

RAMSEY COUNTY
History
A Publication of the Ramsey County Historical Society

Aches and Pains of
Property Owners:
Taxes, Fees, 1856–1904

Page 17

Fall, 2000

Volume 35, Number 3

All the Frailties of Human Nature
The Ramsey County Attorney's Office
and Its Colorful 150-Year History

—Page 4



Pierce Butler, Ramsey County attorney from 1892 to 1896 and future associate justice of the United States Supreme Court, with Henry G. Hardy, left, a clerk, and S. C. Donnelly, right, an assistant county attorney. This photo, from the Ramsey County Attorney's Office, probably was taken when the office was located in the 1880s Ramsey County Courthouse at Fourth and Wabasha in downtown St. Paul. See the article on the history of the Ramsey County Attorney's Office beginning on page 4.

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A Message from the Editorial Board

In 1999 Ramsey County celebrated its sesquicentennial anniversary of its founding. As part of the effort to look back at the county's past 150 years, this issue of our magazine opens with Anne E. Cowie's history of the Ramsey County Attorney's Office. Trained as an attorney and as a historian, Anne Cowie captures the changes that have taken place in this office over the years and highlights some of the flamboyant individuals who have served as Ramsey County attorney. She also focuses on some of the most interesting and important cases, such as the trial of T. Eugene Thompson, handled by the county attorneys since 1849. What emerges from this study is a greater appreciation of how the work of the Ramsey County Attorney's Office has changed since frontier times and how successful those elected to the office of county attorney have been in adjusting to these changes.

In our second article in this issue, Leo J. Harris, attorney, author and historian, writes about the practical operation of the law for two St. Paul property owners, Martin and Sarah Flanagan. The Flanagans owned two small lots on Broadway Street (which no longer exists due to the construction of Interstate I-94) in downtown St. Paul between 1856 and 1904. Harris's perspective is very different from that of Anne Cowie because he analyzes the Flanagan's real and personal property tax receipts and other legal records to determine the financial consequences of St. Paul property laws for a family of modest circumstances. Over time the Flanagan property on Broadway went from being a lot in a frontier town to a homestead in a prosperous city to being part of a St. Paul slum. One of the most fascinating parts of this story is the way in which the Flanagans found their taxes and assessments increased as St. Paul gradually improved its streets with grading, paving and building sidewalks in the late nineteenth century. This is a circumstance many readers of the present century can certainly understand and appreciate. The Flanagans' experience cries out with the feeling of "the more things change, the more they remain the same."

Finally, historian and author Rhoda Gilman unravels the tangled identity of Cloud Man.

John M. Lindley, Chair, Editorial Board

Two Horses and One Buffalo Robe

The Ramsey County Attorney's Office and Its 150 Years: All the Frailties of Human Nature

Anne E. Cowie

“**T**wo horses, one horse harness, and one buffalo robe.” This list of stolen property, hardly typical today, was filed in a Ramsey County criminal complaint for theft against one Joseph Bailey on October 1, 1858.¹ Although Minnesota was barely a state, the Ramsey County Attorney's Office already had prosecuted cases for theft of logs on the Mississippi, perjury in connection with work allegedly performed on a steamboat, even for embezzlement of delinquent property taxes. With the frailties of human nature largely unchanged in 150 years, the Ramsey County Attorney's Office has a similarly busy schedule today. Its strong response to the realities of every era has earned the office a reputation for innovation at the same time as it has reflected the personalities and priorities of the twenty-two men and one woman who have held the office.

The first Ramsey County attorney, Billy Phillips, actually earned his appointment to the office by reading the Declaration of Independence at St. Paul's first Fourth of July celebration in 1849, the year Minnesota became a territory with the frontier hamlet as its capital. About 500 people, headed by a military band from Fort Snelling, marched along the “principal streets” (actually a tangle of hazel brush and scrub oaks) to a grove on the site of present-day Rice Park. Territorial Governor Ramsey presided over the festivities, and Phillips's rousing rendition was declared the best “speech” of the day, after which the party repaired to the American House Hotel at the corner of Third and Exchange Streets for an evening of dancing and fireworks.² Phillips' performance was good enough to win him the job of the first county attorney the following November, when the Territorial legislature created nine counties in the new territory.³

Phillips had a wide geographic jurisdiction to cover: from 1849 until 1857, the original Ramsey County reached as far north as Lake Mille Lacs and the upper Mississippi in present-day Aitkin County. St. Paul, however, always has been its county seat, and the first term of court began in St. Paul on April 28, 1850, with forty-nine cases set on for hearing. Thirteen indictments were issued, mostly against gambling-house-keepers. Since there was no jail, prisoners were sent to Fort Snelling for safekeeping. There was ample opportunity for legal representation, however, as St. Paul already boasted a population of twenty-five lawyers. As historian J. Fletcher Williams remarked, “What sins could this young and feeble population have committed that such a punishment was sent on them?”⁴

In 1851, early settler Vetel Guerin donated a block of land for a courthouse and jail; the first jail, built of sturdy logs, held unfortunate lawbreakers until 1857.

(One of the earliest territorial laws, enacted in 1849 and in effect for four years, authorized imprisonment for debt. It is not known if many actually were prosecuted under this statute, but apparently at least one man died in the old log structure while jailed for debt.) The first courthouse, built of brick in 1851, fronted on Fourth Street. It had four imposing stone columns and stood two stories high; the lower floor contained a courtroom, the upper story another courtroom and judges' chambers. In 1857, a new jail built of Minnesota limestone, was erected at the corner of Fifth and Cedar Streets.

