carried to excess. A man is the better for mingling with his fellows and can better judge of the feelings and motives which sway them, if he comes in frequent contact under various conditions and circumstances. Nevertheless, there is much truth in the old adage, "familiarity breeds contempt." But there is a golden mean between too little and too much; and that each must find for himself.

I do not think that outside of his profession Judge Gilson could be called a learned or even a widely read man. His life had been too much occupied with actual practical work to indulge much in the poetry or philosophy of the scholastic life. His life was work, his study to learn how to work. The hard physical labor of the farm, some terms of school teaching, and clerking, with a year's study of the law in the intervals, then five years as soldier in active campaigning, absent from all books except tactics and military law. He was hard at work making history in that period of life when young men are usually studying it. Then a short course of law lectures, thirteen years of practice at the bar, followed by eighteen years on the bench, when he heard and decided thousands of cases.

Those who, like the writer, knew his style of writing only by his written decisions or findings in law cases, will agree that it was terse and compact to an extraordinary degree, not

a superfluous word, no digression of any kind, yet no essential word lacking. Such a life, such methods of work, afforded little scope for a study or appreciation of literature, art or poetry. In this respect he much resembled his predecessor, Justice Taylor, but he was less absorbed and preoccupied and much more observant of what was going on around him.

I have told elsewhere that I did not support Judge Gilson when a candidate for his first term. He had been nominated and elected as a Democratic candidate. In January, 1886, he had entered upon the last year of the term. The January term of court was in session in Manitowoc. It was nearly the end of the month, and not a word had been said either among the bar or by any newspaper in regard to his election. In the meantime I had become the owner and editor of the Lake Shore Times, a newspaper which was, if nothing else, a stalwart supporter of the Republican party. The judicial election for a successor to Judge Gilson was only a few days over two months away. While sitting in the court room I happened to think of the situation and taking counsel of no one went to my newspaper office, and wrote as strong an editorial as I could in favor of non-partisan elections of the judiciary and urged that steps be at once taken to place Judge Gilson before the people as a non-partisan candidate upon his merits, in accordance with that principle.

The paper came out next day and as the matter was wholly unexpected created considerable stir both among the bar and the newspapers of the circuit. Nor was it any the less effective because I was at that time the chairman of the Republican county committee. The suggestion was immediately acted upon and Judge Gilson re-elected without opposition. At the end of his second term he was elected in the same manner for a third term.

He was still comparatively a young man, only 59 years, when he retired from the bench at the end of his third term. He was fortunate within a year thereafter in receiving the appointment to the new office of state tax commissioner. Although considered as an administrative office it called for much construction and application of new statutes and in that phase was really judicial labor. The work was congenial to him and made him a useful man for the position, increasing rather than diminishing his high reputation as lawyer and judge. He served as chairman of the commission from December, 1899 to May 1, 1911, when he resigned. He was then over 72 years of age. The long and continuous periods of labor spent in the public service as teacher, soldier, lawyer, judge and state commissioner had made heavy drafts on his naturally robust constitution and symptoms of approaching

weakness warned him that it was time to be less strenuous. After his resignation he returned to Fond du Lac, which indeed had been his legal residence ever since the day he settled there as a lawyer in 1868.

He had married on October 17, 1905, Miss Laura B. Conklin, a lady he had known and esteemed for many years, who, I believe, still survives him.

Of all his various phases of life experience I think Judge Gilson was the most deeply impressed by his military experience. His success in that was phenomenal. Beginning as a private in a fighting regiment, he became a regimental commander, and later the valued assistant upon the staff of the commanding general of an army. His talk on military experiences was free, unconstrained and enthusiastic, and a chance meeting with an old army comrade a positive delight. Of the great multitude of civil associations he became a member of but one, but he was from the beginning a member of the Grand Army of the Republic, the Loyal Legion and the Society of the Army of the Tennessee. But interesting and instructive as his military life is to those who knew it and shared in it, he will be best known to the bar and the people of the Fourth Judicial circuit, and remembered longest for his services as an able, conscientious, discriminating and just judge.

He died at his home in Fond du Lac, after a short illness on September 21, 1914.

CHAPTER THIRTEEN

Then and Now

In considering the work of the courts and bar of the pioneer period, it is difficult for those who had no personal experience of life and conditions prior to forty years ago to comprehend difficulties under which they labored. It is difficult to think of Chief Justice Stow riding from Fond du Lac on a pony with an Indian for a guide, following only the trails the Indians had adopted from the wild animals, through the unbroken forest extending from the shore of Lake Winnebago to the waters of Lake Michigan. Imagine him and his guide winding around the heads of the great swamps which existed in what is now the towns of Rockland and Eaton to organize his first court at the Rapids. The only settlers road then reaching to the west from Manitowoc was that to "Thayer's Mills," last called Heinz's Mills, about seven miles out, and the Calumet road even on paper was two years away. If a storm arose or the rains fell, they simply had to go on until they found shelter in the log shanty of some new settler or the bark tepee of an Indian trapper. If the dark night overtook them in the woods they had to stop, build a fire and lie down until daylight.

It is recorded of Judge Wiram Knowlton that he was compelled to make the trip from La Crosse to St. Croix or Superior in the month of February, on snow-shoes carrying a pack of provisions and blankets, considering himself fortunate if he had a chance to go over the crusted snow in a dog-sleigh, with an Indian mail carrier. His circuit comprised nearly the northern one-third of the state, and reached from the north boundary of Grant county in the southwest corner of Wisconsin to the waters of Lake Superior. Except along a few streams emptying into the Mississippi, it was a wilderness. Wilderness or not, there were human rights to be protected by law, trappers, Indian traders, explorers, lumber men, and twice a year at five different points, the pioneer judge went to hear the cause and pronounce the judgment.

I recall a conversation with Judge Howe, in which he told me about being caught in March in a snow blizzard while on the military road from Green Bay to Manitowoc and was

obliged to spend two days and nights in the shelter of a settler's cabin. He was on his way to hold court in Manitowoc and it took him four days to get through. He had forgotten the name of his host but remembered that he was a Frenchman and from his description I inferred that it must have been the old Clifford King, father of the present Clifford King of Cooperstown, or one of the Allie families who lived in that neighborhood.

Each of the circuits had an average of five counties. Some of them had eight, but one county would be attached to a contiguous county for judicial purposes, so that one term of court would include two counties. The terms were so arranged that at least two regular terms were held in each county during the year and in addition to that, all the judges met twice a year at the capitol to hold a term of the supreme court. Thus each circuit judge held twelve terms a year at least. For instance, Judge Howe at Green Bay would be compelled to come to Manitowoc twice a year, in April and September, through the woods, on foot, horseback, or buckboard stage, to hold a court, make similar journeys to Oshkosh, Calumet, Fond du Lac and Sheboygan, and twice a year in December and June go to Madison.

Each of the other four circuit judges had similar arduous duties to perform. They had, perhaps, less travel. Some of the circuits were much smaller, but more thickly settled, and more real law work to do. But in "traveling the circuit" as it had to be traveled in those days, all had an abundance of out-door exercise. For all these services and the real hardships which at times attended them, these pioneer judges received the munificent salary of \$1500 per annum, payable quarterly, out of which they were expected to pay the expense of their travel and living which even in those days of low stage fare and "cheap" hotels was a considerable item. It was not until 1858 that the salary was increased to \$2500 per annum.

It is hardly a matter of wonder that Chief Justice Stow refused a re-election, or that Judges Howe and Gorsline resigned before the end of their respective terms. Changes in the judgeship were frequent in all the circuits of the state. But in those early days the honor of the judicial office was held in high esteem, and considered worth the sacrifice of many dollars. Many men, learned and scholarly, would quickly abandon a lucrative business, to sit even for a short period on the bench of the judge.

But "tempora mutanter," Chief Justice Ryan writing as late as 1876, says sadly: "with all our boast of the present, judicial eminence is not what it was," and yet, when he was appointed to that office at a time when he had no reason to

expect it, and in fact did not expect it, he declared he had reached the supreme ambition of his life.

Justice Timlin, also called to the supreme bench under circumstances the most gratifying, in one of his published opinions intimates that his leaving the forum for the bench was a mistake he regretted. These expressions may have been, after all, only made in moments of despondency or disillusion such as come to all men. But the fact is patent to every one who has spent thirty or forty years of his life among courts and lawyers, that we are losing the ancient respect for the courts, handed down by our Anglo-Saxon forefathers. In that loss we lose the greatest cohesive force in our democratic government. It is the truth that neither in the early day nor the latter, has a place on the supreme or circuit bench been a sinecure or a bed of roses. Then and now it has always meant to a conscientious judge, hard and continuous labor. In the pioneer period there was the added feature of physical stress and exposure to the elements while going to and from the places of their labors.

It was the same with the members of the bar. To "travel the circuit" as the early lawyers were expected to do, and did, involved no little physical discomfort and bodily fatigue. It also involved a good deal of expense in divers ways. In the period of the hot quarrel and excitement over the old Manitowoc and Mississippi River Railway litigation, I several times saw J. D. Markham, S. A. Wood and other attorneys start at daybreak to drive to Oshkosh, spending the whole day riding in some spring wagon, in order to argue some motion or ask for some injunction the day following. Winnebago county at that time formed part of the Fourth circuit.

In the early part of these papers I have spoken of how attorneys who were good walkers would hike out to Green Bay or Menasha to do business at the land offices. The late Judge J. T. Mills has told me often that it was his custom in the early years to send his books and papers on to Madison a week or so ahead of the meeting of the supreme court, and a few days after start out on foot and make the tramp of about one hundred miles in time to be present at the opening of court. He said he did this by preference as it was less fatiguing than to ride over depths of mud and slush or upon roads so furrowed by wheel ruts that they were worse for travel than a plowed field.

The difficulties of travel and also the attendant expense were such that it greatly hindered and delayed the transaction of business, and lawyers were obliged to send away to outside attorneys much work they now do themselves. Your client as a rule did not feel as if he could afford to pay you

for the ten days or so of time spent in going to Madison by stage to argue his appeal in the supreme court. The result was that in such work the local bar became simply a feeder for a big bar at Madison and Milwaukee.

The local lawyer prepared the case and wrote the brief, sent the papers and a retainer to Milwaukee or Madison attorneys who made the appearances in court, and received the credit (when there was any) and most of the cash.

It was not until after a lapse of twelve years that a case appealed from the circuit to the supreme court was there argued by the local attorneys. The case was that of the Chickering Lodge of Odd Fellows vs. McDonald. John R. Bentley was attorney for McDonald and took the appeal, while B. R. Anderson was attorney for the lodge and won the case.

This was the first case in the supreme court handled exclusively by the local bar.

Even the ordinary every day work of the lawyer was not without physical discomfort and hardship. As late as the summer of 1875, I had occasion to take the deposition of a witness in the southern part of Door county. The witness was one of the proprietors of a small pier jutting into Lake Michigan from which shipments of wood, lumber, posts and the like were made. My friend L. J. Nash was the opposing counsel and we arranged that we would drive up there together. I had previously arranged with the witness to have a competent Justice of the Peace on hand to take the testimony as that was important. On the appointed day Bro. Nash and I got an early start and my little bay horse got us up to Stoney Creek pier about 4 P. M.

The time set for the justice to appear was 9 A. M. next morning but we urged the witness to send right out for the justice and we would try and finish his testimony that night. No use; we learned that the judicial officer on whom we depended lived about seven miles out and there was no road except an old logging road. He did, however, send a man out with notice of our arrival and a request that "his honor" would come down as early as possible in the morning.

Next morning about 10 A. M. the justice made his appearance. He was an intelligent German farmer who had only been in this country a little over a year. He had little knowledge of the language and no experience whatever. He at once promptly declared he could not possibly do what was expected of him. I gave my witness a stiff verbal castigation for not doing what I had directed. As he had a deep contingent interest in the litigation and was considered a good business man, his action was a surprise to me.

We were in a quandary what to do. I favored throwing up the whole business and later giving notice before some competent officer in Kewaunee. Mr. Nash declared he could not and would not come back again. We finally agreed that we would have the justice administer the oath to the witness, I would examine him and Mr. Nash would write down the testimony and his objections thereto. In turn he would cross-interrogate while I wrote down the cross-examination with my objections. All this was accordingly done. We entered into a stipulation waiving all objections to the manner of taking the deposition and agreeing that it should be used on the trial subject to the objections taken at the hearing. The justice duly certified that the deposition had been taken before him and had been reduced to writing by "a competent person" in his presence and under his direction.

The question of the expense of the proceeding fell to me as attorney for the moving party. I urged the justice to name the amount he thought would compensate him. He hesitated a long time and at last said "I don't know, you fellows done all the work." "Do ye think seventy-five cents would be too much?"

I nearly fainted, but recovered my presence of mind in time to hand him a two dollar bill, and shifted the burden to him. He was simply overwhelmed at my munificence.

It was about 4 P. M. when we got through and we determined to hitch up and push as far as we could in the direction of home. There was no hotel where we had been staying and we had slept the night before in the attic of an unplastered board shanty which housed the family of the manager of the little saw-mill. We had bunked together on a straw-tick and while I had spent many nights in worse quarters down in Virginia in war time, I had again become accustomed to better surroundings. Mr. Nash had roughed it less than I and was even more fastidious.

My little family horse, made good time in spite of rough roads. We got supper at Kewaunee and pushed on. Between that city and Two Creeks the night shut down black as pitch and soon we were compelled to go at a walk. We finally got to a wayside tavern kept by a Bohemian named Joe Bartosch about a mile and a half from Two Creeks and stopped.

They had retired for the night but we rattled and knocked until they finally let us in. I saw my horse cared for and we got ready for bed. I was just ready to turn in, when Mr. Nash came into my room writhing with pain and declared we must at once hitch up and get to Two Rivers, that he could not stand it and must have medical help. I protested and pointed out that we would have to walk the horse the whole

way, if we did not break down before we got a mile on the road. He declared he could not stand it and would start out on foot alone, to where he could get a doctor. Of course I could not consent to that. His limbs were spotted with red blotches from the ankles up which burned like fire. I could see that he was seriously alarmed. As I looked I recognized the well defined traces of old acquaintances I had met several times in my army life and began to laugh. Until then I had not felt anything much, but suggestion compelled my attention and I found on my person half a dozen or more samples which matched exactly.

What had happened was, that our sleeping place the previous night was placed directly against the board partition walls, and during the night a procession of insects, genus *lectularius*, (Anglice—bed bugs) had made a bridge of the bed clothes and marched over. They found my friend Nash plump and very much to their taste and stayed with him. As I was dry picking, being rather attenuated in those days, I escaped except where some samples had been taken.

Brother Nash's mind being now relieved from the visions of Scabies, Erysipelas, Small-pox, etc. which had begun to haunt him, asked if I did not know of something we might use to alleviate the pain and itching we now both felt. I recalled an old and rather rough remedy we used in the army when bitten by wood-ticks, and like poisonous insects, the foundation of which was the strong salt brine from our pork barrels. He routed up the landlady got a pitcher of boiling water and a bowl of salt, with a couple of other simples from which we concocted an imitation which we rubbed vigorously into our sore spots. Mr. Nash went to his room. I waited about fifteen minutes and taking my candle went to his room. I found him sound asleep, sleeping the sleep of the weary and unbiten. I followed his example.

Next morning we were up betimes. Mr. Nash declared himself perfectly cured. We had breakfast and had our horse and buggy brought around immediately after.

Nearly all the way to Two Rivers the road was a mass of clay half-dried and cut up into ridges and ditches, which tossed our buggy up in the air and from side to side, so that we were compelled to go slowly and exercise the greatest care. We realized then what would have resulted had we attempted to pass over it in the blackness of the previous night. It was well into the afternoon when we reached Manitowoc, too late indeed to do any effective work that day. That deposition had cost us three days' work with its attendant discomfort.

The following winter I had another unpleasant experi-

ence. I had a case pending in the U. S. Court at Milwaukee involving the validity of municipal bonds issued by a town in aid of a railway.

