

CHAPTER XXI

HISTORY OF THE BENCH AND BAR OF STARKE COUNTY

By Henry R. Robbins

Prior to 1852 Starke County, so far as its courts were concerned, was a part of Marshall County, and Plymouth was the county seat where all litigants and others who had business with the county government resorted on court days or in order to pay their taxes. Thus the early legal business was performed by attorneys from Marshall County as well as from Starke County. Courts of law and equity are a public necessity in every well regulated community, and before taking up consideration of some of the courts and the judges and lawyers of Starke County as an individual civil division, it will be of interest to refer briefly to the origin of the chief courts of Indiana.

Under the first state constitution of 1816 it was provided that the judiciary power, both as to matters of law and equity, should be vested in the Supreme Court, Circuit Court, and in such inferior courts as the Legislature might from time to time direct and establish. Circuit Courts were established, each having a presiding judge who must reside in the circuit, and two associate judges in each county of the circuit. This was the arrangement until the adoption of the new state constitution in 1852. Therefore it is evident that only the older settlers of Starke County had experience with the old form of Circuit Court. As described by Judge McDonald in his history of Marshall County, the old Circuit Court had three judges, the presiding judge being flanked on both sides by the associate judges. "The associate judges did not have much to do. They occupied their seats on the bench, looked solemn and dignified, and when the presiding judge had decided a point or a case he would turn to one of the associates and ask him if he agreed with him in that opinion; he would nod his head in assent, when he would turn to the other associate, who would also give his consent, and that was all the duties they had to perform."

Thus when Starke County was entitled to its own sessions of the Circuit Court, these sessions were presided over by one circuit judge, and Starke County was for several years a part of the old Ninth Judicial District, the judge of which was Thomas S. Stanfield of South Bend. Besides the Circuit Court at the beginning of its organized existence Starke County had a Common Pleas Court and the various justice courts now in existence, only not so many of them.

Under the first constitution the Indiana Legislature provided for probate courts, but with this court also Starke County had no experience save as its early residents resorted in chancery cases to the old Probate Court in Plymouth. The Probate Court as a separate institution passed away with the adoption of the new constitution in 1852. In its place was established the Court of Common Pleas, with which the older residents of Starke County were familiar. The Common Pleas Court was a sort of circuit court with chancery jurisdiction, and presided over by a judge who was elected in a prescribed district. Elisha Egbert was the first judge of the Common Pleas Court for a district comprising Marshall, St. Joseph and Starke counties, and presided over its sessions until a rearrangement of the district was effected in 1859. Judge Egbert was a resident of St. Joseph County, was an able man and very friendly with all his associates. He was born in New Jersey in 1806, and is described by Judge McDonald as "an impartial and upright judge." The Common Pleas Court continued as a separate institution until it was abolished in March, 1873, jurisdiction in probate matters then being turned over to the Circuit Court.

The first executive officer of the courts in Starke County was Solon Whitson, who was elected sheriff. At the first sessions of court in this county Judge Egbert admitted to practice in his court Horace Corbin, of Plymouth, who had located in Marshall County about 1852, who became prominent as a lawyer, later served as state senator, and filled the office of judge of Circuit Court; also Albert S. Deavitt, who was admitted to the bar in 1854; William G. Pomeroy, who was one of the pioneers of Marshall County. Andrew G. Porter was also an early attorney and afterwards became clerk of the Starke Circuit Court.

The first criminal case held in Starke County was against Henry Dom, who was charged with perjury, but was acquitted.

At the beginning of Starke County's existence Sylvester A. McCrackin was a justice of the peace, and in that office became very clever in justice practice, possessing good natural ability and in 1854 was admitted as attorney at law. Mr. McCrackin years afterwards became prosecuting attorney of the 44th Judicial Circuit, and acquitted himself with reasonable cleverness. Samuel Beatty was also one of the old attorneys, and afterwards became a member of the House of Representatives of the State Legislature. His ability was not very flattering, but sufficient for the business that was carried on at that time in Starke County.

Thomas J. Merrifield, who figured prominently as an attorney in Porter County and elsewhere in Northern Indiana, often came to Starke County to try cases while Starke was in his judicial circuit. Merrifield was an attorney of exceptional fine ability. His habits overcame his usefulness to a great extent, and but for that he would have been classed as one of the ablest attorneys in the United States. While on the subject of the first Circuit Court in Starke County it should be mentioned that Thomas J. Stanfield, who presided over its early sessions, was as able and honorable a judge as we have ever had in any circuit in the state. Lytle Jones became a regular practitioner in the Starke County bar in

1867, was a regular traveler for several years around the circuit with Judge Stanfield. In passing it may be remarked that it was customary for the lawyers of that time to follow the Circuit Court in its peregrinations about the district. Thus the sessions of court, lasting sometimes for two weeks in one county seat, would be attended by lawyers from every part of the district, and when court adjourned, all the lawyers would get on their horses or take places in the stage coach and follow the judge to the next place on the circuit.

