

EPIISODES IN THE LIFE OF JAMES MANAHAN

Chapter Two

The “First Graduate” and His Family

By

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minnesotalegalhistoryproject.org

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MRS. JAMES MANAHAN
(Lincoln, Nebraska . . . 1898)

Manahan and His Family

He was born near the village of Chatfield in Fillmore County, Minnesota, on March 12, 1866, one of twelve children. His father was a farmer. He recalled having the sort of idyllic youth that Midwestern writers have recalled time and again yet he never forgot his family's roots in the soil. When debating an immigration bill in the House of Representatives in 1914, he declared, "I am a farmer's son, one of a race of toilers. I carry the marks of hard work, the awkwardness of the country, upon me. My heart is with the struggling poor. I confess some bitterness toward the hypocrites who cover wicked greed by a cloak of wealth and good-mannered respectability. I do not hate wealth and capital as such. I hate the abuse of power."¹

His first thirty years are covered in the first four pages of his autobiography. He attended country schools and graduated from Normal School in Winona, Minnesota, in 1886. After teaching school for a brief period in Graceville, Minnesota, he attended the law department of the University of Wisconsin in Madison. He transferred to the University of Minnesota College of Law and was one of three to graduate in the first class in 1889.

He married Mary ("Minnie") Zieta Kelly on September 20, 1893. She was the daughter of Daniel Kelly, a prominent businessman in the insurance and real estate fields in St. Paul.² They had one child, a daughter, Kathryn, born on October 13, 1896. Minnie Manahan, her daughter wrote, "was raised in a school of that which excluded women from participating in public affairs and which considered the activities of the home as paramount to any other."³ Professor Mary Lethert Wingerd describes her in similar terms: "Minnie Manahan, unlike her husband, was St. Paul born and raised, the daughter of a

¹ 63 Cong. Rec., at H2601 (daily ed. January 30, 1914).

² For biographical profiles of Daniel Kelly published in 1906 and 1924, see Appendix, at 14-17.

³ KM, Ch. VIII (6), MP Box 3. Kathryn Manahan's original spelling has been retained in quotations from her manuscript.

prosperous Irish-Catholic innkeeper. Her frame of reference was ineluctably parochial, the comfortable and familiar milieu of Irish St. Paul. Her loyalties, quite predictably, stopped at the city limits.”⁴

Manahan’s work as a lawyer and political activist called him away from home. Minnie disliked her husband’s absences and she openly regretted that he was not in another line of work.⁵ At times she was baffled by her husband’s choice of clients. The gulf between them was revealed in a conversation Kathryn overheard between her mother and grandfather, who had come for a visit:

What will I do now, she asked impatiently, if Jim is away, like this, all the time?

Where is he now, Minnie?

He is in New York, on business.

What is the case about?

Oh, I don’t know. Some farmer or other enlisted his sympathies. I cannot make him understand that the poor people should be kept in their place. He keeps growling about the injustices done the poor. They never did a thing for him.⁶

⁴ Mary Lethert Wingerd, *Claiming the City: Politics, Faith, and the Power of Place in St. Paul* 110-111 (2001).

⁵ From time to time Minnie was also away from home and her absence drove her husband to write daily letters gushing with affection and begging for news of her return. Her letters would begin, “Dear Heart.” He may rank as one of the premier Valentine’s Day letter writers of this period. Minnie kept all his letters. They overflow his early correspondence files in Box 1, MP.

⁶ KM, Ch. VI (7). Minnie likely was referring to *The Express Rate Case*, her husband’s most important legal triumph.

This exchange was included in the manuscript sent to New York publishers but omitted from the final published version. It certainly does not flatter Minnie and suggests that if there was occasional tension between husband and wife, relations between daughter and mother were also strained at times. In this regard it is noteworthy that Kathryn dedicated her father’s autobiography to “the lovers of his causes” not her mother.

Nor was she impressed by the publicity surrounding her husband's cases. Kathryn recalled, "The fact that the cases which he was trying were of public interest, nay even of national interest, did not concern her in the least."⁷ She certainly did not like his highly publicized challenges to the social and political establishment. Walking to a rate hearing in St. Paul one morning, he describes himself as "tired and discouraged, having been reproached, at home, for having antagonized the 'worth-while people.'"⁸

Needless to say Kathryn did not share her mother's views about the place of women in society. She graduated from the University of Minnesota in 1920.⁹ Influenced by her father and likely by the Jeanette D. Hoogesteger, an associate of her father who was admitted to the bar in 1915, she enrolled in the University's College of Law in 1922. At the end of her first year in law school she did something highly unusual: she took and passed the state bar examination, and was admitted to the bar on September 1, 1923.¹⁰ She resumed her studies, graduating in 1925.¹¹ She joined her father and Hoogesteger in their practice in St. Paul. Until Manahan's death in 1932, the firm was known as Manahan, Hoogesteger & Manahan.¹²

⁷ KM, Ch. VIII (6).

⁸ TOL, at 60. (One can imagine how the Manahans would like to spend a Saturday night: Jim would like a public meeting hall where he could give a rousing political speech to a crowd of working men while Minnie would prefer a dance hall where there was music, polkas and gaiety).

⁹ She was on the staff of the yearbook. *The 1920 Gopher* 137, 413 (1920). This helps explain her confidence in editing and publishing her father's autobiography.

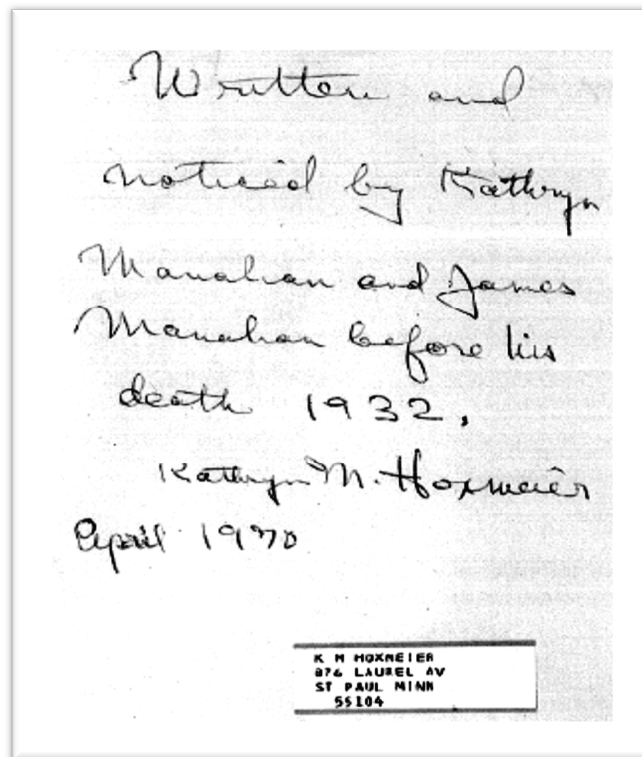
¹⁰ Minutes of the Minnesota Supreme Court, September 1, 1923, at.133, Posted in Appendix, at 18. See also, Roll of Attorneys, Supreme Court, State of Minnesota, 1858-1970, at 213 (Minnesota Digital Library).

