

EVOLUTION OF RACINE'S JUSTICE SYSTEM BEFORE STATEHOOD

Location is the constant for the jurisdiction under study. Prior to the 19th century, the area we now call Racine County was a part of the Northwest Territory. As a result, its early jurisprudence reflected both the French and English justice systems. This initial dichotomy was resolved in favor of English precedent which makes up the dominant predicate to the entire legal system of the United States.

From 1790 until 1824, the justice system in what is now the state of Wisconsin was run very informally by Justices of the Peace appointed by the British (until 1796), the Governor of the Indiana Territory (until 1818) and the Governor of the Michigan Territory (until 1823).

In 1823, the U.S. Congress and President Monroe appointed James Duane Doty as a Federal Judge for the entire area that now is Wisconsin. The first court proceeding was not held in Wisconsin until May 10, 1824, in Prairie du Chien, a part then of Crawford County. Back in 1824, this part (Racine County) of the Northwest Territory was a sub part of what was known as Brown County. The Western part of what is now Wisconsin was then referred to as Crawford County.

Judge Doty was responsible for handling all disputes for the Wisconsin area. In 1832 he was succeeded by the appointment of Judge David Irvin. The systematic use of one federal Judge to handle all Wisconsin controversies continued until 1836, when the Congress additionally appointed a Territorial Supreme Court for the jurisdictional area of Crawford County and Brown County.

The Territorial Court had three members. They included Charles Dunn as Chief Justice, and David Irvin and William C. Frazer as associate Justices. In 1838 Justice Frazer died and he was succeeded by Andrew G. Miller. The Territorial Court was except for probate matters, exclusively responsible for the administration of justice from 1836 until 1848, when Wisconsin became the 30th state in our developing nation. This traveling court decided cases both on a collegial basis and as a result of individual consideration of conflicts. Nothing Wisconsin now has would give present day insight into a system in which the trial and appellate courts are one and the same body. The concept of a meaningful appeal had not yet developed. No primary seat or home for the territorial court was established. The Justices were referred to as road-circuit Judges.

The early federal court system was an effort to provide a formal and just process for our citizens to utilize in resolving disputes. It was an alternative to a system of personal justice predicated on strength, revenge, mob action, etc. Limited reports of decisions for this early Territorial Court, which included what is now Racine County, are found in Federal Cases. Volume 1 through Volume 30.

It is estimated by the State Historical Society of Wisconsin that in 1820, the Crawford County and Brown County areas included 651 civilians and 804 soldiers. This did not include Native Americans. The Woodland Indians were the earliest known inhabitants of Racine County. By the latter half of the Seventeenth Century, lands along the Root River in Racine were inhabited by the Miami Indians. In the late 1820's, the Potawatomi Indians moved into Racine. By 1848 the population of Crawford and Brown County areas had grown to 210,546 persons.