THE FRONTIER LAWYER IN MINNESOTA AFTER THE CIVIL WAR

Part One

BY

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George A. Palmer, a student at the University of Minnesota, wrote a paper for a "seminar in the social and economic history of the northwest, 1865-1880" taught by Solon J. Buck, a professor in the history department. A handwritten date—1931—is on the bottom of the title page. If that is correct, Buck's seminar was one of the last he taught at the University as that year he accepted an offer to join the history department at the University of Pittsburgh and left Minnesota.

Palmer's paper was subsequently donated to the Minnesota Historical Society where Buck had been superintendent. Palmer did not copyright his paper. It would have been unusual for a student to make such a claim at that time. While his paper is in the public domain the question remains whether he would approve its being made available to the public through this website. To answer that we may speculate that Professor Buck was so impressed with the paper that he encouraged Palmer to donate a copy to the Historical Society. The "Author's Note" following the Index is unusual for a term paper and is proof that Palmer wanted to alert future scholars that the Knute Nelson papers were his main archival source. We can conclude that George Palmer would be pleased that his paper is now available to a wide, international audience.

Because of difficulties in downloading a document of this size, it is posted here in two parts. The first follows.

THE FRONTIER LAWYER IN MINNESOTA AFTER THE CIVIL WAR

Seminar in the social and economic History of the Northwest 1865-1880 under Dr. Solon J. Buck

George A. Palmer

1931

TABLE OF CONTENTS

Note: The first half of the manuscript is complete. There is no Page 9. When numbering the pages, the author skipped from 8 to 10.

Author's Note--The following survey of the frontier lawyers in Minnesota is based largely upon a case study of Knute Nelson from the time of his location at Alexandria until his election to Congress in 1882. It is supplemented by a biographical study of one hundred thirty five lawyers who were practicing in Minnesota sometime between 1865 and 1880.

The Frontier Lawyer in Minnesota After the Civil War

The influence of westward expansion upon American society and institutions has been very important in the consideration of the development of the United States. It seems, however, that the relation of the frontier to the development of judicial administration has been neglected, especially in respect to the role taken by the legal profession not only in legal practice but also in frontier life.

The pioneers who moved beyond the limits of organized government took with them the desire for peace, security, and justice. To meet the frontier demands for these conditions, the early settlers formed their own organizations to provide protection. The Regulators, horse thief associations, protective associations, and vigilantes have appeared upon successive frontiers and have then given way to formal organizations for the administration of justice. Although rooted more deeply in tradition and precedent than many institutions, legal institutions have been affected by their contacts with frontier conditions. The American reaction to English influences, following the Revolutionary War, led to an attempt to remove all the English characteristics from our laws and judicial administration. In the woods of Ohio, the New England customs of court formality were lost in the attempt to secure swift action. Caught in the trends of political democracy, the judiciary became elective for rather short terms. Frontier democracy further affected the judiciary and

bar by demanding that the requirements be lowered in order to permit any man who wished, to be admitted to the bar and then to be extended the opportunity to seek the judgeship if he wished.[1]

The pioneers' demand for organized administration of justice in sparsely settled regions has led to the decentralization of the American courts. The pioneers desired that the occasional criminal be dealt with speedily and that the opportunity to bring action for petty offences be provided. The result of this demand was a judicial system which has been adapted to most of the states as they have been admitted to statehood.[2] In Minnesota, for example, the Constitution provided for a Supreme Court of three members with original jurisdiction in cases prescribed by law and appellate jurisdiction in all cases which might be appealed from the circuit courts. To provide courts for the administration of business through the state, circuit courts were established. Since the circuits were so large that there could only be one term of circuit court each year in most of the counties, justices' of peace courts were provided to further facilitate frontier actions at law. The justices of peace, two from each election district, had criminal jurisdiction in minor cases over their entire county and civil jurisdiction in cases involving an amount up to one hundred dollars in their own district. The

1. Pound, Spirit of the Common Law, pp. 115-119; Paxson "Influence of Frontier Life on the Development of American Law" p 487; Stone, "The Lawyer and his Neighbors" p 181

2. Pound, op. cit. p. 120

justices were usually chosen from the most prominent men in their communities; they did not need to be learned in law, and they heard the cases without formal proceedure. The justices' courts made the settlement of disputes convenient and simple for the pioneers, and in case of dissatisfaction, appeals from their decisions could always be made to the circuit courts.[3] The adaptations of the justices' of peace courts to the administration of frontier justice was an important contribution of America's pioneers.