County Attorney Phillips, one of those colorful characters who enlivened the pioneer era, followed his Fourth of July success by taking to the soapbox, sometimes after a visit to a local saloon. As a contemporary commentator noted, “The only trouble with Phillips was, he practiced too often at the ‘Bar’, and he seemed to be more spiritually inclined than his associates, and in view of the great latitude of these early days, that is saying a good deal.”⁵ Phillips envisioned himself climbing the ladder to higher political office. He ran for the post of Secretary of Minnesota Territory, but lost when Henry Hastings Sibley refused to endorse him. Undaunted, Phillips then managed to secure a clerkship in the General Land Office in Washington, D. C. in 1856, but he was prosecuted the next year for misusing the franking privilege of Senator Stephen A. Douglas. Phillips was accused of selling the envelopes to a patent medicine vendor to mail out free circu-

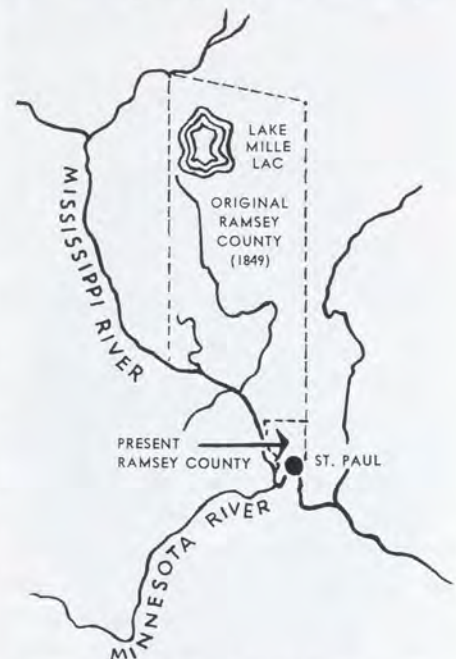


St. Paul in 1869 when S. M. Flint was presiding over the Ramsey County attorney's office and trying cases in the county's first courthouse. In this view taken from the corner of Minnesota and East Third Street, horse-drawn vehicles are parked on the unpaved street, St. Paul still bears the marks of a frontier town. Minnesota Historical Society photograph. Unless otherwise noted, all photographs with this article are from the Minnesota Historical Society.

Ramsey County's second county attorney, DeWitt Clinton Cooley (1853–1856), held the offices of St. Paul city Attorney and Ramsey County Attorney simultaneously, wrote an index of Minnesota tax laws and revised the first ordinances of the City of St. Paul. As a member of the "Third House," a group of citizens who came together to poke fun at the Minnesota Legislature, he wrote a humorous "governor's message" that showcased his ready wit.⁸

Cooley's successor, I. V. D. Heard (1856–1864), served as a volunteer in an independent cavalry company during the Dakota Conflict of 1862, was a member of General Sibley's staff during the Conflict, and later wrote a history of the Conflict.

Early Ramsey County criminal records reveal that in 1858, Heard prosecuted Edward Heenan, then county register of deeds, in what may have been the first case of government fraud in Ramsey County. Heenan had embezzled delinquent property taxes in the amount of \$4,000—a goodly sum in those days.⁹



Ramsey County's wide reach from 1849 to 1857. This was the geographical jurisdiction covered by such county attorneys as Billy Phillips. Map drawn for Ramsey County History by Edward J. Lettermann, former curator of the Ramsey County Historical Society's Gibbs Farm Museum.

lars. Although he was acquitted, Phillips mercifully dropped out of sight.⁶

'Standing Lodge' and the Court

In the early days, Ramsey County saw a number of prosecutions for assault and several for murder. However, one case from 1851 revealed the intersection of European and Native American cultures. The body of a Winnebago known locally as "Dr. Johnson" was found that spring near the town brickyard. The sheriff, Cornelius V. Lull, sent a file of soldiers to a nearby Winnebago encampment to investigate. There a Winnebago named *Che-en-u-wzhee-kaw* or "Standing Lodge," calmly admitted that he had killed Johnson because Johnson had committed a serious violation of tribal law. Standing

Lodge accompanied the sheriff back to St. Paul, where, after a cursory examination, his case was held over until the grand jury met in a few weeks. Standing Lodge made no attempt to escape. He agreed to be present when court convened and cut notches in sticks to determine the proper number of days before he should return. No one expected to see him again, but on the appointed day, he presented himself to the court. He stayed in St. Paul all that week, saying he had given his word that he would appear. Against some opposition, the grand jury eventually returned an indictment. When the case was held over to the next term, Standing Lodge again appeared on the appointed day, but the judge finally decided not to prosecute him, and ordered the case dismissed.⁷

29.
 District Court
 Second District
 County of Ramsey.
 State of Minnesota
 Capt
 Edward Heenan,
 Bench Warrant.
 Returned Oct 4 1858.
 R. F. Hanson
 Clerk
 J. P. Heard
 Dist. Attorney

The next year, Heard handled the murder case of Ann Bilansky, who had soothed her sick husband's ailments with a liberal dose of arsenic, ultimately killing him.

When Bilansky was sentenced to be hanged for the murder, her supporters appealed to Governor Ramsey and the state legislature in the first serious attempt to abolish the death penalty in Minnesota. Their efforts failed, however, and Bilansky was hanged in St. Paul on March 23, 1860, before a crowd of nearly 2,000 people, many of them women.

The next few county attorneys, Henry J. Horn (1864–66), S. M. Flint (1866–70), Harvey Officer (1870–72), and William W. Erwin (1872–1874) had brought their own visions from other regions when they emigrated to Ramsey County. Horn was born in Philadelphia and had studied law with Henry D. Gilpin, attorney general under President Martin Van Buren. Horn, whose uncle served in the United States Congress during Andrew Jackson's presidency, was a strong proponent of Jacksonian democracy. Officer, also born in Pennsylvania, learned the law in Natchez, Mississippi, before he arrived in Ramsey County in 1855. He became a law clerk for Ames & Van Etten and a partner in that firm. In 1864, he entered the Union army as captain of Company D, heavy artillery, and he served on the staff of Brigadier General Henry M. Judah. After his term as county attorney, he worked for the First Trust Company of St. Paul.

A Keelboat Canal

Erwin had a particularly colorful past. Also a Civil War veteran, he had commanded a company as a part of General Joe Hooker's famous Union division. After the war, he was elected captain of a 100-wagon train on a trip from Nebraska City, Nebraska, to Virginia City, Nevada. He then became active in Nebraska politics, but moved to St. Paul because it was the head of navigation on the Mississippi River; he predicted a keelboat canal would be built from the Great Lakes to St. Paul for transporting lumber. Although the canal was never built, he stayed in St. Paul and ran for county attorney on the Republican ticket. Once in office, he established the joint city/county system for "supplying necessities to the poor," and successfully settled lawsuits arising from the location of the county poorhouse. He later became a successful criminal defense attorney.

