

“Ramsey County Lawyers”

(1891)



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Introduction

By

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Editor, MLHP

In May and June 1891, the *St. Paul Daily Globe* published four articles about the Ramsey County bar. The writer, who is unidentified, divided the bar into four tiers (somewhat like generations) and profiled lawyers in each strata in each article – from the founding generation to the youngest members, regrettably called “legal lightweights.”

Many volumes of local and regional history were published by subscription around this time. A subscriber paid the author or editor to defray the costs of publication and, in return, had his profile appear in the book. Subscribers’ profiles were filled with family data and were very flattering. The profiles in the *Globe’s* articles are different because they were written by a journalist, not the subject. The writer provides almost no personal or family information about the subjects. He obviously enjoyed watching lawyers at work and hearing their “war stories.”

The first, published on Sunday, May 24, 1891, sketched eight lawyers and one judge who were early leaders of the county bar: Edmund Rice, George Becker, John Gilman, John Brisbane, Henry Horn, Horace Bigelow, Charles Flandrau, William Gaston and Judge Wescott Wilkin. The longest, not surprisingly, was of the colorful “Harry” Horn. The writer did not spend much time researching the background of these men, and even guesses at the age of Horn (who was actually seventy in 1891). Each subject is viewed as a sagacious, elder founder of the local bar that is “second to none,” hence the headline “Nestors of the Bar.”

The following Sunday, May 31, 1891, the *Globe* published vignettes of thirteen “second division” lawyers in an article captioned “On Bench And At Bar.” These sketches are lively, colorful, impressionistic, anecdotal, even gossipy at times, and are less reverential than those of the “nestors.” Most

arrived in the city in the 1860s and 1870s and were, according to the author, "slightly younger than those of the first class, men who have climbed to the summit of life's hill, and whose faces are now turned in the direction of the setting sun." The following lawyers fell into the second tier: Augustus R. Capehart, Squier L. Pierce, Tom Ryan, W. P. Warner, Stanford Newell, Cushman K. Davis, Homer C. Eller, Reuben B. Galusha, Isaac V. D. Heard, John B. Sanborn, Henry L. Williams, Uri Lamprey and W. S. Moore.

The third article appeared on Sunday, June 14, bearing the headline "Their Legal Prime." It had sketches of sixteen attorneys who were between 32 and 40 years old and had arrived in St. Paul about 1870: Christopher and John D. O'Brien, Walter Sanborn, Charles N. Bell, Harry Officer, Warren H. Mead, Arthur G. Otis, E. S. Thompson. Cyrus J. Thompson, H. C. James, Hiram F. Stevens, William W. Erwin, Cy Wellington, C. J. Berryhill, James Lusk and Charles W. Bunn. The writer dubbed them the "middleweights" of the county bar.

Stuck with a boxing metaphor, the last article on Sunday, June 28, was headlined "Legal Lightweights." It had profiles of eleven recent members of the bar: Thomas D. O'Brien, Marcus D. Munn, James W. Markham, T. R. Palmer, William G. White, Daniel W. Lawler, John W. Willis, Edmund S. Durment, Oscar E. Holman, William H. Lightner and Henry D. Johns. This younger generation had fewer courtroom "war stories" to embellish, which the writer found so entertaining; accordingly, his sketches of them are dry, at least by comparison with the first two tiers.

The four articles are posted together under the title "Ramsey County Lawyers" to avoid confusion with other articles on the St. Paul and Ramsey County bars on the MLHP. A few errors have been corrected. They have been reformatted. ♦

THE SAINT PAUL DAILY GLOBE

Sunday, May 24, 1891

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NESTORS OF THE BAR

Legal Links That Bind the
Old Fifties With the
Nineties.

The St. Paul Bar Is Second
to None in the United
States.

Blackstonians That Stand as
Models for the Rising Bar.

Incident and Characteristics
of the Typical Old
Timers.

The bar of Ramsey county, in point of learning, ability and knowledge of the law in all its various departments, is one of the ablest, if not the ablest, in the country. Compared with the legal fraternity of other cities twice the size of St. Paul, it outranks them by "a large majority." Take the city of Chicago, for instance, with its million or more inhabitants, and, outside of a few attorneys whose reputation is almost national, our attorneys will compare more than favorably with the balance. The Ramsey county bar has always been represented by able men. Going back into territorial times we find such brainy men as Edmund Rice, [William] Hollinshead, George L. Becker, Judge Palmer, Westcott

Wilkin and John H. Gilman, expounding intricate questions of law in the halls of justice. ¹

Edmund Rice was a magnificent man in every sense of the word, and, as in private and business life he was the soul of honor, so in every legal transaction in which he ever participated, and while he had a mind fully equipped for the noble profession of the law, he owed his success more to his honesty of purpose and urbanity of manner than to any excellence in the law. The most of his legal practice had to do with corporations, and it was natural for him, later on, to drift into the railroad business.

Messrs. Becker and Hollinshead were also most capable lawyers, and the firm of Rice, Hollinshead & Becker made up a team that was hard to beat. Mr. Hollinshead has long since died, but Mr. Becker still remains, being one of the railroad commissioners of the state. Like his partner Rice, Mr. Becker abandoned the practice of law for the more remunerative occupation of railroading.

Wescott Wilkin, who lately retired from the bench, full of years and honor, was another of the leading attorneys in those days, and his legal capacity can be estimated by the remarkable record which he made while presiding as judge in the district court.²

John M. Gilman, another link that binds the '50s with the '90s, was perhaps the ablest of all the lawyers of those times. He is one of the greatest pleaders that ever stood in the courts of Ramsey county, and was concerned in nearly all the big suits that engaged the attention of the courts. Though he is rapidly approaching the biblical three-score years and ten, even to-day he is able to hold his own

¹ "Judge Palmer" is Edward C. Palmer, who settled in St. Paul about 1854, and was elected the first judge of the Second Judicial District, serving 1858-1864.