The frontiersmen have been an independent group of individuals who demanded that they have freedom yet have stability and certainty in their laws. To assure this freedom and to protect themselves from organized social control the Western people clung to the common law which they had inherited from their Anglo-Saxon parentage. Although the principle of the common law filled the demand for freedom of action which the frontiersmen made, it too was to feel the influence of the western environment. The common law, based upon old English practices, was involved, indefinite, and difficult to master. The principles were kept but its form had to change. Begun in New York in 1848, codification of the laws into one civil code which met the pioneers' demand for simple, direct methods of hearing their cases, was undertaken by most of the western states.[4] In the Minnesota territorial code which had been received from Wisconsin territory and then codified in 1851,

3. Anderson, "Constitution of Minn." pp. 226-229
Minn. Statutes 1866, pp. 420-422, 440-441
The size of the election districts was determined by the county commissioners and probably corresponded to present townships.

4. Two Centuries Growth of American Law p. 316

all different forms of actions at law were abolished in 1851, and two years later, equity was merged into the civil law.[5] Although there may be doubts whether this movement has been beneficial in the end, it for the time being at least, answered the frontiersmen's demand for a simple law which they thought that they could understand.

Under any legal code derived from the common law, lawyers have been necessary for the execution of its provisions. Although only servants of the court and although supposedly having no interest in the outcome of the trial, lawyers have been the ones who begin action and conduct the cases for the interested parties in the circuit and higher courts. The lawyers have technically been only machines for searching out the precedents and the laws which applied to the case before the court.[6] Under such a system, it would seem that the legal profession would be able to exert little influence upon the society about them, but such has not been the case.

The fringe of frontier settlement had pushed westward and northward until by the time of the Civil War the south-western one third of Minnesota was settled. The establishment of the territorial government brought territorial courts and the opportunity for legal practice. A few lawyers came into the territory with the settlers and by 1858 at the time of admission to statehood there were eighty-nine lawyers who had been admitted to the bar, or approximately one to every sixteen

5. Folwell, Minnesota I" pp. 263-264

6. McClain, "Introduction of Common Law into Iowa". p 91-92
Dos Passos, American Lawyer". pp. 68-75

hundred people.[7] As the settlement in Minnesota grew with the influx of immigrants and after the civil war with the arrival of large numbers of native settlers, the opportunities for legal practice increased. The number of lawyers increased and by 1870 the proportion of lawyers to population was one to nine hundred seventy-five.[8] From 1870 to 1880 the population of Minnesota continued to grow, but the proportion of lawyers and people was only reduced to one lawyer for eight hundred people.[9] When the proportion of lawyers to settlers of the seventh judicial district which in 1874 included the north-western half of the state was one to approximately twelve hundred,[10] it becomes evident that litigation and opportunities for legal practice increased with the development of a community or region.