Erwin was followed as Ramsey County attorney by Christopher D. O'Brien (1874–1878) who was the first in the "O'Brien

dynasty" of St. Paul lawyers to hold the office. C. D. O'Brien came to America from Ireland with his family at the age of eight and settled with them at La Pointe, Wisconsin, where his father taught in government schools. He attended school in St. Paul and then studied law under Cushman K. Davis, who became United States senator from Minnesota. Following his term as county attorney, O'Brien served as mayor of St. Paul.

A highlight of his term as mayor came in September, 1883, when O'Brien introduced President Chester A. Arthur at a reception honoring Henry Villard, the president of the Northern Pacific Railroad. Arthur and other dignitaries were on their way to Cold Creek, Montana to witness the driving of the final spike to complete construction of that railroad to the Pacific coast.¹⁰ As a reform mayor, O'Brien also announced that he would strictly enforce city ordinances against liquor, gambling and prostitution. He ordered St. Paul's numerous brothels closed, to the consternation of a number of prominent citizens. As a practical matter, prostitution merely moved underground during his term of office.¹¹

The next few Ramsey County attorneys bridged the gap between St. Paul during its frontier days and its emergence as an urban center in the late 1800s. Edward G. Rogers (1878–1880) had arrived in the city on the last steamboat of the season in 1866 and impulsively decided to make his home here. He worked for attorney Morris Lamprey before opening a solo practice. Known as a parliamentarian, Rogers was later elected to the office of Clerk of District Court.¹² James J. Egan (1880–1890) also typifies this generation of men. Egan came to Minnesota in 1857 with his family, who farmed in Sibley County. After driving an ox team for a mere two hours, he promptly decided, at age fifteen, to move to St. Paul and pursue career alternatives.¹³ He started as office boy for a real estate agent, then worked in a drug store before he went East to school. He re-

State of Minnesota
 County of Ramsey } Sept. & Oct. Term, A.D. 1858.
 Dist. Court 2^d Judicial District.

To the Sheriff of
 Ramsey County, Minnesota;
 In the name of the State
 of Minnesota:-

You are hereby commanded that
 you take the body of Edward Heenan, if he be found
 in your County, or if he shall have fled to pursue him
 into any other County of the State, and him safely
 keep, so that you have him forthwith before the
 District Court of the State of Minnesota, within and
 for the 2^d Judicial District, now sitting at the Court
 House in St. Paul, in said County, to answer an
 indictment found against him by the Grand
 Jury at the present term of said Court for the crime of
Embezzlement.

Witness the Honorable E. C. Talmer, Judge
 of the District Court aforesaid, at St.
 Paul, this 4th day of October, A.D.
 1858. J. H. Hennings
 Clerk Dist. Court

Bench warrant issued by I. V. D. Heard for Edward Heenan, accused of embezzling \$4,000 in delinquent property taxes. From the Minnesota State Archives collection.

courthouse. In 1875, the old Pioneer Hook and Ladder Company building at Fifth and Wabasha Streets had been remodeled to provide additional courtrooms and county offices. However, the county needed still more space. A commission was appointed to supervise the construction of a new courthouse to be built on the site of the original courthouse between Fourth and Fifth, Wabasha and Cedar Streets. The new building, made of Kasota limestone, took four years to build and cost \$1 million; it was occupied in 1889.

Murder by Drowning

In December, 1890, a highly-publicized criminal case was tried in the new building. County Attorney Egan and his assistant, M. D. Munn, prosecuted Walter Horton for murdering his wife, Nellie, by drowning her in the Mississippi River below Dayton's Bluff. Former county attorney Erwin represented the defendant. After hearing the testimony of forty witnesses, the jury finally returned a verdict of not guilty.



Christopher D. O'Brien, the first in the "O'Brien dynasty" of St. Paul lawyers who became Ramsey County attorneys.

turned to St. Paul to study law with I. V. D. Heard. After serving as first lieutenant in a Minnesota battery during the Civil War, he practiced law in Duluth, then moved to St. Paul. He held the office

of Ramsey County attorney for ten years, after which he became a judge.¹⁴

By the 1880s, the county attorneys had a busy criminal calendar. In fact, Ramsey County had outgrown its old



A young Pierce Butler as he looked around 1886, before his election as county attorney in 1893.

Thomas D. O'Brien (1891–1892) became the next county attorney. A brother of C. D. O'Brien, Thomas O'Brien was born at LaPointe, educated in Minnesota schools, and studied in the law offices of Young & Newell in St. Paul. He practiced with the firm of O'Brien and Eller, then served as assistant St. Paul city attorney. O'Brien was politically active as a Democrat, serving on the Democratic National Committee. After his brief term as Ramsey County Attorney, he became Minnesota Commissioner of Insurance from 1905–1907 and judge of the Minnesota Supreme Court from 1909–1911.¹⁵

Undoubtedly, however, Pierce Butler, Sr., (1892–1896) deserves credit as the Ramsey County attorney who attained the greatest national prominence. Butler was appointed by President Warren G. Harding as Associate Justice of the United States Supreme Court in 1923, when Butler was fifty-six. The son of Irish immigrants, he began his life on a farm outside of Northfield, Minnesota, in 1866. He attended public schools, graduated from Carleton College in 1887, then read the law in the St. Paul offices of



Ramsey County's first courthouse built in 1851 on the square bounded by Fourth and Fifth, Wabasha and Cedar Streets. The county jail, built of limestone and replacing the first rude log structure, can barely be seen behind the courthouse.

Pinch and Twohy, supporting himself during that time by working in a dairy. In 1891, he was appointed assistant county attorney by T. D. O'Brien, then elected Ramsey County attorney as a Democrat in 1893. After his stint as county attorney, Butler served from 1899–1905 as trial attorney for the Chicago, St. Paul, Minneapolis, and Omaha Railroad. He returned to general practice with William D. Mitchell at Howe, Butler, and Mitchell,

then practiced with Michael J. Doherty at Butler, Mitchell and Doherty, the premier corporate law firm in Minnesota.

