

Memorial

to

William Codman

[May 24, 1868 – January 31, 1958]

**Winona County Bar Association
District Court
Tenth Judicial District
Winona, Minnesota**

April 21, 1958

Memorial to William Codman

Attorney-At-Law.

The Winona County Bar Association, out of respect of the memory of William Codman, presents this memorial to the District Court, Tenth Judicial District, State of Minnesota.

The death of William Codman occurred on January 31, 1958 in Minneapolis. Mr. Codman had been living in Bloomington, Minnesota, a Minneapolis suburb, since his retirement from active practice of law in the year 1954.

Mr. Codman was a native of St. Charles, Minnesota, was born on May 24, 1868, the son of William R. Codman and Jean Kellogg Codman. He resided in the city of Winona from 1885 until 1954, was educated at the Winona Senior High School where he was Captain of the Baseball team for two years. Mr. Codman studied law at the University of Minnesota Law School and was admitted to the practice of law in the State of Minnesota in 1897. He entered the law office of the late O. B. Gould, who then just finished two years service as District Judge for the Third Judicial District. Mr. Codman and Mr. Gould were associated together for a number of years, and the late Judge H. L. Buck became an associate in the same office. Mr. Codman continued the practice of law at this office in what is commonly known as "the Slade block" in the City of Winona until 1947 when he moved his office practice to his home.

Mr. Codman on September 15, 1909 was married to Emma Schultz, and two daughters Rosalind and Dorothy were born to them. Mrs. Codman died in 1951.

In his practice, Mr. Codman appeared in all three Winona Courts, as well as before the Supreme Court of the State of Minnesota. Perhaps the most noted case in which he acted was in the defense of

Mr. C. W. Anding on a charge of obstructing the draft in World War #1, which trial was in United States District Court in Winona, the late Hon. Paige Morris presiding. In the actual trial, Mr. Codman was assisted by another local attorney as well as a Minneapolis attorney who specialized in criminal law. After the conviction of Mr. Anding, Mr. Codman, without the support of the other attorneys handled a motion for new trial, in which motion he was successful and the termination of the War soon after put a stop to the trial. Because of the nature of this matter, the case attracted considerable attention throughout the State.

In 1912, Mr. Codman was appointed to the Home Rule Charter Commission and served as its President. Mr. Codman served as Special Municipal Judge of the City of Winona from 1924 to 1926, at which time he was named City Prosecutor, which office he held for five (5) years.

The history of Winona and the surrounding territory was one of Mr. Codman's chief interests. In the 1930s, he was active in organizing the Winona County Historical Society and was elected its first president in 1935. He also served as historian for the Winona County Old Settler's Association. Mr. Codman also wrote numerous historical articles which were published in the local newspaper, and a history of Winona County and an article entitled "The Beginning of Government in Minnesota", which was published in the 1941 edition of "Who's Who in Minnesota".

William Codman, living to the fullness of time, left his imprint on the legal profession of the City of Winona and will be long remembered by the entire City of Winona as its most ardent historian.

The Winona County Bar Association requests that this memorial be placed in the records of the District Court, and extends its sympathy to the daughters of William Codman.

Dated at Winona, Minnesota, this 21st day of April, 1958.

Herbert M. Berg

E. D. Lillemor

H. Brechner

F. W. Sawyer

MEMORIAL COMMITTEE,
WINONA COUNTY BAR ASSOCIATION.

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Appendix

Articles in the *Winona Republican-Herald* and *New Ulm Review* about the Anding case follow:

WINONA REPUBLICAN-HERALD

Tuesday January 8, 1918

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COUNTY AUDITOR PLEADS NOT GUILTY TO FEDERAL CHARGE AND IS RELEASED

**C. W. Anding Furnishes \$5,000 Surety Bond-
Denies Charge—Winona Grand Jury Is
To Hear Evidence at May Term.**

C. W. ANDING, auditor of Winona county, who yesterday afternoon was taken to St. Paul by Deputy United States Marshal Jos. Buisson on a charge of violation of the espionage act, pleaded not guilty to the charge before United States Court Commissioner Samuel Whaley at St. Paul at 4 p. m. and was bound over to wait the action of the federal grand jury, to meet in Winona in May. His bail was fixed at \$5,000, which was furnished. Mr. Anding returned to Winona on an evening train and today was on duty at the auditor's office at the court house here.