The legal profession in Minnesota was drawn largely from the native population. According to the census of 1870, four hundred three of the four hundred four lawyers in Minnesota were native born. There were a few German, Irish, and English lawyers, three Scandanavian lawyers and a few British-American lawyers practicing.[11] In a biographical study of seventy lawyers who were practicing in Minnesota in 1863, sixty-one were of New England birth; six were born in the old northwest of New England parentage, and only one was from south of the Ohio River.[12] The proportion of native born lawyers remained

8. U. S. Census, 1870 I p. 941
9. Ibid. 1880 I p. 733
10. Alex Post Jan. 17, 1874
11. U. S. Census 1870, I p 741
12. See appendix

about the same in 1880. The population movements into the state, however, were reflected in the number of foreign born lawyers. There was a large number of British-American immigrants practicing; the Scandinavian lawyers had increased, as well as the number of Irish, German, and English settlers who were practicing law.[13] A survey of sixty-five lawyers who moved into the state between 1865 and 1880, showed that a large number was still from New England. The number of lawyers born in the old Northwest had increased, and the foreign born ones followed the same indications as the census.[14] Among the lawyers of Scandinavian birth who came to Minnesota after the Civil War, Knute Nelson became the best known. Born in Norway in 1843 he came to the United States with his mother in 1849. After fifteen months in Chicago, they settled in Wisconsin where Nelson received most of his education. He attended an academy at Albion, Wisconsin four years. The war took him away, but upon his return he began to read law in Madison and was admitted to the bar there in 1867. Politics soon attracted him and he was elected to the state legislature for a term. Because of poor health, Nelson desired to leave Wisconsin and through an acquaintanceship with Lars K. Aaker, receiver at the Alexandria land office, he was influenced to move to western Minnesota. In 1871 he moved to Alexandria where he lived during the remainder of his active life.[15] Regardless of racial elements in Minnesota

13. U. S. Census 1880, I p. 733
14. See appendix
15. Letter from Nelson to D. B. Arnold, Aug. 4, 1911 in Minn. History. 5: 348-351
    Odland: Life of Knute Nelson.
    Preuss: "Knute Nelson" in Minn. Hist. 5: 329-247

New England stock furnished a large percentage of the legal profession.

Since many of the lawyers were reared in New England, the number having had the opportunities for an education was rather large. Of those considered who were practicing in Minnesota in 1865, one third had attended academic college for a short time at least. Over eighty percent had attended academies, and of those remaining only a few were stated to have received little or no education. There were a few marked changes among those who began practicing in the state after 1865. That college training was more available was shown in the fact that half of the sixty-five studied had had some college training. The percentage of those having training in the academies or high schools showed only a slight increase, due probably to the fact that a number of lawyers who had been educated in Minnesota where there were few opportunities for schools, was appearing after 1865.[16]

In respect to legal training the frontiersmen had insisted that the standards remain low. Since the lawyers were officers of the court which was in turn a division of the government, they did not consider the legal profession a private but a public profession. The American political philosophy that all offices should be opened to anyone led the western states to reduce the educational standards to a minimum. Majority, voting qualifications, and a good moral character became the usual requirements for admission to the bar.[17] The Minnesota law added "the requisite

16. See appendix
17. Reed, Training for the Law pp. 38-43

qualifications of learning and ability" as a further requirement,[18] but since the courts judged the qualifications of the lawyers seeking admission, the "learning and ability" were measured by the standards of the communities. Nevertheless, the technical nature of the legal practice has demanded special training. Early training for the bar was secured through reading law for two or three years in the office of an experienced lawyer and through giving him whatever assistance the young man was able. Many young men who were reading law were poor, and needed an outside income. A large number of them, as a result, taught school in the winter and worked in a law office during the summer.[19] In the second quarter of the nineteenth century law schools had begun to appear. Many of the early ones were private schools, but by 1850 several colleges and universities had added law departments. During the fifties and sixties, law schools were established in the western states as at the University of Michigan, at the University of Wisconsin, at Washington University in St. Louis, and at the University of Iowa. The University of Michigan surpassed the others, and by 1867 was the largest and best known law school in the United States.[20] Attendance at a law school did not replace the study under an experienced lawyer, and after completing a law course, the young men sought an entrance into the offices of experienced attorneys for a short time at least.[21] There were only a few lawyers in Minnesota