² Wilkin (1824-1894) was Judge of the Ramsey County District Court from 1865 to 1891.

with lawyers young enough to be his sons. His mental faculties are as keen and active as ever, but his eyesight has failed him, and this fact handicaps badly. The last great case he appeared in was the action of the St. Louis River Dalles Improvement Company against the C. N. Nelson Lumber company, tried a few months ago. He was pitted against W. P. Warner, of St. Paul, and J. N. Castle, of Stillwater, who appeared for the defense. The trial lasted fully a week, and finally the old man was obliged to succumb, but only after he made a desperate fight.³

Later on, and some time in the 60's, appear two other giants of the Ramsey county bar, John B. Brisbine and Henry J. Horn. These two gentlemen are often spoken of as the Nestors among the attorneys of St. Paul. John B. Brisbine was a great lawyer in his day. In addition to a most intimate knowledge of the law, he was a classical scholar, thoroughly versed in Latin and Greek, and could quote whole plays of Shakespeare and whole slices of holy writ. He was a flowery, ornate speaker, and the most beautiful figures of speech flowed from his tongue as readily as water from a fountain. His was a striking figure in the court. His Grecian cast of features, the collar open behind, the doeskin coat buttoned tightly to the throat, gave him the appearance of Old Hickory Jackson, and to be referred to as a Jacksonian Democrat was his greatest pride. For the past couple of years Mr. Brisbine has been seen seldom in the courts, the infirmities incident to increasing years depriving him of his wonted energy and usefulness. Now and then he drops in to see the "boys," however, and regales them with some of his inimitable stories, of which he has an abundant store. He

³ The plaintiff was authorized by special legislation to improve the navigability of the St. Louis River, and to charge tolls for this service. During extremely high water in June 1888, the defendant's logs became loose and floated down river over the defendant's "improvements" which had been damaged and of no help to loggers. In the first appeal, the supreme court reversed Judge Kelly's finding for the defendant, and remanded it for a new trial. *St. Louis River Dalles Improvement Co. v. C. N. Nelson Lumber Co.*, 43 Minn. 131, 44 N.W. 1080 (1890) (Dickinson, J.). On remand Judge Kerr found again for the defendant, denying the plaintiff's claim for tolls, a ruling the supreme court affirmed. 51 Minn. 10, 52 N.W. 976 (1892) (Vanderburgh, J). In both appeals, Gilman was joined by Henry Horn and William W. Billson, a Duluth lawyer.

has laid by enough of the world's goods to spend the remainder of his days in the dignified repose which is so becoming to declining age.

Henry J. Horn, who is the grand old man of the bar, needs little introduction to the people, his face and form being familiar to all. His practice dates back to war times, and he has pegged away unceasingly until the present day, when he seems good for twenty years to come. Everybody knows good old Harry Horn, for his features are so striking that, once seen, they are not soon forgotten. A small man so far as height is concerned, a good large body, well set on a pair of stout legs slightly bowed, a big head full of brains, a forehead high and intellectual, an eagle like beak of a nose, a smooth face save for a pair of small burnsidés — that is Harry Horn as he appears to a casual observer. Honesty is stamped on every lineament of his countenance and in every syllable he utters, and it is this pre-eminent quality that has made him so successful in his practice of a quarter of a century. Though he is cunning and shrewd as a fox where cunning and shrewdness are required, he never stoops to the methods of the charlatan or pettifogger, but makes the best use of the weapons the law affords in the trial of cases. His brain is a perfect storehouse of law, and his immense legal practice makes it necessary for him to make constant and heavy drains on his resources. No one has ever discovered Mr. Horn's age, but it is somewhere between sixty and seventy; but, notwithstanding his years, he is still as active as a man of thirty, and his faculties are clear and unimpaired.

He is the attorney of the St. Paul City Railway company, and as that corporation is continually in hot water, the genial Harry has his hands full to attend to its business. He has the laws relating to personal injuries down fine, and the lawyer who brings suit against the city railway company must have a "dead open and shut" case to stand any show. Before he enters court at all he has his case thoroughly in hand, and when the case is called he marshals witnesses enough to swear any man out of court. To watch his actions in court, one would imagine he is paying little attention to what is transpiring, but Harry is foxy, and is thinking with all his

ears, though he may not be looking with all his eyes. He takes voluminous notes as the trial proceeds, and if a witness makes the slightest break, he jots it down instanter, while a gleam of intense satisfaction illumines his Websterian physiognomy. He is very tedious before a jury, and will ask the same question sometimes in six different ways, when he is fishing for a certain answer. In this way he will worry a witness like a terrier would a rat. This may be called his weakness. Mr. Horn's practice should net him easily \$20,000 per year.

Two other splendid attorneys of Mr. Horn's school are deserving of special mention — Messrs. Bigelow and Flandrau. They were partners for many years, until the frosts of age compelled the former to retire from active practice. Mr.[Horace] Bigelow was a fine specimen of the attorney of the old days. Genial in his manner, courteous to all with whom he came in contact, fair and square in all his dealings either in or out of court, he won his large clientage as much by his splendid character as by the thoroughness of his legal attainments. He was a master of corporation law, for it was with cases in which corporations were involved that he had most to do. His last public service was as a member of the court house commission. In this he labored with all his wonted zeal and fidelity, notwithstanding he received little or no compensation for his services.⁴

The Chesterfeldian [Charles] Flandrau is a familiar figure in ail the courts of the state, district, circuit and supreme. Though a man who has seen sixty years of good, honest toil, he is as dapper and well preserved as a young stripling and he can fight as hard to-day as in "ye olden time" when he routed the red skins at New Ulm. Judge Flandrau was a good soldier; he is an equally good lawyer, and the same qualities which rendered him so successful as the one, viz: pluck and perseverance, stand him in good stead as the

⁴ See "Ramsey County Court House and the Men Who Inhabit It." (MLHP, 2014) (published first, 1903).

other. In the early days he sat upon the supreme bench and it is this fact that gives him the title of judge.⁵

Like his old partner, Bigelow, Mr. Flandrau's best hold is in corporation law, and there are few laws in the books applicable to that subject that the judge is not familiar with. From his long residence in St. Paul there are few citizens that he has not a personal acquaintance with, some casual, some intimate, and this fact makes him very popular with juries. In addressing the jury he does so in a very bland, smooth, persuasive style that wins them over notwithstanding that he may have the short end of the stick.