It was necessary for me to obtain certified copies of the proceedings as recorded in the town books. I left Manitowoc by railroad about ten o'clock P. M. and got to New London junction about two o'clock next morning. It was terribly cold, the mercury in the thermometer showing a good many degrees below zero. I had to spend about three hours in the station waiting for an early morning train to Green Bay. I paced the floor to keep from chilling. I finally got to my destination, a little way station about half way to Green Bay and was dumped out on the snow, to shift for myself, as best I could. No one was stirring and in the grey morning I wandered from house to house until I came to a sign which intimated that fluid refreshments and warm meals could be had within. I pounded vigorously on the door and finally a sleepy looking half dressed man let me in. He reckoned "it was cold out," and I confirmed his reckoning with emphasis. He proceeded to build up a fire in what was evidently a combination of bar-room and waiting room, and in due time a plain but substantial and bountiful breakfast was served in a small, but cold and fireless, dining room. After breakfast I made inquiry and found that the town clerk lived "out in the woods" about three or four miles. I tried to get some one to drive me out there in a sleigh of any sort, but nothing of that kind was to be had though I declared myself ready to pay almost any price. There was nothing left except for me to proceed on foot to interview him. The last half of my journey was through unbroken snow nearly up to my knees. I found my man just as he was getting ready to go to work for the day. He was suspicious that I was about to take some advantage of him in the pending lawsuit of the town, but I assured him that I asked nothing but what I had a right to take if I paid him his fees. I urged him to stay and help me, offering to pay him more than twice as much as he could earn in the woods, but to no avail. He had promised to go and the crew was short two men already, and go he must. He consented to allow me to take the copies I wished and his good wife fitted me out with a small table in the kitchen (the only warm room in the house) and there I worked all day and far into the night copying records, and preparing certificates for him to sign.

Early in the evening he returned and after supper we worked till nearly midnight comparing and certifying the copies. Incidentally he told me that he had gone straight to the town chairman to find out what right I had "to go over

them books" and that the chairman had told him, everybody had a right to look over the books, but to be careful and see that the copies were right before he signed any certificate. He was much more affable than in the morning, and as it was very late I was invited to stay all night. The cold was still intense, the night dark. I had no inclination to face a tramp of four miles through the woods with a good chance of losing the track and wandering about till daylight, in order to reach the little hotel at the station.

In due time I was conducted up stairs to the guest chamber which as usual in such houses was the furthest possible from the influence of any fire. It was a chamber of horrors. The bare plastered walls were covered an inch deep with ice and white frost from the frozen vapors, from the rooms below, the windows thick with ice and frost.

I prepared myself and tumbled into bed but the frozen sheets seemed to extract every particle of heat from my body, and my teeth rattled like castanets. After a little, I jumped from the bed, dressed myself, with the exception of my boots, put on my heavy overcoat, buttoning it tight. I even put on my fur cap drawing it down over my ears. I indulged in a series of active calisthenics, swinging my arms and lower limbs, pounding my body with my fists to induce circulation of the blood and then rolling myself in all the bed clothing threw myself on the bed and awaited results. I felt myself accumulating a little warmth and fell asleep. Several times I woke up and though I felt the cold was able to endure it. At last I heard the family stirring. I threw off the bed clothes, took off my overcoat and cap to save appearances put on my boots and went down stairs where I joined the family crowding around the kitchen stove. After a time we had a plain and substantial breakfast. I gathered my papers and other matters together, and settled with my friend the clerk for his fees and costs of certificates. He did not want to accept my compensation for his hospitality but I insisted on it. They had done the best they could for me, but I look back upon that night as one of the most miserable in my life. Taking my satchel in my hand I walked to the station in the sharp frosty air getting warmed up by the fast walk. After an hour or so of waiting, I got a way train to Green Bay. Another long wait of several hours, then a train to Appleton Junction. Another wait of long hours and near evening a train for Manitowoc where I arrived thoroughly exhausted from work and loss of sleep.

These two instances are simply two out of many similar ones. They were the same in the experience of every lawyer

in general practice. That was forty-six years ago. Pioneer days and ways were still existing. Railways alleviated matters somewhat where they existed, but connections were bad and even where there were railroads, for work within a radius of forty miles a good driving horse was generally preferable.

In either case lawyers who practised in those days could tell of many instances of real hardship.

CHAPTER FOURTEEN

Some of the Pioneers

It was not my intention when I began writing these sketches to do more than collect what facts I could readily find scattered in various places, which had relation to the earliest courts, judges and lawyers of the county, unite these to my personal recollection of the traditions of older settlers, and my own observations, and place them in compact form for some future writer. But the interest manifested by many of the old settlers in various parts of the county in the sketches as they have appeared from time to time, and especially the interest shown by the members of the bar associated with the writer at periods during the past fifty years has led him to bring down the story to a much later date than intended. The judicial history of the county has been fairly well covered for the period extending from the first foundation in 1849 to 1880. The pioneer period may be considered to have ended in 1873 for at, and after, that time we had railway connection with all parts of the circuit except Kewaunee, to which place we were compelled to go by stage or private conveyance, until after 1911, when it was transferred to another circuit. True we had railway connection for some years previous by a very round-about course.

Of the original Fourth circuit there now remain only the counties of Sheboygan and Manitowoc and the large and diversified interests of these communities furnish enough judicial work to satisfy the ambition of any ordinary mortal.

For the present the writer will not bring his work down to a later period than it has now reached, but will look back to the early days and write more particularly of the early lawyers, especially those who were prominent in professional work, and identified with the growth and development of the county. Nearly all of these have been mentioned in a general way, but little of the personal history of any of them has been given and of some of them their origin and history will very probably never be known. Unquestionably the first lawyer of Manitowoc County was

JEREMIAH H. W. COLBY

The exact date of his arrival in Manitowoc is not known. It is certain he was here early in 1846, and he may have come the year previous. He was born in New Hampshire in 1822. Soon after he came he was appointed agent for the large land holdings of the Hinkley and Allen interests, one tract of which comprised about half of the present city of Manitowoc. He has the distinction of being the first postmaster of Manitowoc, and when the county was organized for judicial purposes he became the first county judge. After serving his term as judge he was elected as district attorney, serving in that office from 1851 to 1853.

After he came here he made the acquaintance of Emily Jones, the oldest daughter of Benjamin Jones, founder of the city of Manitowoc and they were married in the fall of 1850. Mrs. Colby survived her husband many years and died at a good old age in Chicago, never having married again.

Judge Colby was a highly educated and cultured gentleman, a graduate of Dartmouth college, and had received a thorough training in the profession of law before he came from the East. He died on May 10, 1853 and it may be a fact worth noting that his interment was the first held in the present Evergreen cemetery.

The writer remembers well seeing Judge Colby, and hearing him spoken of affectionately as "Jerry Colby."

EZEKIEL RICKER

It is a question which cannot now be solved, whether Ezekiel Ricker or James L. Kyle was the second lawyer to reside in Manitowoc. They came about the same time, in the summer of 1846, and until their death were identified with the profession.

I have been fortunate in obtaining from the daughter of Ezekiel Ricker, a good amount of reliable information respecting this pioneer lawyer. He was the son of Ezekiel Ricker and Nancy Hurd Coffin, and was born at North Lebanon in the state of Maine, December 3, 1819. His ancestry was of good pre-revolutionary stock on both sides. After his primary schooling he attended an academy at North Parsonfield, Maine, and later went to an academy at North Scituate, Rhode Island, where he studied for some time.

Like nearly all young men of scholarly tastes or having a predilection for professional life in that period, he became a school teacher for a time and taught schools in both Rhode Island and Maine.

About the period 1843 to 1845 he became a student in the office of one of the most eminent lawyers this country has produced; Hon. Nathan Clifford of Newfield, Maine, sometime attorney general of Maine and later a justice of the supreme court of the United States. In this office he had as an associate and fellow student in the law, S. A. Wood, his cousin, who is elsewhere mentioned in these papers.

Justice Clifford's departure from the state of Maine, upon the high diplomatic mission which resulted in the noted treaty between Mexico and the United States, of Guadalupe Hidalgo, sent these young students elsewhere to complete their studies.

Mr. Ricker early in 1846 took a partial course of lectures in the Harvard Law School, then in its infancy. In the same year he came to Manitowoc, where in the backwoods he began the practice of his profession, specializing in real estate matters. That he expected to make Manitowoc his permanent home was soon thereafter demonstrated. He became deeply interested in a young German lady, and on Christmas, 1849, was united in marriage to Emelia Melzner in the little village. This must have been one of the first, if not the very first, of the many marriages between the New England Puritan element and the German immigration which have occurred in Manitowoc.

In 1850 Mr. Ricker succeeded J. H. Colby as county judge, serving during 1850 and 1851, and in 1852 and 1853, he represented the county of Manitowoc as member of assembly, making a mark as an efficient and influential member of that body.

In connection with his law office he established a private land agency, acting as agent for non-residents who held large landed interests, in this locality. He was the second to represent and care for the great Hinkley and Allen interests, when Judge Colby resigned them on account of failing health. The reception indexes in the public registry for the period from 1847 to 1854 show his real estate business to have been quite extensive.

It is rather a strange fact that there is no record on file showing when or how he became a member of the Wisconsin bar. That he was a trained lawyer before he came to Wisconsin Territory is presumptively true. A relative informs me that it was the understanding in the family that he was admitted to practice in the district courts of Maine, at Alfred, the county seat of York county, his father having been for many years clerk of court for that county.

It is reasonably certain that he was the first lawyer from Manitowoc county to be enrolled in the Supreme Court. His

certificate of admission to practice in that court on January 29th, 1850, signed by Jerome R. Brigham, clerk, and sealed with the seal of "The United States Supreme Court, Wisconsin Territory" is still in the possession of his descendants. (The State Supreme Court had not yet adopted a new seal).

The late Mrs. Dorothy Waldo, who was his cousin, said of him, that he would have been very successful in political life had he lived, as he was well adapted to that field of endeavor and was full of ambition for political preferment. Facts would seem to bear out her judgment. On the organization of the county for judicial purposes he became the first clerk of the circuit court. At the end of Judge Colby's term, he succeeded him as county judge. He held this office for two years and was elected for two successive terms to the legislature, and held that office at the time of his death.

He died a victim of the cholera epidemic, on August 11, 1854.

JAMES L. KYLE

There is little to be added in any sketch of Mr. Kyle to what has been already said in the general history of the bar. Nothing of his ancestry or birth can be traced. The little estate he left at death was administered by a creditor on behalf of creditors and nothing appears to have been known, even in those early days, of any heirs or kindred.

All that is left of him is the occasional "Foot-print on the sands of time" made in his short life of about six years as a Manitowoc barrister.

In 1849 he was a candidate for the state senate on the Whig ticket but was defeated by Charles Kuehn, the vote being 182 to 132. In the fall of 1853, the Whigs were victorious and Kyle was elected assemblyman by a large majority, although the county gave Barstow, Democratic candidate for governor over 600 majority.

This would seem to indicate that the personality of Mr. Kyle was a forceful one.

Under the Whig administration of Presidents Zachary Taylor and Millard Fillmore from December 4, 1849 to April 29, 1852, Mr. Kyle served as postmaster, being succeeded by James Bennett who held during the balance of President Fillmore's term.

During the years 1853-1854 he was district attorney and held that office at the time of his death, Nicholas Wollmer being appointed to serve the balance of his term. It will be noticed that he held at the same time the offices of assemblyman and district attorney. There are several instances of that

kind, in the early period.

As stated he was a victim of the great cholera epidemic which prevailed from 1852 to 1854. He died on June 19, 1854.

E. HOLMES ELLIS

While the connection of E. Holmes Ellis with the pioneer bar of Manitowoc county is measured by the short term of a little over four years, it has an importance beyond the mere fact of its duration. It may be said that he was connected with the county all his life, for he was born in Green Bay, August 26, 1826 when the territory of Manitowoc county was a part of Brown. His father, Gen. Albert Ellis, had quite extensive lands and other interests in this county at and before the year 1837, and he also was the United States surveyor who surveyed the government lands comprised in Brown, Manitowoc and Kewaunee counties, on the extinguishment of the Indian titles thereto.

E. Holmes Ellis, after the custom of the times studied law in the office of Henry S. Baird, the first lawyer to settle in the Territory of Wisconsin, and was admitted to practice as soon as he became of age, which was in August, 1847. In November of that year he came to Manitowoc Rapids and opened an office. He practiced here until 1851, or a little later. He then returned to Green Bay and was identified with that city and with the county of Brown all his life. He was mayor of Green Bay and register of deeds for Brown county. He engaged in the practice of law and became judge of the circuit from 1872 to 1879. Declining health compelled him to retire from the bench.

While Mr. Ellis was located here he was very active in all measures for the best interests of the community. It is recorded that in May, 1849, a meeting of teachers and others interested was held at the Rapids at which the state superintendent of schools, Eleazer Root was present. It may be noted that Mr. Root was the first incumbent of the office. A permanent association was organized of which Mr. Ellis was secretary.

When St. James Episcopal church was organized (known first as St. James Mission), on February 28, 1848, Mr. Ellis was one of the twenty-seven communicants who made up the membership. Their meetings were held in the upper rooms of the pastor's home. In these and many other ways he identified himself with measures for the public welfare, seeking for himself and others the best things.

Early in my practice I made a good many appearances

before Judge Ellis at Green Bay and Sturgeon Bay and became well acquainted with him. He always kept up his interest in the early settlers he knew at the Rapids and Manitowoc. He invariably inquired for them, calling them by name, the Borcherdts, Pierces, Hubbards, Jones's, Perry Smith, S. A. Wood, etc. On one occasion he said, "I never spent any part of my life so happily as at the Rapids, down in that little hollow among the hills, with the little settlement of whites and the Indians camping all around us.

Judge Ellis's whole life was fulfillment of the promise of his first professional years in Manitowoc; just, honest, using his influence and power for good, he won the respect and approval of all who knew him, and about fourteen years ago passed on.

GEORGE REED.

I made but little mention of this member of the pioneer bar in my general sketch, because he was one of those selected for special mention. George Reed, as he was called when I first began to know him about 1854-55, came to Wisconsin at a very early date. A member of his family informs me that he was a resident of Chicago as early as 1830. Just when he decided to make his home in Manitowoc does not appear, nor is there any formal record, when he became a member of the Manitowoc bar. He removed first from Chicago to Waukesha County, Wisconsin, and was also in Milwaukee for a time. In the winter of 1846 he was a member of the first Wisconsin Constitutional Convention as one of the representatives from Waukesha county. He also represented that county in the Territorial legislature of 1847 and 1848.

The first mention I find of him in connection with the Manitowoc bar, is in the first number of the Manitowoc Herald, issued November 30, 1850, which contains his business card as a practicing attorney-at-law. The fact that there is no mention of him in the court records, previous to the publication of this card, indicates that Judge Reed's connection with Manitowoc began some time in the spring or summer of 1850.

What information I have is to the effect he had been admitted to the bar in the East before coming to Illinois and had probably practiced at the Illinois bar, before coming to Wisconsin Territory. He was doubtless admitted to practice in the Milwaukee or Waukesha county circuit which would make a license in Manitowoc unnecessary, though a court clerk should always keep a record of the resident bar. In any event the September Term of 1850, found him in Mani-

towoc engaged in general practice. From all I can learn his early practice was largely in connection with real-estate matters, which was practically true of all lawyers at that period.

I came in quite close contact with Judge Reed from 1855 onward. The Reed family were members of the First Presbyterian Church congregation and my parents were members of that church, my father being one of the elders. The Reed children, except the oldest daughter, were my schoolmates, so that we associated in many ways.

I cannot recall that after 1855, Judge Reed had any regular office for law work. He was a man who was around a good deal and one to be reckoned with in the community. So when the village of Manitowoc was incorporated on May 13, 1851, he became the first village president.

On January 1, 1853 he became county judge of Manitowoc County, and served a term of two years. On his retirement from this office I think he ceased to seek for general practice, although from time to time he appeared in court and kept in line with the profession. He did much work at his house, where he had a room fitted up, and really was what is called an "office lawyer" or in a certain sense a "promoter." I do not think he had any taste for the "rough and tumble" work of the frontier justices' courts, trying "hoss cases" or collecting store bills.

He was a man of large views. He filled the future with great projects to be carried out with large aggregations of capital. He was interested in several plank road projects and built a few miles of one which remained a toll road until purchased by the county. He was a large factor in several railway projects, and was the storm center of the great litigation which grew out of the early effort to construct what was called the Manitowoc and Mississippi Railway, beginning about 1854. It developed a feud which divided the people into two nearly equal factions, known as the Reed and Jones factions, each contending that the other was to blame for obstructing the building of the railway. The result was that no railway was built for more than twenty-five years afterwards. The few now living who can recall to mind the personality of Judge Reed will say that he was a marked man in the community, always clean shaven, neatly dressed, polite and graceful in manners, suave and interesting in conversation, he attracted and held attention at once. Had he possessed or controlled capital to carry out his plans he would have been a great power in the development of Wisconsin. He was repeatedly elected to represent Manitowoc County, in the State Senate, and held that office continuously from 1865 to 1870.

Judge Reed happened to be a guest of the Newhall House

at Milwaukee, Wisconsin, when that hotel was destroyed by fire on January 15, 1883, and lost his life in the conflagration.

He was without doubt one of the ablest men in Manitowoc in his day, though much more a man of affairs than a lawyer.