18. Minnesota Statutes 1866
19. See Hadley in U. S. Biographical Dict. p. 446: Matthews in Margnis, Book of Minnesotans, p. 344: Steverson in Sutter and McTain, Progressive Men of Minn. p. 54
20. Reed, Training for the Law pp. 195, 423-6
21. "C. J. Sawbridge to Nelson Aug. 31, 1817" "M. P. Jerdee to Nelson Aug. 7, 1878" MSS (Unless stated otherwise all manuscripts are among the Nelson papers.)

before the Civil War, who had any legal training in law schools. The number increased considerably, however, among those settled in the state between 1865 and 1880.[22] From this viewpoint, one would conclude that the Civil War marks the beginning of a definite improvement in the legal education of the Minnesota bar.

Another tendency was appearing from the frontier, however. The practice of law was much easier there; the opportunities were much greater there than in the more settled sections of the state, and there, the income of a lawyer was larger than that of many other occupations. The new communities needed a legal advisor, and if a lawyer did not move into a nearby village, one had to be made from one of the settlers.[23] As a result of these frontier conditions, there were many men who entered the legal profession with very little training, but they are not the ones who have left biographical information. One of these men was an A. J. Ames of Alexandria who was appointed justice of the peace in 1871. He learned the requirements of legal forms, filled out deeds and mortgages and made collections. These activities led to an interest in the legal profession, and after reading some law, was admitted to the bar in 1878.[24] He was not an exception. Although in some respects the amount of legal training was being increased in Minnesota, the outlying settlements were encouraging the growth of a bar with little legal training.

22. See appendix
23. "H. G. Rising to Nelson, Oct. 18, 1873", M. S.
24. Alex Post, July 15, 1871, Apr. 13, 1872, Oct. 4, 1878.

Even where the frontier demands required little education, the lawyers stood out as the educated group in the new settlements. Those who had migrated from the east were rather well trained according to the standards of their time. The reading of law, and later the practice, gave the lawyers wider views and a greater fund of information than the settlers had. The men who were admitted to the bar in the early days of a settlement had done a little studying and were better educated than most of their clients. The advantages of a better education gave the lawyers a right to leadership in the frontier communities.

Experience in the Civil War was another valuable asset for the frontier lawyer in his practice as well as in politics. Minnesota lawyers served in the Union army, especially against the Sioux. The lawyers who came to Minnesota after the War likewise included many who had served.[25] They, like many other discharged soldiers found no openings in their old home, and so joined the westward moving emigrants of the late sixties. Since the lawyers were better educated than most of the soldiers and probably had more natural leadership, a number of them were promoted to commissioned officers. In later life the title of captain or colonel added to the prestige of a lawyer. In politics, a war record was nearly a necessity. The fact that a lawyer was a Union soldier added to his right to a place of leadership in his community.

After admission to the bar, the young lawyers desired permanent locations. Success in the legal profession required some time for the lawyer to build up his law business and to

25. See appendix

become a part of the community, with the result that few lawyers became members of the frontier group of habitual emigrants Although court practice was not the sole activity of the early lawyers, it was the large factor in determining their locations. Since they were usually not experienced and often not well educated, the beginning lawyers often sought frontier towns where there were few other lawyers and where the practice did not require great skill.[26] The opportunities for practice, then, had to be considered carefully.

Justices' of Peace courts were not only adventageous to the pioneer farmers and business men, but also to the pioneer lawyers. To practice before them, did not require admission to the bar, although the farmers probably preferred that their counsel should be lawyers who could continue their cases in district courts if necessary. The rules of pleading were very simple. The cases were petty ones, and required a small knowledge of law. Nevertheless, the Justices'courts furnished a large proportion of the legal practice in the frontier community.[27] The practice before them influenced some young men to take up the legal profession as it did L. W. Collins, later judge, who became interested in the practice of law.[28] The Justices' of peace courts were the training schools for beginning frontier lawyers.