As a prominent trial lawyer, Butler represented James J. Hill's railroads in all significant litigation, including cases testing whether the state had the right to regulate intrastate shipping rates. Through his representation of the railroads, he gained a national reputation and made significant contacts in higher political cir-



Henry J. Horn, county attorney from 1864 to 1866. He served as director of the St. Paul Chamber of Commerce in 1889. Photo by Zimmerman & Whitstruck.

cles, including then President, and later Chief Justice, William Howard Taft. Taft, in turn, recommended Butler to President Harding for a seat on the Supreme Court.

'The Four Horsemen'

Although Butler was a Democrat, he was an economic and social conservative who could be counted on to vote with the conservative majority on the Court. He also was Catholic, and Harding thought him a prudent choice since the last Catholic justice had left the Court in 1921. Butler's nomination was vigorously contested by Progressives in the Senate, but he was confirmed and in fact often did vote to strike down state business regulation as a violation of substantive due process under the Fourteenth Amendment to the Constitution.

Later, Butler belonged to a group on the Court called "The Four Horsemen," who consistently voted to overturn Franklin Roosevelt's New Deal legisla-

tion in the 1930s. In response, Roosevelt attempted to carry out his ill-fated plan to "pack the court" with liberal justices more favorable to his agenda. Although the plan failed, the Court ultimately upheld much broader state and federal power over the economy; as a result, Butler dissented in seventy-three cases from 1937 until his death in 1939.¹⁶

Locally, by the turn of the century, Ramsey County attorneys had begun to learn their law from law schools, rather than in the traditional fashion of "reading the law" with an established attorney. The University of Minnesota had established a law school in 1888 under Dean William S. Pattee, and the St. Paul College of Law (a forerunner of William Mitchell College of Law) opened its doors in 1900. Predictably, however, the first law graduates in the county attorney's office came from eastern schools. From 1897–1907, three men held the post: Samuel A. Anderson (1897–1899), Horace Bigelow (1899–1901), and Tom Kane (1901–1907). Anderson had graduated from Columbia Law School, Kane from Michigan.

Finally, Richard D. O'Brien (1907–1923) took office; he was the son of former county attorney and mayor C. D. O'Brien, and a graduate of the University of Minnesota law school, class of 1900. O'Brien had served as regimental quartermaster sergeant of the Fourteenth Minnesota Infantry in the Spanish-American War. After graduating from law school, he joined his father in the practice of law. He then served one term on the St. Paul City Council before his election as county attorney. Subsequently, he served as a district court judge.

While in office, County Attorneys Kane and O'Brien focused their attention on a significant social reform issue of the times, the abolition of capital punishment in Minnesota. Ever since the hanging of Ann Bilansky in 1860, many Minnesota citizens had opposed the death penalty with the attendant hangings that in early days had become public spectacles. However, a bungled Ramsey County hanging and its political repercussions finally forced an end to the long-held doctrine of "an eye for an eye" in Minnesota law.



The house Henry Horn and his wife, Fanny Banning, bought in 1881 in the Irvine Park neighborhood.

In 1905 Kane had successfully prosecuted a Cornish immigrant, William Williams, for murdering sixteen-year-old Johnny Keller and his mother after the woman discovered Williams and her son in a passionate embrace. Williams was scheduled to be hanged in February, 1906, but unfortunately the hanging rope was six inches too long, and he did not in fact die for fifteen minutes. The local papers, of course, picked up this story, and the three St. Paul papers—the *Pioneer Press*, the *Daily News*, and the *Dispatch*—provided their readers with all the gory details.



Edward G. Rogers, one of the county attorneys who "bridged the gap" between frontier and urban St. Paul. Zimmerman & Whitstruk photograph.

This extensive coverage proved to be a violation of the 1899 John Day Smith law, named after the legislator who had sponsored it. Enacted in response to the spectacles of public hangings, the John Day Smith law provided that all Minnesota hangings were to take place before sunrise, within a jail if possible, with a limited number of spectators, and that

newspapers were forbidden to publish details of the execution.¹⁷ Although the law never had been enforced against the press, the egregious circumstances of the Williams hanging prompted Kane to prosecute the three newspapers for violating it. A grand jury indicted them; they were convicted and paid a nominal fine. The case was appealed to the Minnesota Supreme Court, where the newspapers argued that the law restricted their First Amendment freedom of the press through state action via the Fourteenth Amendment.

This legal argument, novel at the time, later provided the cornerstone for free speech decisions in the 1930s. However, in the early 1900s, the Minnesota Supreme Court determined that although the press could not be censored before publication, it could be punished for violating a specific statute, and that if the legislature had determined that it was "detrimental to public morals" to publish anything other than the fact that an execution had taken place, freedom of the press was not abridged.¹⁸

Political Hoopla

The Williams hanging and the ensuing political hoopla provided fuel for the efforts of abolitionist reformers. As a result, several bills restricting or abolishing capital punishment were introduced in the Minnesota legislature in 1907 and 1909. In 1910, Ramsey County attorney Richard D. O'Brien furnished his own pragmatic view of the situation:

The law allowing the imposition of the death sentence upon conviction of murder makes it practically impossible for the state to obtain the right sort of jury, and even after the jury is secured the chances of conviction, even with the strongest evidence, are at a minimum. There are many men, otherwise competent to serve as jurymen, who honestly have conscientious scruples against taking a life into their hands. There are many more men of high character, who, deliberately or otherwise, seize upon the death penalty as an excuse from serving. I am convinced that



William W. Ervin, who had a colorful past before becoming county attorney in 1870.

should the death penalty be stricken from the statutes, the state would be in much better position to secure convictions.¹⁹

In response to many of these pressures, the Minnesota legislature finally voted to abolish the death penalty in 1911. Thus the hapless Williams of Ramsey County proved to be the last person executed in Minnesota.