Perhaps the most prominent lawyer to come to the bar after George Reed, in the order of time, was Sylvester A. Wood.

SYLVESTER A. WOOD

This lawyer came to Manitowoc County on October 26, 1849. Although he had been admitted to practice his profession in the State of Maine the year previous, he did not identify himself with the legal profession here at once, but was principal of the public school in Manitowoc for two years, and also followed other temporary occupations, such as book-keeper, clerk, etc.

Sylvester A. Wood was born at Acton, York County, Maine, on January 14, 1822. He lived at Acton and also at Newfield in the same county, where he received a public school and academic education. He turned his attention to the study of the law soon after he attained his majority, and had for his preceptor no less a personage than Honorable Nathan Clifford some time attorney-general of Maine, later famous in diplomatic history as the commissioner to Mexico who negotiated the Treaty of Guadalupe Hidalgo, and still later as a justice of the Supreme Court of the United States. When Justice Clifford closed his office in Newfield, Mr. Wood went to Portland and entered the office of another famous lawyer, William Pitt Fessenden, later United States Senator. He also attended a course of law lectures in the then infant law school of Harvard University.

He was admitted to the Manitowoc bar at the village of Manitowoc Rapids during the March Term of the Circuit Court in 1853, Judge Tim. O. Howe presiding. James Kyle of Manitowoc, J. M. Schafter and E. Fox Cooke of Sheboygan were the examining committee, and on their favorable report on March 25, 1853, he was admitted and sworn as an attorney. Mr. Wood did justice to his training. For about ten or twelve years he had a very large general practice. But he became attorney and agent for some very large real-estate holders, and these trusts required so much of his time and attention that he gradually drew out of general professional work and devoted himself entirely to their management.

He was, and is, specially noted by the bar for a very complicated and voluminous partition case brought to clear up and quiet title in a very large number of holders of lots in

a tract of land within the city limits of Manitowoc.

Mr. Wood was a man of a high sense of honor, and possessed of ideals both as man and lawyer that were of the very highest type. He was never politically ambitious, and although he took part in the movements of his period held only the offices of village clerk, village president and, at an early date, postmaster. When the village was chartered as a city he was also elected by the council as the first city attorney.

He was a man of wide culture, varied reading, a close and deep thinker, but one had to know him well and intimately to recognize and judge of these traits. He died on August 12, 1908, at the age of eighty-six years, six months and twenty-eight days. He had been an enrolled member of the bar for over fifty-five years. At the time of his death the members of the bar adopted suitable memorial resolutions and at the January Term of court following, these were presented to the Court with suitable addresses to be entered on the record.

Judge J. S. Anderson, E. G. Nash, Robert H. Markham, and Edward L. Kelley, of the bar, delivered addresses. All had known deceased during the greater part, some the whole, of their lives, and they spoke with deep feeling and eloquence.

In response, Presiding Judge Michael Kirwan said, in part:

"I heartily agree with the remarks which have been made by the attorneys who have spoken upon this occasion. . . . As a citizen of this community, the high character, sound judgment and never-questioned integrity of Mr. Wood secured for him the regard of his fellow-men in a marked degree. During the active years of his residence here, he was conspicuous in all movements which were intended to promote the advancement and welfare of the city. The extent to which he possessed the confidence and respect of its people, together with his well-known qualifications and reliability gave him so large a measure of influence that his co-operation in all such movements was sought because of its importance. . . .

"He will be remembered here as a capable lawyer, a prominent and much esteemed member of this community, and as a man whose conception of the privileges and duties of citizenship was so exalted as to be almost idealistic. The resolutions presented by the bar are adopted and will be recorded by the clerk. . . ."

CHAPTER FIFTEEN

The Pioneers (Continued).

GEORGE C. LEE

Judge Lee made his first appearance at the Manitowoc bar on September 30, 1854, at the same time as L. T. Warren, elsewhere mentioned. As in the case of James L. Kyle the facts relating to him are very little known, and considerable search has failed to yield any reliable information.

As I remember him he was a man about twenty-eight years of age, dark complexion, dark grey eyes, always neatly dressed, as the saying is, well groomed. His hair and beard were black, a lustrous black. He wore his hair rather long, and curled under, while his beard was closely cropped. Though only about medium height he was very dignified in his bearing, studiously polite, both in manner and speech.

Of his ancestry and residence before he came to Manitowoc I have learned absolutely nothing and as his entire stay here was only about five years he appears to have been soon forgotten. He was a bachelor and had not founded a home, but lived at the hotel on York Street, later known as the Windiate House, all the time I knew him. I have only a hazy impression that Charles H. Walker at some time told me he came from Ohio, and that he knew him there. Judge Lee must have been elected or appointed county judge very soon after his arrival in Manitowoc as he served in that office during the years 1855-56, and was considered a very capable and efficient officer. Soon after his retirement from the duties of the county judgeship he entered into partnership with Charles H. Walker for general practice. The firm was a very strong one. Both members were very able men, well educated, and exceptionally well read in the law. They did a large business for those days, when the interests at stake were small as a rule.

In 1857 to 1859, Judge Lee held the office of district attorney, a position much to his liking, for he was a good trial lawyer, delighting in oratory and court work generally. He was a very ready speaker, off hand and fluent without notes or manuscript, and declamatory in style. He held the attention

of his audience whether a crowd or a jury by forceful delivery or expression. The Manitowoc Herald in 1856 noticing his Fourth of July oration at Clark's Mills, before an audience of some hundreds, says:

"It was the finished production of the thinker, and the scholar warmed into eloquence by the fervid glow of patriotism, which was infused into every sentiment."

Walker always spoke of him to me as a great scholar and student, more inclined to literature and literary subjects than the law, although he was a good lawyer. His end as a lawyer was sudden and tragic. It must have been in the fall of 1859, possibly 1860, that I strayed into the court-house, the court being in session. Some case which had attracted popular notice was being tried and the room was crowded. Judge Lee, then district attorney, was addressing the jury in his impetuous and dramatic way when he suddenly stopped, swayed slowly from side to side and sank to the floor. He was carried from the room in the midst of much excitement, and received the best of care. But his life work was ended. An apoplectic stroke with resulting paralysis terminated his career. He recovered to such an extent that he was able to walk a short distance, but never could resume work. After a short interval he went East and after a few months there was mention of his death.

Judge Lee was very popular and had he lived would have been a great power in the community.

CHARLES H. WALKER

Charles H. Walker was one of the strongest men in many respects, that practiced at the Manitowoc bar. He was born in Tully, Onondaga County, New York, September 5, 1828. The family removed to the "Western Reserve" in Ohio at an early date and from there came to Wisconsin, while yet a territory. While in Ohio Mr. Walker graduated from Western Reserve College, and when he came to Wisconsin studied law in the office of Fred S. Lovell, Esq., a very prominent lawyer of Territorial times, then located at Kenosha. He was there admitted to practice and remained in that city for a year or so. In the fall of 1854 he came to Manitowoc and entered on practice, forming a partnership with George C. Lee. The firm was a strong one and almost from the first did a very large business, for that period.

Of course it was expected of all members of the bar that they take a hand in politics and if a man had any gift in speaking the opportunity to use his gift was always present. There were big questions before the people. The Missouri compro-

mise, the Dred Scott decision, the Fugitive Slave law, Slavery in the Territories, and other propositions were all aired to eager listeners. "Charley Walker" was a fluent speaker and was in demand at once. He was a great favorite in the Irish settlements. He was a candidate for the assembly in 1855, and in one of his stump speeches down in Meeme referred to Ireland and intimated that he was himself of Irish ancestry. The result was something of a joke on him, for one of his Irish admirers jumped up and shouted, "There's for ye, Hooray for Paddy Walker." He got the cheers and later got the vote which elected him. He also got the nick-name of "Paddy Walker," which stuck to him till he left the county to take part in the Civil War as Captain Walker, of the Twenty-first Wisconsin, returning as major commanding the regiment. He was elected for a second term in the assembly and in 1858 was elected as county judge. He was re-elected in 1860 and was acting as judge when he resigned to enter military service.

I was brought into contact with Mr. Walker in many ways and our lives touched at many angles. He was between thirteen and fourteen years older than I, so that in my first knowledge and acquaintance with him we were not intimate. In my soldier experience in the Civil War, I served under his only brother, who was killed in battle, by my side, and when I returned at the end of the war my added years and the sobering influence of soldier life, had dispelled most of the difference of age. We met more as equals, and he treated me as such. I delighted in his companionship. He had read much in the old English authors, and delighted to talk about them and quote from them. Charles Lamb's Essays, Coleridge, De Quincey, were favorites. Nor was he lacking in knowledge of the best American writers. At the time I was a student in the office of J. D. Markham. O. F. A. Greene was in the office of Walker. I would quit my work about half-past four or five o'clock and go up to their office and join Greene for a walk.

I have said Greene was a scholar from the ground up. Often we would get into some conversation about some literary topic. Walker would join in and we would forget all about the walk, in the interest that one or another brought out in the course of our talk.

My memories of Walker are linked to many interesting hours of that kind, as well as many acts of friendly interest. When I went to Appleton to take the course at Lawrence University, it happened that there were many of his old army comrades residing there, officers of his old regiment. To these he gave me letters of introduction, and I was received with open arms as "the friend of Charley Walker."

On my return from college in vacations and after gradua-

tion, he always showed a lively interest in my welfare and gave me much helpful advice. He urged me to present myself for admission to the bar at the time I did, though I was disposed to take more time for preparation.

He was one of the examining committee, and I rather suspect steered the examination into channels he had reason to know I was familiar with.

At the period of which I have been writing, viz.: just after the close of the Civil War, Major Walker was a widower. His first wife, whom he had married about the time he came to Manitowoc, died just previous to the outbreak of the war, leaving him with a little girl, who was cared for by his sister. During war time he was married to Miss Ione Carpenter, who lived only about a year thereafter, dying while Walker was at the front. Deprived of home-life, and at the same time living in hotels, Walker spent many of his evenings in his office reading books and magazines of general literature and some of the younger men would find their way there and spend their time both pleasantly and profitably. About that time my father died, so that the old home was broken up, and like Walker, Greene, Don A. Shove, L. J. Nash, and G. A. Forrest, I led a bachelor life. This cured itself, for in about two years the whole batch were married. When wandering down town in the evening we would see the lights in Walker's office and it seemed the most natural thing in life to run upstairs where Greene or Walker, or both, would be found and general conversation would ensue.

Our talks were not in the least formal, but took a wide range. Politics, religion, literature, our law studies, and occasionally our war service, for nearly all had been in the Civil War.

Major Walker was a companionable man and looked upon home life as an essential thing. He married again, about two years after his return from the war, a widow lady of Sheboygan County. The marriage proved a happy one. He opened up the home he had built when he first came, and made it a center of hospitality. For several years he pursued the work of his profession with energy and success. Like all other men he had his weak points. He was what is called a "high liver." He was not a habitual user of intoxicants and in that respect, especially after his return from the war, was very temperate, but he was an inordinate eater of rich foods. In consequence he became full-blooded, plethoric, resulting in the bursting of a small blood vessel in the brain, an apoplectic stroke. It was not a severe one and he soon rallied and made a considerable recovery, but physicians warned him that mental labor and sedentary life was at an end. They advised him

to take up some occupation where he could be out of doors, and lead a quiet life.

He purchased as a farm the most beautiful and picturesque spot in Manitowoc County; the place now known as the "Fricke farm," near the Rapids, and built the residence thereon. His old clients and political friends among the farmers welcomed him to their neighborhood and at once elected him town supervisor, and when he appeared at the county board in 1876 he was elected chairman; the only lawyer who ever held that position.

I have referred to his fine literary tastes. He was very active in the organization of the old "Jones library." The selections of books for the library was made almost wholly by Mr. Walker and Henry Sibree and some of us who depended upon it for our literary pleasures can testify to the uniform excellence of the collection.

As to his ancestry I have told the story of how he received the name of "Paddy Walker." I do not recall the facts if I ever knew them, but the impression in my mind from talks I had with him is that his ancestry was as much English as Irish, with a liberal addition from Holland through what was known as the "Mohawk Dutch" of New York. The family came to this country some three or four generations before Walker was born so that he was about as nearly American as any one could be. His father, Lyman Walker, at the period of which I am writing lived at Ahnepee (now called Algoma) and had in quite old age been admitted to the bar. When Kewaunee County was organized he was elected district attorney and one of Mr. Walker's duties was to go to Kewaunee and try the old gentleman's cases for him.

Mr. Walker lived on his farm about two years. For a time his health seemed to improve, but the end was at hand. Another stroke followed, and another, and on November 14, 1877, he died at the age of forty-nine years.

W. H. HAMILTON

The bar of Manitowoc County have always been fortunate in having some men hold the office or jurisdiction of justice of the peace who had a good legal education, and in a number of instances were members of the bar with a full legal training. It is quite probable that questions as difficult and important as those arising in the higher courts may be raised in a justice court case, and it is some satisfaction to an attorney to know that the person before whom he argues the question is capable of understanding the force of his argument.

One of the earliest and best of these was W. H. Hamilton

who joined the bar early in 1855, or the winter of 1854. He was a practicing lawyer, who came from Racine. He was then a man of middle age, and being elected justice of the peace, qualified and soon was trying the greater part of the cases brought by the attorneys in the city. He was well grounded in the law, eminently fair and just, and was re-elected for many years. He also practiced in the circuit and county courts very successfully.

In 1855 and 1856 he was district attorney, handling the business of that office very satisfactorily. He remained in Manitowoc until after the Civil War broke out, trying cases as justice and doing some general practice. When E. B. Treat first came to this bar he formed a partnership with Hamilton, and they made a very busy firm. During the war many of the members of the Racine bar had entered the military service, and Mr. Hamilton was urged to return there, which he did, and practiced successfully for a number of years. "Squire Hamilton" had a large and interesting family. Some of them near manhood and womanhood were my school mates. His two older sons entered the army in the Civil War. The oldest was killed in one of the battles in the west, and the younger wounded and crippled. They served in the Seventh Wisconsin Battery, and "Squire Hamilton" volunteered with his boys and was made lieutenant, but was discharged before the battery left the State. The younger son came out of the war with the rank of captain.

I know nothing more than I have given of Mr. Hamilton's antecedents, and of his subsequent career have been able to learn little. He was, as his name indicates, of Scottish ancestry. During the period of about ten years he remained with the Manitowoc bar he did a great deal of the hard but necessary work of the profession. It was work of the sort but little noticed and which brings little of fame or notoriety, and not much wealth, but which the profession appreciates when well done.

JOHN D. MARKHAM

John D. Markham, who has been frequently mentioned in these pages, was born in Wilmington, Essex County, New York, on April 23, 1828. He was a man of full age when he decided to enter the profession of law, and had only a common school education. He at once entered an academy and devoted himself to general study for a year or two, teaching school at intervals.

Later he entered the law office of Kellogg & Hale, as student and clerk and after due preparation was admitted to

practice in the New York Courts on July 5, 1855, when a little over twenty-seven years of age. He continued in the office where he had studied until May, 1856, when he came to Manitowoc, looked over the prospect and decided to locate. He was soon in active practice. He was fortunate in the time of his coming, for in the fall of the same year, Wisconsin adopted the New York Code of Practice to take effect March 1, 1857. This practice, of course, was entirely familiar to him, and gave him a decided advantage over attorneys familiar only with the common law procedure.

Mr. Markham devoted himself to the practice of his profession with great energy and success, and for more than thirty years was an exceedingly busy lawyer. Before the end of that period his two sons had grown to manhood and been admitted to the Manitowoc bar. He associated himself with them for a time and gradually withdrew from business, taking life more easily. When he died in 1906 he had been a member of the bar of Manitowoc County a little over fifty years.

At the January Term of Court in 1907 very interesting obituary exercises were held. Addresses were delivered by J. S. Anderson, L. J. Nash, and G. A. Forrest, the three senior members who had been his associates in the early years of their practice, and replied to by Judge Michael Kirwan.

Judge Anderson spoke of the early members of the bar and said, "there were able men among them, but he was equal to the best and to me he always seemed to tower above them all." "In the course of his work he was matched with many eminent in the profession and so far as I know never shirked the contest."

Mr. Nash said, *inter alia*: "Mr. Markham was a man who saw very directly and with swift glance the decisive facts of a controversy and he took hold of the rough, raw litigation of a new country with that success which came from the strong vigor of the man himself . . . He was a wonderfully keen cross-examiner, and if he got after a witness who was in his judgment a prevaricator, why, the thunderbolts themselves were apt to fall upon him, . . . I am able to say of him that his feet were away above all the cess-pools and crooked run-ways of professional life. He was absolutely true to his client. He was not willing to prosecute for any client a case that he honestly believed ought not to be won. . . . He could not become a party to anything unmanly, even though it might be classed as strictly within the letter of the law. But there are higher standards, and I think Mr. Markham left us an inheritance of something in the way of professional standards that look to the manliness of the transaction and the eternal justice of the case; and that he in fact

made those higher standards the test of his engagement in his professional services."