26. "C. J. Sawbridge to Nelson, Feb. 15, 1875"; Hans Spilde to Nelson, Apr. 21, 1879"; Z. E. Brown to Nelson, June 26, 1879". MSS.
27. "G. H. Reynolds to Nelson Nov. 2, 1877" MS,.
28. "Collins manuscript", p 1.

The young lawyer looked forward, however, to the circuit court practice. The handling of cases before this court carried more prestige, returned larger fees, and gave a lawyer an opportunity to develop his legal ability. Although the district courts were presided over by a circuit judge who held regular court in as high as sixteen counties, the practice of riding circuit, which one immediately links with Lincoln's early legal career, had passed. Settlement was much more rapid than formerly and by the time that a lawyer had become acquainted in his own community and had acquired enough experience to practice widely, the region about him was settled densely enough so that he need not leave home to go on the circuit for half the year. Instead lawyers sought practice in adjoining counties. Knute Nelson, living in Douglas county, soon extended his practice to surrounding counties. Otter Tail county citizens later prided themselves by speaking of their county as Nelson's "back-yard". He practiced in Glenwood, St. Cloud, Sauk Center, Elbow Lake, and Detroit and by 1880 legal business took him to St. Paul occassionally. Visiting lawyers at Douglas county terms of court included men from St. Cloud, Fergus Falls, Sauk Center and sometimes from Faribault.[29] If a lawyer had business to attend in towns too far distant to travel easily, the matter was placed in the hands of an attorney in the town.[30] The young lawyers often could not handle the more difficult cases, and

29. Alex Post, Oct. 7, 1868, Nov. 2, 1875; Oct. 5, 1877, Dec. 24, 1880, Oct. 21, 1881; Douglas County News, Apr. 29, 1880. Cf. Ames, "Bar of Pioneer Days" p. 252.
30. "D.B. Searle to K. N. Jan. 17, 1875;" "J. W. Arstander to Nelson and Reynolds Sept. 17, 1876". MSS.

and had to seek the aid of a "senior counsel". Nelson regularly aided several young men in Fergus Falls and Glenwood until they had acquired enough experience to appear before the district courts alone.[31]

If the newspaper accounts are considered reliable, there were very few cases brought before the county probate courts. The administering of estates, the recording of wills, and the granting of guardianships did not add to the lawyers' practice.

The establishment of district land offices to administer the disposal of the public domain furnished a large, lucrative field for the pioneer lawyers. The land office business increased after the passage of the homestead law in 1862 and with the subsequent disposal of the public lands. The presence of the district land office at Alexandria in 1871 was the determining factor that brought Knute Nelson there instead of to Fergus Falls.[32] The law business fluctuated with the land office business and when the land office closed there was often little activity for the lawyers.

A brief survey of the litigation before the courts in Minnesota in the decade and a half following the Civil War gives an impression of the type of people with whom the lawyers came in contact as well as the characteristics of the frontier communities. The law in respect to interpretation was fairly well settled during this period as faw as it related to the frontier conditions. The introduction of large corporate

31. "H. H. Velie to Nelson, Oct. c, 1873"; "H. G. Rising to Nelson, Oct. 18, 1873"; "Norgard to Nelson, Dec. 8, 1873"; "E. E. Carliss to Nelson May 6, 1874". MSS
32. Minneapolis Tribune Apr. 29, 1923

interests during the seventies and the eighties changed both the law and the aspect of legal activities soon after 1880.[33]

- The criminal cases were very small in comparison with civil suits. The frontier characteristic of assuming the administration of justice or settling quarrels outside the courts was still present upon the Minnesota frontier. Assault and battery cases arising from "the use of threatening language", from disputes, or from intoxication were more numerous than other kinds of criminal cases especially in the justice's of peace courts.[34] Occassional murders were committed and the frontier courts used a considerable amount of time to assure justice.[35] In one trial the jurymen were held for so long that they spent their time whittling toys for the children.