In the nineteenth century, when there were few law schools and most students "read law" in a practitioner's office, there were rare instances when a lawyer attended law school after being admitted to the bar. They realized they needed more legal education than what they had received during their apprenticeships. Two examples are "Thomas Jefferson McDermott (1861-1939)" (MLHP, 2013); and "Harry Lee Buck (1861-1952)" (MLHP, 2013-2015).

¹¹ Fittingly a photograph of the Class of 1925 in which Kathryn appears hangs a few feet from her father's on the same wall of the library of the University of Minnesota Law School.

¹² It was unusual at that time for a law firm to employ even one female lawyer; for a firm to have two women lawyers, both named partners, likely shocked the St. Paul legal

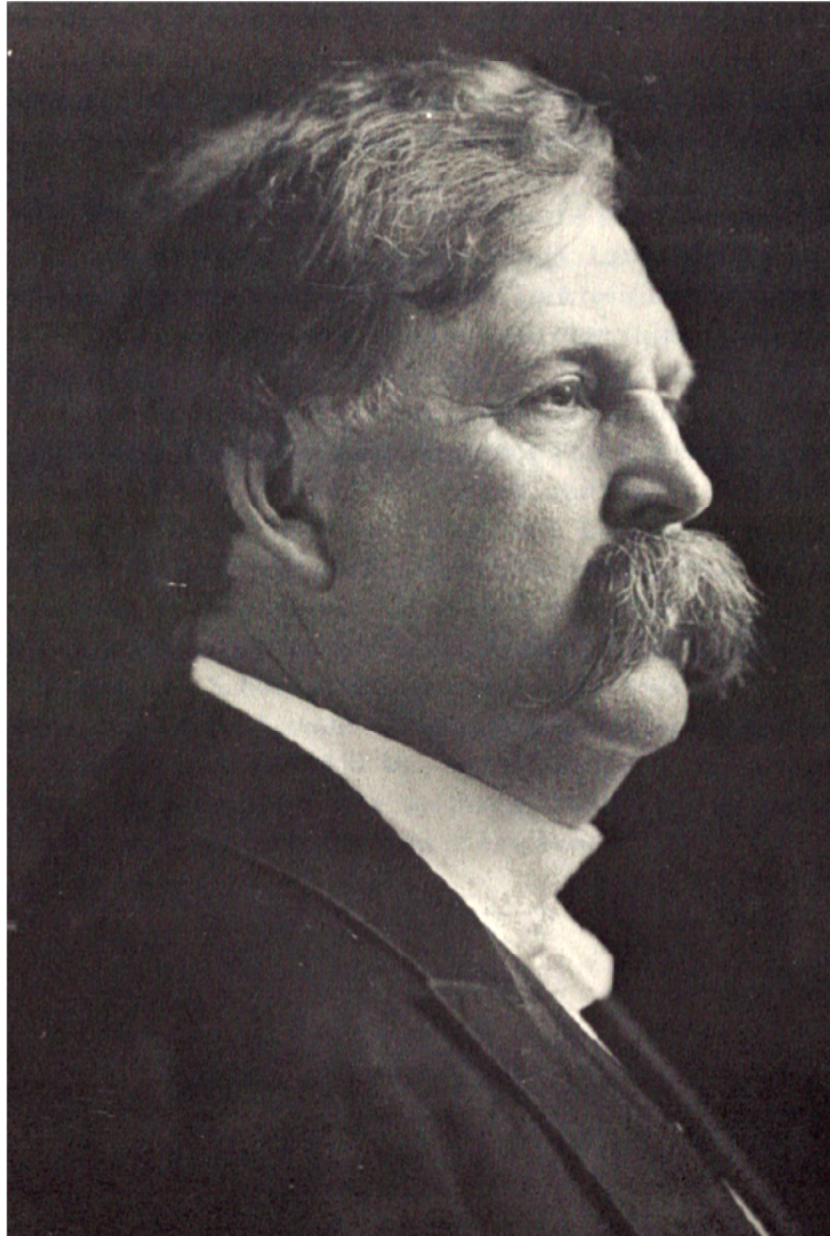
She did not practice with Hoogesteger after her father's death. She lived at home with her mother, who died on November 7, 1935, at age sixty-six. She married Michael T. Hoxmeier, a St. Paul lawyer, on November 30, 1940. Their marriage was short, ending with his death on October 4, 1948, at age fifty-nine. In 1936 she began donating her father's papers to the Minnesota Historical Society. She made a final pilgrimage to see them in April 1970, and left this small note:¹³



Kathryn Manahan Hoxmeier died on April 11, 1987. She was ninety years old.

establishment. Helen Spink Henton, a classmate of Kathryn, described the humiliations she suffered when seeking work as a lawyer following graduation in 1925. "I remember applying at every prestigious firm in both cities, and some not so prestigious. The only questions I was asked were how many words a minute I could type and what experience I had. I was not about to become a part of a typing pool, and I knew the second question was a brushoff, for none of us had experience. Without a job, which paid in these firms from nothing to \$50 a month to start, we could not get experience and without experience we could not get a job." "Reminiscences of Helen Spink Henton, Class of 1925" in Robert A. Stein, *In Pursuit of Excellence: A History of the University of Minnesota Law School* 424 (1980).

¹³ KM, Ch. II (1), in MP Box 2.



**Dean William S. Pattee 1904
University of Minnesota Archives**

The “First Graduate” Starts Out

Manahan entered the first class of the College of Law in 1888, completed his studies the next spring and graduated on June 6, 1889.¹⁴ He facetiously claimed to be “the first graduate” of the law school and in an alphabetical sense he was correct.¹⁵ Dean William S. Pattee had a special fondness for that inaugural class. The day before graduation he sent Manahan a handwritten note:

“Your excellent thesis is before me. I wish today you a last word of Congratulations, and to express to you my sincere regard for yourself, and my warm interest in all your prospects. I know you will be manly in all you do, and I expect from you as I do each of your classmates a high rank in the proud profession which you have wisely selected. I know you will all be Men first and able lawyers afterward.”¹⁶

¹⁴ For a description of how the first class was taught at the College of Law, see William Watts Folwell, IV *A History of Minnesota* 444-45 (1969)(published first, 1930).

To graduate, a law student was required to write a thesis. Manahan wrote a 25 page paper on “The Equitable Doctrine of Estoppel.” MP Box 3.

The commencement program is filed in MP Box 1.

¹⁵ TOL, at 11. The other members of the class of 1889 were Frank John Smith and Charles Sumner Whiting. Smith died in 1912, and Charles S. Whiting became a justice on the South Dakota Supreme Court. *Alumni of the College of Law, 1889-1915* 242 (MLHP, 2017)(published first, 1916). As one newspaper put it, “He claims he was the first graduate of the school because he was in the first class to finish, ’89, and the other two fellows’ names began with S and W.” *St. Paul Daily News*, August 4, 1906, at 3.

Today Manahan’s photograph hangs on the first floor of the library of the University of Minnesota Law School, above a plaque noting that he was one of three in the first class to graduate in 1889.

¹⁶ Letter from Pattee to Manahan, June 5, 1889, MP Box 3 (underlining in original). A copy is posted in the Appendix, at 19.

Two years later, he wrote Manahan after receiving photographs of the class of ’89:

I find on my return from Maine the three pictures of the three good boys whom I shall always love and for whom I shall have and expect good things.

Letter from Pattee to Manahan, June 1, 1891 (excerpt). MP Box 1. Posted in the Appendix, at 20. The photograph of Dean Pattee on page 8 is from Robert A. Stein, note 12.