While interrogating witnesses, especially upon cross examination, he usually rises to his feet, and, after approaching close to the witness stand, emphasizes his utterances by copious gesticulations. This, no doubt, is part of the French that makes up the judge's nationality. In the matter of dress he is somewhat dandified, and his usual garb in summer is light pants, blue cheviot sack coat, or sometimes white duck coat and light straw hat.

William K. Gaston is one of the old timers of the Ramsey county bar, and now and then his familiar face is seen in the district court. He never was much of a hustler, in the popular acceptation of the term, but has always contented himself with plodding along slowly but surely. His legal business has been mostly of a real estate nature, the settlement of questions of titles, etc., in which he is most proficient. In appearance Mr. Gaston is a heavy, thickset man, with lion-like head, covered with a thick growth of gray hair, shaggy eyebrows, florid complexion and eyes beaming with good nature. ◇

⁵ In 1857, while a member of the Territorial Supreme Court, Flandrau was elected to the first state supreme court, serving 1858-1864.

THE SAINT PAUL DAILY GLOBE

Sunday Morning, May 31, 1891

Page 3



ON BENCH AND AT BAR.

**An Interesting Group of the
Elder of the Legal Fraternity.**

**Rich Scenes in Court in Days
When St. Paul Was Young.**

**Personal Characteristics of
Attorney's Factors in
Verdicts.**

**Peculiarities, Attractions and
Foibles of Prominent Barristers.**

The attorneys of St. Paul can be naturally grouped into four divisions so far as length of serving in their profession is concerned. The first division includes the old-timers, men who came to St. Paul about the time of the war, and who have been in the harness continuously ever since. An epitome of their qualifications, abilities and characteristics has already been presented in the *Globe*, and so we come naturally to the second division, composed of men slightly younger than those of the first class, men who have climbed to the summit of life's hill, and whose faces are now turned in the direction of the setting sun.

Though not as old as their confreres in the first division, they are not a whit behind them in knowledge of the law. In the second division may be mentioned the following well known attorneys: A. R. Capehart, S. L. Pierce, W. P. Warner, Stanford Newell, C. K. Davis, Homer C. Eller, R. B. Galusha, I. V. D. Heard, John B. Sanborn, Henry L. Williams, Uri Lamprey and W. S. Moore [and Tom Ryan].

Everybody knows A. R. Capehart, or more familiarly "Col." Capehart, as he is generally known. There was a time, but many years ago, when the colonel had quite an extensive practice, but aside from the prosecution and defending of suits in which he himself is concerned, he scarcely ever appears in court now. But he has not been idle since his practice began to fall off. When the real estate boom struck the town, he mounted the tidal wave and made some very profitable deals, so that to-day he is the owner of some very choice chunks of realty. The most valuable of these is the Clifton hotel, opposite the county jail. It is questionable though whether this mammoth block has brought him in value for the money expended. Personally, the colonel is a hard man to approach, he seeming to prefer his own company to all others. As he goes his way he appears to be moody and preoccupied, and very often mutters to himself in a strange monotone.

S. L. Pierce is the most picturesque attorney at the Ramsey county bar, both in his practice and in his personality. He has an abundant practice of all kinds and classes of cases, and he has been fairly successful in an experience extending over a quarter of a century. He was formerly a partner of Bill Erwin, the great criminal lawyer, and these two unique figures made a great team while they pulled together. But they did not remain long under the same roof, for Bill and the squire were the direct antipodes of each other in tastes, habits and opinions. Pierce is an odd-looking man, and reminds one of some of Dickens' characters. He is fully six feet tall, slightly stooped, with long legs and very long arms. His head is well shaped and covered with a thick growth of dark-brown hair, which is usually disheveled. A pair of sideburns sets off his features, which are indicative of great pugnacity of character.

When he enters into the trial of a case he throws all the ginger he possesses into it, and makes it very interesting for his adversary. His long and varied practice has given him a good insight into the intricacies of the law, and he plays his points for all there is in them. Pierce missed his calling. He should have been an actor, for he has great power of mimicry and facial expression, as any one can testify to who has

ever seen him addressing a jury. He can laugh or cry if the occasion warrants it, and he has been known to get down on all fours to bring out a point with more emphasis. He has a defective memory for names, and this failing has been the result of destroying the force and effect of many a beautiful period of his.

It is related of him, in this connection, that at one time, while trying a case with Tom Ryan on the other side, a very funny incident occurred. Pierce was summing up and had waxed highly grandiloquent, when he struck a snag. He was referring to a certain great German philosopher, but, unfortunately, he could not remember his name. "What was the name of that great man?" he cried, appealing to the jurors. There was no response. "What was his name?" he repeated, turning to the auditors in the court room, now chuckling with evident glee.

The squire was in a dilemma, for none seemed disposed to help him out. Finally, Tom Ryan (who was Erwin's partner later on) was seen to hobble over in the direction of the counsel.

"Who was that great philosopher, Mr. Ryan?" pleaded the 'squire.'

"Why, Jimmy Egan, of course," replied Ryan, with not the faintest suspicion of a smile on his face.⁶ The court fairly rang with the laughter of the audience, and in the midst of the excitement Pierce sat down. It is unnecessary to state that Ryan won his case.

Tom Ryan is the same attorney who afterwards made himself famous by bringing about the acquittal of Martin who was accused of brutally murdering a stockman out at

⁶ This refers to James J. Egan (1842-1914), who served on the Ramsey County District Court from 1891 to 1897.

the Transfer. A pair of overalls, which were spotted with blood, had been found in a closet, and were presumed to have been put there by Martin, who had entered the hotel with a bundle of clothes the night of the murder. The state's attorney had made a great point on this piece of crinating evidence, and was almost ready to rest his case on the overalls alone. It was at this point that Ryan made his great coup. Martin was on the stand and had been examined direct and cross. It was now the direct, and Martin's case had begun to look dark.

"Martin, step down here," said Ryan. The witness did so.

