Judge Coxe handled claims for the infringement of glove fastener patents (there is a city of Gloversville in the Northern District); of the Bell Telephone patents; of patents secured by Edison for incandescent electric light plants; and of patents for improvements in the construction of artesian wells. By decree dated October 28, 1887 in an action brought against the Rochester Telephone Company, Judge Coxe determined that “the said Alexander Graham Bell was and is the original and first inventor of the telephone.” The Bell patents had been confirmed in litigation in the Northern District the previous year, when Judge Coxe directed the Baxter Overland Telephone and Telegraph Company to deliver to the Clerk the telephone instruments it had manufactured. The Bell case files in the Federal Archives include an oak telephone receiver entered in evidence,\(^1\) and affidavits by Mr. Bell and his assistant, Thomas A. Watson, who received the first telephone call.

An action brought before Judge Coxe sitting as a Circuit Judge in the Northern District by the Edison Electric Light Company against the E.G. Bernard Company and others illustrates the problems faced by Federal Judges in civil litigation generally and in patent cases in particular. The action was one for infringement of letters patent issued to Thomas A. Edison in 1882 “for an improvement in regulating the generative capacity of dynamo-electric machines.” The defense was based on lack of novelty and the so-called Brush patent for a dynamo used in electroplating devices. In finding in favor of plaintiff Judge Coxe wrote: “This case presents the most flagrant instance of elephantiasis in patent litigation which has come under my observation.” In reducing costs to the prevailing party to one-half (later raised to three-quarters), Judge Coxe remarked upon the excessive size of the record, a condition for which he blamed both sides. He wrote that too many experts had testified at too great a length for the simple issue involved and said: “Such records obstruct the path of truth, retard equity and tend to shorten life and promote insanity. If the bar would unite with the bench in confining the records of equity cases within reasonable limits it is thought that the reform would be even more advantageous to the former than the latter.”\(^2\) To that observation, all Federal Judges will say “amen.”

On March 19, 1895, Judge Coxe delivered an amazing charge to the District Court grand jury sitting in Utica.\(^3\) The subject of the charge was the need for money for the operation of the Federal Court and especially for the Northern District Court. This, of course, was not the first use of a federal grand jury for educational purposes. The Justices of the Supreme Court, as traveling Circuit Judges in the early days of the Republic, often gave grand jury charges extolling
The advantages of a strong federal government. Judge Coxe was concerned with more mundane things in his grand jury charge at Utica. He discussed the necessity for an official stenographer, the reduction in the number of bailiffs assigned to the court, and the lack of funds to provide meals to jurors in civil cases. It appears that if the parties did not pay for the food, the jury would be discharged at meal time and a second trial would be necessary.

Listen to the words of Judge Coxe: “Several prisoners have escaped for lack of sufficient officers to guard them. At a recent term of the court one of the prisoners left the prisoner’s box, came up on the platform behind the bench and commenced a conversation with the judge during the trial of a case. There was no officer in the court room to see the impropriety, not to say indecency of such conduct and prevent it. It seems to me intolerable that the court should be crippled thus in the discharge of its duty in order that the government may save the two dollars per day which would be paid to a few extra bailiffs. This is not economy, it is parsimony.” The Judge observed that Congress had provided no money the previous year for a term of court and that it was necessary to adjourn court without date at that time. He continued: “From the inconvenience of that adjournment the court has hardly yet recovered. In New York City, where the courts are practically in session during the whole year, the pay of the court officers is several months in arrears. I am informed that some of them, being unable to pay their rent, have been turned into the streets by their landlords. In this district, the marshal has several times been compelled to borrow money in order to hold a term of court, or has given the jurors and witnesses vouchers which they have negotiated at local banks at ruinous rates of discount.”

This unusual grand jury charge was concluded in these words: “It is possible that this treatment grows out of indifference, or lack of information on the part of those in the legislative and executive branches of the Government. Such treatment is surely unbecoming a great and powerful nation, and it is possible that your presentment may call attention to the subject, and result in a more liberal policy in the future.” After hearing this charge and taking the testimony of the United States Attorney, the marshal and the various clerks, the presentment of the grand jury was made. It should come as no surprise that the grand jury recommended that all the deficiencies commented on by Judge Coxe be rectified. In addition, the grand jury recommended that stationery be purchased and that badges be provided to the bailiffs. Interestingly, the final recommendation included in the presentment was for “enactment of such other laws as may be necessary to place the courts of the United States upon equal footing with
the Supreme Court of this State, regarding the facilities for the transaction of business...."\textsuperscript{158}

While it cannot be said that Congress is as penurious today as it was in 1895, there are some items that could be provided to promote efficiency and advance the work of our court. I am in the process of drafting a grand jury charge beginning something like this: "Ladies and Gentlemen, Westlaw is a system for computerized legal research essential to the work of the Northern District."