On Saturday, March 2, 1889, with seventeen other applicants, he took a written bar examination consisting of 75 sections, each having one or more questions, in Ramsey County District Court. He kept a copy (it is either the earliest or one of the earliest copies of a written bar examination in this state that we have).¹⁷ Only twelve applicants including Manahan passed.¹⁸ They were admitted to the bar on March 7.¹⁹ He later reflected on this moment in his life: “I had good health, farm-cured, a million dollars’ worth of dreams, a license to practice law and red hair.”²⁰ That phrase—“a million dollars’ worth of dreams”—expresses the optimism of youth as well as two prominent strains of American character—practicality and idealism—that frequently conflict and recur throughout his life.

He rented Room 9 of the German American Bank in St. Paul and began practice by himself. In 1892 he represented John Kangley in a negligence action against the Northern Pacific Railroad in federal court in Minneapolis.²¹ The jury awarded \$5,000 to Kangley.²² It

¹⁷ MP Box 3. Two copies of the examination are posted in the Appendix, at 21-42. The first is a reduced copy of the original test; the second is a re-typed version which is easier for the viewer to read when downloaded and printed.

Coincidentally in March 1889, an oral examination for the bar was given fourteen applicants in Hennepin County District Court. It is discussed in the Appendix, at 43-45.

¹⁸ *St. Paul Daily Globe*, March 8, 1889, at 2 (quoted in footnote 30, Appendix, at 23).

¹⁹ Manahan was admitted on March 7, 1889. He must have misplaced or lost the original certificate of admission because on January 14, 1895, the Ramsey County Clerk of Court re-certified his admission. It is posted in the Appendix, at 46, and can be found in MP Box 1.

²⁰ TOL at 12.

²¹ The facts of Kangley’s suit were described in the *St. Paul Daily Globe*:

Judge Edgerton and a jury in the United States circuit court are in the midst of the trial of the case of John Kangley against the Northern Pacific Railroad company. Kangley was a brakeman on a freight train, and while his train was waiting the approach of another train he was kept on the look-out. He sat down on the ends of the ties beside the tender and had his hand resting on the rail. The engine moved without warning and his hand was cut off. This happened fifteen miles west of Presser, Washington, July 29, 1890, and he asks for \$20,000 as damages.

St. Paul Daily Globe, July 26, 1892, at 2.

²² MP Box 4. A typed transcript of the trial is in the “John Kangley” file in MP Box 4, suggesting that an appeal was contemplated. But there is no record of an appeal. The

would be foolish to interpret this case as an early indication that he had elected to challenge rather than serve large business interests. Most likely he just believed Kangley had a sound case on liability and damages, and agreed to represent him.

In August 1892 Manahan and John I. Howard formed a “copartnership” with offices in the German American Bank.²³ They developed a general practice—collections, business disputes, probate and negligence. The firm was dissolved on February 24, 1896. It was a friendly split, with Manahan retaining the option of resurrecting it within a year if he chose.²⁴

Manahan had a gift for oratory, a talent he used in the courtroom and political campaigns. In the fall of 1894 he campaigned for the Democracy, as Democrats called their party, in St. Paul and southern Minnesota.²⁵ The *Austin Herald* raved about a speech he delivered on October 4, 1894, though misspelling his name:

Mr. Brackenridge [Democratic gubernatorial candidate] was followed by James Monahan of St. Paul, one of the brightest young lawyers and platform speakers we have heard for some time. Mr. Monahan laid out the arguments used by the opposition, and pulverized them with the greatest ease and delight. He talked democracy and defended the party in a most effectual manner. During his remarks the speaker became eloquent in expounding the gospel of true Democracy, bringing out the scores of good things the president and many true Democrats had accomplished against great opposition on the part of

case was tried before the Manahan & Howard firm was formed as “T. Thygeson” is listed as Manahan’s co-counsel.

²³ The earliest copies of the stationery of the “Law Offices of Manahan & Howard” are dated August 1892. MP Box 1.

²⁴ MP Box 1. The three-page agreement is posted in the Appendix, at 47-49.

²⁵ The *Globe*, a staunch Democratic organ, listed Manahan and other speakers at party rallies that year. E.g. October 24, 1894, at 4, where he is named as a speaker four straight nights.

some Democratic senators who were the property of the monopolists and trusts, body and mind.”²⁶

In 1895, his sixth year in private practice, Manahan was asked to be the lawyer in a complex and demanding case—defending the estate of John Fitzgerald from a blizzard of claimants. Fitzgerald, a railroad contractor, had accumulated an estate of several million dollars and owned many parcels of land around Lincoln, Nebraska. He died intestate. His widow Mary was a cousin of Minnie. She retained Manahan to represent the estate. The Manahans moved to Lincoln in mid-1895.

Someone taking stock of James Manahan at this moment would see a twenty-nine-year-old lawyer who had his own small firm that was similar to several dozen others in St. Paul. Aside from having a budding reputation as a good speaker on the hustings, there was nothing remarkable or memorable about him. Not many in the city even knew he was gone.

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²⁶ *Austin Daily Herald*, October 5, 1894, at 2.

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Daniel Kelly

There are two biographical sketches of Minnie Manahan's father, Daniel Kelly. The first is in William B. Hennessy's *Past and Present of St. Paul* 793-794 (1906).

Daniel Kelly, engaged in the real-estate and insurance business with offices in the Pioneer Press Building, came to St. Paul, July 5, 1856, from Elgin, Illinois. He had formerly been a resident of New Jersey and was born in central Ireland in 1839. He was brought by his brothers to America about 1844, the family home being established in New Jersey near Newark, where he attended school. There were five brothers who came to America, the family numbering altogether seven sons. The parents both died in Ireland. William, Michael and Thomas Kelly all came to St. Paul in 1856, with their brother, Daniel Kelly, who was then sixteen years of age. and after residing for some time in this city they removed farther westward and all have now passed away.

Mr. Kelly of this review completed his education in the high school of St. Paul. His brothers were contractors and he engaged with them in the business of furnishing supplies to Indian posts, owning and utilizing a number of teams in this business. He continued in that line for several years when this was still a frontier city and a supply point from which various supplies were carried westward to the red men. He teamed by contract to the various agencies and settlements as well as dealing directly with the Indians. The brothers continued together for a number of years and later engaged in buying and hauling goods and merchandise from Omaha and Council Bluffs to Denver—a trip across the prairies of six hundred and fifty miles. The business at that time was a profitable one, as it preceded the era of railroad transportation and good rates were secured on freighting. Mr. Kelly of this review made four trips across the plains and then returning to St. Paul retired from the teaming business. He turned his attention to the hotel business, in which he continued for some time and has since devoted his energies to the real-estate and insurance business, in which he has secured a good clientage.

Mr. Kelly was married in St. Paul to Miss Mary Collins, who came from Ireland when about five years of age with her parents, who removed from Elgin, Illinois, to St. Paul at the same time the Kelly brothers arrived in this city. Mrs. Kelly departed this life in 1894, at the age of fifty-two years. There had been nine children born of this marriage, eight of whom are yet living and with one exception all are in St. Paul. The family record is as follows: Dr. William D. Kelly, a practicing physician with offices in the Lowry Arcade; Mary Zieta, the wife of James Manahan; Mrs. Thomas Daggett; Daniel, who is married and resides in Kansas City, Missouri, where he is engaged in the land business; Jennie and Margaret, at home; John and Paul, druggists of St. Paul; and Nellie, who (died in infancy).