Upon the frontier, property is of more value to the pioneer than personal relations or reputation. Theft, larceny, and robbery became serious offences. The stealing of horses and oxen was a frontier offence and if the offender were caught, conviction was speedily rendered. The other old frontier crimes of counterfeiting and forgery were little mentioned in the Alexandria newspapers. The duty of enforcing the liquor laws fell upon the justices of peace, with the result that cases of and fines for drunkeness, as well as fines for selling liquor without license appeared.

33. Address by C. E. Vanderburgh in Stevens, Bench and Bar of of Minnesota.
34. The paragraphs on frontier suits are based upon newspaper accounts in the Alexandria Post and Douglas County News, passim and Nelson's correspondence. The court records are necessary to verify them.
35. Cf. Ames, "Bar of Pioneer Days" p. 252 "In the pioneer days homicide cases were frequent."

Roscoe Pound has said that the American people have shown a strong tendency to go to law to settle difficulties.[36] Whether the tendency is inherent or is the result of circumstances depends upon one's interpretation. Nevertheless, from an observation of the Minnesota frontier, petty civil suits appear to have been an indication of pioneer individualism rather than of cooperation. Many of the people had come directly from long settled regions where it was customary to go to law, and they brought with them the habit of seeking adjustment through the courts. The civil actions were usually for small amounts; in some cases the costs and attorney's fees were more than the amount in the suit. The courts were the fields upon which personal grudges and disputes were settled. The necessity of demanding and securing ones rights was unquestioned in the frontier mind.

In the civil litigation, the demand for security of property right and investments is especially evident. Damages to personal property as injury of stock upon barbed-wire fences or from overheating after they had broken into the neighbor's cornfield, and misuse of borrowed implements were examples of causes for petty suits. The determination of land titles became an important subject for court action upon the frontier where property in real estate was the principle means of support and economic advancement. The frontier has always been a debtor community, and as a result actions for the payment of notes, of accounts,

36. Pound, "Changing Attitude of the People", p. 5
Paxson; "When the West is Gone", p. 128

and for the foreclosure of mortgages were frequent. Attachment suits to secure property in payment of debts were brought that the creditors might have some return upon their investments. In the decade of the seventies, the agricultural frontier, especially suffered from the depression so that the collection of notes and mortgages made court action for payment very common. Protection from fraud was necessary in the newly settled country. The peddler of Yankee notions has been a well-known figure upon many frontiers. The outlying settlements, cut off from many of many of the luxuries of life, furnished a good market for the "package peddlers". Attracted by the display or thinking that they were making a good bargain, the settlers often bought such large quantities of goods that notes had to be given for merchandise which the gullible buyers later found to have been imperfect. Naturally, they felt that they need not pay the notes when they came due. Trials followed, and in time, the settlers secured protection in the court decision that if a fraud could be proved in the sale of goods a note was not valid and need not be paid.[37]

In the field of personal relations there was little need for legal action. Reputations in new settlements were hard to injure so that there were few libel or slander suits. When such a case was before the court, it was well attended; there was gossip for the citizens. Divorce actions were begun, in practically

37. "G. H. Reynolds to Nelson Sept. 21, 1877", MS

practically all cases, by the wives, in every term of court in Douglas County. The divorces were granted, but no payment of alimony was mentioned by the newspapers.

New causes for litigation arose with the extension of the railroads during the seventies. Right-of-ways had to be condemn title to lands was questioned, and damages for injury to propert or to stock were sought through courts. The fact that a railroad was an outside interest, supposedly very rich, probably led to taking action against them in cases that otherwise would have been dismissed. The railroads furnished some of the first contacts which the frontier experienced with corporate interests. The legal profession likewise experienced some slight changes when the railroads spread to the frontier. As early as 1871, th St. Paul and Pacific Railroad had retained an attorney in Alexandria. The reverses of the early seventies, however, did not permit the completion of the road that far until 1878. Soon after the road had reached Alexandria, Nelson appeared in cases both for and against the railroad but within a year it appears that he was retained by the St. Paul and Pacific [38] and also by the St. Paul, Minnespolis, and Manitoba Railroad. Lawyers who had begun practice upon the frontier in the late

