Chapter 9

THE SHERIFF AND THE YELLOW FRINGE

Thursday, September 16, 1926, dawned rather gloomily upon Ellsworth and its environs. As the day progressed, the gray and moisture laden skies continued to hover over the village. Enshrouded in an intermittent and misty drizzle, it was not the type of weather to attract a goodly crowd on the opening day of the annual Pierce County Fair. Were one to believe in signs, that Thursday might well be described as lacking in any propitious elements. For one elected official of Pierce County, September sixteenth was to prove a most inauspicious time.

Despite the inclemency of the weather, a fair sized crowd had filtered through the turnstiles. By early afternoon, attendance had grown to an even more respectable size. One of the major attractions was the stock pavilion, though only the first floor devoted to this purpose. The second floor was utilized for such purposes as horticultural, domestic, vegetable and fruit displays. In addition, one of the more prominent Ellsworth organizations, the Eldon C. Kinney Post of the American Legion, had a booth in the midst of this symbolic agricultural abundance. As its principal project, the Legion was offering for sale World War One histories depicting Pierce County men in action.

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Unwittingly, the Legion had placed in its booth an attraction which was soon to draw the attention of a most controversial element within the Ellsworth community—the Ku Klux Klan. A gift of the Women's Relief Corps, there stood at the front of the Legion booth an American Flag decorated with yellow fringe. By mid afternoon a hostile crowd gathered demanding that the flag be taken down because, among other things, the yellow fringe was un-American. Not the least involved in this affair was Frank L. Baker, Sheriff of Pierce County. His participation in this episode not only gained the Wisconsin Governor's attention and more than county wide notoriety, but also precipitated proceedings which nearly led to the Sheriff's removal.

Though there was discussion of the flag affair from the moment of its occurrence, the episode did not come to light in print until a week later. The Ellsworth Record noted that the late flag fracas at the fairgrounds "was not one of the advertised attractions."\(^1\) During the Ku Klux Klan-American Legion clash over the gold fringe on the American Flag, it was alleged that Klan members demanded the removal of the Flag in their belief that the fringe was out of place. Refusing to comply with their demand, the Legionnaires continued to display the flag until the closing of the Fair. The evening of the Flag incident, the Legion contacted the Wisconsin Adjutant General and was informed

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\(^1\)Ellsworth Record, September 23, 1926, p. 1.
"...that the flag was the authorized regimental flag used in every Army post in the country and that the Legion had been given permission to use it by an Act of Congress passed in September of 1920."\(^2\)

The Pierce County Herald commenced its commentary on the Flag incident to the effect that "...considerable excitement prevailed at the booth of the Eldon C. Kinne Post of the American Legion...when a delegation of men and women, said to be members of the Ku Klux Klan, threatened to take down the Legion colors." Klan members were said to have taken exception to the gold or yellow border on the Legion's Flag. In standing their ground Legionnaires were congratulated for their cool headedness. The colors, it was noted, had been vouched for by the appropriate authorities.\(^3\)

It should be noted that the color of the fringe was actually yellow. Technically, however, it was called a gold fringe. Thus, as far as Army regulations were concerned, the shade of yellow or gold did not matter as it was still considered to be a gold fringe. As will be seen, the Kluxers literally interpreted the yellow on the fringe.

Roy D. Morton, Post Commander, publicly remarked that the Legion was well aware that the Flag, something which was always in the making, never left the loom of destiny. Woven

\(^2\)Ellsworth Record, September 23, 1926, p. 1.

\(^3\)Pierce County Herald, September 23, 1926, p. 1.
into the fabric of this Flag were "...the moral fiber of the Pilgrims, the fighting zeal of the men of Valley Forge, the suffering and sacrifices of those men of '61, the patriotic stewardship of the service men of '98 and the spirit of the men of the World War." Symbolic in the national banner were the people's hopes, aspirations and achievements. Yet, said Morton, "Whatever in people that is base, ignoble and selfish..." was also symbolized in the national emblem. The colors was but a symbol of the real flag that the individual American should carry unblemished.\textsuperscript{4}