"Put on the overalls," directed Ryan in a firm voice. A great hush swept over the court as the prisoner proceeded to don the overalls, and all eyes were riveted on the prisoner. "Would the overalls fit?" each one asked himself If they did, it was all up with Martin. After a moment of extreme anxiety, at least for the prisoner, the overalls were pulled on, and, to the surprise of all and to the great discomfiture of the state's attorney, they proved to be too long by fully six inches. In other words, the murderer was not Martin but a man about half a foot taller. A clap of thunder out of a clear sky could not have produced a greater sensation than this nervy exhibition of Attorney Ryan. The result was that Martin went Scot free, although it has always been doubted that he was an innocent man.

W. P. Warner is as good an all round attorney as there is in St. Paul and his practice is quite voluminous and remunerative. His partners are Charley Lawrence and Harris Richardson, two men younger than himself, but thorough in every branch of their chosen profession. Mr. Warner is a hard worker, and puts in more hours of good honest toil than many laboring men.

His practice is not confined to any particular branch of his profession, but embraces all manner of litigation, and should net him clear of expenses from ten to fifteen thousand dollars annually. He tries a case for all there is in it, and only concedes a point when he is compelled to do so. There is a good deal of the bull dog in Warner, and when he

gets a hold he clings on with all the tenacity of that fighting canine. He is always cool and collected, and never loses his head, however excited his adversary may become. In presenting points of law to the court or addressing a jury, he is calm, dispassionate and logical, and carries conviction, if conviction be possible. In appearance he is short and stocky. His face is grizzled and wrinkled, and his hair thin and sparse, giving evidence to the wear and tear incident to a life of arduous and painstaking effort in his profession. While conducting a case, he sits with his legs crossed, and keeps his hands engaged in gently toying with several \$20 gold pieces. He is fond of the weed in both forms, smoking and chewing, and in court he carries a wad of fine cut in his mouth.

Stanford Newell, the Chesterfieldian leader of the gilt-edged wing of the Republican party, is an attorney, but if one was to determine the fact by the frequency of his visits to the court, he would never accuse the aforesaid Stanford of being a legal advocate. Mr. Newell's practice is almost entirely what is known as an office practice, and from the style of living he indulges in, it is evidently most remunerative. Those who know him intimately say that Mr. Newell is a clear-cut gentleman and an able lawyer. Personally, he is most pleasant and agreeable, and in club and social circles he is one of the 400. His face has been the subject of so many newspaper cuts that it is familiar to all. His principal ornament is a pair of strawberry lilacs that are the joy of the ladies and the plaything of the wind.

Cushman K. Davis, the present senator from Minnesota, is considered to be the greatest constitutional lawyer in the West and one of the greatest in the country. Mr. Davis is the favorite son of Minnesota, and she has showered honor after honor upon him during his residence of a quarter of a century in St. Paul. Besides being an eminent lawyer he is a thorough classical and Shakespearean scholar. His oratorical abilities have been displayed on the rostrum and on the stump throughout the country, and his speeches have always been models of fine rhetoric and polished diction. He has not been seen much in the lower courts in late years,

his duties as senator claiming most of his attention. His law business here, which is very large, is looked after by his partners, Messrs. Kellogg and Severance, two very able and promising young attorneys. Mr. Davis has considerable practice in the United States supreme court at Washington, and in that high tribunal he has few equals and no superiors.

Homer C. Eller is considered the best read lawyer in this portion of the country. He is a veritable walking encyclopedia of law. Having tackled every text-book that was ever printed, and being of a most retentive memory, he is able often to refer to page and volume where legal questions are made the basis of investigation. Indeed there are few lawyers in St. Paul who have not at one time or another applied to Mr. Eller for information of a legal nature. He is always most happy to grant favors of this kind, especially to young practitioners. His health for years has been very poor and he has been compelled, though most reluctantly, to remain out of court. His great forte is real estate law, and to that branch of his profession he has devoted most of his time. Mr. Eller is a small, slight man, weighing scarcely more than 100 pounds, with a good, large intellectual head perched on a light, wiry frame. In demeanor he is ever courteous and gentlemanly, and numbers his friends by his acquaintance.

R. B. Galusha is a fine type of the old school of lawyers and a most estimable gentleman. His practice has diminished somewhat in later years owing to the large influx of young attorneys that are crowding the old heads to the rear. He does an office practice principally now, but in his time he was considered a shrewd and able advocate before the court. He was associate counsel in the celebrated Farley-Hill case.⁷

⁷ *Farley v. Kittson, Hill and St. Paul, Minneapolis & Manitoba Railway Co.*, 120 U. S. 303 (1887), later proceeding after trial on remand, 150 U. S. 572 (1893). See generally, Albro Martin, *James J. Hill & The Opening of the Northwest* 356-360 (Oxford Univ. Press, 1976).

I. V. D. Heard is another of the old time lawyers who came to St. Paul while the Indians were yet on the rampage in these parts. He is still in active practice and asks no odds of any of the younger attorneys. "Ike" is quite a natty dresser, and for a man who is considerably over twenty-five, he does look the dandy. He fairly revels in Indian lore and would sooner speak of "Lo" than win a law suit. Just the same he is a good fellow, and loved by all who know him for his honesty of purpose and uprightness of character.

John B. Sanborn is the head of the big firm of John B. & W. H. Sanborn, the latter being his nephew. The general practiced for many years in Washington along with Col. Kerr, and did a land office business prosecuting Indian claims. Afterwards he came to St. Paul, and has practiced here continuously ever since. He has occupied many positions, civil and public, and is highly respected in the community. He is nearly seventy years of age, but does not look over fifty. He is a giant in breadth and stature.

Henry L. Williams, Uri Lamprey and W. S. Moore belong to the same school and cast of attorneys. Williams has practiced here about twenty-five years, and is considered one of the shrewdest and best lawyers at the bar. Lamprey was a good lawyer in his day, but is so rich now that he does not have to practice much. His specialty is real estate law. Moore is an old timer from away back, but is no slouch at that. He was the attorney of the court house commission, and kept the members of that mossback organization out of legal entanglements.⁸ ◇

⁸ For an account of the construction of the 1891 courthouse, see "Ramsey County Court House and the Men Who Inhabit It." (MLHP, 2014) (published first, 1903).