Of course, crime in Ramsey County did not end with the abolition of capital punishment. Only six years later, in 1917, another brutal murder made headlines in St. Paul, this one allegedly arranged by a husband who wished to dispose of his wife. Frank Dunn, a forty-year-old widower, had married twenty-four-year old Alice McQuillan in 1914. The marriage was not a success, and the pair separated in 1915. After traveling in Montana, however, Frank returned to St. Paul in April, 1917, and persuaded Alice to have another go at it. Only a few days later, burglars broke into the McQuillan home and murdered Alice with a .44 caliber Colt revolver. Mysteriously, they did not take her diamond rings or other valuables.

The St. Paul police under Chief John

O'Connor did some quick work and discovered that when Frank was in Montana, he had contacted two men about murdering his wife; when they suggested that divorce would be easier, he replied that he was a Catholic and if he divorced, he could never marry again. These two men declined the job, but demanded payment for their silence; after the murder, they filled the police in on the conversation.

Dunn, however, determined to get the job done, hired two Kansas City hit men to finish it for him. Unfortunately, the two were stopped for speeding in Minneapolis on their way to commit the murder and killed a police officer who got in their way. Tire track and bullet comparisons led police to suspect the same men committed both murders; both were apprehended and convicted of killing the police officer. By this time, the police had uncovered another accomplice who had made the third-party connections for Alice's demise. County Attorney O'Brien finally brought Dunn to trial for first degree murder in 1917. He was allowed to introduce evidence of the hit man's confession to show that a conspiracy existed to murder Alice Dunn; this ruling paved the way for further testimony that eventually resulted in Dunn's conviction.²⁰

The Dunn murder doubtless made headlines with its scenario of spousal murder, with attendant graphic violence and underworld intrigue. Little did contemporary observers realize, however, that this scene would be replayed nearly fifty years later in the case of Minnesota attorney T. Eugene Thompson.

The next few men elected as Ramsey County attorneys had experience prosecuting in the office itself. Harry H. Peterson (1923–1926) had served as assistant county attorney for seven years before his election to the top position in 1923. Peterson was subsequently elected Minnesota attorney general under Governor Floyd B. Olson, where he helped draft the Minnesota Mortgage Moratorium Law, creating a moratorium on farm



The "new" St. Paul City Hall/Ramsey County Courthouse, as it looked ca. 1900. It was built on the same site as the first courthouse.

foreclosures during the Depression.²¹ He later became an associate justice of the Minnesota Supreme Court. Christopher D. O'Brien, Jr., (1926–1931), the last of the "O'Brien dynasty" to serve as county attorney, also had served previously as assistant county attorney under his brother, Richard D. O'Brien.

Organized Crime

No amount of prosecuting experience, however, could change the basic environment of 1920s St. Paul as it struggled with a major problem: organized crime. The omnipresent gambling and prostitution of frontier days only had increased as the city grew in size. Now the police were becoming part of the corruption. During the early 1900s, St. Paul Police Chief John O'Connor, whose department had done crack police work in tracking down the Dunn murderers, had gained a reputation of his own as the architect of the "O'Connor System." Under this cynical arrangement, underworld figures

could enter St. Paul, check in with the police, and stay unmolested in the city as long as they committed their crimes elsewhere. At first, O'Connor's minions made the rounds of brothels and gambling houses to collect payoffs. The passage of the Volstead Act in 1919, however, added a new layer of corruption: that associated with illegal bootlegging.

It was difficult to enforce a law that had little public support, and through the 1920s the pervasive traffic in moonshine spawned more competition among bootleggers, and consequently more crime. Leon Gleckman, the kingpin of the St. Paul illicit liquor industry, held court in his headquarters in the St. Paul Hotel. Meanwhile, the hotel's circular driveway on Market Street served as a bootleg distribution center. (Gleckman's hold over St. Paul politics was so strong that he was able to install his own candidate, Thomas Brown, as police chief in 1930. Apparently Brown even rented a room at the hotel to facilitate payoffs.)²²



Campaign poster for Christopher D. O'Brien, Jr., published in the St. Paul Pioneer Press on November 1, 1926.

A few sporadic attempts were made to clean things up. In November, 1930, for instance, a Ramsey County grand jury convened to hear testimony about Tom Brown's alleged involvement in a racket concerning police protection of illegal slot machines. The Ramsey County attorney noted that "profits from racketeering amount to about \$1,000 a day and . . . the temptation for officials is considerable."²³ Significantly, however, no charges were filed against Brown, and the racket was allowed to continue.

Perhaps inevitably, the stakes increased in the game of gang-related crime. Soon after he took office in 1931, County Attorney Michael Kinkead (1931–1939) was called on to prosecute the Green Lantern murder case, in which a young cook was shot to death as he stepped away from his dinner at the Green Lantern saloon on North Wabasha Street, a notorious gangster hangout.²⁴ In October, 1931, gangster

Jack Ferrick and his henchmen kidnapped bootlegger Morris Rutman from his St. Paul home, beat him severely, and held him hostage at the Silver Slipper, a popular Mahtomedi gambling spot; the county attorney handled this crime as well.²⁵

Ramsey County's national reputation as a safe haven for criminals soon provided the County Attorney's Office with one of its most sensational murder trials. On July 25, 1932, two assassins hired by New York-based Murder, Inc. shot and killed a rival bootlegger in broad daylight at the intersection of Snelling and University Avenues. The target, an underworld figure named Abe Wagner, had fled to St. Paul from the East coast, posing as a fruit peddler. The killers, George Young and Joseph Schaefer, had been sent by New York Mafia chief Meyer Lansky to "take care of business" and eliminate rival operations in Minnesota. Schaefer and Young were captured almost immediately, but the county attorney faced formidable opposition in trying them for the murder.