According to a statement made by Gov. Burnquist, the Public Safety Commission is to investigate Mr. Anding's case as to whether he should be allowed to continue in office and when its recommendations are reported to him, the governor has intimated he will take prompt action.

Mr. Anding comes out with a flat denial of the charges which were made against him in the warrant alleging specifically that he advised Clarence Crawford, Kurth Schellhas and his own son not to take the federal oath if drafted. Mr. Anding declared that Crawford never came before him in registration proceedings, that he understands Crawford is above the draft age. He denies absolutely that he ever in any way suggested that any man, and particularly not one of these three, try to circumvent the selective service law.

He declared today he does not know what the federal oath of service is, and that he had never advised registrants on this matter.

Mr. Anding expresses the belief that the proceedings against him are political in their source. He declares he hates Kaiserism, that he has purchased Liberty Loan bonds and that he and his daughter are members of the Red Cross organization, the service flag of which is displayed in the window of his home. He declares also he had refused to talk war as he knew there were many voters in Winona county with German leanings.

Prior to leaving Winona for St. Paul yesterday, Mr. Anding made arrangements, through Winona agents, to furnish the bond that he anticipated he would be required to give at St Paul. When this was called for by Court Commissioner Whaley, Mr. Anding was able to furnish it promptly with Fitzhugh Burns and A. H. G. Mensing of St. Paul as sureties, the former being the St. Paul manager and the latter an agent of the Fidelity and Deposit company of Baltimore, Md., and accustomed to going upon bonds. Both are professional bondsmen.

Chief Agent T. E Campbell of the Department of Justice at St. Paul, in speaking about this prosecution today, stated that the investigation in Winona was still going forward and it was impossible for the district attorney to state whether or not there would be any more complaints issued. Such matters were investigated by the department of justice and are not placed in the hands of the district attorney until there was evidence at hand for the issuance of a warrant, as was done in the case of Mr. Anding, he said.

It was said at Governor Burnquist's' office at 3 p. m. today that the case of Mr. Anding had not been reached at that time. The Public Safety commission went into session this morning but faced a great amount of necessary work that had occupied it up to 3 p. m. and was expected to take another hour at least. The governor stated, however, that the case of the Winona county auditor would positively be considered by the commission and he would take whatever action the commission recommended. He did not know if the matter would be reached today but expected that it would be given attention before the meeting came to a close. He predicted that the meeting might go well into the evening before the mass of work was cleared away.

The governor said that he would take no action until the commission had made its recommendations to him.

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WINONA REPUBLICAN-HERALD

Saturday September 28, 1918

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RE-HEARING FOR ANDING IS ARGUED

In federal court in Minneapolis Friday afternoon Judge Page Morris heard arguments for a new trial in the case of the government against C. W. Anding, former auditor of Winona county, found guilty at the May term of United States court in Winona of violation of the espionage act. The hearing occupied the entire afternoon, the matter being gone into very thoroughly by counsel for Mr. Anding. Atty. William N. Nash of St. Paul made the opening address and was followed by Atty. William Codman of Winona who spoke for two hours and 20 minutes in behalf of Mr. Anding. United States Atty. Alfred Jacques was heard in opposition to the motion. Mr. Codman had prepared his argument with considerable care and was given unlimited time by the court. While no decision was given in the matter yesterday, Judge Morris taking the matter under advisement; the court, at the close of the hearing, declared some entirely new matter not brought up at the trial had been presented, and indicated the arguments would receive his careful attention.

Basis of Conviction.

The indictment on which Mr. Anding was convicted charged that on Aug. 1, 1917, Mr. Anding attempted to cause insubordination and refusal of duty in the military forces of the United States by saying to one Kurth Schellhas: "A man could not be made to go to France; all he has to do when drafted is to refuse to take the federal oath." The indictment alleged that at the time this statement was made Schellhas was registered for service in the military forces of the

United States. At the trial it was held by Judge Morris that Schellhas at the time actually was in the military service of the United States, that he entered such service when he registered under the selective draft act.

Ground for New Plea.