The family residence is at No. 672 Summit avenue. Politically Mr. Kelly has been an active democrat, although he does not consider himself bound by party ties and casts an independent ballot when he so desires. He served as county commissioner from 1872 until 1878 and is now a member of the board of control of the city of St. Paul. He belongs to the Territorials—an old settlers' society—to the Junior Pioneers of Ramsey county, the Real Estate Exchange and to St. Luke's Catholic church. Having for a half century resided in this city, he is numbered among its early residents, his memory forming a connecting link between the primitive past and the progressive present. He was identified with many of the movements which shaped the early history of St. Paul and has ever been the champion of progress and improvement along lines leading to the material, intellectual, moral and political development of the city.

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The second is from Joseph A. A. Burnquist, ed., *3 Minnesota and Its People* 573-574 (1924):

In 1922 St. Paul lost one of her most valued and highly esteemed citizens, for in that year occurred the death of Daniel Kelly, prominent real estate and insurance man and for many years a member of the St. Paul Board of Control, of which body he was president at the time of his

demise. He was born in Ireland, In 1839, and was brought to America about 1844. Five brothers came to America, the family numbering altogether seven sons. Both parents died in Ireland. For some time Daniel Kelly resided in the state of New Jersey, his brothers having established their home near Newark. William, Michael and Thomas Kelly came to St. Paul with their brother, Daniel Kelly, in 1856. After residing in this city for a time, however, they removed farther westward and all have since died.

Daniel Kelly received his early education in the public schools of Newark, New Jersey, and completed his education in the high school of St. Paul. His brothers were contractors and therefore, after putting his textbooks aside, he engaged with them in the business of furnishing supplies to Indian posts, owning and utilizing a number of teams in this business. He was active in that line of work for several years during the period when St. Paul was still a frontier city and a supply point from which various supplies were carried westward to the red men, Mr. Kelly teamed by contract to the various agencies and settlements, as well as dealing directly with the Indians. The brothers continued together for a number of years and later engaged in buying and hauling goods and merchandise from Omaha and Council Bluffs, Iowa, to Denver, Colorado, a trip across the prairies of six hundred and fifty miles. At that time this business was a profitable one, as it was long before the era of railroad transportation and good rates were secured on freighting. Mr. Kelly made four trips across the plains and then, returning to St. Paul, determined to retire from the teaming business. Subsequently he turned his attention to the hotel business and was very successful in that venture. In later years he confined his activities to the real estate and insurance business and he enjoyed a representative and extensive patronage. He was eighty-three years of age at the time of his death and until the end maintained his vigorous mentality and business activities.

Mr. Kelly was married in St. Paul to Miss Mary Collins, a native of Ireland, who was brought to this country when about five years of age, by her parents, who settled in Elgin, Illinois. They removed from Elgin when the Kelly brothers did and all took up residence in St. Paul. Mrs.

Kelly died in 1894, when fifty-two years of age. To their union nine children were born, eight of whom are living, and with, one exception all are in St. Paul: Dr. William D Kelly is a practicing physician in St. Paul, with offices in the Lowry Arcade; Mary Zieta is the wife of James Manahan; Mrs B. F. Murphy; Mrs. Thomas Daggett; Daniel J., who is married and lives in Milwaukee; Margaret; Dr. John V., whose sketch appears elsewhere in this work; and Dr. Paul H., a prominent surgeon of St. Paul. Nellie died in infancy.

Throughout his life Mr. Kelly was an active democrat, although he did not consider himself bound by party ties and cast an independent ballot when he so desired. He was a charter member of the Junior Pioneers of Ramsey County and held membership in the Territorials, an old settlers' society, and was a prominent member of the Real Estate Exchange. His religious faith was that of the Catholic church, and he was a consistent communicant of St. Luke's Catholic church. Mr. Kelly was numbered among the early residents of St. Paul and was identified with many movements, which shaped the early history of this city. He was ever the champion of progress and improvement along lines, leading to the material, intellectual, moral and political development of the city and in his passing St Paul lost one of her most beloved and highly esteemed citizens.

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STATE OF MINNESOTA, SUPREME COURT,

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THURSDAY,

August 30,

A. D. 1923

PURSUANT to the recommendation of the State Board of Law Examiners.

IT IS ORDERED that Mildred Bentley Lee, Klevé Julian Flakné, Clarence O. Johnson, Otto Morck, Walter S. Lundeen, David J. Smilow, Philip Bessler, Benjamin B. Bessler, Lewis Washburn Child, Raymond A. Tubbs, Joseph Bernhard Hedberg, Milton A. Hall, Dudley Williams, Willard L. Craig, Sam J. Kroman, Amandus John Just, George Bettinger, Emil Wagner, be and they are hereby admitted to practice as attorneys and counsellors at law in all the courts of this state and that they have duly taken the oath of office.

FRIDAY, August 31, 1923 A.D.

PURSUANT TO the recommendation of the State Board of Law Examiners.

IT IS ORDERED that Nellie A. Colbrath, Clarence O. Holten, Ralph D. Kieffman, Oscar M. Sullivan, Newell N. Nelson, Allen W. Junkin, H. Verdellin, James Harvey Caswell, Thomas Monroe Strickler, Grant L. Martin, Lawrence Sumner Jones, William Harold Freng, Alric Anderson, Isaac Erwin McElroy, Dean A. Northey, George A. Swanson, Alvin W. Swanson, Herman A. Senneca, Rolf Peter Jacobson, Gerald M. Swanson, L. L. Rittin, Harold John O'Loughlin, Elmer P. Norrbom, Victor J. Hermel, Milo F. Stevens, Roderick Dunn, be and they are hereby admitted to practice as attorneys and counsellors at law in all the courts of this state and that they have duly taken the oath of office.

George Winans, Respondent,
23728 -vs-
Northern States Power Co. Appellant.

ORDERED that the time within which the printed appellant's record and brief must be served and filed herein, to comply with rule VIII of this court, be and it is hereby extended to include Oct-1st, 1923.

Saturday, SEPTEMBER 1st, 1923.

PURSUANT to the recommendation of the State Board of Law Examiners.

IT IS ORDERED that Harold William Meagerty, Kathryn Manahan, Russell F. Swenson, be and they are hereby admitted to practice as attorneys and counsellors at law in all the courts of this state and they have duly taken the oath of office.

SEPTEMBER 4th, 1923.

PURSUANT to the recommendation of the State Board of Law Examiners.

IT IS ORDERED that Earl J. Maxwell, Paul D. Moonan, John C. Coughlin, be and they are hereby admitted to practice as attorneys and counsellors at law in all the courts of this state and they have duly taken the oath of office.

PURSUANT To the recommendation of the State Board of Law Examiners.

IT IS ORDERED that James Frederick Sutherland, Orell Ruben Leen, Charles Joseph Vogel, Hiram H. Hunt, Edward J. Stoddard, Lloyd W. Stein, Ruth B. Rheberg, Carl Elmer Dregni, K. Homer Cannon, Samuel Garfield O'Randrud, Ira L. Cotton, William C. Hitchins, Edwin A. Larson, George L. Angstman, be and they are hereby admitted to practice as attorneys and counsellors at law in all the courts of this state and they have duly taken the oath of office.