38. "St. Paul and Pacific Railroad to Nelson and Reynolds, Feb. 14, 1876"; "N. Hoople to Nelson, Aug. 29, 1878;" "J. P. Farley to Nelson, June 28, 1879"; "James J. Hill to Nelson, June 7, 1880". MSS

sixties and in the seventies had an opportunity to become the professional representatives of the new railroad companies and many did become railroad attorneys.[39]

The most important part of a frontier lawyer's law business was his land practice. The drawing of preemption and homestead papers for the new settlers was in demand wherever new lands were opened. The filling of the forms was very simple, and required no knowledge of law, only painstaking care. Since the settlers wished to be certain that their papers were properly drawn so that their new claim would be secure from claim-jumpers they were willing to pay well for such service. Rapid disposal of the public lands led to contests over titles, boundries, and fulfillment of requirements for securing the title to the lands. The cases arising from land disputes upon claims were taken before the local land office. If the claimant was not satisfied, he could appeal the case to the Commissioner of the General Land Office and even to the Secretary of the Interior. The practice of securing patent to a claim by finding technicalities which had been omitted or unfulfilled by the original claimants was known as "claim-jumping", and became a serious offense upon the frontier.[40] Knute Nelson who took a homestead claim which had recently been cancelled by another man was accused of "claim jumping". The former claimant, L. W. Kelbourne, appealed to

40. Ames, op. cit. pp. 248-50; Proudfit, "Public Land System of the U. S. p. 4; "R. Reynolds to Nelson, July 10, 1872" MS; Alexandria Post, Feb. 24, 1869

the Commissioner who refused to reopen the case. Nelson's attorney in Washington heard that Kilbourne was trying to secure the political influences of his congressman to win his case, and the attorney advised Nelson to do likewise. Finally in April, 1872, Kilbourne dropped the contest when the Secretary of the interior upheld the former decisions upon the case.[41]

Another form of land contests arose with the extension of the land-grant railroads which had been given alternate sections of land on each side of their right-of-ways. The local land officials had interpreted the law as going into effect as soon as the actual construction on the roads was begun. Later the Commissioner of the General Land Office decreed that the grants were effective from the time that the laws were passed. Many settlers were, therefor, living upon and improving railroad lands. The railroads had a legal right to the lands, and the settlers felt that a great injustice had been done. That the railroads used undue pressure to remove the settlers or to force them to buy the lands is evident as is the fact that the settlers were often willing to use all possible means to oppose the legal rights of the companies. The problem was lessened by Congressional action in 1874 which provided that the settlers could remain upon their claims and that the railroad

41. "Chipman, Hosmer and Co. to Nelson Nov. 6, 1871, Nov. 27 1871, Jan. 24, 1872, Apr. 18, 1872, Apr. 25, 1872." MSS

companies should be given other lands of like value. Nevertheless, railroad contests continued and the Alexandria land office had as many as twenty cases in one week during January, 1875.[42]

The frontier law practice had two diverse effects upon the legal profession. In some cases it led to the development of a group of individuals very skilled in a special field, usually in land contests which had to be carried to the local land office and then to the General Land Office and even before the Secretary of Interior.[43] A greater influence was exerted, however, toward lowering the standards of the frontier bar. Again the land practice was the more important factor to be considered. A lawyer needed little legal knowledge or experience to fill out preemption or homestead papers, and yet the remuneration was good. The attraction of this practice was great and many men who should have been refused were admitted to the bar. Such conditions likewise attracted a group of disreputable lawyers who were willing to give legal aid to "claim-jumpers".