THE SAINT PAUL DAILY GLOBE

Sunday Morning, June 14, 1891

Page 2

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THEIR LEGAL PRIME.

Such May Be Termed the
Middleweights of the Ramsey Bar.

Attorneys Who Do the Great
Work in the Courts To-Day.

The Pick of the Profession
May Be Found in These Ranks.

Pen Sketches of Points and
Peculiarities of Lawyers.

Those members of the Ramsey county bar who began practicing along about 1870 may be properly termed the middleweights of the profession. The heavyweights have already been touched upon by the *Globe*, and their merits and demerits sized up in a fair and impartial manner.

The middleweights, so called, constitute by far the brainiest of the attorneys. They are men between the ages of thirty-two and forty, in the prime of life; men who have had from fourteen to fifteen years' active experience in their noble profession, and who have fought and won many a legal battle. In this category may be properly placed Messrs. O'Briens, Sanborns, C. N. Bell, Harry Officer, W. H. Mead, A. G. Otis, E. S. Thompson. C. J. Thompson, H. C. James, H. F. Stevens, W. W. Erwin, Cy Wellington, C. J. Berryhill and Lusk & Bunn.

The name O'Brien, in Minnesota at least, is synonymous with great attainments in the law. There are three brothers of them, Chris, John and Thomas, and a splendid trio they make.

Their father, Dillon O'Brien, from whom all the boys take their middle name, though not a lawyer, was a man of splendid intellect, and no doubt the boys achieve most of their talents from him. Dillon O'Brien was of a literary turn of mind, and swung a very trenchant pen in his day, especially when dilating on anything having to do with his native land. He gave to his sons very advantage in an educational way, and as the first three seemed to have a natural leaning toward the law, the parent allowed them every opportunity to pursue the chosen path in life.

Christopher, the oldest, took to the law like a duck does to water, and it seemed second nature to him. He had a large and profitable clientage almost from the outset, and it was no trick for him to win cases. His reputation growing, he was duly nominated and elected for the office of county attorney. In this position he displayed remarkable ability, and the culprits were few and far between that slipped through his clutches. During one term alone he sent five murderers to Stillwater for life. He has a wonderful memory, and never takes a note in court, however complicated or important the questions at issue. He is slightly irascible in temper, and is wont to boil over if stirred up the least bit. He is so accustomed to success that he smarts under defeat, and is apt to say things he should not.⁹

John D. O'Brien, the second of the O'Brien trio, is considered the ablest lawyer of the family, and perhaps the best all-round advocate among the middleweights. He applies himself more than his older brother, who is too apt to draw on his natural resources alone. John is a great reader and a man of good common sense and judgment. He has better

⁹ Christopher Dillon O'Brien was born in Ireland on December 4, 1848. He died in St. Paul on August 27, 1922, aged seventy-three.

control of himself than Chris and keeps a perfect equipoise all the while, never allowing his temper to runaway with his good judgment. Before courts and juries he stands very high, and among his fellows he is greatly beloved for his many excellent traits of character. He tends strictly to business, and so far has avoided the rocks and shoals incident to cruising in political matters. If he were offered the office of mayor he would not accept it, he preferring the domesticity of a quiet home life to the allurements and pitfalls of public station.

The Sanborns — Walter and John B. — rank next to the O'Briens in point of ability, and there are many who consider that the former has no equal in the Ramsey county bar. Walter Sanborn is a clear-cut, painstaking attorney, and labors assiduously and conscientiously for his clients' interests. He is thorough in every detail of his profession, and one has to get up early in the morning, as the saying goes, to catch him napping.

The strong point about Walter Sanborn is this: He always is thoroughly prepared to present his case in the best possible manner before he enters the court at all, and stands ready to meet any surprise that may be sprung on him during the progress of a trial. In the conduct of a case he asks no favors and he concedes none. He lights stubbornly every point from the beginning, and strews the records so full of objections that he usually manages to get a new trial if he is defeated in the first bout. Personally he is inclined to frigidity of temperament, and he does not attract like a magnet. His law practice is one of the largest in the city, and as he charges good, round fees, he manages to keep the wolf from the door and pay his sprinkling assessments.¹⁰

¹⁰ For a bar testimonial and memorial, see "Walter Henry Sanborn (1845-1928)(MLHP, 2011-2012); see also George Thomson, "Biographical Sketch of Walter Henry Sanborn" (MLHP, 2012) (published first, 1892), and Thomas H. Boyd, "Walter Sanborn and the Eighth Circuit," 26 *Ramsey County History* 22 (Summer 1991).

See also "Memorial Proceedings for John B. Sanborn, Jr. (1883-1964)" (MLHP, 2012); the most thorough study of Judge John B.

Gen. Sanborn has already been referred to, and as E. P. Sanborn falls within the lightweights, his turn will come later.¹¹

C. N. Bell is the gentleman who got up the Bell charter, and as this is his first offense he claims he can prove an alibi. Charley is a bachelor, a good fellow, and eats his meals at the Windsor hotel, where he can be found most any day discussing law with Ed McKenney. He is an A. No. 1 good, all-round lawyer, and a most genial, companionable gentleman. He has a holy horror for the fair sex, and never had anything to do with one of them, excepting Mrs. Barteau No. 1, whose attorney he was in the celebrated case of *Barteau vs. Barteau*. Charley won the first case in good shape, Judge Kelly deciding in his favor. But the case was appealed, and Judge Mitchell, of the supreme court, ripped the decision of the lower court up the back and down the sides.¹² This made Charley Bell sick, and he vowed then and there that all women were hoodoos and he was done with them.

Harvey Officer is a clean-cut gentleman and a splendid attorney. During his twenty odd years of practice, which has included every variety of legal proceedings, he has labored with great zeal for his clients, and with marked ability and success. Harvey is as honest as the day is long, and never stoops to trickery or deception to gain a point. He is no orator, but presents his side of a case in a plain, simple and logical statement of the law and the facts as they appear to him. No lawyer stands higher before the judges of Ramsey county than he, and he is deserving of every

Sanborn is Thomas H. Boyd's "The Life and Career of the Honorable John B. Sanborn, Jr.," 23 *William Mitchell Law. Rev.* 203-312 (1997).