Mr. Forrest, in the course of his remarks, said: "I found when I came here thirty-seven years ago that Mr. Markham was a strong man at this bar, by almost universal testimony. I was told that Mr. Markham drew his custom and his business not through any personal or social effort on his part—although he could not help being sociable—but by his industry, by the assurance he gave to men of his good faith in doing what he did; by his faithfulness to them and his interest in their cases. That is what drew clients and piled up his business, which at that time was, you might say, almost enormous.

. . . I know that he was a lawyer of much industry. He did not put off until to-morrow what he could do to-day. . . Mr. Markham never put anything off and he was always ready to go right ahead. He never wanted to adjourn a case. . . Coming here as a youth, almost, and when the code of practice was a youth, the country new, and when all of those conflicting and fearful forces were going on previous to the war—a time that tried men's souls as well as the war—he had vast complicated labor upon his hands; demanding the best of his energies. He was looked upon from the far East as a sort of Sentinel upon the watch-tower of Republican and Anti-slavery principles in this portion of the world."

Circuit Judge Michael Kirwan, on behalf of the court responded:

"It is, perhaps, difficult for the younger members of the bar to realize the conception that older members have of Mr. Markham's life and usefulness. Most of you never met him in the court room. There are a few of us left who saw him when he was at his best. . . It is but just to Mr. Markham's memory and his work to say that I think for a series of years he was the acknowledged leader of the Manitowoc bar. . . The first case in which it was my fortune to take part in the circuit court was one in which I found Mr. Markham was my adversary. He was a man of fame in his profession, a strong man, I was entering upon my novitiate. And yet I always look back with some degree of fondness for the man, when I think of the very courteous and considerate way in which he treated me in my first contest with him. . . I always found him patient, courteous, considerate, whether in opposition or in association. . .

Mr. Markham was a man of very strong character and forceful personality. I do not think at any time in his life he ever permitted a client to dictate to him what his course of action should be. . . I could never conceive of Mr. Markham by any method of crafty or subtle suggestion lead-

ing a client up to the sort of legal line which divides safety from incurring some peril in assisting in the fabrication of testimony. He had an abhorrence for any work of that kind and I have frequently heard him speak of it in terms of very strong denunciation. . . . Outside of his profession as well as in it Mr. Markham was a man of eminence in his day. I know that in all matters which concerned the public welfare, in all matters of public interest—even so far back as when I was a boy—that Mr. Markham was looked upon as one of the leaders of thought and leaders in action here in matters affecting the community as well as those affecting the interests of the party with which he was affiliated. . . .

The motion that the resolutions be adopted will be concurred in, and they will be spread upon the records of the court.

HENRY SIBREE

Henry Sibree was born in Milton, Dumbartonshire, Scotland, March 25, 1825. In 1845 he came to the United States, coming first to Lodi, N. J., where his older brother, Charles, was located. The brothers were experts in the preparing and mixing of colors used in machine printing of calicoes and other print cloths, and their services were sought in several states.

During the excitement following the discovery of gold in California in 1848 he made a voyage to that country "going round the Horn." In 1851 he returned to New York city, where he founded a city express business, which was in existence under the name of Sibree's Express for many years after he left the place.

In 1858 he came to Manitowoc county, settling in Kosuth where he purchased a farm. He only remained on the farm about five years when he disposed of it, and removed to the city of Manitowoc, where he engaged in the grain business with Peter Johnston for a short time. He began the study of law in the intervals of business and finally in 1864 entered the office of J. D. Markham Esq., with the determination to enter the profession. Some time in 1865 he was admitted to practice and at once opened an office. He was elected justice of the peace in that year, and performed the duties of that office. In 1874, he formed a partnership with J. S. Anderson, the firm being Sibree & Anderson, which continued about two years, after which he continued to practice alone.

During the years 1875-76 he held the office of district attorney and was a very competent official. In the first period

of Mr. Sibree's residence in Manitowoc county, he was identified with the Republican party and remained with it, until the nomination of Horace Greeley, by the Democrats, in 1872. In that campaign he supported Greeley on the stump, in several speeches, and thereafter till his death acted with the Democratic party. He was a very capable writer and an excellent public speaker.

During the long illness of Jere Crowley, and especially for a year previous to the transfer of the Pilot by him he did the greater part of the editorial work on the paper. Though not having a collegiate or even an academic training he could easily be called well educated. During his life in New York city, he belonged to an association in which most of his fellow members were noted in literary work. Contact with such men as Henry Ward Beecher, Dr. Cheever and Henry Bowen of the Independent, together with a natural taste for letters, with wide reading and study made him a cultured man.

He was a tireless worker on behalf of the old Jones library, and one of its first board of trustees. As an after-dinner speaker he excelled and some of his oratorical efforts before a jury at the circuit were long commented upon. He died April 18, 1882, aged 57 years and 23 days.

ELLERY B. TREAT

Ellery B. Treat was born in Erie county, New York, August 30, 1838. He received a common school education and attended Aurora Academy until after 16 years of age. He soon after entered the law office of Backus & Lanning of Buffalo, N. Y., as a student and soon after coming of age was admitted to the bar at Buffalo on December 1, 1859. He came to Wisconsin in the spring of 1860 and taught school at Sharon, Walworth county, for about six months. At the outbreak of the Civil war he returned to Aurora, N. Y., and assisted in organizing a military company, of which he was commissioned lieutenant. Ill health compelled him to resign before the company was called into service.

Returning again to the west he fluctuated in his choice of a location to practice law between Chicago and Milwaukee. He was admitted to the Milwaukee bar September 16, 1861 and to the Chicago bar, three days later. He located in Chicago, and coming to Sheboygan a few months later on business, thought the outlook so promising that he settled there in the spring of 1862. In the fall election of that year he was elected district attorney of Sheboygan county.

On June 29, 1863 he married Miss Charlotte Farnsworth of Sheboygan. The Farnsworth family is famous in the pio-

near history of Illinois and Wisconsin, being among the earliest whites to reach that section.

Early in 1864 Mr. Treat came to Manitowoc. He purchased the library and business of William F. Nichols, who returned to New York state. He at once formed a partnership with W. H. Hamilton and the firm lasted about three years when it was dissolved and Hamilton removed from Manitowoc county. After that occurred he practiced alone until in 1872 he formed a partnership with Hon. L. J. Nash, which lasted about two years.

In 1870 through some of his business dealings he became owner of the Pilot and edited it for something over a year. He proved himself a sharp, pithy writer of very readable English but he disliked the great amount of routine detailed work necessary in publishing a newspaper for a country circulation.

Treat was a good real estate lawyer. He was also a good business man and he joined the two elements and profited much thereby. He purchased lands with defective titles or clouded titles when they had been abandoned by their original owners, for a small consideration. He would clear up the titles in court or by small payments obtain quit claims, to perfect title and sell for full value.

At the time of his death he had formed a partnership with John Franz who had been register of deeds for many years, to build up an abstract business, and with the extension of real estate speculation in view.

Treat was very popular with the younger lawyers and believed in giving them a chance. The second year after I was admitted I had gone up to the supreme court with a case on appeal from an order sustaining a demurrer. Treat wanted to know what I was doing that for. I said, for two things: to secure a little time for my client, but principally "to learn the road up to the supreme court."

Some time after I met Treat, who said to me, "Well! you've learned the way up to the supreme court." I have got a case where I was beaten at the last circuit. I want to take it up to the supreme court. Take hold of it and get it up there."

I took hold of the matter, settled my first bill of exceptions, took the appeal and won the case. As soon as he received the news he asked me to come up to his office; there he produced the judgment roll and reporter's minutes of testimony, in another case tried a little over a year before in which he had been defeated and asked me to study it up and see if there was any possible chance to reverse the decision. He remarked, he did not think there was and had given it up. I took the papers, and after several days' study discovered a

point on which I afterwards procured a reversal. I went to his office and said, "Treat, I will take up your case and win it. I am certain I can get it reversed." He was incredulous. What are your grounds? I told him and showed him the Wisconsin decisions. "Take it up," he said, "and be quick about it."

These cases are reported as Fuchs vs. Treat 41 Wis. and Treat vs. Lawrence 42 Wis. The experience I gained in these matters were of great value to me, in the days to come.

Mr. Treat served two terms as district attorney of Manitowoc and proved himself a good all round lawyer. Like many other good lawyers, he lacked the patience necessary to work up bills of exceptions after a long trial, or dig long and continuously for authorities in a brief. He was industrious in that he was always doing something, but he could not stand the strain of long continuous effort upon one thing or one subject.

He died universally regretted on November 18, 1880. His age being only 42 years, 2 months and 18 days.

GEORGE N. WOODIN

It is a misfortune that so few of the facts relating to this pioneer lawyer can now be given. All his immediate descendants have died, and the local newspaper files relating to the period when he was prominent in his profession were destroyed by fire, as is also the case with the period at and next prior to his death. All that the writer has to depend upon is his memory compared with the recollection of two or three of the old residents who knew him also. A few dates in the old court records fixes time approximately, but not certainly.

My first recollection of Mr. Woodin was about 1856. He had come to Manitowoc in the spring or summer of the year as a "millwright." That was a trade common enough in those days, when nearly everything about a mill was made of wood. Water wheels, machine frames, heavy shafting, pulleys and other parts, were all made out of wood, laboriously by hand. About the time mentioned I watched Mr. Woodin build up a large driving pulley from sections of wooden plank, set it upon iron spokes, drive it upon its shaft and then turn it down to a perfect circle with chisels, as it revolved around the shaft. This was in the B. Jones sawmill. It was a business which required a good knowledge of mathematics and practical mechanics, and the old millwright as a rule was a man of more than average education and mentality.

The financial panic and money stringency of the years from 1857-60 stopped the building of mills and factories and

millwrights were compelled to seek other work. As a part of their trade or profession, they were good carpenters and joiners and Mr. Woodin did some work of that kind for a time. Some time about 1857-58 he was elected a justice of the peace and opened an office. He succeeded in gaining the confidence of the practicing attorneys in his fairness and good judgment and soon was trying a large proportion of the cases which were within his jurisdiction.

He was admitted to the bar early in 1859, but the exact date I have been unable to locate. I never heard of him as being connected with any of the local attorneys as a student. My impression is that he never did any systematic study, but picked up his knowledge by trying cases and hearing them argued before him. There is a class of men whose mental process appears to be simply a sponge-like absorption of the knowledge of other men with whom they associate.

Woodin was of that type. He was naturally a man of keen insight, of "good horse-sense" as the saying goes, and good common-sense and the common law are never very far apart. If a lawyer of some note came here to try a case. Woodin would study his methods, listen to his arguments, talk them over with other attorneys and in that way absorb a good deal of knowledge.

When he ceased to be a justice he tried a great many justice court cases, and naturally, appeals carried him often into the circuit court. When I came to the bar in 1871 he was at the height of his career and was in fact doing a large business of that kind. He could get along all right in law cases or criminal matters where the pleadings were short and process simple, where it was a day or so of examination of witnesses and an hour of talk to a jury, but to sit down and spend two or three days drafting a long bill in equity, Nay! Nay!

Although he had an active practice for over twenty years and was in fact a strong nisi prius lawyer, he never in all that time made an appearance in the supreme court. He did not lack confidence in himself and in the work he did was ready to match himself against any who came but he did not like the continuous work which cases of that kind called for.

Personally, he was companionable, sharp at repartee, witty, a great practical joker, a good story-teller, and excelled as an after-dinner speaker. He was a good talker before a jury and had a fashion of saying things which amounted to little in a manner so impressive that many jurors took them for inspired wisdom. He died on October 4, 1877.

BENJAMIN J. SWEET

B. J. Sweet joined the Manitowoc bar at April term

1857. He entered into partnership with George Rice under the firm name of Rice & Sweet. The firm did a good share of the law business of the county from the start, but after about two years, Mr. Sweet decided to remove to Calumet county and located at Chilton.

In the fall election of 1860 he was the Republican candidate for state senator and was elected by a good majority. The district at that time comprised the counties of Calumet and Manitowoc.

At the outbreak of the Civil war he was appointed major of the Sixth Wisconsin and later was appointed colonel of the Twenty-first Regiment Wisconsin Volunteers, and commanded the regiment in its first battle, when he was so severely wounded that he was unable to return to active service.

He was assigned to command the rebel prison, Camp Douglas, and acquired great notoriety by his skillful handling of the situation when a plot to liberate the prisoners and capture or burn the city of Chicago was discovered and frustrated. For this he was commissioned a brigadier general. After the war he was appointed pension agent at Chicago, to which office his daughter, Ada Sweet, succeeded upon his death which occurred only a few years after the war ended.

As a lawyer he did not practice long enough to achieve much in the way of reputation and his fame is that of a gallant soldier. But he belonged to the Manitowoc bar and was our state senator at the outbreak of the war.

EDWARD SALOMON

Edward Salomon came to the village of Manitowoc about 1852-53. He acted for a time as deputy clerk of the circuit court and thus obtained some insight into law practice. He was a German of high education and culture. Just when he came to the bar does not appear, but I estimate it to have been the fall term of 1854. The first record is in 1856 where he appears as attorney, with J. D. Markham as counsel. A year or two after he removed to Milwaukee where he engaged in practice. In the election of 1862 he was chosen as Lieutenant-Governor with L. P. Harvey as governor. A few months after entering upon the office Gov. Harvey was accidentally drowned while on a visit to the army of the west to care for wounded Wisconsin soldiers and Mr. Salomon succeeded him as governor, being the first and only German to hold that office.

He made a creditable record, but he was not renominated and a short time after his term expired he removed to New York city and resumed his law practice there. So far as I

can learn, he spent his life in the profession. He acquired a good standing and accumulated a fair competence as a lawyer from his humble beginning in the back woods village of Manitowoc. He died in New York city many years ago.

GEORGE B. BYRON

In looking over the papers previously published, I find some lawyers have not been mentioned who either came here from abroad or were admitted to the bar here. One of these is George B. Byron, who for several years acted as justice of the peace in the city of Manitowoc and at the same time studied law. He was then a young man apparently 26 to 28 years of age. I cannot recall that he attached himself to any particular attorney as a pupil or student but read or studied alone.

He made application for admission to the profession, and on August 8, 1879 was examined and admitted. He opened an office and advertised for practice here, but was not successful in getting much of a start and after a year or so removed to Kewaunee, where he practiced with moderate success three or four years. He then removed to Chicago, opened an office and entered upon practice, becoming lost to his former acquaintances in Manitowoc in the great multitude of lawyers in that city. I have not heard of him for a period of many years and know not if he is yet living.

P. J. SMALLEY

The name of Palemon J. Smalley does not appear on the roll of attorneys in the office of clerk of the circuit court. It is a fact, however, that he was admitted as an attorney and for about three years practised in the city of Manitowoc. He was the eldest son of the late E. J. Smalley, the founder of the Smalley Manufacturing company. Where and when he studied law I do not know and I have not been able to ascertain. I have a recollection that about the time of the outbreak of the Civil war he was studying with W. H. Hamilton, along with True M. Bailey. Like all the rest of the young men of that period who were worth their salt, he was swept into the war. He remained in the South a year or two after the war ended, and coming north again went to Minnesota. He remained in that state about a year and then returned to Manitowoc. The records of the December term for 1867 show that a committee was appointed to examine him for admission to the bar but there is no record of any report or order for his admission. An order was no doubt made but

there was much neglect in such matters and it was not recorded.

He opened an office in Manitowoc in the summer of 1870-71, giving his attention to the buying and selling of real estate, a commodity which was not moving much about that time.

He had some practice. I know he had some cases in which he was opposed to me. He was pugnacious, a determined fighter and had he remained in the profession would have made his mark.

He brought suit for his father to recover a debt of \$12.00 for goods sold. It was fought through justices court, the defendant represented by W. J. Turner his attorney, having counter-claimed for the value of a saddle;—appealed to the circuit, tried there and finally went to the supreme court. The judgment was there reversed, and the case sent back to the circuit, again tried there, and again appealed to the supreme court, before it was finally decided. The "saddle case" with all its various motions, postponements and adjournments was for a time a joke with the old lawyers of the bar. Those curious to see what can be done with a small case in fighting hands, should look up *Smalley vs. Ericson* 36 Wis. 302 and 41 Wis. 416.