SEPTEMBER 5th, 1923.

PURSUANT to the recommendation of the State Board of Law Examiners.

IT IS ORDERED that Harry A. Weaver, Mark J. McCabe, Morris H. Greenberg, John M. Prins, Perry Randolph Moore, Thomas Blair Mauer, Guy Everett McCune, Joseph Mearl Sweitzer, Claude H. Allen, be and they are hereby admitted to practice as attorneys and counsellors at law in all the courts of this state and they have duly taken the oath of office.

A True Record -
Attest:

Ernest F. Rauscher
CLERK



Minneapolis, January 1889

My dear Deanshaw:

Your excellent thesis is before me. I wish to say you a best word of congratulation, and express to you my sincere regards for yourself, and my warm interest in all your prospects. I know you will be manly in all you do, and I expect from you as I do for each of your Class-mates, a high rank in the proud profession which you have all wisely selected. I know you will all be Men first, and able lawyers afterwards. Truly yours, W. Walter

COLLEGE OF LAW.



CYRUS NORTROP, President.
W. S. PATTEE, Dean.

Minneapolis, Minn June 7 1891

My dear Mamukau:

I find on my return from
Maine the three pictures of the
three good boys whom I shall
always love and for whom I
shall hope and expect good
things.

The classes of '90 & '91 have left
their pictures & I shall have the
Legue Trinity properly framed and
placed upon the wall, as the
lucky number with which our
husky Institution started in its
work of graduating men for
the useful work of the Law.

Accept my thanks for the photos &
for your kind expressions.

Truly
W. S. Pattee

The bar examination in the Ramsey County District Court in March 1889.

Manahan took a written bar examination in Ramsey County District Court in St. Paul on Saturday, March 2, 1889. At the completion of the test he asked for and was granted permission to keep it. And he did. It is in his papers at the Minnesota Historical Society.²⁷ It has 75 sections. Each section has one or more questions. It is typed on eight legal-sized pages (8½” x 13”) and is stapled to a stiff paper cover, which was used for legal documents in the nineteenth and early twentieth centuries. In 1889 typewriters were relatively new; they were not commonly used in businesses or law offices; inexperienced typists erred. The test has many run-on sentences and errors in spelling and punctuation. These “errors” actually prove that it is genuine.

This test is the earliest written bar exam that we have found. It was not a state-wide test. It was drafted especially for applicants in Ramsey County. This comment was typed at the end: “Examination taken by Gilbert, Halloran, Whiting Manahan et al.” Handwritten on the cover is the following: “Questions taken in Examination for Admission to the Bar March 2 1889 in the City of St Paul Ramsey Co”.

In March 1889 state law required the applicant to be “examined, in open court, as to his qualifications of learning and ability, by the judges or under their direction.”²⁸ In practice the test was oral. In

²⁷ MP Box 3.

²⁸ The statute in effect in March 1889 provided:

§1. Who may practise as attorneys. Any person, of the age of twenty-one or upwards, of good moral character, and who possesses the requisite qualifications of learning and ability, is entitled to admission to practice in all the courts of this state.

§ 2. Application for admission, how made. For the purpose of admission he shall apply to the supreme court or any district court when in session and shall show, first, that he is of age of twenty-one years, which proof may be made by his own affidavit; and, second, that he is a

the early years of the state, judges themselves asked the questions but they soon learned the benefits of delegating the task to a panel of three local lawyers, whose questioning was brief, done in private, invariably resulted in a favorable recommendation, which was followed immediately by the applicant's taking the oath in open court.²⁹

Departing from decades of custom, Judge Hascal Brill of the Ramsey County District Court approved use of a written bar examination in March 1889.³⁰ He may have found latitude in the statute's require-

person of good moral character, which may be proved by certificate or other evidence satisfactory to the court.

§ 3. **Applicant shall be examined.** The applicant shall also be examined, in open court, as to his qualifications of learning and ability, by the judges, or under their direction, at the term at which application for admission is made.

§ 4. **Order of admission.** If, upon the examination he is found duly qualified, the court shall direct an order to be entered, to the effect that the applicant is a citizen of the United States, of the age of twenty-one years, of good moral character and possesses the requisite qualifications of learning and ability to practise as an attorney and counsellor in all the courts of this state; and upon entry of the order, he is entitled to practise as such attorney and counsellor.

Stat. c. 88, §§1-4, at 864 (1878).

²⁹ The "benefits" could be counted in the next election. A judge who decided against an applicant, who had studied with a local lawyer and resided in the county where court was held, would antagonize his preceptor and other members of the bar. By appointing a panel of lawyers to examine an applicant and make a recommendation on his admission, the judge insulated himself from criticism and bestowed a slight honor on the examiners.

³⁰ Whether written exams were used before 1889 in Ramsey County is not known. There was a degree of suspense in the way the *Globe* reported the test. From the *St. Paul Daily Globe*, March 2, 1889, at 3:

Judge Brill will examine law students for admission to the bar this morning at 10 o'clock.

St. Paul Daily Globe, March 3, 1889, at 2:

The following law students were up for examination yesterday: Z. H. Thomas, Hayden S. Cole, A. L. Agatin, James Manahan (sic), P. J. Daly, M. V. Gilbert, M. D. Halloran, Ralph W. Kirkhan, Charles S. Whiting, J. T. Reed, A. J. Burke, W. M. Murphy, J. F. Reardon, T. M. Dill, L. E. Jones, G. A. Williams, J. D. Kelly and John B. Fleming. Messrs. Lightner, Bunn and Ingersoll were the examiners.

ment that testing be “under [the judges’] direction.” It was a long, tough test that did not resemble the oral bar exams given in other district courts, including those in neighboring Hennepin County. The test begins:

The applicants for admission to the bar will answer [the] following questions, each for himself, numbering his answers corresponding to the number of the question asked.

Most likely the applicants wrote their answers on separate sheets of paper. It is not known whether there was a time limit for the test.³¹

Inevitably lawyers who read this test today will think of how many or how few questions they can answer with confidence. But it is a mistake to dwell on what the test reveals about ourselves because that detracts from what we can learn about the state of legal education in the 1880s from the wording of the test itself. All questions called for brief factual answers. Most questions were definitional. In section 2, the applicant was asked, “[W]hat law books have you read? In stating the different law books you have read, give the number of times in your best judgment you have read each book?” In the next section, he was asked whether he had memorized the constitution. The examiners expected the applicants to respond

St. Paul Daily Globe, March 7, 1889, at 2:

Decision on the examination of students for admission to the bar will be rendered at 10 a. m. to-day.

St. Paul Daily Globe, March 8, 1889, at 2:

The following are the successful law student[s] in the recent examination, all of whom were yesterday admitted to practice: J. T. Reed, H. S. Cole. A. L. Agatin, James Manahan, M. V. Gilbert, M. D. Halloran, R. W. Kirkhan, Charles S. Whiting. A. J. Burke, W. M. Murphy, J. D. Kelly, John B. Fleming.

³¹ A far less likely scenario is that the three examiners asked each of the eighteen applicants two or three dozen questions on the written exam for 30 to 45 minutes.

to each question with a rote answer. The applicants' legal education, whether in "reading law" in the office of a local barrister or in a law school, emphasized memorization. Learning to "think like a lawyer" in late nineteenth century Minnesota meant memorizing definitions, sections of books and laws.