Time does not permit me to review all the writings of Judge Coxe. I do commend to your attention three articles published in the Columbia Law Review: The Trials of Jury Trials,\textsuperscript{159} dealing with jury problems and suggesting reforms such as non-unanimous verdicts, elimination of juries in certain cases and punishment of those who discharge employees for serving as jurors; In Marshall's Day and Ours,\textsuperscript{160} a discussion of the work of John Marshall and the changes in the work of the courts since Marshall's time, with a criticism of excessive briefing by lawyers and opinion writing by judges; and Overproduction of Law,\textsuperscript{161} a protest against unnecessary legislative lawmaking. In the last article, Judge Coxe wrote: "Under the conditions which now prevail no subject is too sacred or too trivial to escape the bungling hand of the legislative tinker."\textsuperscript{162} In the same article he wrote: "We have yet to learn that there are some inconveniences, annoyances and even faults which cannot be remedied by law."\textsuperscript{163} He should see us now!

In 1902, by appointment of President Theodore Roosevelt, Judge Coxe joined Judge Wallace on the new Circuit Court of Appeals, where he served until his retirement in 1917.\textsuperscript{164} The reports are full of District Court, Circuit Court and Circuit Court of Appeals opinions by Judge Coxe. Just before World War I, he enjoined a manufacturer for selling abroad the plans for a torpedo invented by a naval officer and assigned to the United States Government.\textsuperscript{165} His humor always shone through his opinions. In a case involving an automobile horn, he held that plaintiff's device was anticipated by prior patents and found that "a noise, as such, is not patentable."\textsuperscript{166}

\textbf{The death} of Judge Coxe in 1923 did not end the Conkling-Coxe line in the federal judiciary. His son, Alfred Conkling Coxe, Jr., was appointed a District Judge in the Southern District by President Hoover in 1929. Although he was
born in Utica and practiced law there for a time, Alfred Coxe Jr. went to New York City. I suppose that every family has a problem child. At any rate, he practiced here until his appointment to the bench and presided over many important trials during his term of service until his retirement in 1951. He carried his father's sense of humor and was greatly admired by the lawyers who practiced before him. He died in 1957 at the age of seventy-seven, the last in a line of great Judges and statesmen.167

The New York Times, a provincial publication if ever there was one, reported the death of the seventh Judge of the Northern District on January 10, 1925 with the following headline: "Federal Judge Ray, 'Farmer Judge,' Dead."168 While it is true that George Washington Ray was brought up on a farm and that he was a farm owner for most of his adult life, his obituary certainly rated a more descriptive title. Judge Ray read law with an attorney named Prindle at Norwich in Chenango County after service as a brigade clerk during the final year of the Civil War. Following admission to the bar, he practiced law in Norwich and became county Republican chairman of Chenango County and chairman of the state Republican committee. He gained eminence as a criminal lawyer in the Norwich area.169 One might say that he was world famous in Chenango County while in private practice. For those of you who are deficient in the geography of the Northern District, Norwich lies to the north of Binghamton in Broome County, where our court still holds sessions from time to time.

George W. Ray was elected to the 48th Congress and to the 52nd and five succeeding Congresses. He served as chairman of the Judiciary Committee and was instrumental in the passage of the bankruptcy laws. He gave important speeches in the House concerning the war over Cuba, the Military Pension Act, the World's Columbian Exposition, and the annexation of Hawaii. In a letter to then Governor Theodore Roosevelt, his life-long friend, he declined the offer of an appointment to the State Supreme Court bench in 1899, contending that it was necessary for him to remain in Congress to deal with the "new and perplexing problems growing out of the recent successful war with Spain, especially those relating to the government of Cuba and the control of the Philippine Islands."174 In 1902, however, after Roosevelt became President, he accepted appointment to the Northern District Bench to succeed Judge Wallace.
Judge Ray’s career on the Bench has been characterized as a stormy one. In 1905 the Solicitor General severely criticized him for delaying a decision for fifteen months in connection with the criminal prosecution of ex-Senator George F. Green. In 1911 the Bar Association of Cayuga County asked the House Judiciary Committee to investigate Judge Ray for "coarse, irascible and domineering conduct in the courtroom." In 1917 the Judiciary Committee was requested to impeach Judge Ray by Henry A. Wise, a former United States Attorney. Mr. Wise had represented a broker named Max Hart whose criminal conviction before Judge Ray was reversed on appeal. The request was accompanied by charges of favoritism, ex-parte communications with attorneys, allowing the squandering of bankruptcy assets and assuming the functions of the prosecuting attorney in criminal cases. Judge Ray’s proclivity for questioning witnesses may have given rise to the lawyers’ traditional rejoinder: "I don’t mind if you question my witness, Judge, but don’t lose the case for me."