The same effect in lowering standards was continued by the civil practice, which, likewise required little training or knowledge of law. There were lawyers of little ability and with less charadter upon the frontier who were willing to profit from the unlearned frontiersmen. Although there are few records of the activities of these man, one who

42. "O. Jorguex to Nelson, Jan. 42, 1872"; "A. Ramsey to Nelson, Apr. 4, 1874"; "H. Tratt, St. Paul and Pacific Railroad, to Nelson, Oct. 22, 1874"; "E. Pease to Nelson, Feb. 19, 1899"; "L. K. Aaker to Nelson, Jan. 27, 1875". MSS
43. Douglas County News, Dec. 5, 1878

might well represent their class was one J. S. Mower, for a time , of Alexandria. Mower had settled in Alexandria soon after Douglas county had been organized; was admitted to the bar, and began practicing law. He was appointed the county superintendent of schools and through this position secured an office in the courthouse. Failing to fulfill his duties, he was forced to resign. After practicing a few more years in Alexandria, he returned east followed by charges of dishonesty. Some time later upon the dismissal of a foreclosure case before the court because Mower had carried off the title deed, sheriff's certificate, and redemption money, and had put nothing on record, the judge inquired whether he had taken the land too.[44]

Upon a brief survey of the possibilities for legal practic upon the frontier, it becomes evident that there was not enough litigation alone to support the lawyers. For the more successful ones there was the possibility and probably often the desire to become a district judge. Although the frontier circuit courts demanded strenuous activity upon the part of their judges who often had to travel over large circuits, the salary was large compared with other positions. Moreover, the judge was one of the most highly respected men in the frontier communities. It was he who administered justice and who was

44. Alexandria Post, Sept. 23, 1868, Dec. 23, 1871, Mar. 22, 1873, Oct. 4, 1878. "A. Nelson to Nelson, Aug. 17, 1876"; "W. P. Clough to Nelson Sept. 15, 1877". MSS

the most important representative of the organized government with whom the frontier settlers came in contact.[45] Since judges were only elected every seven years and later every six years, opportunities for election were few, and if a lawyer did not have a good reputation as well as some political influence, he had small possibilities for election.

The Appendix and Index follow.

The remainder of Palmer's paper,

pages 22 through 45, are posted in PART 2.

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45. Address by E. Vanderburg in Stevens, "Bench and Bar of Minnesota" p. 77; Flandrau, op. cit. p. 204; Alex. Post. Oct. 7, 1881.

Appendix

Place of birth

	N.Y.	Vt.	N.H.	Mass.	Conn.	R.I.	Me.	Pa.	Ohio	Ind.	Ill.	Mich.	Wisc.	Ken.	Ger.	Br. Am.	Nor. S.W. Den.	Br. Isles
-1865	26	12	4	4	5	1	4	5	2	3	1			1	1	1		2
1865-1880	17	8	2	3			4	3	8	3	2	2	4		1	6	2	1

Education

	Common School only	Academies or High Schools only	College (One year or more)	Law School
-1865	5	32	20	6
1865-1880	2	14	27	16

Preparation for law

	Within Minn.	Outside Minn.
-1865	12	48
1865-1888	23	30

Settlement in Minnesota

-1858	1859-1864	1865-1869	1870-1874	1875-1880	Retired in Minn.
62	11	24	17	7	11

War record

From Minn.	From Other States	Commissioned Officer
15	19	15

Office-holding

County Attorney in early years	County Attorney in late years	Probat Judge Early	Probat Judge Late	Probat Judge Unknown	Legislator
50	16	17	3	6	38

Special interests

Newspapers	Banking	Railroads
19	12	14

Relation to schools

Taught School	Supt. of County Schools	Definite Interest in Schools
38	9	20

The above tables were compiled from a biographical study of one hundred thirty-five lawyers who were practicing in Minnesota between 1865 and 1880, and who had been near the frontier at the beginning of their practice. Seventy-one were practicing in the state in 1865 and sixty-four entered the state between 1865 and 1880. The tables must be used with care because they are necessarily based upon those lawyers who were more successful than many of the frontier lawyers.

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The remainder of Palmer's paper,

pages 22 through 45, are posted in PART 2.

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