When an individual or a group threatens this symbol, the threat is not merely against a piece of fabric. In reality what is being attempted is the destruction of the ideals which made the symbol what it is. They not only insult themselves, Morton said, but also served to "...insult the very souls of the men who paid the supreme sacrifice..." Groups engaged in this type of activity were guilty of thwarting the national purpose.\textsuperscript{5}

Roy D. Morton called a special meeting of the Eldon C. Kinne Post on Tuesday evening, September twenty-first. Held at the Ellsworth Community Hall, the session concerned itself with the type of action to be taken with regard to those involved in the threat against the national colors. The Post explained that drastic action would be taken, but

\textsuperscript{4}Pierce County Herald, September 23, 1926, p. 1.

\textsuperscript{5}Ibid.
refused to reveal the nature of its intentions in this regard. However, the minutes of the Kinne Post's special session reveal the course of action embarked upon. Einer Jurgenson gave a report on a trip to Fort Snelling with the disputed banner, after which Roy Morton stated that "...no one could take exception to our colors." Morton believed that a certain element in the community was about to challenge not only the disputed emblem, but also the good name of the Legion. A Reverend Garland explained that the regimental colors in question were seen in many instances during the Spanish-American War. After Garland proffered his assistance in the matter, A. B. Lord and Casper Olson rendered a description of the disturbance at the Legion's booth. Roy Morton was given authority to publish for the Post incidents surrounding the Flag episode. It was also decided that Theodore Waller, Roy Morton, and Arthur Quinn would draw up a letter to the Governor stating the Legion's grievances.

There followed a vigorous campaign on the part of the Kinne Post for a full and complete redress of its grievances.

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7 Minutes of the Eldon C. Kinne Post 204, American Legion, Ellsworth, Wisconsin, September 21, 1926, Mss. AA, I, the Area Research Center, Wisconsin State University, River Falls, Wisconsin (hereafter cited as K.P.M).

8 Ibid.
in the matter of the Flag incident. Sworn out on September twenty-first was a complaint by the Village Chief of Police, Adolph C. Olson, which alleged that "...he heard the Sheriff of Pierce County, Frank L. Baker order the American Legion boys...to remove their colors because it had a yellow fringe and to replace it with the regular American Flag."9 This complaint was enclosed in a letter of explanation to Governor John J. Blaine. The committee established to contact the Governor explained in their letter that the Flag was the regular Regimental Headquarters Colors—red, white and blue with a gold fringe. Referring to the disturbance at the Fair, the committee stated that "the gold fringe was taken exception to by several individuals among whom was the Sheriff of our County, Frank L. Baker, who inquired what the yellow fringe was doing on the American Flag, and ordered those in charge of the booth to take this Flag down and replace it with one that did not have a yellow fringe." The committee made known that the Legion felt the incident to be an insult not only to the colors but its good name as well. As far as the committee was concerned, the episode was "...a legal cause for removal of said official from office."10


10 Letter of Theodore A. Waller, Roy D. Morton and Arthur J. Quinn, September 21, 1926, Blaine Papers, Box 59
Theodore A. Waller, Pierce County District Attorney, later wrote to Frank Kuehl Governor Blaine’s executive secretary, explaining that the Governor could "...gather from our letter that the people that objected to the fringe on the flag were Ku Klux Klan members." However, no mention was made of the Klan because it was not yet established that the "...objections were made by the Klan as a body." It was more likely that the demands were the result of individual initiative.\footnote{Letter of Theodore A. Waller to Frank Kuehl, September 22, 1926, Blaine Papers, Box 58.}

Proceeding to explain the events surrounding the afternoon of the sixteenth, Waller related that there were approximately twenty people who requested that the Flag be removed. As to the crowd's inquiry into the yellow fringe, Waller said that this was a mistake on their part since the fringe was gold. Several individuals objected that the "...yellow was one of the Pope's colors, and that they did not propose in any way to honor him." Particular focus was centered upon the fact that the Legion Post decided to vent its wrath on one individual—the Sheriff of Pierce County. The Post "...felt that his ordering us to remove our colors was uncalled for, and especially so in view of the fact that no investigation was made as to why the gold fringe was on our colors...." As the disputed emblem had been used by the Post, the Sheriff should have been more prudent in his
approach giving the Legion the benefit of the doubt until the facts apropos to the situation could be ascertained.