Top Legal Talent

During the twenty-day trial, the defendants were represented by some of the top criminal defense attorneys in the state, and New Jersey gangsters raised money for their legal defense fund. Apparently the two men each were offered \$100 to manufacture false testimony for the defense. Unfortunately for their benefactors, Schaefer and Young ultimately were convicted and sentenced to life at hard labor in Stillwater prison. However, while in prison they each received a stipend of \$50 per week from the mob, money which they passed on to bribe officials for such privileges as steak dinners and contraband whiskey.²⁶

Of course, other even more famous criminals were associated with Ramsey County in the 1930s. John Dillinger, the Barker-Karpis gang, and "Baby Face" Nelson all made appearances on the local scene. In fact, the presence of the gangsters in St. Paul correlated with a notable increase in bank robberies in neighboring towns. The Minnesota Bankers Associa-

tion's annual convention in 1933 reported that 21 per cent of all bank holdups in the United States during the previous year had occurred in Minnesota, with forty-three daylight robberies netting a cool \$1.39 million dollars.²⁷

Their success emboldened the criminals to act even closer to home; the Barker-Karpis gang robbed the Third Northwestern Bank of Minneapolis in December, 1932, killing two policemen and one bystander before fleeing back to St. Paul. As Alvin Karpis recalled later:

Bank robbery, dangerous as it was, could get to be routine. . . . You had to be pretty wild and a little crazy to take on a bank like the Third Northwestern National in Minneapolis. It was triangular building smack on one of the city's busiest streets, with a streetcar stop right in front of it, and practically the whole goddamn place was in glass. We sometimes did things like that deliberately, maybe to inject some extra excitement into our work.²⁸

In June, 1933, the same gang kidnapped Hamm Brewing Company president William Hamm, Jr., as he left his office to have lunch. Gang members drove him to Bensonville, Illinois, and demanded \$100,000 in ransom money, which was duly delivered via brewery manager William Dunn, who himself had previously acted as a contact man between the St. Paul police and the underworld. When the gang released Hamm, they set their sights on another brewery executive: Edward Bremer of the Schmidt brewing family. In January, 1934, the Barker-Karpis gang stopped Bremer's car at the intersection of Goodrich and Lexington Avenues after he had dropped his daughter, Betty, at Summit School. They seized Bremer, discarded his car on Edgcombe Road near the Highland Park golf course, and drove him also to Bensonville. There he memorized the wallpaper in the bedroom where he was held, later aiding the FBI in identifying the hideout location. After \$200,000 in ransom money was paid, Bremer was released near Rochester, Minnesota. Since

by this time, kidnapping was a violation of the new federal law which had passed after the Lindbergh baby kidnapping in 1932, the FBI had primary responsibility for the ensuing investigation. The County Attorney's Office, however, cooperated with federal officials and offered assistance in the investigation process.

Citizen outrage about crime in the city finally came to a head on March 31, 1934, when John Dillinger shot his way out of the Lincoln Court apartments at Lincoln Avenue and Lexington Parkway, escaping with his girlfriend, Evelyn Frechette. By this time, neither federal nor local authorities could ignore the notoriety of Ramsey County as a hotbed of crime. As United States Attorney Homer Cummings commented, "If there are two cities in America which need cleaning up, they are St. Paul and Minneapolis."²⁹ Howard Kahn, the crusading editor of the *St. Paul Daily News*, wrote editorials lambasting the city government for allowing criminals to run rampant in the city. It did not help that the same day of Dillinger's dramatic escape, a Ramsey County grand jury report denied that the county was a haven for criminals. Finally, ten business leaders put up the sum of \$10,000 to fund their own investigation of crime in the county.

In May, 1934, a young man named Wallace Ness Jamie, the nephew of famed "Untouchable" Eliot Ness, arrived in town to conduct wiretaps between St. Paul police and gangsters. The recordings he made led to 3,000 pages of evidence of corruption in the St. Paul police department. In 1935, Jamie's work spawned another Ramsey County grand jury probe. This one resulted in twenty-one indictments against officers and detectives, with thirteen policemen discharged or suspended. The long era of cooperation between the police and the underworld finally had come to an end.

The next two decades proved relatively stable for the Ramsey County Attorney's Office, as the community mobilized its energy for the national war effort and later, benefitted from postwar economic

expansion. James F. Lynch (1939-1959) succeeded Michael Kinkead as county attorney and held the post for twenty years. Lynch had first entered the office when Kinkead was elected in a bitter political contest with then county attorney Christopher O'Brien in 1930. He served during the turbulent 1930s era, first as assistant county attorney; later he was appointed county attorney when Kincaid left to become probate judge.

Lynch, a 1916 graduate of the St. Paul College of Law, was subsequently elected county attorney four times. After leaving office he maintained a private practice and served as an attorney with Legal Assistance of Ramsey County.³⁰ By the time Lynch left office in 1959, his staff had grown to seven assistant county attorneys, and the county attorney's salary had risen to some \$12,000.³¹

William B. Randall (1959-1979) had entered the race for Ramsey County attorney at the last minute just before the filing deadline for the 1958 election. Little did he know that almost immediately on taking office, he would be con-



Michael F. Kinkead, county attorney who prosecuted the Green Lantern murder case in 1931, shortly after taking office. Photo by Carl O. Erickson.

fronted with a high-profile case: the disappearance and presumed death of underworld figure Tony DeVito, who had been seen last in 1953. Despite difficult evidentiary problems, Randall secured kidnapping convictions for the two defendants, Rocky Lupino and John Azzone, who were sent to Stillwater for a total of 120 years.

Another Murder by Hire

Randall, a graduate of Carleton College and the University of Minnesota Law School, served as president of the National District Attorneys Association during his tenure as Ramsey County attorney. He modernized the Ramsey County office, increasing the number of employees to fifty-nine. He hired the first African-American assistant county attorney, Stephen Maxwell, and the first woman assistant county attorney, Phyllis Gene Jones, both of whom went on to serve as district judges.