The principal point, on which a new trial is being asked, and which was argued at the hearing yesterday is that Schellhas did not actually enter the military service of the United States until at 3 o'clock on the afternoon of June 24, 1918, (a month after the trial of Mr. Anding and almost a year after the alleged offense). At the hour of mobilization in Winona he automatically became a soldier in the service of the United States.

The second article of the Articles of War was quoted, this reading as follows concerning when men are in service:

"All officers and soldiers belonging to the regular army of the United States, all volunteers from the date of muster or acceptance into the military service of the United States; and all other persons lawfully called, drafted or ordered in or to duty or for training in the said service, from the dates they are required by the terms of the call, draft or order to obey the same."

Judge Ansel Upholds Codman.

S. T. Ansel, the judge advocate general of the United States, at the request of United States Senator Frank B. Kellogg wrote personally to Atty. Codman giving the army definition as to when a man is in service saying: "Military service clearly indicates active service. The period of military service begins with entry into active service. Drafted men are included when they become part of the forces raised under the 'Selective Service Act.' Clearly they would be no part of such forces until they entered the service on active duty. And as applied to a draft registrant he would not be in the military

service until he enters it. The date of his entering such service is the date on which he is required to respond to the call of the draft."

The reading of this letter was incorporated as part of Mr. Codman's argument for a new trial.

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NEW ULM REVIEW

New Ulm, Brown County, Minnesota.

Wednesday April 30, 1919

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JUDGE DECIDES TO GRANT NEW TRIAL

CO. AUDITOR ANDING OF WINONA TO BE GIVEN SECOND HEARING.

JUDGE PAGE MORRIS SAYS HE DOUBTED ANDING'S GUILT FROM THE FIRST.

C. W. Anding, father of Moritz Anding, engineer at the New Ulm Roller Mill Co. plant, convicted a year ago in the Federal Court at Winona and sentenced to serve a term of 18 months in the federal penitentiary at Ft. Leavenworth, Kan., was granted a new trial Saturday by Judge Page Morris who presided at the trial which resulted in a conviction.

When the case will be called for retrial if it ever is tried again, was not intimated by U. S. District Attorney Alfred Jacques, who was present at the brief proceedings.

The Court's Order.

In his order the court said: "On Sept. 27, 1918, a motion by the defendant to set aside the verdict and judgment rendered herein and to dismiss the indictment or grant a new trial, was argued by counsel, Alfred Jacques, Esq., for the United States, and John P. Nash, Esq., and William Codman, Esq., for the defendant, and a new trial is awarded defendant."

"In this case," said the memorandum, "after carefully reading and considering the whole testimony, bearing in mind the conditions of public feeling and the consequent atmosphere of the courts at that time in regard to anyone shown to entertain, or even suspected of entertaining, sentiments favorable to Germany or of disloyalty to our government or of our president, I find myself in such extreme doubt as to the defendant's guilt of the offense charged in the indictment that I feel constrained to grant a new trial. I do this without reference to the law questions raised in the trial. They can be again passed upon when the case is again tried."

Doubt at Time of Trial.

In his oral comment from the bench, Judge Morris declared that, in his opinion, Anding had German tendencies but, he stressed, pro-Germanism was not the charge in the indictment. The court said, also, that there was such doubt in his mind at the time of the trial that he was inclined to take the case from the jury and direct a verdict. He decided, however, to allow the case to reach the jurors. At the time the indictment was found against him, Mr. Anding was County Auditor of Winona County.

Mr. Anding's friends will be pleased to learn of the happy turn the proceeding against him have taken. Everyone conversant with the case feels confident that this is the end of the persecution of Mr. Anding.

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**ANDING CASE
DISMISSED BY
FEDERAL COURT**

THE case against C. W. Anding in the United States court has been dismissed, and his bondsmen are released from further responsibility. Mr. Anding in the indictment returned by the federal grand jury at the May, 1918, term in Winona was charged with violation of the espionage act in that he was said to have made utterances, calculated to discourage service in the army. The indictment was returned at a time when the war spirit was at its height. On trial by a jury a conviction was made and Mr. Anding was sentenced by Judge Page Morris to Leavenworth, but execution of the sentence was stayed until a motion for a new trial could be heard. This motion was argued before Judge Morris in September of that year and in the following April was granted, but the case never has been called for trial again. Its dismissal was made after United States Attorney Alfred Jacques had notified the court that he did not intend to further prosecute the defendant

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