¹¹ A lengthy profile of General John Benjamin Sanborn (1826-1904), concentrating on his experiences during the Civil War, was published in Part Two of Christopher Columbus Andrews, *History of St. Paul, Minn.* (1890). It is posted in Hiram F. Stevens, "The Bench and Bar of St. Paul." 158-168 (MLHP, 2015).

Unfortunately, the writer did not include a sketch of E. P. Sanborn in the last segment of his series on "legal lightweights." For his bar memorial, see "Edward Peyson Sanborn (1853-1934)" (MLHP, 2010).

¹² *Barteau vs. Barteau*, 45 Minn. 132, 47 N.W. 645 (1890)(Mitchell, J.).

consideration shown him for his uprightness and integrity of character. He is the attorney of the St. Paul Trust company, and the immense business of this concern in the settlement of estates, etc., keeps him pretty busy.

W. H. Mead is of a rather taciturn and moody temperament, but this oddity of disposition does not interfere to any extent in his ability as a trial lawyer. He is so thoroughly absorbed in his business that it is no uncommon thing to see him muttering to himself as he goes along the street. He is planning and getting his points in shape while he trudges along, and like Gen. Pope, his headquarters in the saddle. As an attorney he ranks high, and no client's interests suffers at his hands.

A. G. Otis is another very peculiar man, but any one who sizes him up for an amateur is away off. His peculiarity consists in a surly expression – which plays around his countenance all the while, and those who did not know him would think he was quite savage. But he is just the reverse— a good fellow and a good lawyer, as well. Arthur Otis has lots of friends and a rich clientage.

E. S. Thompson hails from the mining regions of Montana, and, in consequence, he bears on his face a rather fierce, Butte City expression. He goes loaded for bear all the while, and the man who treads on Ed's corns better provide himself with a Gatling gun, else he may have several holes bored through him. Mr. Thompson's specialty is the trial of personal injury cases, in which he is most proficient. The rail roads would do well to engage his services, for it would be money in their pockets. He can beat any lawyer in the Northwest in drawing pleadings, which are in every instance models of pure Anglo-Saxon and complete in every detail.

Cyrus J. Thompson is a veritable nobleman, and his frank, honest face is proof positive of the man's sterling integrity. Though his hair is now tinged with gray he is a handsome man still, and adds a charm to his appearance by the

scrupulous neatness of his attire. Mr. Thompson is thorough in every department of his calling, and can hold his own, and more, too, with the generality of the Ramsey county bar. He is slow, but invariably sure, and when he takes a stand on a question he comes pretty nearly being right.

H. C. James has a good round paunch and a bald head, indicative of a good appetite on the one hand and a good intellect on the other. He has practiced for twenty-five years with much success, and thinks he can hold it down for another quarter of a century. He stands high in the estimation of the court and his brother attorneys.

Hiram F. Stevens is the gentleman who delivered the great speech on Decoration day. None who have read this speech will question the man's ability as an orator at least, and he is just as good an attorney, and has held several offices or public trust and has acquitted himself most acceptably. He is the attorney of the Title Insurance company, and a better selection could not have been made. He has only one fault, and that is that he is a Republican.

Messrs. Erwin & Wellington are the greatest team of criminal lawyers in the country. The fame of the Tall Pine has drifted outside the confines of Minnesota, and he is frequently called upon to go even as far as Duluth in great emergencies. Erwin tries criminal cases altogether, but now and then he takes a flier in wheat. Old "Cy" can talk faster than a race horse and use all the while the choicest of language. He is a red hot Democrat, while Erwin — well, he don't know himself!

C. J. Berryhill has but little hair left on his skull owing to hard scraps in the law. His voice is a rich falsetto, with a nasal twang on the side, and usually tries a case in the key of B flat. He is a good attorney nevertheless and wins as many of his cases as any of the boys. He is quite a horseback rider, too, and can be seen often at early morn speeding his charger along at a brisk rate.

Lusk & Bunn are comparatively newcomers in St. Paul, having bailed from Wisconsin, where they were recognized as king bees in their profession. Judge [James} Lusk is considered to be one of the best men at the Ramsey county bar. He is clear-cut as a diamond and is thorough in every intricacy of the law. He never gets rattled, but is always cool and decided at all stages of the game. Mr. Bunn makes a good running mate, and the difference between the two men is a slight one, though Lusk has the call.¹³ ◇

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¹³ James W. Lusk, born September 6, 1841, died in St. Paul on December 19, 1924, aged eighty-three.

Charles Wilson Bunn, born May 21, 1855, died in St. Paul, on January 2, 1941, aged eighty-five.

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Sunday Morning, June 28, 1891

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LEGAL LIGHTWEIGHTS,

But Light Only in the Sense
of Being Still Young Men.

The Cream of the Bar Re-
served by Fate for Bright Futures.

An Even Dozen of Rising
Young Men of Legal Acumen.

Some of Their Points of
Ability With Personal Summaries.

The lightweights among the Ramsey county bar are a set of hustlers from the word "go." The word "lightweights" is used in this connection in no insidious sense, but merely as a distinguishing term to designate the younger members of the profession — those who are hovering around between the ages of thirty and thirty-five. Though young in years, many of them are old in experience, and they can try a case with much more vim than the heavyweights, who are a little too ponderous and slow to make rapid headway.

The following is a roster of the best known of the lightweights: T. D. O'Brien, M. D. Mann, J. W. Markham, T. R. Palmer, W. G. White, D. W. Lawler, J. W. Willis, E. S. Durment, O. E. Holman, E. P. Sanborn, W. H. Lightner, Henry D. Johns.