During the Randall years, the County Attorney's Office took over full responsibility for collecting child support in Ramsey County. According to Thomas J. Kelley, who served as county auditor and county administrator in the 1960s, the office also assisted in drafting the Ramsey County Code, which was adopted by the state legislature and allowed the county to function under a more modern, efficient administrative system.³²

Randall made his most indelible impression on the public, however, with his handling of the prosecution in the T. Eugene Thompson murder case in 1963. On the morning of March 6, Thompson's wife, Carol, was bludgeoned and stabbed in the bathroom of their home at 1720 Hillcrest Avenue in Highland Park. She managed to reach a neighbor's house before she collapsed and died. Randall recalled that he identified his chief suspect only a few days after the murder. Randall's neighbor, an insurance agent, called him and told him, "Bill, we have a problem." T. Eugene Thompson, a young criminal defense attorney, recently had taken out life insurance policies worth more than

JURY ACTION EXPECTED SOON

H. Paul & H. Dan '63

Thompson's Trial Nears Finale

By DONALD J. GIESE
Staff Writer

The first-degree murder trial of T. Eugene Thompson—most sensational criminal case in recent Minnesota history—moved into its final phase last week and is expected to go to a Hennepin county jury soon.

The state has attempted to sketch a case of cold-blooded murder in which it claims that Thompson hired assassins to kill his wife so he could collect more than a million dollars in insurance on her life.

The defense, which began its presentation Wednesday, is attempting to prove that the blond, boyish-faced defendant was a good husband who was totally incapable of what his own attorney, Hyam Segell, has called "this horrendous crime."

For four weeks the six men and six women jurors have heard a parade of state witnesses—have heard Thompson described as an adulterer and the man who put in motion the plan that resulted in the bludgeon murder of his wife.

When the trial started in the Hennepin county courtroom of Judge Rolf Fosseen, Thompson appeared relaxed, confident and in good humor. On only a few occasions did he show signs of emotion.

But the coolness that has marked his appearance during most of the trial cracked last week when he sat face-to-face with confessed killer Dick W. C. Anderson and heard the handsome former Minneapolis siding and roofing salesman testify about the last minutes of consciousness remaining to Thompson's wife.

As Anderson, speaking in a calm, deliberate voice, told how he beat and stabbed the victim in the Thompson home last March 6 after hiding in the basement until she was alone and helpless, Thompson

wept openly, shuddered violently and had to be assisted from the courtroom by one of his attorneys.

As soon as the testimony went away from the details of his wife's murder, Thompson seemed to regain his composure.

The state shortly thereafter rested its case and the defense took over.

Segell, in a brief opening statement that required less than two minutes, said the defense would not pull "rabbits out of a hat," but would prove once and for all that Thompson had no part in his wife's murder.

After calling six witnesses who testified that the Thompsons seemed to have a normal marriage, Segell called Thompson to tell his own story.

Thompson, neatly attired in a dark blue suit and appearing relaxed, responded in a low voice to Segell's direct examination.

As he explained his version of the events that preceded his wife's death, Ramsey County Attorney William B. Randall scribbled voluminous notes on the long, yellow pad of line paper before him.

This week Randall will turn his attention to Thompson. He is expected to conduct an intensive cross-examination.

Following the close of the defense's case, the jury will hear final arguments from Segell and Randall. Under Minnesota law, the defense has the last word and Segell's closing arguments will be the last arguments the jury will hear.

Then, after receiving instructions from Judge Fosseen, the jury will be locked up to deliberate the guilt or innocence of the 36-year-old St. Paul attorney and father of four.

Observers at the trial believe the jury could be handed the case by Wednesday.

One person who has report-

edly been following the trial perhaps more closely than the average Twin Citian is Norman Joseph Mastrian, 39-year-old former Minneapolis ex-boxer who the state claims acted as Thompson's agent in the hiring of Anderson for the murder.

Mastrian originally was scheduled to appear as a state witness, but he was not called. Each day, Mastrian, confined in the Ramsey county jail, reportedly receives news accounts and verbatim transcripts of testimony in the trial. He also is facing a first degree murder trial in the death of Carol Thompson.

Some persons observing the trial speculated Friday that Mastrian conceivably could be called as a last-minute surprise witness for the defense. Attorneys for Thompson have declined to discuss their strategy or disclose the names of the witnesses they intend to call.



IN THE MIDDLE of murder trial arguments T. Eugene Thompson, center, St. Paul attorney, is accused of masterminding the slaying of his wife, Carol, March 6. He is flanked by the trial's legal arguers, William B. Randall, left, Ramsey county attorney, and Hyam Segell, attorney for the defense.

News clipping of the T. Eugene Thompson trial from the December 1, 1963, St. Paul Pioneer Press.

\$1 million dollars on his wife. Randall also became suspicious when Thompson was confronted with a section of industrial piping found on the bathroom floor of his house, and told investigators that the pipe was used "to bail the boat" at the couple's summer home in Forest Lake.³³

Nonetheless, it took several months of intense investigation to piece together the story of Carol Thompson's murder, including Thompson's extramarital affair and his hiring of Norman Mastrian, who in turn hired Dick W. C. Anderson to commit the crime. Thompson's trial began in September, 1963 in Minneapolis, and continued until the beginning of December. The prosecutors set up temporary headquarters in downtown Minneapolis, where Randall, assisted by Stephen Maxwell, worked long hours to prepare his case. Arlene Unklesbay, a secretary for the office, recalled that she would work until late evening, then drive back to her St. Paul home with a stack of subpoenas. The St. Paul police would be waiting for her at 11:30 or midnight, ready to serve the subpoenas on witnesses for the next day's testimony.³⁴

When Randall presented his closing arguments on December 5, he pointed out such details as Thompson's removal of an upstairs phone that Carol could have used to call for help, his getting rid of her dachshund shortly before the murder, and his chaining a door that normally remained unlocked, so that she could not escape through the front door.³⁵ Anderson, who had previously confessed to the murder, also had testified that he was to wait in the basement until a signal phone call alerted him that no other family members remained in the house, then kill Mrs. Thompson. The jury convicted Thompson of first degree murder, and the judge sentenced him to life imprisonment at Stillwater state prison.