Manahan was a member of the first class to graduate from the College of Law. It was also the last class to have to pass a bar examination to be admitted to the state bar for many decades. To encourage law students to be educated in law school rather than by apprenticeship—and to increase enrollment—the 26th legislature passed a law on April 24, 1889, that permitted graduates of the College of Law to be admitted to the bar without having to pass an examination. Known as the "diploma privilege" it provided that "any person having received a diploma from the law department of the University of Minnesota, shall, upon presenting the same to the court, within two (2) years from date thereof, be admitted. . . . to practice in this state without further examination as to his learning, ability and time of reading."³²

³² 1889 Laws, c. 93, §§ 1-2, at 201-202, provided:

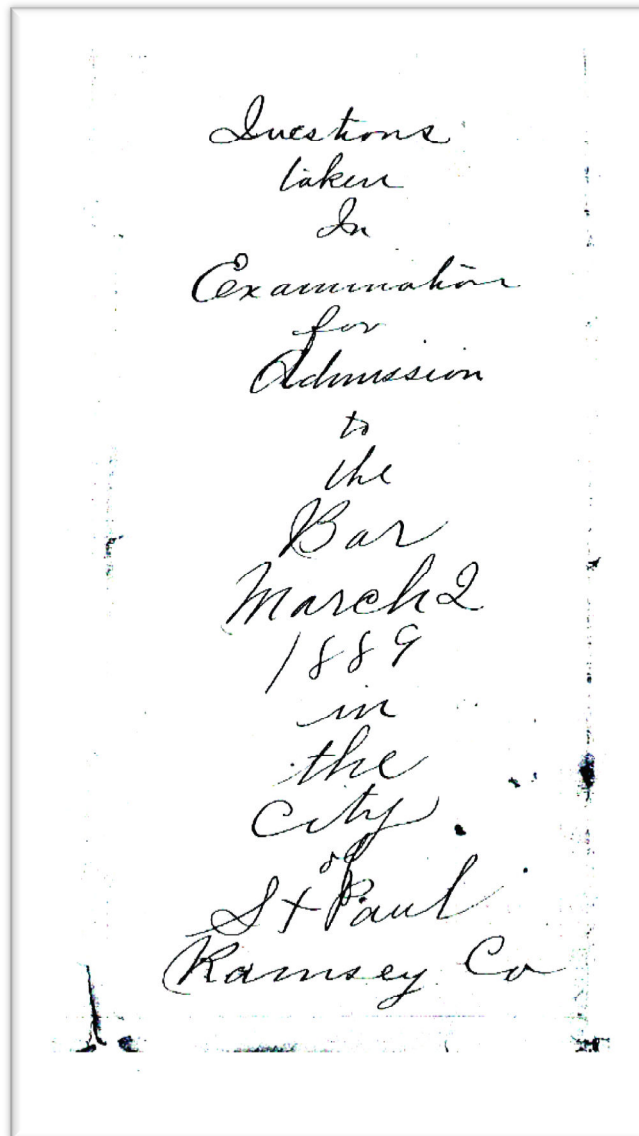
Section 1. That section one (1) of chapter eighty-eight (88) of the general statutes of one thousand eight hundred and seventy-eight (1878), be amended so as to read as follows:

Sec. 1. Any person of the age of twenty-one (21) years, of good moral character, who possesses the requisite qualifications of learning and ability, and who has read law in the office of a regularly admitted attorney and counsellor at least two (2) years, is entitled to admission to practice law in all the courts of this state.

Section. 2. That section two (2) of said chapter be amended so as to read as follows:

Sec. 2. For the purpose of admission he shall apply to the supreme court or any district court when in session and shall show first, that he is of the age of twenty-one (21) years, which proof may be made by his own affidavit; second, that he is a person of good moral character, and has read law in the office of a regularly admitted attorney and counsellor for at least two (2) years, which may be shown by certificate or other evidence satisfactory to the court; *provided*, that any person who was reading law as above required on the first (1st) day of July, A. D., eighteen hundred and eighty-eight (1888), may apply for admission at any time after July first (1st), eighteen hundred and eighty-nine, (1889), without further proof as to time of such reading; *provided, further*, that any person having received a diploma from the law department of the University of Minnesota, shall, upon presenting the same to the court, within two (2)

Two copies of the 1889 bar examination follow: First, the original, eight legal-sized pages have been reduced. Second, that test has been retyped, reformatted and spelling and grammatical errors have been corrected. That copy can be printed for easier reading. Here is the cover of the original:



years from date thereof, be admitted, as provided in this chapter, to practice in this state without further examination as to his learning, ability and time of reading.

Section. 3. This act shall take effect and be in force from and after its passage.

Approved April 24, 1889.

Ramsey county

District Court

General term

March 2, 1889

The applicants for admission to the bar will answer to following questions, each for himself, numbering his answers corresponding to the number of the question asked?

1.

State your full name, age, residence and length of time you have resided at your present place of residence; whether you are a graduate of any high school, academy or college?

2.

With whom and under whose advice and direction have you studied law and for how long? If in a law school state what one and whether or not you received a diploma, and what law books have you read? In stating the different law books you have read, give the number of times in your best judgment you have read each book?

3.

Have you read or committed to memory the constitution of the U.S. When was it framed? Give date. Give date when it became the law of the land. What was its object in brief and what purpose was it intended to serve. Is there any law as high or important? If a law of congress or of any state is in conflict with the constitution of the U.S. Which governs?

4.

What is law in its general and most comprehensive sense and its more restricted sense as applied to the legal profession?

5.

What is the common law and where found? What is municipal law and how are actions divided in Minn.

6.

Define the jurisdiction of the Supreme Court, district court, County or Probate Court, municipal and justice Court in this state

7.

What is a will and how executed? Must it always be in writing? If not what is it called and how executed to be valid?

8.

What is a promissory note and are the following illustrations good promissory notes 1. " For value received I promise to pay John Doe or Order, one thousand Dollars, sixty days after the old district court house in the city of StPaul is removed from its present foundation. St Paul February 26, 1889"

Richard Roe.

2

StPaul Feb'y. 26, 1889

For value received I promise to pay John Doe or order, one thousand dollars, sixty days from date in wheat at one dollar per bushel

Richard Roe. ?

9.

Define negotiable paper and how is it transferred?

10.

What steps must be taken to charge an endorser and when must it be done?

11.

Who is a guarantor on a note, and what steps must be taken if any to charge him with liability and when?

12.

State the difference if any between an endorser, guarantor of payment, and guarantor of collection and surety?

13.

When will the endorser, guarantor and surety be discharged, by what act or neglect on the part of the holder of the note?

14

14

Who is a bona fide holder of a note?

15.

Is there any usury law in this state and does it affect promissory notes tainted with it? Does it make any difference whether the note is in the hand of an innocent purchaser before due without notice?

16,

When if ever is the maker of a note chargeable with the alteration of a note or raising the amount done by a third party or the payee and the note afterwards is sold to third party who buys it in good faith?

17,

What is the contract of insurance, its legal effects?, What is a policy of insurance and define the terms "premiums" "Conditions" "Warranties"? Also state what may be insured.