Mr. Smalley apparently grew tired of the waiting period which nearly every tyro of the bar has to pass through, and returning to Minnesota entered the field of journalism. He was a man of good education, a writer of forcible English possessed of a good stock of general knowledge, and above all was a thinker. He became connected with the Pioneer-Press of St. Paul as editor and achieved a reputation in journalism which spread far beyond the bounds of his state, in fact was nation-wide. He died eight years ago.

FRANK E. MANSEAU

Soon after I entered J. D. Markham's office in 1871, F. E. Manseau came to it being regularly employed as a clerk. I had met him previously at Appleton, Wis., where he was a student at Lawrence college in the winter of 1868. He had been taken ill and hearing that a young student from Manitowoc was sick I called on him at his boarding house two or three times.

Mr. Manseau soon got the run of things in the office and was a model law clerk. He was industrious, a hard and constant worker, though not so much a student or reader. There was another student clerk in the office, Will A. Plaice, and when there was a rush of work and a multitude of copies re-

quired, we three could turn out a vast quantity of manuscript in a day.

Just when Mr. Manseau was admitted to the bar does not appear. He was never enrolled here and it is possible he may have been admitted in Kewaunee, but it must have been about 1875, as he remained with Mr. Markham for three or four years after Mr. Plaice and I left. He first entered on practise in Kewaunee, where he formed a partnership with W. H. Timlin, (later Justice Timlin of the supreme court) which existed some two or three years, and after that with G. G. Sedgwick, which terminated by the removal of Mr. Sedgwick to Manitowoc in 1881. Some time later Mr. Manseau came to Two Rivers and settled down to practice.

In the spring of 1893 he was elected as county judge without opposition, having received the Democratic nomination. He took his seat as judge on the January first following and for nearly a year discharged the duties with entire satisfaction to both the bar and the public. After that time he developed brain disease, which compelled his resignation and later caused his death.

Judge Manseau was a good lawyer. His long service as a law clerk combined with his reading made a solid and sure foundation. He might strictly be called an office lawyer, for he had not the gift of expressing himself in speech. In writing, on the contrary, he excelled.

He made a most excellent judge, patient in hearing matters before him, ready and firm in decision.

He died December 22, 1896.

R. P. EATON

These papers would be incomplete if left without reference to Rufus P. Eaton. He came to the Manitowoc bar from Fond du Lac some time in 1873. He was then in advanced years and had but little general practice during his residence here. He was a lawyer of old Territorial times. I find traces of him in the southwestern part of the state as having been in the lead mining district in the early '40's. He was then contemporary with Chief Justice Dunn, Justices Irwin and Frazer of the U. S. Courts, Thos. P. Burnett, Moses Strong and others. A little later he located at Fond du Lac, being associated with Chief Justice Stow, Henry S. Baird, S. Cotton and others of the old Fourth circuit.

In one of the Pinney's Reports, there is a case where Eaton was sued for slander and Justice Stow was his attorney, and unsuccessfully defended him.

He was a tax-title speculator and lawyer and like one of

Walter Scott's heroes "fought for his own hand," a good deal of the time. He was a determined and tenacious fighter of the bull dog type, getting his hold and never letting go until every resource of the law had been exhausted.

His tenacity is commented on by the Supreme court in the case of *Eaton vs. Lyman*, 33 Wis. P. 36, where Justice Lyon says, "this action now makes its fifth and it is earnestly hoped its last appearance in this court. The student who is anxious to learn something of the vicissitudes to which a lawsuit of even moderate dimensions may be subject when manipulated by skillful hands can gratify his curiosity to some extent by carefully perusing the reports in this case."

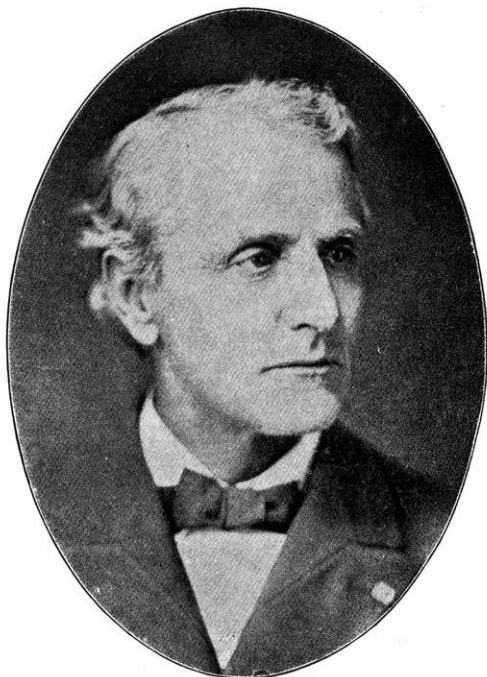
There is a long line of cases in the Supreme court reports in which he was of counsel either for himself or others, beginning in the 2nd Pinney, and extending to the 42nd Wisconsin.

I was opposed to him twice in the Supreme court, and he was associated with me in the case of *Watts vs. Owens*, but died before that case went to the Supreme court.

Although Mr. Eaton was much in my office using my library, and would talk freely on most subjects, I learned little of his early life. To the best of my recollection he was from Vermont. He had a daughter who was a student at Lawrence College, Appleton, and married a classmate, J. A. Loomis, and went to live in Kansas.

After coming to Manitowoc he married a widow, Rachel Holmes Hill, and by her had a son, who now lives in Louisiana. His last wife died before him several years.

He died in Manitowoc in the autumn of 1884.



HON. CHARLES E. ESTABROOK

CHAPTER SIXTEEN

Odds and Ends

THE COUNTY COURT

The county court, or as it was first called the "Court of Probate," was founded in 1848 upon the adoption of the state constitution, and the act of the legislature passed at the same time dissolving the previous connection of Manitowoc County to Brown County for judicial purposes. From the time of its organization until Jan. 1, 1865. every judge of that court had been a trained lawyer elected from the membership of the bar. The following lawyers held the judgeship in the order named: J. H. W. Colby, Ezekiel Ricker, George Reed, George C. Lee, Isaac Parrish, Charles H. Walker and Henry S. Pierpont. The term of office at that time was two years.

From 1865 to 1878 the office was held by laymen, chosen haphazard from among the citizens at large. Some of them were capable men, who conducted the affairs of the office fairly well and heeding the advice of a good bar, kept records in good shape, but some were decidedly negligent and the records and files of the office, fell into a deplorable condition. Then there happened some litigation in the circuit court involving land titles, which resulted disastrously to purchasers under probate proceedings. This called public attention to the importance of the court and the necessity of having a judge who knew something of law. On January 1, 1878 Hon. Michael Kirwan, who had a short time before been admitted to the bar entered upon the office as judge and during his term of four years with some clerical assistance furnished him by the county board, labored hard to bring order and system out of the great mass of scattered files and defective records he found. Before the end of his term he had perfected a system of filing and recording which has been followed with slight modifications ever since.

He was not immediately followed by trained lawyers; but in 1887, the people again took the matter of fitness into consideration by electing an educated lawyer, Hon. Emil Baensch as judge of the county court and from that date to the present each incumbent of the office has been selected from among the members of the bar,

THE LEGISLATURE

A goodly number of the members of the bar have represented the county in the legislature. In the senate at an early day Benjamin J. Sweet, Temple Clark and George Reed were able representatives, while in the assembly were George Malmross, Ezekiel Ricker, James L. Kyle, Charles H. Walker, and at a later date Charles E. Estabrook, Isaac Craite and J. S. Anderson.

The writer can testify from personal experience that a term or two of service in the legislature is a most helpful and broadening experience for any lawyer and affords an opportunity of performing most excellent public service; but no lawyer compelled to earn a livelihood for himself and family can afford to go there under present conditions. Nowadays every crank wants his vagaries enacted into law and sessions have been drawn out to an inordinate length. Much useless and experimental legislation has been enacted only to be discarded. The notorious "Mary Ann" to regulate elections is one example of many. Sessions now last an average of half a year. Involving as it does the sacrifice of a year's business it is no wonder that lawyers whose time is of value, refuse to accept the office.

OTHER OFFICES

Some of the members of the bar have distinguished themselves in other official positions. Hon. Emil Baensch served two terms very acceptably as Lieutenant-Governor, while Hon. C. E. Estabrook served the same period as Attorney General. The purely legal offices of the county, district attorney, city attorney, municipal and police judgeships have at all times been filled by lawyers and the best talent in the legal body has been drawn upon to fill the offices.

In many localities of the state lawyers have been candidates for county offices outside their profession, county clerks, register of deeds, treasurer, and for state administrative offices, elective or appointive. But it is a notable fact, that from the first organization of the county no lawyer has ever sought to leave his profession for any office outside of it, if we may except the single instance of Charles Esslinger who left the profession in 1861 to become a postmaster. However, Esslinger never really was a settled practitioner. In all other cases the attorneys seem to have kept their ambitions wholly within professional lines.

I do not overlook the fact that in two instances there was

some effort to induce one of our number to become governor of Wisconsin, but a man may be forgiven for almost falling before that great temptation.

There seems to be one office, however, that holds a sort of fascination: that of county supervisor, and several members have transgressed, viz.: in 1858-59-60, J. D. Markham was supervisor for the town of Manitowoc and Charles H. Walker was chairman later from Manitowoc Rapids, while from various wards of the city were sent C. E. Estabrook, Michael Kirwan, L. J. Nash, C. W. White and J. J. Healy. It is questionable whether after all they wandered outside of the fold. As their duties were legislative in character and did not interfere with their law work they could plead that the office was at least quasi-legal. Besides, there was no salary attached.

A LITTLE COURT

When the Village of Manitowoc was incorporated as a City in 1870, there was created a Police Court presided over by a Police Justice. This officer was given "all the authority powers and rights of a Justice of the Peace in every respect whatsoever" also exclusive jurisdiction of all examinations and trials in criminal causes within the city to which the city should be a party (cases under city ordinances) and in all cases cognizable before a Justice of the Peace to which the city was a party and also provided the Justice should have the same powers and authority in cases of contempt as a Court of Record. This authority, right and power of a Justice of the Peace to hear and determine causes arising anywhere within the county to which was added the exclusive jurisdiction of all cases arising under city ordinances or to which the city was a party made the office desirable and for several years the Police Justice Court did a good business in trying cases within a justices jurisdiction.

The statute creating the office was identical in many city charters throughout the state and the jurisdiction had never been questioned until the case of *Atkins vs. Fraker* 32 Wis. 510 was decided by the Supreme court in 1873, which held that any attempt to confer jurisdiction over causes arising beyond the limits of the city was unconstitutional and void.

This decision limiting all jurisdiction to causes arising within the city made the office of little value to the incumbent and upon the next revision of the city charter the office was abolished and the jurisdiction of city matters vested in the justices of the peace,

It was a busy little court while it lasted. The lawyers who held the office of Police Justice were Don A Shove and J. S. Anderson. The latter resigned soon after the Supreme court decision above mentioned and he was succeeded by Don A. Shove who held the office till it was abolished. The only non-lawyer who held the office was Chas. A. Reuter ("Squire Reuter") who really knew more law than some of the practicing attorneys, having been from the earliest period a justice of the peace and clerk of the Circuit court at various times.

CHAPTER SEVENTEEN

FINIS

On September, 1921 I counted sixty-nine years that I have called Manitowoc county my home. I saw it as practically a wilderness, I see it as it is now. I knew most of the men who brought about these changes, and considering them by classes, I do not know of any other body who did more than the small group of lawyers who constituted the Manitowoc bar from 1848 to 1870.

The immigration of the early day was largely composed of people alien to the institutions and principles upon which our government had been established. They were good people, well meaning but ignorant of the language and laws of the country. They were law-abiding and looked to the lawyers for leadership in building up the local governments necessary to be organized in a new country. In the lands they came from they had no experience in self-government. Road districts were to be formed and roads laid out. School districts were to be organized and schools built. New towns were to be created from the division of old ones. In all these things the opinion and assistance of the lawyers were sought, not as matters of legal work or interest only, but as matters of personal assistance. Many times have I seen assessors, town officers, treasurers, and the like, carry their books into the law office, and ask, "Will you please help me a little?" "Will you show me how I should do this," or that. These, of course, were mere personal matters for which no charge was made to a town or district officer.

The lawyers became natural leaders, and their help and influence were sought in all projects, not only political and governmental, in business matters as well. If a road was sought to be laid out, it was talked over, and the question asked, "What does Jim Kyle say about it?" "Have you talked with S. A. Wood about this thing?" If a party came here with a proposition to build a little factory or a machine shop and asking for a site, or financial help, the first thing would be, "Let's go and talk it over with Markham." They worked for Manitowoc freely without reward, in social matters. In the 50's winters were dreary, snowdrifts and storms would

cut the mails off for a week, sometimes.

In 1856-57 the lawyers under the lead of Charley Walker organized a course of lectures wholly from home talent, one being given each week. I can recall only a few of the speakers. K. K. Jones, I remember from the fact that he was unmercifully criticized; Judge Parish, Judge Lee, Charles H. Walker, and perhaps others, of the bar. Some of the city clergymen spoke and one or two business men. A Mr. Ten-Eyck, who had spent a few years in the South Sea Islands, gave an interesting talk. He is the gentleman who at one time owned considerable real estate here and for whom one of our city streets, Ten-Eyck avenue, is named.

In other matters which go to the upbuilding of society, churches, private educational institutions, the members of the bar were always helpful. None were wealthy but they were always ready with assistance and encouragement.

But it was as friends of the public schools that the lawyers were active. Almost without exception they had been teachers while working their way up to their chosen profession and they sympathized with the schools without limit. In short, I may say that the bar of Manitowoc county has always strongly supported all those things that go toward the uplift of humanity. In war time it has been loyal and true to the government. In peace no less loyal and obedient to the law.

When I began these papers, I announced my intention to simply write a few sketches covering the earliest period of our history, and telling what I knew and could gather in relation to the founders of our present institutions. It was simply my desire to preserve some word pictures of the primitive conditions under which these men labored and to rescue their names from the oblivion which had almost surrounded them, and make what little was known of them available. I expected to write about eight or at most ten of such weekly sketches. But as I worked my interest in the matter deepened and widened.

The interest aroused in my fellow members of the bar, especially those whose memories reached back nearly to the earliest days and in those reared in families in which the early traditions had been handed down was as surprising as it was gratifying. Old settlers and former residents now living in other states wrote to me of the interest they felt and urged me to keep on.

The result was that I have brought the history down almost intact to the year 1880, and have written more than double what I expected. From that point to the present the materials for a history of the bar are easily available. The court records are better kept. Newspaper files are existent

and available. Histories of the county have been published, and other sources of information exist.

I have been writing of personalities who died a generation ago, of events which occurred before roads were made, with no newspapers to record the happenings of the time. I have gleaned data from old and forgotten town and village records, minutes of courts, and copied dates from old and weather worn tombstones. But that which has served me best, is what Shakespeare calls "a good sprag memory," which the wear of time has impaired but little, and I have lived over the years again as I have written, and enjoyed them.

I have written tenderly of the old forgotten pioneers, bearing in mind the old Latin motto, "De mortuis nil nisi bonum", of the dead say nothing but good, and yet recalling that other paraphrase of it, "of the dead say nothing but the truth" (verum).

For a time, at least, I lay aside my pen. Friends have urged me to bring down these reminiscences to a later date to at least include the service of Judge N. S. Gilson. Later on, I may conclude to do so.

In the meantime I thank my associates of the bar for the kindly interest they have shown in the papers as they have appeared from time to time and for the kindly words spoken of the writer.

I thank also those old pioneers and the descendants of pioneers for whom these papers have a special interest, for assistance in obtaining information.

I especially thank the publisher of the Pilot who, without stint, placed his columns at the disposal of the writer.

* * * * *

When the above was written it was intended to be final, with the possible exception of Judge Gilson. It was not expected or intended that any sketches of persons now living would be included.

When the Bar Association became interested in what appeared to be a permanent form of publication, it became obvious that the pamphlet or book as a work of historical reference would have an enhanced value by adding a continuous record of those who had been members of the bar at any time prior to the publication.

Drawing the line at 1880 or any other period short of the present hour is simply arbitrary. The life and history of a court and bar is a continuous matter. Judges die or retire from service. Lawyers pass away in the course of nature. They remove to other spheres of action or take to other kinds of labor. They grow old and retire or die in the harness, the young novices press a step forward and the vacancy is filled.

So it has seemed to the writer that something should be said of those who have been and now are at the bar. It cannot be said in the detailed manner in which the old founders were mentioned, but in a general way it can be said that they have carried on the work their predecessors so well began. Nor are they novices in the practice. The most of them have been actively engaged for over twenty years, some over forty years; three of them nearly or over fifty years.

Some of these have been mentioned in the early chapters in an incidental manner though not in separate sketches. A few of these sketches will follow in the additions to be made.