From 1852 to 1856 Wingate Prettyman was sheriff of Starke County. (This seems to conflict with the previous statement about Solon Whitson.) In 1856 Austin P. Dial became sheriff of Starke County. Both of these gentlemen were efficient and honorable officers. In 1852 John S. Bender became clerk of the Starke Circuit Court and also an attorney. He was about that time or shortly afterwards elected county surveyor; also county auditor, and was a civil engineer of unquestioned ability. He moved from Knox to Plymouth, and about ten years ago passed to the other life.

One of the early tragedies in the local bar requires mention. James O'Brien, who was an attorney of promise, was in attendance at one of the sessions of court in 1854 at Knox. It illustrates some of the diversions of early lawyers to state that during a recess some of the attorneys went out into the woods surrounding the then village of Knox, to hunt squirrels and rabbits. O'Brien was wearing a fur cap, and as he was separated some distance from the other hunters it was mistaken for a fox squirrel, and received a shot which killed him instantly.

John D. McLaren practiced law for several years at Knox, moved from here to Plymouth, and was recognized as the leader of the bar there for a number of years until his death. William B. Hess was also an attorney of Knox, subsequently removed to Plymouth, and later became judge of the Marshall Circuit Court.

Albert I. Gould became a resident attorney of Starke county in the year 1880. He was a jovial man. Besides his mental qualifications he had a stature of six feet four inches, and an avoirdupois of 480 pounds. He was a great joker and comedian of rare quality. His remains were cremated in 1906, his spirit passing to the beyond, from whence it has on several occasions returned to converse with his surviving friends.

L. Harvey Shatto figured as an attorney and editor in Starke County from 1876 to 1882. About 1882 George A. Murphy was admitted to practice, gaining a reputation as a brilliant attorney and later going west to Beatrice, Nebraska. George W. Beeman moved from Lake County to Starke County about 1856, built up a very fair practice, and was elected judge of the Forty-fourth Judicial Circuit, serving a term of six years, when his successor was elected. His popularity was less when his term expired than when he was first elected.

We might mention here that M. T. Hepner was also clerk of the Circuit Court and filled many other offices in the county, and was almost, it might be said, a member of the court.

Henry R. Robbins was admitted an attorney to the court about 1863, became a resident of Starke County in 1885, and is still in practice.

Along about the same time James W. Nichols was an attorney, moved away from town, then returned, moved away again, and at present is practicing at Danville, Indiana. Within the past few weeks his son has come to practice in the territory abandoned by his father.

Charles H. Peters, who was admitted to practice in 1895, went into business with an older attorney, Albert I. Gould, who has since died. His son, Glenn D. Peters, was also a local attorney, practicing with his father, but has since gone to Hammond, Indiana, and is in practice in that city.

B. D. L. Glazebrook about 1890 took up the practice of law in Starke County, was twice elected prosecuting attorney, was one time appointed special judge on the bench by George W. Beeman, and is now practicing with success at Indiana Harbor.

One of the recent additions to the bar of Starke County is Robert D. Peters. Oscar B. Smith is an attorney of ability and is still practicing law at Knox. Adrian L. Courtright practiced law in Knox from 1900 to 1905, and served one term as prosecuting attorney.

One of the more recent attorneys practicing at Knox was Charles C. Kelley, who later received appointment to public office in the auditor's department in Indianapolis, went from that position to a sanitarium, and died without regaining his health.

William C. Pentecost, who is one of the more modern attorneys, achieved a very fair practice in Knox, and at the last election was chosen to the office of judge in the Forty-fourth Judicial Circuit.

Another member of the Starke County bar is William J. Reed, and mention should also be made of Charles S. Lundin, who recently established himself as a Starke County lawyer and is doing a good business. E. L. McGruder, an attorney from West Virginia, has formed a partnership with one of the older attorneys and is doing reasonably well.

John M. Fuller, one of the alumni of the Michigan State University, having graduated at Ann Arbor in 1863, has served as a justice of the peace of Starke County, is the dean of the local bar, and will be ninety years of age his next birthday.

Thomas J. Hurley, whose practice began here several years ago, gives his attention principally to criminal practice in prosecuting pleas for the State. He located in the county in 1911.

Simon Bybee, a former editor of the North Judson News, formerly a preacher in the Christian Church and an all around good fellow, was admitted as an attorney to the Starke County bar in 1890, but passed on to the higher life and his reward on January 4, 1915. Mr. Bybee was a magnetic orator, very successful as a lawyer, and possessed a talent and ability rather unusual.

Since his admission to practice in 1905, Harry C. Miller has served a term in the Indiana Legislature, and is one of the effective lawyers at North Judson. A more recent addition to the list of attorneys is Marvin E. Schrock.