Tom O'Brien is so well known in St. Paul that he needs no introduction to Globe readers. He is a young man of excellent parts, upright, straightforward, honest, capable

and efficient He was raised since boyhood days in the Saintly City, and it was here he laid the foundation of the splendid character and ability that has been such a conspicuous part of his make-up in after life. He read law with his brother John for many years, and it was not long before the master bade the pupil go forth, as he was fully prepared to hold his own with the best of the attorneys at that time. Since then Tom's career has been onward and upward. Some years ago he joined hands with his older brother, and the firm of C. D. & T. D. O'Brien has become famous as being composed of attorneys than whom they have no peers in their profession. For a number of years the younger O'Brien was the assistant of City Attorney [William P.] Murray, and during this time he performed the arduous and not at-all pleasant duties of this office in a manner to gain great credit for himself. And so it came when at the last election a clean-cut lawyer was desired for the county attorneyship, T. D. O'Brien received the nomination, and the wisdom of the choice was shown by the vote he got at the election. To defeat a man so popular as M. D. Munn was no easy task, but Mr. O'Brien did it, and had plenty to spare.

As county attorney, the worst enemies of Mr. O'Brien will admit that he is doing remarkably well, and is building up a record for himself that will compare more than favorably with his able predecessor. Tom is an easy-going young man, and never allows himself to become hurried or discomfited by reason of reverses. He is ever fair, courteous and gentlemanly, and, while leaving nothing undone where his duty is concerned, he never oversteps the boundaries of right and justice for the purpose of building up a record for himself. He is good for another term if he lives. ¹⁴

¹⁴ Thomas D. O'Brien served on the Minnesota Supreme Court from 1909 to 1911. He was defeated in the November 1910 election, the results of which were:

David F. Simpson (R.).....	135,035
Edwin A. Jaggard (R.) (inc.)	129,536
Thomas D. O'Brien (D.) (inc.)	95,429
Arthur H. Snow (D.).....	66,911

This was a top-two election for terms beginning January 2, 1911. It was the last partisan election.

Marcus D. Munn is one of the shining lights of the Ramsey county lightweights, who came to St. Paul about four years ago almost unknown and friendless. J. J. Egan was then county attorney, and the young man's ability coming under his notice, he took him into his office and made him his assistant. He did well, and has every reason to feel proud of his young protege. Mark went to the front at once. He had not been in the office but a short time when the county attorney, so confident was he that Munn would do him self proud, allowed him to take charge of and try cases on his own account. The first big case that he tried was that of the State against Olson, who was accused of poisoning an old German lady. He had opposed to him the two great criminal lawyers, Erwin and Wellington, and it was thought that the youngster would have no show with the crafty and experienced duo, especially as the case was one entirely of circumstantial evidence. After a trial covering over a week in its consideration the case was submitted to the jury, who afterwards returned a verdict against the defendant. Munn had routed both Erwin and Wellington and the assistant county attorney at once took high rank as an able and efficient advocate. The strongpoint in Mr. Munn, as an attorney, is his remarkable ability as a cross-examiner, he can ply a witness with questions at such a rapid rate that even an honest man will often falter and become confused. A witness who is prevaricating or concealing will soon be routed out from under cover when Mark takes hold of him and will be shown up in a most unenviable light. Mr. Munn has established a splendid reputation for himself since he came to St. Paul, both as a lawyer and a gentleman, and though defeated for the county attorneyship at the last election, he made a gallant struggle, and would probably have won had it not been that Republicanism at the time was not very popular. He is now the head of the firm of

Decades later, Thomas D. O'Brien wrote an engaging memoir of his firm: *There Were Four of Us or, Was It Five* (St. Paul Dispatch & Pioneer Press, 1936). For his memorial proceedings at the supreme court, see "Thomas D. O'Brien" in *Testimony: Remembering Minnesota's Supreme Court Justices* 50-53 (Minnesota Supreme Court Historical Society, 2008).

Munn, Boylsen & Thygeson which does a very large business.

J. M. Markham, or "Jimmy" Markham" as he is popular[ly] called, "is one of the most genial and companionable of men and ranks second to none among the younger members of the bar. He stands very high before the courts and juries because of his innate integrity and honesty, and his success as a lawyer is as much due to his manliness and straightforwardness as to his aptness in the law. He is a hard student and keeps up with the rapid progress of his profession. He is painstaking in every detail of his work, and brings to the consideration of every question that arises the fullest and completest inquiry. At one time he was associated with C. D. Kerr, the present judge of the district court and no doubt imbibed much useful legal knowledge from that able attorney.

T. R. Palmer, familiarly Tim, occupies the front rank among his youthful fellow-attorneys. He has a logical, comprehensive mind, and grasps the most intricate legal problems with a thoroughness that would do credit to the best lawyers in Ramsey county. He is a ready and fluent speaker and can present his case or sum up in a masterly manner. He is well liked among his fellows and by the judges for his unvarying frankness and sincerity. Mr. Palmer has a large practice, and is going to the front in good shape.

William G. White, like his confreres Palmer and Markham, is a young gentleman of admirable character, and, as a lawyer, apt, studious and persevering. His career, though short, has been marked with great success, and he has shown marked ability in every branch of his profession. He is most courteous and gentlemanly in his social and business intercourse, and makes friends on every hand. His greatest triumph he achieved lately in the rather celebrated divorce case of Warner against Warner, where he appeared on behalf of the defendant, Reuben Warner, being opposed by Cy Wellington. He handled, this case in a masterly manner,

and, though he was assisted by Walter Sanborn, it is conceded on all sides that the result obtained was due entirely to the ability displayed by Mr. White in martialing the evidence, and getting the case in shape for trial.

Daniel W. Lawler is a graduate of Yale college where, after spending a number of years and taking all the prizes in sight, he came to St. Paul some five years ago and entered the law office of O'Brien & Wilson. There he remained for about a year acquainting himself with the minor details of the practice of law, and then branched out on his own hook. He has had a good practice from the beginning, and has confirmed the expectations of his friends in the regard that he would acquit himself most creditably. He is at present occupying the office of city attorney to which position he was appointed last May by the members of the common council. The choice was a wise and judicious one, and the city's interests will be well cared for with 'Dan' at the helm. He was assistant United States district attorney during the Cleveland regime, but resigned before his term had expired, in order to give his whole attention to his legitimate practice. Mr. Lawler is a fine looking man, being about six feet in height and tipping the beam at 180. As a public speaker he ranks high, and is kept busy delivering orations for his party and his friends. He is a Jeffersonian Democrat and does yeoman's service for the Democracy at each recurring campaign.¹⁵

John W. Willis, the young Demosthenes of the Democratic party, is conceded to be one of the ablest men before the Ramsey county bar. He is a striking looking man, tall, portly, with smooth face, and complexion like alabaster. His voice is rather effeminate, and though his flow of language is like a limpid stream in its course through a bed of roses, yet the effect is somewhat disappointing, and not just what one would look for from one of his gigantic proportions. Mr. Willis is a St. Paul boy, and most of his schooling he got

¹⁵ Lawler died on September 15, 1926, aged sixty-seven.

right here in the city, graduating from the high school with the highest honors.