ADDENDA
to
Pioneer Courts and Lawyers of Manitowoc Co.

CHAPTER EIGHTEEN

The Sitting Judge

MICHAEL KIRWAN

When Judge N. S. Gilson declined to be again a candidate for re-election in 1898, it was conceded that, inasmuch as the Judge of the Circuit had been a resident of Fond du Lac county since the year 1869, the Lake Shore section was in fairness entitled to select his successor. The circuit at that time consisted of Fond du Lac county and the three Lake Shore counties of Sheboygan, Manitowoc and Kewaunee. The latter county was, even then, quite inaccessible to the other counties of the Circuit, having only a very circuitous railway connection by way of Green Bay. It was considered out of the running.

Following the precedent set during the period of Judge Gilson's service, non-partisan nominations were made by calls from the bar and the people. Sheboygan named as a candidate Anson C. Prescott, a lawyer of ability still in practice there, while Manitowoc placed in nomination, Michael Kirwan. The two counties stood by their favorite sons, each giving its resident candidate a large majority, so that the two remaining counties virtually decided the contest. The result was the election of Judge Kirwan by a majority of nearly five thousand votes.

Judge Michael Kirwan was born in Ireland in the year 1847 and came with his parents from that country to Milwaukee, Wis. in the year 1849, when only about 18 months old. In 1855 the family came from that city to Manitowoc county and settled on a tract of wild land in the town of Meeme, which they labored to erect into a farm which still remains in possession of a member of the family. In the little log school house of that neighborhood, the future lawyer and judge re-

ceived the groundwork of his education and as the years passed he became noted as an omniverous reader of books.

The Meeme settlement was noted even in those early days as being an exceptionally intelligent and well-read group of people. They were Irish, some of them of the Scotch-Irish element, and also some families pure Scotch. They were readers of books and in the different families were books, not many, but the very best of English literature. These passed from hand to hand and were eagerly read by the young men and women of the neighborhood. These Judge Kirwan read and his common school training and these readings were the foundation of his scholarship.

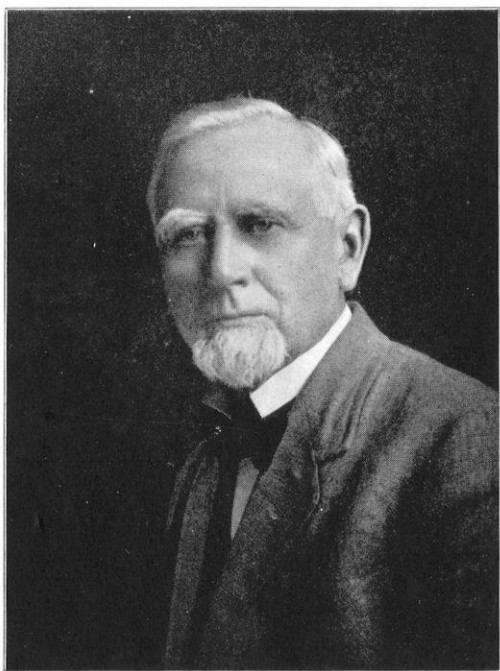
Shakespeare, Walter Scott, Goldsmith, Byron, Burns, Tom Moore, Hume, Macauley, the British Essayists, and a long line of other early and later writers of poetry and prose have made of him what Lord Bacon in one of his essays calls, "a full man"; while the habits of thought engendered by such a course of reading, added to a natural aptitude to think and ponder over what he read, followed later by his experience as a school teacher, made him equally what the same writer calls "an exact man."

I know Judge Kirwan too well to think he will thank me for what I say but it is my judgment that in the field of early English literature there are few men so well and extensively informed.

It was strong "mental meat" for an intellectually hungry boy, but, fortunately for him, it was that or nothing. He took it greedily, digested it well and it was a large factor in making him the scholarly and cultured gentlemen he is.

After he had graduated from the old log school house he spent some years in teaching schools in different districts, throughout the county. I think that he was the first principal of the Two Rivers school when it first reached the dignity of a grade school in a new high school building about 1866-1867. In a way, I there first came in touch with him for I was his successor as principal in 1868-1869, though I did not meet him personally until a year later. It must have been about that time that he removed from Meeme and made his home in the city of Manitowoc and for a time was an accountant with the old Manitowoc Dry Dock Company.

A little later he was elected County Superintendent of Schools, which office he filled from 1870 to 1875. In 1874, while still County Superintendent, he was appointed member of the State Board of Examiners for state teachers certificates, and in 1876 he was elected Secretary of the State Teachers Association. During the period from 1890 to 1896 he was a member of the Board of Regents for State Normal Schools



MICHAEL KIRWAN, Circuit Judge

Thus it appears that for a period of over thirty years, he was actively identified as teacher and official with the educational interests of the county and state. It may be noted here, that in all the years that have passed since his active work in his chosen profession of the law began, he has been a warm friend and advocate of public education in all its forms.

At some period during the intervals of his teaching and official labors, Judge Kirwan turned his readings toward the law, working quietly and unobtrusively with his natural industry and persistency for several years until on June 26th, 1878 on examination in open court, he was admitted to the bar. At the spring election of 1877, he had been elected as County Judge without opposition.

He entered upon his labors as County Judge on January 1st, 1878. I have elsewhere told of his work in that office; how he arranged the files and records and brought order out of the chaos of mixed up papers and miscellaneous entries in old books of record. His administration of the new business coming before him won him the respect and confidence of the bar and the approval of the people. Had he so desired he could have been re-elected at the end of his term without opposition.

Desiring to enter upon the practice of his profession, he announced that he would not again be a candidate. He ended his connection with the office on January 1st, 1882. He entered into a law partnership with A. J. Schmitz, who had been practicing for some years in the law firm of Nash and Schmitz, the new firm being known as Schmitz & Kirwan.

That firm lasted until the removal of Mr. Schmitz to Milwaukee about sixteen or eighteen years later and did a large share of the law business of the county. Judge Kirwan, including his four years as County Judge was in active practice at the bar a little over twenty years before he became Circuit Judge in 1899.

It will be noticed that in my previous writing, I have laid some stress upon the fact that beginning about the year 1870 a large proportion of those who came to the bar were men of college and university training. I do not by any means under-rate the value of such preparation for the work of the profession. But it is not an essential thing. Of the seven judges who have sat on the bench of the Fourth Circuit since its formation, Justice Taylor was the only college graduate. It cannot be said that he markedly excelled all the others. Judge Gilson was at the least his equal as a *nisi prius* judge. In knowledge of international and constitutional law Judge Howe excelled, and also in scholarship and literary ability. In the

course of my fifty years of practice, I have met many men whose early opportunities for literary study were extremely limited, who nevertheless attained a high standing in the profession.

Judge Kirwan so far as my recollection or knowledge extends had none of the adventitious aids of either higher academic or college training. His schooling ended at the door of the public schoolhouse in Meeme. All that he has since acquired has become his own by hard, persistent study in the intervals of wearying, every-day, practical duties faithfully performed. He has acquired much. He has sought the best things in life; not so much the material things as those of the mind and spirit, not merely the praise of men, but the consciousness of well-doing, to merit it. He is in every sense a self-made, self-developed man. He has grown steadily, perhaps slowly, with the years and has acquired a moral and mental status and habit of study and reasoning that will develop him to the end.

His work as a judge upon the bench, good from the first, has grown steadily better and stronger. It was a hard test for any man to become the immediate successor of Judge Gilson for as judge of an instance court he was hard to equal and harder to excel. Yet, Judge Kirwan met that test and in more than a score of years of service since, has improved upon it. It is not too much to say that of the twenty-five or more circuit judges of the state he is the peer of any in the discharge of the duties of that office.

There is much I would like to say of Judge Kirwan, but I feel handicapped by the fact that he is still upon the bench and that I am still, nominally at least, one of the bar of his court. It would be unfair and unjust to him to make any attempt to pass an historical judgment or estimate of his place in the story of the bar when he is still doing as good work as at any former period. So far as human foresight and judgment can be relied upon, he still has before him years of good and useful work, with capacity unimpaired.

May it prove to be so, for I, who have known him well through many years, know that in work well done he finds his happiness.

CHAPTER NINETEEN

The Bar

At the present writing (February 1st, 1922) the Bar of Manitowoc County is constituted as follows:

Michael Kirwan.....	Circuit Judge
John Chloupek.....	County Judge
Albert H. Schmidt.....	Municipal Judge

COURT OFFICERS.

Charles E. Brady.....	District Attorney
G. A. Forrest.....	Divorce Counsel
J. S. Anderson,	}Circuit Court Commissioners
H. L. Markham,	
E. G. Nash,	
F. W. Dicke,	
Harry F. Kelley,	

The Bar at large comprises six law firms or partnerships constituted as follows:

Healy & Joyce—	John J. Healy and Walter M. Joyce.
Hougen, Brady & Meyer—	Albert L. Hougen, Charles E. Brady, and Edward Meyer.
Kelley & Wyseman—	Harry F. Kelley and A. J. Wyseman.
Larkin & Martin (Two Rivers)—	Bert L. Larkin and Amberg W. Martin.
Markham & Markham—	Herbert L. Markham, and Robert Markham.
Nash, Nash & Ledvina—	Edwin G. Nash, Archie L. Nash, and Lawrence W. Ledvina and Walter J. Clark, Associated.

The following are individual practitioners:

F. W. Dicke (Two Rivers)	Edward S. Schmitz.
G. A. Forrest.	A. D. Strouf.
Edward L. Kelley,	J. S. Anderson.
L. J. Nash.	Emil Baensch.
A. P. Schenian.	Ralph Plumb.

The last named is not engaged in practice, but keeps up his identity with and interest in the profession and the local Bar.

The Bar Association.

The Manitowoc County Bar Association is composed of all the above-named Judges and Attorneys. It holds a stated meeting at the close of the June Term of Court in each year. All other meetings are held at the call of the president.

It has at least one meeting in the year for social enjoyment.

The present officers are:

President.....	J. S. Anderson
Secretary.....	E. L. Kelley
Treasurer.....	A. P. Schenian

Admissions to the Bar.

The following list gives the names of all persons admitted to the Manitowoc County Bar since the year 1880. It does not in all cases show the date of their admission to practice as attorneys. In a few cases some were admitted to practice some years before coming to Manitowoc. Nearly all, however, enrolled here near the time when they were admitted to practice by the Supreme Court upon graduation from the University Law School or their admission to practice by the State Board of Law Examiners. The dates given show the time of enrollment with the Circuit Court as shown by the Roll of Attorneys or found in the Minutes of the Judge.

Name—	Enrolled.	Present Location.
Emil Baensch.....	June Term 1881.....	Manitowoc, Wis.
William W. Andrew.....	February 13, 1882.....	Denver, Colo.
A. P. Schenian.....	February 13, 1882.....	Manitowoc, Wis.
Herbert L. Markham.....	June 23, 1882.....	Manitowoc, Wis.
John Barnes.....	June —, 1883.....	Deceased
Robert H. Markham.....	June 16, 1883.....	Manitowoc, Wis.
Gus. H. Kiland.....	January 15, 1889.....	Madison, Wis.
Adolph Chloupek.....	June —, 1889.....	Deceased
John Chloupek.....	June —, 1889.....	Manitowoc, Wis.
Clyde H. Sedgwick.....	June, 1892.....	Oregon
Isaac Craite.....	June, 1893.....	Deceased
Erik J. Onstad.....	June 24, 1896.....	Wittenberg, Wis.
Fred. W. Dicke.....	June 24, 1896.....	Two Rivers, Wis.
C. D. Fahrney.....	June 24, 1896.....	Not known
Edw. S. Schmitz.....	February 2, 1897.....	Manitowoc, Wis.
Edward L. Kelley.....	February 13, 1897.....	Manitowoc, Wis.
Albert L. Hougen.....	June 29, 1897.....	Manitowoc, Wis.
Albert H. Schmidt.....	June 14, 1898.....	Manitowoc, Wis.
Walter S. Stoker.....	June 16, 1898.....	Alaska
Jerome Craite.....	June 16, 1898.....	California
Adelbert C. Schmidt.....	February 20, 1899.....	Wausau, Wis.
Richard W. Burke.....	June 11, 1899.....	Deceased

Name—	Enrolled.	Present Location.
Timothy Burke.....	June 14, 1899.....	Green Bay, Wis.
Archie L. Nash.....	November 6, 1899.....	Manitowoc, Wis.
John J. Healy.....	February 2, 1900.....	Manitowoc, Wis.
Walter M. Joyce.....	February 2, 1900.....	Manitowoc, Wis.
G. A. Alexander, Jr.....	January 15, 1901.....	California
Victor S. Pierelee.....	January 15, 1901.....	Superior, Wis.
Ralph G. Plumb.....	June, 1902.....	Manitowoc, Wis.
Lake C. Alexander.....	January 14, 1903.....	California
Harry F. Kelley.....	January 15, 1903.....	Manitowoc, Wis.
M. H. Kalaher.....	January 17, 1903.....	Milwaukee, Wis.
Charles E. Brady.....	April 9, 1904.....	Manitowoc, Wis.
Arthur J. Wyseman.....	January 9, 1906.....	Manitowoc, Wis.
F. F. Groelle.....	June 1907.....	Milwaukee, Wis.
Lawrence W. Ledvina.....	February 21, 1909.....	Manitowoc, Wis.
Cyril Marks.....	June, 1910.....	Not known
Francis Nash.....	July, 1913.....	New York City
Clarence E. Teitgen.....	June, 1918.....	Manitowoc, Wis.
Bert L. Larkin.....	January, 1920.....	Two Rivers, Wis.
Amberg W. Martin.....	January, 1920.....	Two Rivers, Wis.
Edward Meyer.....	January 1920.....	Manitowoc, Wis.
A. D. Strouf.....	June, 1921.....	Manitowoc, Wis.
Walter J. Clark.....	June, 1921.....	Manitowoc, Wis.
Cornelius W. Morse.....	December 18, 1865.....	Deceased
Henry F. Belitz.....	June, 1866.....	Deceased

NOTE.—The Attorney Cyril Marks located at Kiel, Manitowoc County, Wis. He removed from that village after a year or so and did not appear thereafter.

Henry F. Belitz, also of Kiel, was admitted to the bar in June, 1866. He is mentioned here because his name was not found on the roll of attorneys and, consequently, was omitted in the first part of this work.

Cornelius W. Morse came to Manitowoc to reside in 1865, after serving through the Civil War. He had been admitted to the bar in the State of Vermont, and was admitted here on presentation of his certificate of admission in that state. He never entered on practice here, and few knew him to have been an attorney. He died in Manitowoc, Wisconsin, on September 13, 1913.

Officers of the Circuit Court from the Organization. (1848.)

DISTRICT ATTORNEYS.

1848-*		1875-76	Henry Sibree.
1849-50	E. H. Ellis.	1877-80	A. J. Schmitz.
1851-53	J. H. W. Colby.	1881-86	William H. Walker.
1853-54	James L. Kyle.	1887-92	A. J. Schmitz.
1854-55	Nicholas Wollmer.	1893-96	John Chloupek.
1855-56	W. H. Hamilton.	1897-98	A. P. Schenian.
1857-59	George L. Lee.	1899-1900	E. S. Schmitz.
1859-62	J. D. Markham.	1901-07	A. L. Houghton.
1863-64	W. M. Nichols.	1907-09	Edward L. Kelley.
1865-68	George N. Woodin.	1909-15	John J. Healy.
1869-72	E. B. Treat.	1915-17	E. S. Schmitz.
1873-74	William J. Turner.	1917—	Charles E. Brady.

* At the time of the organization of the Court in September, 1848, no District Attorney was appointed. E. H. Ellis was elected to the office at the November election that year and qualified Jan. 1, 1849.

CLERKS OF THE COURT.

1848-49	Ezekiel Ricker.	1870-77	Adolph Piening.
1850-	Chas. A. Reuter.	1878-86	Hubert Falge.
1850-51	P. P. Smith.	1887-92	John Chloupek.
1852-	F. Ulrich.	1893-98	James P. Nolan
1853-	Fred. Borchardt.	1897-98	Gulick Hougen.
1854-57	Chas. A. Reuter.	1899-1905	P. J. McMahon.
1857-61	T. G. Olmsted.	1905-09	Charles E. Cary.
1861-63	Jere. Crowley.	1909-15	Anthony J. Clark.
1864-65	Joseph Francl.	1915-18	Jos. P. Ledvina.
1866-67	P. J. Pierce.	1918-20	Hugo Vogel.
1868-69	Joseph Francl.	1920—	Charles E. Cary.

SHERIFFS.