Waller explained that the Post was told the Law's provisions for matters of this kind. Specifically, reference was made to Section 17.09 of the Wisconsin Statutes. The Sheriff could only be removed for legal cause. It was questioned whether there would be legal cause for removal. Doubts were raised because "....we do not know how serious an offense it is for anyone to order the Colors to be taken down or be removed without any justification for so doing." But it was the Post's belief that the case should be submitted to the Governor for a ruling or suggestions should there not be sufficient legal grounds for impeachment.

Waller further said that the Legion desired to avoid religious trouble. This was the primary reason why the matter was not being handled as a Klan issue. Doing so would have been a mistake. The Sheriff was picked out because his conduct was unbecoming of an elected official.

The Post realized, said Waller, that there might not be legal grounds for removal. Still, the Governor might issue a reprimand. Waller suggested that the reprimand be formulated in such a way as to leave no doubt that the Sheriff's actions were inappropriate. The Post expected at least this much.
The Commandant at Fort Snelling, Minnesota, Colonel W. E. Walsh, did indeed examine the disputed flag. Colonel Walsh found that the flag contained no irregularities. It corresponded to the "...general character and make-up, including the yellow fringe, with the service color prescribed by Army Regulations to be carried by dismounted organizations of the Army." Enclosed in the Colonel's letter was a copy of those Army regulations which prescribed the character and method with regard to the use of flags and colors.\(^\text{12}\)

Sheriff Baker shortly received a rather vitriolic communication from the Governor. Blaine explained that the Sheriff was accused of ordering the Legionnaires to strike their colors because of the yellow fringe. To begin with, said Blaine, the fringe was not yellow but gold. As these were the regular regimental colors which the Legion had the authority to display, the Sheriff had no right to meddle in this aspect of the Post's business. Besides, under Army regulations, it made no difference whether the fringe was yellow or gold.\(^\text{13}\)

\(^{12}\)Letter of Colonel W. E. Walsh to Roy D. Morton, September 23, 1926, Frank L. Baker Investigation, Executive Department, Administration, Investigation of Charges, Surveys, Relief, Disasters and Social Unrest, 1926, Series No. 1/1/8-1, Box 30, State Historical Society of Wisconsin, Archives Division, Madison, Wisconsin (hereafter cited as FBI).

\(^{13}\)Letter of John J. Blaine, to Frank L. Baker, September 28, 1926, Blaine Papers, Box 59
Had the law been violated, said the Governor, "...it was your duty to make complaints accordingly." An attempt to compel the American Legion to desist from that which they had a legal right to do, bordered on official misconduct. Were the Sheriff successful in his "...arbitrary and unwarranted intermeddling..." Elaine had no doubt that, upon proper complaint, Baker would have subjected himself to removal from office. The Governor explained that, for the moment, he would not pass judgement, but would, however, leave the matter open should there be further complaint.

Publicly defending its position, the Kinne Post explained that confidence in the government tended to wane when any public official became an object of suspicion. As they were the guardians of the people's rights, public officials were "...'worthy of trust only so long as they fulfill the obligations made binding by their oath of office. When they fail to do this they should be removed."

Making it quite clear that these remarks were intended for Sheriff Baker, the Legiionnaires went on to say that

"THEREFORE WE MAKE CLAIM: A County Officer did cause a near riot regarding the National Colors which were displayed in a public place before several thousand people. Therefore he becomes an object of suspicion on the grounds that he is trying to undermine the confidence of our National Colors. Further we claim that he is accused of having conspired to deprive the County of Pierce, State of Wisconsin of his 'HONEST, IMPARTIAL AND UNBIASED SERVICE.'" 14