The most bizarre controversy in which Judge Ray’s conduct was called into question involved the prosecution of a Syracuse attorney named John A. Tolishus for violation of the Sedition Laws at the inception of American involvement in World War I. Tolishus had been the office manager of the law firm of George H. Bond and Lieutenant Governor Edward Schoeneck. He was a naturalized American citizen, born in Germany, and a graduate of Syracuse Law School. Certain Syracuse attorneys accused him of making seditious remarks to them and to others, and he was indicted by a grand jury. After the indictment, a meeting was held in Judge Ray’s Chambers with Tolishus, Lieutenant Governor Schoeneck, certain complaining witnesses and the U.S. Attorney. Shortly after the meeting, the indictment was recalled. An enormous public controversy ensued, resulting in the presentation of the matter to a new grand jury. A new indictment was returned, and Tolishus entered a plea of guilty to six counts after the denial of his motion to dismiss based on unconstitutionality. Judge Ray sentenced him to serve fifteen months and to pay a fine of $100. It is questionable whether the indictment would have survived the motion today.

For all the complaints about Judge Ray, no action of any kind ever was taken against him. He pursued his judicial duties with diligence and devotion until he suffered partial paralysis as the result of a stroke at the age of seventy-five. The newspaper report of his illness included these words: "He is known as one of the hundred working jurists on the bench and intimates say he has not taken a vacation in twenty years." He died on January 10, 1925 at the age of eighty one. His Times obituary referred to his habit of “burning the candle at
both ends of the day” and concluded with the following observation: “Some of
the greatest patent cases of the country were heard by Judge Ray, whose decisions
were never reversed by upper courts in these matters. He was frequently called
into other districts for the trial of cases.”179

The Roaring 20’s roared into Northern New York with a vengeance. Enforce-
ment of the Eighteenth Amendment and the Volstead Act increased the
work of the Northern District to an extent previously unknown. Judge Frank
Cooper was confronted with a massive caseload at the outset of his judicial ser-
vice. He had studied law in the office of Charles E. Palmer in Schenectady, where
he practiced before assuming the office of Corporation Counsel of that city, a posi-
tion that he held at the time of his appointment to the Bench by President Wilson
in 1920. Although he was active in Democratic politics and served as a member of
the Democratic state committee, there was opposition to his appointment because
of his service as Corporation Counsel under Mayor George R. Lunn during
Lunn’s first term as a Socialist mayor. He held Bachelor’s and Master’s degrees
from Union College and lived in Albany, where he maintained chambers, during
his term of judicial service.180

A new industry was created by Prohibition — the illegal transportation
of liquor across the Canadian border — and the Northern District was in session
night and day to deal with the executives and employees of these new business
enterprises. A contemporary newspaper reported that Judge Cooper “has the
reputation of being the hardest-working Judge anywhere around. He keeps
going nearly all the time, and holds frequent night sessions. He holds special
‘booze terms’ of a day or so at which those who have been caught can come and
take their sentence.”181 The New York Times of January 4, 1925 included a report of
Judge Cooper’s work on that day as follows: “Fines aggregating $24,651 were
today imposed on violators of the Volstead Act in Federal Court by Judge Frank
Cooper. More than 200 defendants, including several women, were arraigned on
charges of infractions of prohibition laws and illegal entry into the United
States.”182 The fines imposed in the Northern District approached one and a
quarter million dollars in each of the years 1925 and 1926.183 The increased
workload resulted in the Act of March 3, 1927, creating a second judgeship in the
Northern District.184 It was not until 1978 that a third judgeship was added.185 It
appears that Judge Cooper may have opposed the second judgeship bill, since he
made a public statement “that he could take care of the work by himself.”186