18,

What is a writ of Habeas Corpus" and its object? Who can issue the writ and what are the proceedings?

19,

19,

What is an express trust?

20

What is personal property? How can you distinguish between personal and real property and is property ever both real and personal. If so give illustrations

21

State what actions may be brought within six years, ten years and twenty years in this state?

22

What is in law a tort, define the difference between an action founded on contract and one founded on tort?

23.

What is nuisance? Is there any difference between a public and a private nuisance, if there is what is it and what are the different remedies?

24

What is meant by the terms "Caveat emptor" and "Respondeat Superior"?

25

State the different kinds of Bailment.

26

What is a corporation sole?

27

What is a libel?

28

What is slander?

29

What words are libellous per se.

30

Can the truth of a libel be shown and what is the effect upon an action for libel?

31

What are the different kinds of evidence?

32

Of what things will courts take judicial notice

33 What is secondary evidence and

when can it be offered?

34

What is a deposition and how is it taken?

35

When and how may ambiguities in writings be explained?

36

What constitutes a marriage and how is it regarded in the law?

37

What are the disabilities to entering into a marriage contract?

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How can a marriage be dissolved?

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What are the grounds for a divorce under the statutes of this State?

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What is alimony and how is it obtained?

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What are the duties which a parent owes to his child?

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When does a parent become responsible for the debts contracted by his minor child?

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Does a subsequent marriage of the parents legitimate children born before the marriage?

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What is necessary to constitute a valid contract?

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What is a parol contract?

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What is a valuable consideration and what is good consideration?

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What is a corporation?

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What is the liability of stockholders of corporations of this state?

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Give illustrations of acts or contracts which are ultra vires of a corporation

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When may a corporation be dissolved,

51

What is a remainder ? What a reversion?

52

Define title in fee simple, in fee tail, what is an allodial title

53

Define and explain the difference between joint tenancy and tenancy in common.

54

What is dower? Does it exist in Minnesota?

55

State the different manners of acquiring or losing ~~property~~ title to real property.

56

What is a deed ? How must a deed be executed in Minnesota.

57

Define trust, trustee, cestui que trust.

58

What is a power coupled with a trust? Is such a power revocable?

59

Define fixtures as used in the law of real property. Define tenancies from year to year, tenancies at will, and tenancies at sufferance, How are tenancies at will terminated in Minn.?

60

What are the methods of foreclosing mortgages in use in Minn.

What is a strict foreclosure? 61

Is there any redemption allowed from foreclosure sale and if so for how long a period? do creditors of a mortgagor have any right to redeem from a mortgage foreclosure sale? and if so what creditors, and during what time can they redeem?

62

In Minnesota: If a married man makes a deed or mortgage of his homestead and his wife does not sign the deed or mortgage, is it valid, voidable or void? and if valid what interest does it convey? If a married man makes a deed of land other than his homestead and his wife does not assent to the same in writing is the deed valid, voidable or void and if valid what interest does it convey

63

What is Equity Jurisprudence?

64

define equitable and legal actions. Name as many of the subjects of equitable actions as you can?

65

In the case of an executory contract for the sale of real estate if the vendor fails to perform and the purchaser brings suit to recover back any money paid on the contract, is the action equitable or legal? If the purchaser brings suit to compel the vendor to perform and convey the real estate, is the action equitable or legal

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What pleadings are allowed under the Minn. Statute? What is an interpleader? What is the difference between interpleader and intervention?

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What is a summons? What should it state? How may it be served?

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What is garnishment?

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Is a judgment for money a lien on any property, and if so upon ~~what~~ and for ~~how~~ long?

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How can you take an appeal to the Supreme court of this state?
Within what time must an appeal be taken from a judgment
and from an order?

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State the grounds upon which a demurrer may be interposed to
a complaint.

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Is the practice in the U.S. courts the same as in the State Courts
If not state generally the difference

(Examination taken by Gilbert, Halloran, Whiting Manahan et al.)

Ramsey county

District Court

General term

March 2, 1889

The applicants for admission to the bar will answer [the] following questions, each for himself, numbering his answers corresponding to the number of the question asked.

1

State your full, name, age, residence and length of time you have resided at your present place of residence; [and] whether you are a graduate of any high school, academy or college.

2

With whom and under whose advice and direction have you studied law and for how long? If in a law school state what one, and whether or not you received a diploma, and what law books have you read? In stating the different law books you have read, give the number of times in your best judgment you have read each book?

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(Examination taken by Gilbert, Halloran, Whiting Manahan et al.)

==--- M ---==

The bar examination administered in Hennepin County District Court, March 1889.

The bar examination given in the Hennepin County District Court in March 1889 was much different. Applicants were notified several weeks before the examination of the titles of twenty (20) well-known treatises and law books they would be quizzed about. The three member panel of examiners questioned fourteen applicants on March 13, 1889. They began in the morning and finished "late in the evening," suggesting that each applicant was grilled for about 45 minutes. A recommendation on one applicant was delayed. Every other applicant passed and was admitted to the bar. The *St. Paul Daily Globe* reported the story as it unfolded.

From the *St. Paul Daily Globe*, February 28, 1889, at 3.

Admitting to the Bar.

Judge Pierce, Frank C. J. Brooks and Edward A. Sumner, the committee on admission to the bar, have fixed upon March 13, at 10 a. m., as the time when the next lot of applicants will be examined. All the applicants will be examined upon the following text books: "Blackstone's Commentaries," "Kent's Commentaries," "Tiedeman on Real Property," "Bishop on Contracts," "Parsons on Partnership," "Story on Agency," "Daniel on Negotiable Instruments," "May on Insurance," "Gary's Probate Law," "Cooley on Torts," "Schouler on Domestic Relations," "Stephen on Pleading," "Bospham's Principles on Equity," "Chitty on Pleading," "Greenleaf on Evidence," "Stephen's Digest of Evidence," "Bishop's Commentaries on Criminal Law," "Criminal Procedure and Law of Statutory Crimes," "Penal Code of Minnesota" and "General Statutes of Minnesota."

From the *St. Paul Daily Globe*, March 14, 1889, at 3.

Judge Pierce, Frank C. Brooks and Edward A. Sumner, the committee having in charge the examination of candidates to the bar, examined fourteen applications yesterday. The examination began in the morning and lasted till late in the evening, being very thorough.

From the *St. Paul Daily Globe*, March 15, 1889, at 4.

LUCKY THIRTEEN.

All the Candidates for Admission Pass Examination.