Changing Issues

Just as it had earlier, the Ramsey County Attorney's Office during this period handled cases that reflected changing issues of the times. In 1970, for instance, at the height of the social protest movement, the office prosecuted a juvenile suspect involved in a restroom bombing in the downtown St. Paul Dayton's department



Tom Foley, who defeated Bill Randall to become county attorney in 1979. Photo from the Ramsey County Attorney's Office.

store, as well as solving several other bombings in the city. Also in 1970, Dr. Jane Hodgson, a St. Paul obstetrician and gynecologist, deliberately tested Minnesota's anti-abortion law by performing an abortion on a woman who had contracted German measles. Although the county attorney offered to drop the case, Hodgson pursued it, and received a thirty-day suspended sentence when Judge J. Jerome Plunkett upheld the constitutionality of the Minnesota law. At sentencing, he addressed Dr. Hodgson directly:

I had to make a decision that I feel is proper just as you had to make one you felt was proper under the circumstances. I also know the position you took was far more difficult than mine. ...Some will condemn and some will praise, but the right decision by anyone in a professional capacity is not always the easy one and not always popular, as I think you have learned and as I have learned in this trial.³⁶

On appeal, the United States Supreme Court affirmed a federal court ruling that barred intervention in the Hodgson prosecution, but in 1973 the United States Supreme Court restricted the rights of states to ban abortions in the case of *Roe v. Wade*.

In November, 1978, Tom Foley (1979-1994) defeated Bill Randall to become the new Ramsey County attorney. Foley continued to update the office, beginning a new victim/witness assistance program, as well as a new career criminal prosecution unit headed by assistant county attorney Susan Gaertner. During Foley's tenure, the amount of child support collected through the office rose to \$20 million per year, a huge increase over prior figures.

Foley also had to deal with cases that reflected current social and political issues. In November, 1979, during the Iran hostage crisis, four Mankato State University students were arrested on suspicion of plotting to kidnap then Governor Al Quie. The students held firearms in a car outside the governor's mansion while some of their colleagues were inside at a reception for foreign students. Although the media downplayed the incident and the students were released, Foley recalled that the threat actually was very serious, and that he could not hold the students only because conspiracy law would require an overt act for them to be formally charged.³⁷

In 1990, another landmark case tested the constitutionality of a 1989 St. Paul ordinance banning cross-burning. The County Attorney's Office had charged a seventeen-year-old boy with racially motivated disorderly conduct under the ordinance for burning crosses on the lawn of an African-American family who had just moved to an East side neighborhood. Judge Charles Flinn dismissed the charges on the grounds that the ordinance was too broad and unconstitutionally infringed upon free speech.³⁸ The Minnesota Supreme Court overturned this decision, narrowing the construction of the ordinance. Ultimately Foley argued the case before the United States Supreme Court, which agreed with the district court and struck down the ordinance, but Foley noted that his office had brought the first hate crimes case to the highest court in the land.³⁹

Ramsey County also broke new ground with the trial of Lois Jurgens in 1987 for murdering her three-year-old adopted son, Dennis, more than twenty years earlier. Dennis had been a victim of battered child syndrome; his birth mother had seen newspaper clippings of his death and



Susan Gaertner, the present county attorney who took office in 1995 after a long tenure as assistant county attorney. Photo from the Ramsey County Attorney's Office.

reported her suspicions to authorities. It took the diligent efforts of assistant county attorneys Clayton Robinson, Jr., and Melinda Elledge, with a team of investigators, to uncover the facts behind Dennis's death and charge Lois Jurgens with his murder. Foley has noted that this case was particularly difficult because it presented questions as to whether the earlier laws of 1965, or those of 1987, would apply at trial. Judge David Marsden ruled that the county could prosecute only under the laws in effect at the time of the crime, but that later evidentiary rules applied.⁴⁰ Jurgens was convicted, and the case remains significant for bringing child abuse to the forefront of public consciousness on a national level.⁴¹

When the present Ramsey County attorney, Susan Gaertner, took office in 1995, she had already served a number of years as assistant county attorney. In fact, in 1989, she became the first prosecutor in Minnesota to present DNA evidence to a jury.⁴² In her role as Ramsey County attorney, Gaertner has emphasized the County Attorney's Office as an agent effecting constructive social change. To this end, she has emphasized a three-pronged strategy for combating crime:

prevention, intervention, and detention. Prevention deals with the office's continuing emphasis on child support collections and recognizes the relationship between childhood poverty and later criminal behavior; the office now disburses nearly \$50 million per year in child support. The second prong, intervention, has focused on reducing truancy—an early indication of future criminal activity. The final emphasis, detention, has included the Gangs and Guns Prosecution Unit to target violent crimes committed with guns.⁴³ The Office's gun-charging policy now also requires that a mandatory minimum sentence be charged for crimes committed using guns.⁴⁴ Gaertner has initiated a community prosecutions program where attorneys work directly with block clubs and the police to take a proactive, not just a reactive, stance against crime.

In its 150-year existence, the Ramsey County Attorney's Office has moved from filing complaints for buffalo robe theft to proving up a case with forensic DNA evidence. Its basic mission, however, has remained the same: to protect the people of Ramsey County by trying to keep it a safe and healthy place to live. Whatever challenges the next century brings, the County Attorney's Office plans to take them on.

Anne E. Cowie, second vice president of the Ramsey County Historical Society, graduated from Middlebury College, the University of Washington, and William Mitchell College of Law. She has taught legal writing at William Mitchell and Hamline University School of Law.

End Notes

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No. 431 FA

City Treasurer's Office,

St. Paul, Sept 15 1886

Received of Martin Flanagan the sum of \$ 487.25 Dollars
payment in full for the following assessments made by the Board of Public Works on the hereinafter
described property, situated in the City of St. Paul, to-wit:

Name of Improvement.	DESCRIPTION.	LOT	BLK.	ADDITION	Original Assessment.	INTEREST.	TOTAL.
Broadway Sewing	Shop	3		S. C. Dayton's Improvement	10.00		
"	"	6		do	130.00		
"	"	7		do	130.00		\$ 360.00
Iron Store	"	3		do	40.75		
"	"	6		do	40.75		
"	"	7		do	40.75		
							\$ 122.25
							\$ 487.25

George Rep City Treasurer.
Per [Signature] Deputy.

Martin Flanagan's receipt for his 1886 Public Works assessments. Flanagan family papers. See article beginning on page 17.

R.C.H.S.
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