His father is a lawyer, and John early conceived the notion of following in the footsteps of his sire. He took to the law naturally, and being of an industrious disposition, he applied himself with all the ardor and energy of buoyant youth. The result was what might be expected. He jumped to the front in a bound, and has remained there ever since. Like most ambitious young men John has essayed politics, but it has not proved a profitable or successful venture. He has given much of his time for the good of his party, but politics and politicians are ungrateful, and so he has been given the cold shoulder whenever he has attempted to gain anything for himself. The saying goes that everything conies to him who waits, and the reflection comforts John in the hours of his sorrow and he suffers and bides his time.¹⁶

E. S. Durment is a rising young attorney. He read law in the office of C. D. O'Brien, where many a fledgling has learned to spread his wings preparatory to flying into the halls of justice to chirp forth, "May it please yer honor." After laying the foundation, as the lawyers say, he spread his shingle to the breeze and ever since the wind has been sighing and sighing around, but like the star spangled banner, the shingle is still there, and it has directed the attention of many a client to an attorney who is achieving a well-merited reputation for himself. Mr. Durment is a self-made man, and whatever honors have come to him have been the result of diligent and painstaking effort. He is the partner of D. W. Lawyer, and the pair is hard to beat.

¹⁶ His father, John Willey Willis ran on the Democratic ticket for attorney general in 1883, losing to incumbent William Hahn. He was elected to the Ramsey County District Court in 1892, barely defeating William D. Cornish. He served until 1899. During his term on the district court, he twice ran for other offices. In 1894, he ran for associate justice of the state supreme court, losing to incumbent Loren W. Collins; and in 1898, he ran for congress in the Fourth Congressional District, losing badly to Frederick C. Stevens. He died on June 2, 1935, at age eighty-three. For a short profile, see Hiram Stevens, "History of the Bench and Bar of St. Paul" 39 (MLHP, 2015) (published first, 1890).

O. E. Holman was once the city attorney of St. Paul, but that was in the days when the council stood eleven Republicans and six Democrats. Then a change came. The municipal dice box was given another shake, and fourteen Democrats and three Republicans rolled out. In the meantime, Oscar had been doing a little acrobatic work on the side in order to keep his job, but the Democrats were after him, and so Oscar had to go out into the cold, unfeeling world and hustle with the rest of the boys. Just the same, Mr. Holman made the best record of any city attorney who ever held the reins, and he retired from his office with the best wishes of all the citizens, regardless of party. Few damages were charged up against the city while he was in office, and he made those attorneys exceedingly tired who make a practice of bringing trivial suits against the city of St. Paul. Mr. Holman stands high as a lawyer and a gentleman. He is very effective before courts and juries, and presents his points in a quiet, scholarly manner. Socially, he is very pleasant and agreeable, and, being good-looking, he is a perfect lion among the fair sex.

W. H. Lightner is the junior member of one of the greatest law firms in the city, Young & Lightner. Though a young man, he is exceedingly clever as an attorney, and if there is any point in a case he will make all there is out of it and get there if such a thing be possible. This firm has an extensive practice, and as Judge Young is kept busy trying cases in the United States courts, Mr. Lightner has his hands full in attending to district court matters. Will is very fond of society and a lover of athletic sports. He is a member of the Minnesota club and president of the Minnesota Boat club.¹⁷

Henry Johns is a good lawyer and a good all-around politician. He hails from Winona, and came to St. Paul some years ago, where he began the practice of law. He is quite a young man, but takes no odds from any of the Ramsey county bar. He has unquestioned ability, and is zealous and

¹⁷ William Hurley Lightner became a pillar of the county bar. As president of the county bar he delivered an address at the dedication of the Courthouse in 1932. See "Dedication of the St. Paul City Hall-Ramsey County Courthouse" (MLHP, 2013)(delivered, 1932).

energetic in his business. For a number of years he was in partnership with Mr. Michaels, the present assistant city attorney, but is now associated with his brother, R. L. Johns. Henry is what is known as a "kid" Republican, but, though he has labored hard for his party, he has never sought any office at its hands. In this respect he is in marked contrast to the other "kids." ◇



Related Articles

Charles E. Flandrau, “The Bar and Courts of Ramsey County” (MLHP, 2009) (published first, 1881).

Charles E. Flandrau, “History of the Bench and Bar of Ramsey County: Parts I & II” (MLHP, 2008-2009) (published first, 1888).

Charles E. Flandrau, “Lawyers and Courts of Minnesota Prior to and During Its Territorial Period.” (Delivered first in 1897; published in 1897 and republished in 1898). Both articles are posted separately on the MLHP.

Hiram F. Stevens, “The Bench and Bar of St. Paul” (MLHP, 2015) (published first, 1890).

“The Bar and Bench of Ramsey County.” (MLHP, 2015) (published first, 1892).

“Bench and Bar of St. Paul” (MLHP, 2013) (published first, 1899).

Henry A. Castle, “The Bench and Bar of St. Paul and Vicinity” (MLHP, 2009) (published first, 1915).

“Dedication of the Ramsey County Court House” (MLHP, 2015) (published first, 1889).

“Ramsey County Court House and the Men Who Inhabit It.” (MLHP, 2014) (published first, 1903).

“Dedication of the St. Paul City Hall-Ramsey County Courthouse (MLHP, 2013) (published first, 1932).

“Photographs of the St. Paul City Hall-Ramsey County Courthouse” (MLHP, 2015) (1932).

In addition there are over four dozen memorials to members of this bar by the Ramsey County Bar Association in the “Obituary/Memorial” category in the archives of the MLHP. ■

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Posted MLHP: March 9, 2015.