1848-	Oliver C. Hubbard.	1887-88	John Bolen.
1849-50	George W. Durgin.	1889-90	Frank Zeman.
1851-52	W. F. Snyder.	1891-92	John Bolen.
1853-54	D. H. VanValkenburg.	1893-94	William Stephani.
1855-56	F. W. Adams.	1895-96	Henry Schmidt.
1857-58	T. A. H. Edwards.	1897-98	Chris. Muth.
1859-60	Louis Kemper.	1899-1900	Henry Lehrmann.
1861-62	Wyman Murphy.	1901-02	Pierre Burt.
1863-64	Ira P. Smith.	1903-04	Walter Pellet.
1865-66	George S. Glover.	1905-06	Fred. Eggert.
1867-68	Robert T. Blake.	1907-08	George Lambries.
1869-70	Peter Mulholland.	1909-10	Joseph C. Willinger.
1871-72	Albert Wittenberg.	1910-11	Charles E. Cary.
1873-74	R. D. Smart.	1911-13	Walter Pellet.
1875-76	Albert Wittenberg.	1913-15	Herman Schuette.
1877-78	Peter Mulholland.	1915-17	John Engelbrecht.
1879-80	P. J. Pierce.	1917-19	Joseph A. Kellner.
1881-82	M. H. Murphy.	1919-21	Thomas Brennan.
1883-84	John Bibinger.	1921—	Charles Schuette.
1885-86	M. H. Murphy.		

Divorce Counsel, G. A. Forrest, 1909 to date.

CITY ATTORNEYS.

The following list shows the attorneys who have served as City Attorney for the City of Manitowoc since the office was created:

J. D. Markham.....	1870-1871
S. A. Wood.....	1871-1882
G. A. Forrest	{ 1872-1873
	{ 1883-1884
	{ 1888-1891
George N. Woodin.....	1873-1874
Charles E. Estabrook	1874-1881
Charles W. White.....	1881-1882

J. S Anderson.....	{ 1882-1883 1886-1887 1891-1896
H. G. Turner.....	1884-1886
E. G. Nash.....	1887-1888
G. G. Sedgwick.....	1896-1899
E. J. Onstad.....	1899-1900
Ed. L. Kelley.....	1900-1903
Ed. S. Schmitz.....	1903-1905
Richard W. Burke.....	1905-1907
Albert L. Hougen.....	1907-1911
Harry F. Kelley.....	1911-1917
L. W. Ledvina.....	1917-1918
Ed. L. Kelley.....	1918-1921
Clarence E. Teitgen.....	1921—

NOTE.—Neither J. D. Markham nor S. A. Wood ever qualified for the office and no appointments were made in their place. The appointment of George N. Woodin was very unpopular and the Aldermen cut the salary down to \$25.00 per annum in the hope that he would refuse it, but he took the office and served the term.

The Municipal Court.

The Municipal Court of Manitowoc County was created March 9th, 1895, by Chapter 17 Laws of 1895. Originally the court had civil jurisdiction in all actions where the debt, damages, demand or penalty should not exceed \$500.00. It was given criminal jurisdiction of all criminal matters triable before a justice of the peace and all matters not punishable by imprisonment in the State's prison. Chapter 193, Laws of 1903, made its criminal jurisdiction exclusive and deprived justices of the peace of all criminal jurisdiction, and Chapter 659, Laws of 1907, provided the court should be a court of record with a clerk and seal. From the first the court was provided with a clerk who should be a shorthand reporter. The following attorneys have been judges of the court:

1895-1901—Isaac Craite.
1901-1905—A. P. Schenian.
1905- —Albert H. Schmidt.

In case of the absence or disqualification of the judge, the judge of the county court presides in his stead.

CHAPTER TWENTY

The Bar.

CHARLES E. ESTABROOK.

Charles E. Estabrook was born on a farm near Platteville, Wisconsin, October 31, 1847. He was educated in the public schools of his district and later attended the Normal School at Platteville.

He enlisted in the Army of the United States during the Civil War, on August 31, 1864, when less than seventeen years of age, and served as private and corporal in Company B of the Forty-third Regiment of Wisconsin Volunteers until the close of the war, on June 24, 1865. On his return from the war, he resumed his studies and graduated from the Platteville Normal School. His attention had been attracted to the law, and in the intervals of his work on the farm and teaching school he read law under the Supervision of Honorable William E. Carter, a capable and prominent lawyer of Platteville.

In the autumn of 1872 he came to Manitowoc as principal of the First Ward School of that city, where he taught for a year, meanwhile continuing his studies under the supervision of Honorable J. D. Markham.

After finishing his school year he regularly entered the office of Mr. Markham, where he remained as a student clerk until he was admitted to the bar at the term of court for January 1874, and in March following opened an office for practice.

In April he was elected as City Attorney of Manitowoc and held that office until December 1880, when he resigned, having been elected the previous month as member of the state legislature.

He served as representative of the Third Legislative District, which comprised the City of Manitowoc, for three annual terms. In the November election of 1886 he was elected Attorney-General of Wisconsin and was re-elected in 1888, serving until January 1, 1891.

Three or four years after his retirement from the office of Attorney-General he removed to Milwaukee, where he

established a successful general practice. He also served three terms as member of the legislature from the district of Milwaukee in which he resided, his last service being in the years 1913-14. During the period of his practice at the Manitowoc County bar, he was a member of the law firm of Estabrook & Walker, and later of Estabrook, Walker & Baensch. He was a studious, scholarly and capable lawyer, but was much more prominent for his work as a legislator, than as a trial lawyer. He originated and procured the passage of the law, creating the system of Farmers' Institutes, in which Wisconsin was the pioneer state.

He died at his home in Milwaukee about four years ago.

ISAAC CRAITE.

Isaac Craite was the son of Eusebe Craite and Zoe (Ruelle) Craite, pioneer settlers who came from Canada and settled in the Town of Manitowoc Rapids, Manitowoc County, in the year 1849. Here the future Judge Craite was born on April 26, 1856.

His primary schooling like other children of that period was had in the log school-house of his district. His vacations were spent in assisting his father on the farm. After graduation from the log school-house, he came to the City of Manitowoc and attended one of the high schools for a short period. Being then well grown, he engaged in manual labor of different kinds for a year or two, meanwhile economizing his earnings closely. He then attended the Oshkosh Normal School for one or two terms and in 1877 received a certificate entitling him to teach school.

He engaged in teaching in Manitowoc and adjoining counties until 1885, when in company with another young man he engaged in mercantile business in the village of Mishicott. He remained in this line of work for about five years.

His parents were Canadian-French and about that period the family removed to Mishicott. There were numerous families of French stock among the settlers of that section and Judge Craite's knowledge of the French language gave him considerable influence among them. He was elected Town Clerk, and later became Justice of the peace. The latter office proved congenial to him and he tried many cases within that jurisdiction. He was possessed of a strong natural instinct for what was fair and just, and often interfered to bring about a settlement of some controversy before it reached a trial.

He studied his cases in the light of the Statutes and books of Justice's practice and listened attentively to the arguments

of attorneys from the city. He became much interested in Law as a science, purchased some text-books on fundamental law; borrowed others, and settled down alone and unaided, to serious study.

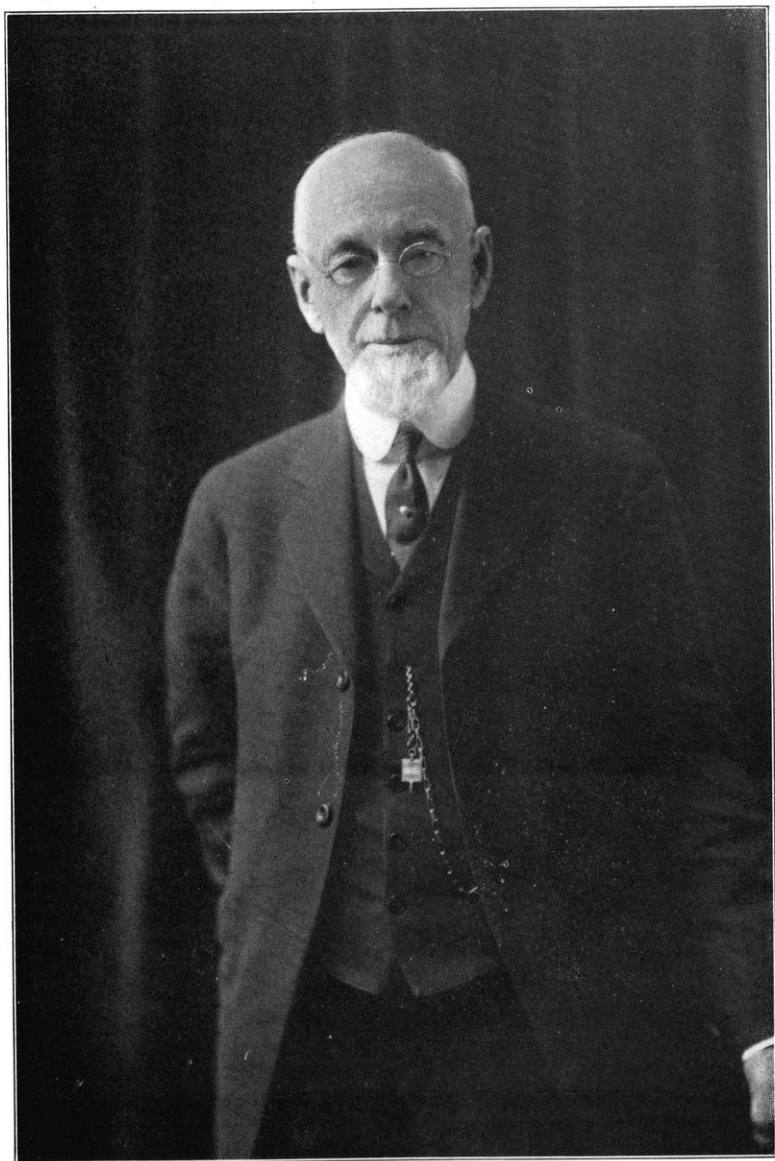
In 1887 he was elected to the legislature from the Second District of Manitowoc County and was re-elected in 1889. His legislative experience was just what he needed. It broadened his views and gave him an outlook on life far beyond anything his previous opportunities had afforded. The writer had been elected to the Assembly from the Third District in 1889 and so was his colleague in the session of that year. As Judge Craite represented a staunch Democratic district he was with the minority, while I, being a Republican, with a fairly large acquaintance among the leading men of that party, was able to be of assistance to Judge Craite in some local matter he was interested in, that had got stuck in some committee. He never forgot the circumstance, and in spite of our political differences we were personal friends, thereafter, until his death.

During all this time Judge Craite had been pursuing his law studies with patience and persistence, asking assistance from no one. In 1890 he appeared before the board of law examiners, passed his examination, and soon after was sworn in as a member of the Manitowoc bar, though he does not seem to have been formally enrolled until January 1895.

On March 9, 1895, the legislature passed the act creating the Municipal Court, of Manitowoc County. Judge Craite was nominated by the Democrats as a candidate for Judge of that court and he was elected without opposition. The court was new, and he was inexperienced. Yet he built up a reputation for the court and incidentally for himself as a judge that was held in high esteem by the people and the bar of Manitowoc County.

Judge Craite was a telling example of what a young country lad with ambition and determination to succeed could achieve under very adverse environment. He was a product of the back-woods. His manner was abrupt, almost gruff. His scholarship and knowledge outside of the law was scant and without system. His command of language was limited. Yet in spite of all this, he became a successful lawyer.

After he retired from the bench of the Municipal Court, he built up an extensive and lucrative practice. He was very successful before a jury, especially in his defense of small criminal cases. His plain every-day manner of speech, seemed to carry a weight with the ordinary jury, beyond that of florid oratory and elegant expression. He was a member of the law firm of Schmitz, Burke & Craite and afterwards, Burke &



HON. LYMAN J. NASH

Craite, until the removal of Richard Burke to Florida, after which time he practiced alone until his death. His death was sincerely regretted by his fellow members of the bar, who paid him a marked tribute, the principal addresses being made by Ed. L. Kelley and E. G. Nash, who were responded to by Circuit Judge Michael Kirwan.

He died on February 23, 1918.

L. J. NASH.

Lyman Junius Nash is of Revolutionary Ancestry. He was born in the State of New York on January 18, 1845. He came to Wisconsin with his parents at an early date. The family settled on a farm in Rock County, near Janesville. Here he grew to manhood, working with his brothers and father on the home farm and attending at intervals the public school of the district. As he neared manhood he taught for some time in the public schools of the neighborhood.

In the spring of 1866 he entered Lawrence University in the full classical course, graduating in the class of 1870 as the valedictorian. In the autumn of that year he came to Manitowoc and for two years was principal of the North Side graded schools.

He began reading law under the superintendence of Elery B. Treat in July and was admitted to the local bar on examination in open court on December 14, 1872. On January 1, 1873 he entered into partnership with his preceptor E. B. Treat and was soon in active practice. This business relation lasted until May 1st, 1874, when he entered into partnership with Oscar F. A. Greene which lasted until December of the same year when Mr. Greene decided to remove to Colorado Territory.

Mr. Nash then practiced alone until October, 1875, when he formed a partnership with A. J. Schmitz, now of Milwaukee, the firm being known as Nash and Schmitz. They made a busy firm and continued together until January 1st, 1881, when the firm was dissolved by mutual consent. Mr. Schmitz associated himself with Michael Kirwan, forming the partnership of Schmitz & Kirwan.

Edwin G. Nash a younger brother of Lyman J. Nash who, for two or three years had been a student and clerk in the offices of Nash & Schmitz, meanwhile had been admitted to practice as an attorney. The brothers became associated in business under the firm name of Nash and Nash and so continued up to within five years ago. In the meantime L. J. Nash had married as heretofore mentioned and the passing years brought him a family of two sons and a daughter. The

elder of the sons Archie L. Nash had grown to manhood. He attended the University of Wisconsin for three years, later, studied for the law in the office of Nash and Nash and after passing examination before the Board of State Examiners was enrolled with the Manitowoc county bar on November 6, 1899, and became a member of the firm of Nash & Nash.

He continued with the firm until the United States entered the World War. He had been trained in a military school and at once tendered his services which were accepted. He spent most of his period of service in training camps as organizer and teacher, but arrived at the front in France in time for the final scene. On his return he resumed his place in the firm.

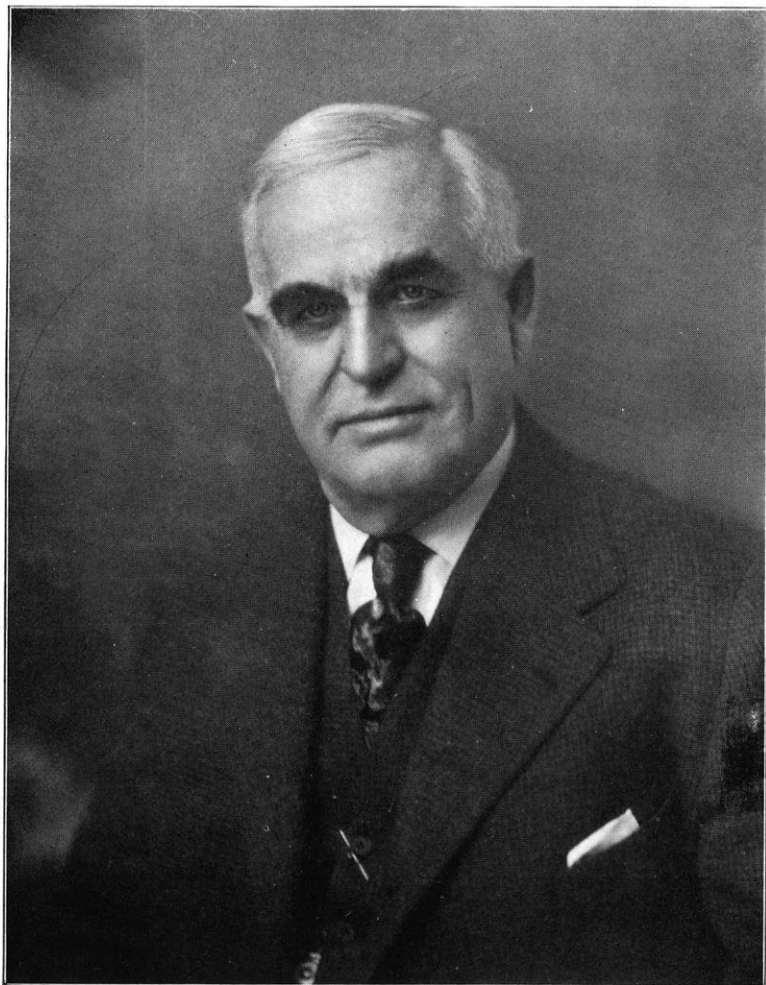
The younger son Francis Nash graduated at Princeton (then under the presidency of Woodrow Wilson later president of the United States) in 1906, in the course of letters. He then engaged in business life for about four years, and in 1910 began studying law and clerking with the firm of Nash and Nash. In July, 1913 he passed examination before the State Board of Law Examiners and soon thereafter was enrolled in the local bar and was attached to the firm. During the year 1915 he was admitted to practice in the Supreme court. In May, 1917 he terminated his connection with the firm by entering the World War.