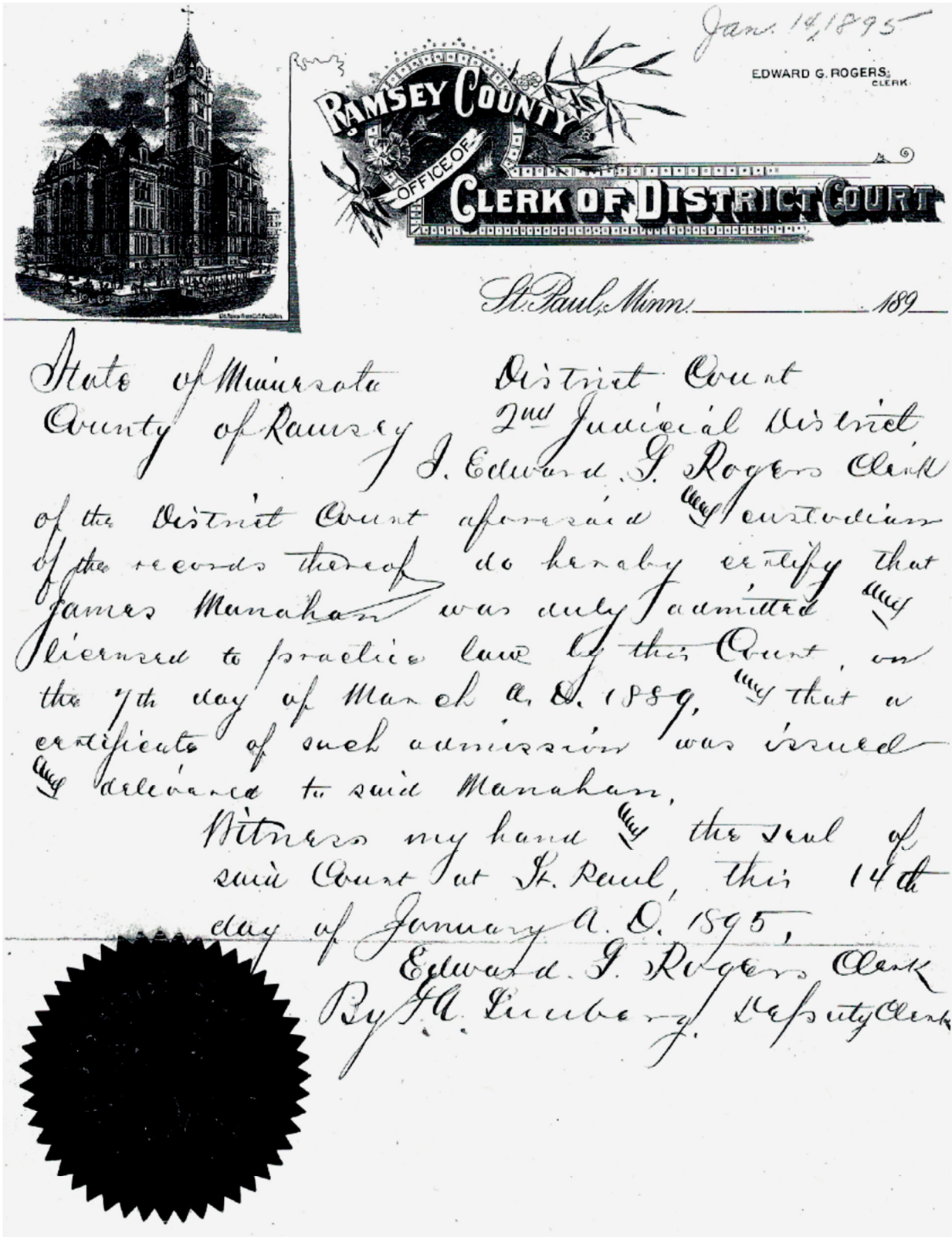
The thirteen applicants for admission to the bar, who have been under examination for the past two days at the court house, were yesterday made complete lawyers, so far as form goes, by being admitted to the practice of law. Judge Pierce, E. A. Sumner and Frank C. Brooks, the examining committee, had given the young men a very thorough examination on all the texts advised by them a few weeks ago and recommended by the judges. Judge Pierce introduced the candidates to Judge Hooker, stating that there had been fourteen applicants, one of whom had been taken under advisement by the committee, the other thirteen they heartily recommended. Judge Hooker addressed them in these words:

"The court desires to express its thanks to the committee for the thorough manner in which it has discharged its duty—you have conducted this examination in a most thorough and impartial manner. The position of a member of the bar admitted to practice in all the courts of

this commonwealth is a most honorable one, and to guard against the bringing in of those who are not as yet fully qualified for admission, the court appoints a committee of its most honored and honorable attorneys to conduct the examination. To those whom the committee have recommended for admission the court extends its greeting, and directs you to appear before the bar and be sworn."

The young men were then sworn by Capt. Terrill, and after receiving the hearty congratulations of Judge Hooker and the committee, and commenting on the unlucky thirteen getting their admission on the 13th of the month, they went to the clerk's office to take out their first papers. The following are the successful candidates—six of them are from the university: B. W. Ball, W. W. Bardwell. Henry E. Barnes, E. G. Bullard. F. T. Corrison, Charles A. Dalby, F. Gold Frost, William A. Kerr, Willis H. Merriam, Edwin A. Merrill, Jacob D. Smeltzer, F. J. Smith, G. Ellis Tuttle.

Certificate from Clerk of Court that Manahan had been admitted to the bar on
March 7, 1889.



Agreement dissolving Manahan & Howard, February 24, 1896.

St Paul Minnesota Feb. 24th. 1896

By the dissolution of the firm of Manahan & Howard this day made it is agreed that the law books now in the offices of said Manahan & Howard be and they are hereby divided and distributed as follows;

The said Howard takes the Minnesota Reports and session laws subject to the payments thereon due West Publishing Co. also Minn. Index Digest, Chittys Blackstone and Contracts, Tiedeman on Real Property, House Journals, Rice on Evidence, Am. Crim. Law (Desty), Thompson on Electricity, Jones on Negligence, Woods Landlord & Tenant, Bishbans Equity, Rogers Expert Testimony, Thompson & Merriam on Juries, Addison on Torts, Bishops Crimes and Criminal Law, Wells on Replevin, Parsons Notes & Bills, Hutchinson on Carriers, Kents Am. Commentaries, paper cover-, Special Laws 1895, 1893, 11 volumes of N.W. Reporter, Tax laws of Minn. North Western Reporter Index, *Tiedeman on Commercial Paper*

The said Manahan takes Lawsons rights Remedies & Practice and Index, Anson on Contracts, Washbourne on Real Property, Grienlief on Evidence, Kents Commentaries, Randolph on Commercial Paper, Story on Agency, Abbotts Forms, Black on Judgments, Esties Pleadings, Statutes of Minnesota, Special Laws of Minn for 1889, and 1891, Woerner on the Law of Administration, Thompson on Trials, Websters ~~max~~ Dictionary and the other law books in his possession at Lincoln ^{Feb/}

Jas Manahan
John D. Howard

Agreement dissolving Manahan & Howard, page 2.

• St. Paul Minn. Feb. 24, 1896

It is hereby mutually understood and agreed that whereas the copartnership relation heretofore existing between us has been this day dissolved that the fees and profits of any and all legal business that each or either of us may be able to send to the other while the said Manahan is engaged in practice outside of the state of Minnesota shall be accounted for and divided equally between us.

Joe Manahan
James Howard

Agreement dissolving Manahan & Howard, page 3.

Whereas the undersigned have on this 24th. day of
Februaary 1896 mutually dissolved partnership by be a
division and distribution of the assets of the firm and
an adjustment of their mutual rights therein it is in considerp
ation thereof agreed that in the event the said Manahan shall
at any time within one year from date hereof ~~shall~~ return
to practice law in StPaul Minnesota permanently, then and in that
event the said Manahan may at his option by accounting for
his individual fees made while practicing outside of said
state , resume the copartnership relation this day dissolved,
and all affairs moneys and property between us shall be then
adjusted as though said dissolution had not taken place.

John Howard
J. Manahan

==== M =====