He went to the front with an ambulance unit in which were some of his college classmates. On his arrival at the front, the United States not having entered the war, he entered the Italian service and was commissioned as a Lieutenant in the Italian army. Upon the arrival of the American army in France, he was transferred to service with his own nationality where he remained until the war ended.

On his return at the close of the war he formed a business connection in New York City where he is now located.

From the day he first entered the profession, L. J. Nash has been eminently a trial lawyer. Beginning as we all did with general practice, time developed for him a more special practice of business law. But he is not merely a good trier of cases. All his life he has been a constant and thorough student of the fundamental principles of the law. He is not a mere case lawyer. With him precedents have value only as they sustain and illustrate principles. Hence, while as a trial lawyer he is good before a jury, he is better still in argument before a court.

The tendency of modern business to centralize production and thence radiate distribution over great distances, led Mr. Nash as attorney for such interests into the State and Federal courts of several states. He had early achieved a



EDWIN G. NASH

state wide reputation as an able and busy lawyer and in later years became well known in several adjacent states.

His robust constitution and systematic methods of labor enabled him to perform an immense amount of work. He remained at the head of the firm of Nash and Nash until February 1st, 1910. Just prior to this date the state legislature had created the office of Revisor of Statutes, or "Revisor." The power of appointment was vested in the Justices of the Supreme Court and the Attorney General and they tendered the appointment to him as its first incumbent. He accepted the position and by successive appointments held the office until February 1, 1920, when he tendered his resignation.

The office of Revisor is not the only public service of Mr. Nash. Although his professional work from the beginning made heavy demands on his time, he has given freely of both time and ability to the public service. He has been member of the School Board, Alderman, County Supervisor, Member of the State Board of Bar Examiners, President of the State Bar Association, Chairman of Manitowoc Public Library Board, Trustee of Lawrence College. He was largely influential in organizing the Public Library in the city of Manitowoc. He has also held many offices in the business organizations of which he was a member.

His life has been a busy one and as he has in large measure maintained his health, doubtless still has years of useful life ahead of him.

The firm of Nash and Nash founded by him in 1881, with the changes mentioned, and the addition of L. W. Ledvina during the last two years is noteworthy as the oldest law firm in the city of Manitowoc and as having had the longest continuous existence of any law firm formed in Manitowoc county. The firm of Markham & Markham is the next in order.

On December 14th of the present year (1922) Lyman J. Nash will, we hope round out fifty years of a professional life, filled with well won honors and successes.

CHAPTER TWENTY-ONE

The Bar

G. A. FORREST

Gustavus A. Forrest was born in the state of New Hampshire on August 23rd, 1845. The family came to Wisconsin in 1850 going first to Kenosha and in the following year settled on a farm near old Fort Winnebago—now Portage. As a boy Mr. Forrest labored on the family farm. He received his primary instruction in the public schools of Kenosha and Fort Winnebago. In the year 1864 he entered Lawrence University as a member of the class of 1868 and remained until near the completion of his course but did not graduate, going instead to the State University.

He had decided on the study of law and entered the office of Spooner and Lamb, of Madison, Wis. At the same time he pursued the course in the college of law and graduated in the class of 1869, the first law class to be graduated from the State University.

He came to the city of Manitowoc in the autumn of 1869. At the following spring election he was chosen one of the Justices of the Peace, and opened an office, but a little later made his headquarters in the office of Ellery B. Treat reading up in Statutory law and practice until 1872 when he entered upon practice in partnership with C. W. White the firm being White and Forrest. This firm, a very busy one, lasted until 1880, when the firm of Forrest & Sedgwick was formed which dissolved in 1882, each of the partners practicing alone. After about a year Mr. Forrest formed the partnership of Forrest and Blesch; Charles Blesch being the junior of the firm. This connection was dissolved in 1887, on account of the failure of health of Mr. Blesch who died not long thereafter.

Since that time Mr. Forrest has practiced alone. He has been a member of the Manitowoc County Bar for over fifty years. While I was connected with the bar as student and office clerk nearly two years before he came to Manitowoc, his formal record of admission antedates mine by nearly a year. Our entrance upon the work of the profession was about the same period. He was a very busy man in the early

period of his lawyer life, and has to his credit twelve to fifteen appearances in the Supreme Court reports.

He served six yearly terms at different periods as City Attorney of Manitowoc. When, a few years ago, the legislature created the office of "divorce counsel"; he was appointed to that position, which he still holds. He has always been noted among his brethren of the bar for a vein of dry wit, wholly out of keeping with his habitual gravity of demeanour, which flashes out suddenly and unexpectedly. Many are the anecdotes which his old associates tell of this phase of his career.

JUSTICE JOHN BARNES

It would be a grave omission in the history of the Manitowoc County bar if no mention were made of the connection of John Barnes with it. Brief as it was the illustrious prominence of his later years rested securely on the foundation laid here in the period when he was acquiring his education in letters and law.

His parents John Barnes and Mary Butler Barnes were natives of Kilkenny County, Ireland. Soon after their marriage they emigrated to Montreal, Canada. After a short stay they removed to Manitowoc County, Wisconsin, and settled on a farm in the Meeme settlement, where their son John Barnes was born on July 26th, 1859. As he grew up he did a boy's share of the necessary work on the farm and between times attended "the little red school house" which has been credited with sending out so many noted and useful men.

When John Barnes had absorbed what the country school had to give him, he came to the city of Manitowoc and graduated in one of its high schools. Then followed a period of school teaching, alternating with terms of study at the Oshkosh Normal School. He was a successful teacher, but his ambition was not content to accept that as a life-work. Sometime in 1880 he entered the law school of the State University and graduated with the class of 1883, which marked his admission to the law profession.

To the best of my recollection he taught school for a year, or thereabout, after that and then came to Manitowoc, where he first spent a few weeks in the office of H. G. & W. J. Turner and later entered the office of G. G. Sedgwick, whom he assisted in the work of the office though he was not at any time either a stated clerk or a partner. He was simply fitting himself in the knowledge of practice. He remained about a year in that office. The time of his removal to Rhinelander where he settled and began practice is given as in 1886. He

served a term as Municipal Judge of Oneida county. After that he built up a practice which extended all over Northern Wisconsin. He was naturally a good business man and in the knowledge of business law, contracts, partnership, corporation, insurance and railway law had few equals. It was a new country, lately opened for development, with abundant opportunities for business of all kinds. He was a strong and tireless worker and naturally he prospered. He was a good citizen and identified himself with the public interests of his new home in every way, working with his fellow citizens to forward the growth and prosperity of that new and undeveloped country; giving freely of his energy and his time which had early become very valuable. He was especially active in the upbuilding of the public schools, and as well took a deep interest in all other phases of education.

In 1906 he was appointed a member of the newly created Railroad Commission by the Republican Governor of the state although he adhered to the Democratic party, selected solely on account of his pre-eminent fitness. He had given to the questions arising out of railway transportation a great deal of thought and study and his knowledge along those lines was well understood.

After two and a half years of service he resigned his office and returned to the practice of his profession. But for a short time only. The death of Chief Justice Cassoday caused a vacancy upon the Supreme bench and his name came prominently before the people as a worthy successor. His election to fill the unexpired term of the Chief Justice and his re-election for a full term in the spring of 1909, followed rapidly. His work as a member of the Supreme Court fully met the expectations of his many friends.

In 1916 he resigned his place upon the Supreme bench to accept the position of chief counsel for the Northwestern Life Insurance Company of Milwaukee; one of the largest financial institutions in the United States. This position he occupied until his death, which unexpectedly occurred on January 1st, 1919, when he was at the very height of his intellectual powers and usefulness.

When attending the high school at Manitowoc he had become attached to Julia Koelzer, a young girl schoolmate, afterwards a fellow teacher. Her family had been long residents of the city and was well known in business and social circles. The attachment was mutual and in 1887 they were married. She, with three daughters and one son survives him.

Though but a small part of the lifework of John Barnes was performed in Manitowoc county and he was but for a little time a member of its bar, we claim the right to share in

honoring his memory. We claim also the right to share in that honor which a just fame well earned reflects upon his early associations. Here he was born. Here he received the fundamental education which enabled him to mount still higher. Here he grew to manhood and woo'd and won the wife who so greatly helped him in his upward struggle. From the social atmosphere and environment of Manitowoc he absorbed his just and laudable ambition to do, and be worthy of, great things.

HENRY F. BELITZ

In what was heretofore written of the bar during the period 1870-1880, no mention was made of Col. Henry F. Belitz. His name was not on the roll of attorneys, and it was by the merest accident the record of his admission was discovered in the journal of the court.

Henry F. Belitz was one of those North Germans who came from the Province of Schleswig-Holstein to Manitowoc county about the year 1854. He was highly educated in many directions and was looked upon as an authority in music and the drama. He was a leader in the organization of a theatrical association and also in musical societies in the village of Kiel of which he was one of the founders having purchased the greater portion of the village plat, in 1855. In November of that year he headed a petition to the County Board, for the organization of the Town of Schleswig, and was its first representative in the County Board the following spring session. He also built the first industrial establishment in the town, a sawmill.

During the Civil war he was active in rallying the German element of the state in support of the government. He raised a company for the 9th Wisconsin (German) regiment in his neighborhood and, as a captain, went to the front with it in November, 1861 and served until December 24th, 1862, when he resigned. Upon the organization of the 45th Wisconsin another German regiment, he was commissioned as its Colonel on September 17th, 1864, and served with it until the end of the war, being mustered out, July 17, 1865.

He was familiar with the English language before he came to this country and did a good deal of notarial and conveyancing work for his countrymen who were not so fortunate. After his return from the army he also acted as Justice of the Peace and thus became interested in the law. He procured some law books did a little reading and at the June term of the Circuit court for 1866 was admitted to practice

after due examination. He came up to court on the opening day of the term, for a year or two after. I do not remember that he ever made an appearance in court as attorney, nor do such records as I have examined show that he did so. I suspect that he simply desired the title of "Attorney at Law" for the prestige it gave him among his neighbors.

He died about 1877-8.

Col. Belitz is an interesting character, considered as a capable and active pioneer citizen. As a lawyer he scarcely created a ripple on the current of legal history.

CHAPTER TWENTY-TWO

IN CONCLUSION

In looking back over the history of the bar, I am impressed with the difficulty of measuring the flight of time and the changes wrought. It is hard to realize that our political life as a state has not yet reached seventy-five years. The existence of this bar began with the birth of the state. Their development was coeval. It is a far cry from the rough board, unpainted, shanty-like house at the Rapids, in which the four original members met, to the palatial temple of justice in which the present bar gathers at the opening of the term.

The Supreme Court, at the Capitol of the State, then and for many years after was a distant goal which many of the early lawyers never reached. It entailed a long and weary journey in primitive conveyances, requiring many days to go and return. Now, it only requires a portion of two days at most, while the telegraph and telephone places us at all times in speaking connection.

The governmental changes meanwhile, until within the last score of years, were but few. The early lawyers who drafted our state constitution were men of vision who saw the necessity of leaving to the legislature a large margin of law-making power for future development. By careful legislation, changed conditions were easily adjusted to the fundamental law.

The daily routine work of the bar at the present time need not be described. The courts remain as they were first constituted by the adoption of the constitution, with some slight modifications in the county courts, and have about the same jurisdiction. The only radical changes which have occurred, were the adoption of criminal trials upon information in place of indictment, which worked a discontinuance of the meetings of the grand jury, and the adoption of the code of civil procedure which took the place of the old system of the common law.

The right to call a grand jury still remains but is in the discretion of the judge and is but little used. In the opinion of the writer it is a valuable privilege and its occasional use would be beneficial. Fifty-two years have passed since the

last grand jury for Manitowoc county met and to the best of my recollection the same is true of all other counties of the old Fourth Circuit.

The present trend of political thought and action is radical in the extreme and changes at variance with fundamental law are advocated by many. This has been manifested by the creation of Bureaus, Boards and Commissions of all kinds with almost unlimited power to formulate rules and regulations which have all the force of statute law. They hold judicial hearings, render judgments and by their own officers enforce them. In short, they exercise all the governmental powers, legislative, administrative, judicial and executive. The judicial powers vested in the courts are largely encroached upon and in many instances the courts are made mere adjuncts to enforce their decrees. The right of review of such decrees by the constitutional courts through appeal or writ of error is hampered or abridged by statute in every possible manner.

The result is, that an important element of law practice has come into existence which was almost wholly unknown to the old-time lawyer, causes which at an early day were tried in courts of general jurisdiction are now heard and determined before a board of laymen under rules of practice formulated by themselves, unbound by precedent, and with little regard to the rules governing legal testimony. The philosophy and principles of law are seldom in issue and the only solution called for, is the meaning or application of some statute or rule.

Such practice is necessarily narrowing and cramping in the extreme. If we may rely upon history bureaucratic government has never been either successful, or satisfactory to the governed.

Another evil which has obtained a strong foothold since the year 1900, is a growing tendency to over-legislation. In early times certainty in the law was considered more desirable than mere exactness of definition. Hence when a statute had been construed by the Supreme court the tendency was to retain it, perhaps with some slight amendment, to conform to, or avoid the effect of, the court's decision. The idea of certainty and permanence in the law seems to have been entirely lost. The existence of the "lex non scripta" (the law of construction) is ignored, and a supreme effort is made to secure a "lex scripta", a written statute for each and every conceivable human situation or combination of circumstances. Each alternate year the legislature turns out from 2000 to 3000 sections of new law or amendment and repeal of the old, much of it wholly unnecessary and unwarrantable.

The work of the bar in keeping check upon these changes is enormous. The work of the court of last resort is also increased and made more difficult and unreliable. Before the rule of "stare decisis" can be established the statute law on which it was founded is modified or repealed.

The young men of the present bar are working just as their predecessors did fifty years ago, meeting and conquering (or being conquered by) the same kind of difficulties and problems. In some respects I think their task is harder and more difficult than in that early period by reason of the uncertainties created by over-legislation.

There has been much effort to secure a greater degree of preparation on the part of those who seek to enter upon the profession of the law. Law schools and colleges have multiplied and a longer or shorter course of study, followed by more or less stringent examinations is required. I doubt, nevertheless, whether better lawyers have resulted from such preparation than by the old method of study in an active law office. There was a public sentiment in the old days that the law was a learned profession and that a goodly amount of scholastic preparation was essential as a foundation. The existence of such sentiments attracted men of scholarly instincts to the profession, and its standard was fairly high. Such men on finding themselves deficient studied to remedy their defects.

In previous pages I have paid tribute to the patriotism of the local bar during the Civil war. All there said is equally true of the present members of the bar during the World war of 1914-1918. All the members of the bar gave their time and services freely in speaking at war meetings throughout the county and in other counties. They aided "the drives" so-called to raise funds for the Red Cross and other war agencies, to further the sale of war-bonds issued by the government; speaking and urging the people to stand by the government in the emergency.

When the nation finally entered the war and the young men were called to service, the entire bar volunteered their services in filling out the questionnaires sent to those selected, keeping a delegation constantly at the court-house until no longer needed. It was hard and fatiguing work and it is just and proper that mention be made of it.

Nor was this all they did, every one of the young unmarried members of the bar, six in number, entered the service of the army or navy as volunteers. One married member, Archie L. Nash who had received part of his education at a military institute also tendered his services. He was at once appointed as instructor of artillery practice with the rank of captain of

artillery. Later he was promoted to the rank of major and went to France just in time for the final round-up. Those who went into the service constituted one-fourth of the entire active bar. Had the war lasted longer, others of the older element would unquestionably have been drawn into the great vortex.

It is characteristic of the profession of the law that it makes for conservatism. It is their daily duty to enforce or defend the inalienable rights of their fellow citizens. Hence the number of lawyers engaged in the radical agitation for the overthrow or extreme change of the present system of liberty under the law is very small. Their motto is, "prove all things, hold fast to that which is good".

The bar of Manitowoc county is no exception to the rule. They are a hard working, conscientious body of men, with whom the writer is proud to have been associated for half a century.

Some of them have already achieved eminence in their work. Others are striving to attain it. The two or three survivors of the early day, who have "served their generation" wish them well.

"_____ what is writ is writ.
 Would it were worthier, but I am not now
 That which I have been, and visions flit
 Less palpably before me; _____"

Byron (Childe Harold.)

THE END.

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