14 Ellsworth Record, September 30, 1926., p. 1.
Frank Baker was quick in his reply to the charges leveled against him. Though there was no formal complaint, the Sheriff desired to explain his version of the incident. The Sheriff admitted to being at the Legion booth at the request of certain individuals. At the time of the request, Baker "...told them to speak to Mr. Waller...as he would no doubt know whether...the colors with the fringe was proper, and that I did not believe there was any cause for making a disturbance relative to the same." Nevertheless, Baker was persuaded to go to the Legion's booth. While there, the suggestion was made to hang a flag without the fringe so as to prevent any disturbances caused through misunderstanding. As to demanding that the colors be struck, Baker denied ordering the Flag to be taken down. In fact, remarked the Sheriff, one of the Legionnaires offered to replace the flag with regard to future displays. Satisfied that the Post would do so, Baker claimed to have left the scene immediately.\(^1\)

At a meeting called on October fifth, the Kinne Post decided to draw up a formal complaint, petitioning the Governor to remove Frank Baker as Sheriff of Pierce County.\(^2\) Governor Blaine later received a letter

\(^{15}\)Letter of Frank L. Baker to John J. Blaine, October 2, 1926, Blaine Papers Box 59

\(^{16}\)Minutes of Eldon C. Kinne Post 204, October 5, 1926, KPM.
from an interested party as a result of the Post meeting. Arthur Nelson explained that his attention was called to the courtesy shown the colors by the Sheriff. Nelson explained that "Some of our neighbor boys seem to think that ...Waller is using his influence with you in favor of Mr. Baker." Waller, explained Nelson, appealed "...to the boys...that it would look bad for the Legion Post to uphold a wet Governor." The sentiment around Ellsworth was described as strong in regard to any member of the Ku Klux Klan insulting the national emblem. Governor Blaine, wrote Nelson, should "...stand by the boys and the flag they fought for. And anyone insulting same should have no mercy."\(^7\) By way of reply, Blaine explained that the reprimand was the best he could do inasmuch as no formal complaint had been filed.\(^8\)

Governor Blaine shortly contacted Arthur Quinn as to whether his letter to the Sheriff was called to the Post's attention.\(^9\) Kinne Post Adjutant A. B. Lord replied in the affirmative. In addition, Roy D. Morton "...will probably be down to see you in the course of a week and then it will

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\(^7\) Letter of Arthur S. Nelson to John J. Blaine, October 20, 1926, Blaine Papers, Box 59.

\(^8\) Letter of John J. Blaine to Arthur S. Nelson, October 22, 1926, Blaine Papers, Box 59.

\(^9\) Letter of John J. Blaine to Arthur J. Quinn, October 22, 1926, Blaine Papers, Box 59.
be possible for you to learn of other things that I refrain from at this time."20 Father Shanaghy, Pastor of the local Catholic Church, also had some critical remarks to make concerning the Sheriff. Were the people rid of Baker, said the priest, a state of tranquility would return to Ellsworth and Pierce County. Continuing, the Pastor explained that "You will probably hear from Ellsworth in regard to Baker—later. The Legion are determined to put him out—if only two days before his term expires. I don't blame them. For 10 years I have been well acquainted in Crawford, Grant, Richland and Sauk Counties," Though it was against charity, Shanaghy "never knew as mean a man in a public office." Shanaghy believed that the Sheriff ought to be removed should the Legion request it.21

Indeed, Blaine did hear from Ellsworth. Arthur S. Nelson had filed and sent to the Governor a formal complaint petitioning for Baker's removal. It was charged that, rather than preserving the peace of the county, the Sheriff, in demanding the yellow fringed emblem be struck in the presence of a hostile crowd, "...upheld and countenanced the contempt of said riotous group in maintaining that said Eldon C. Kinne Post, Number 204, of the American Legion was not within its rights in having such colors on display."

20 Letter of A. B. Lord to John J. Blaine, October 29, 1926, Blaine Papers, Box 59.

21 Letter of Father J. F. Shanaghy to John J. Blaine, November 5, 1926, Blaine Papers, Box 59.
The Sheriff became an object of suspicion as the County was deprived of impartial and unbiased service. This was so because the Sheriff had failed to keep the peace insofar as he "...neglected to quiet and suppress radical activities in his county." As such, the Sheriff should be removed.\(^{22}\)

Arthur Nelson was shortly informed by Governor Blaine that it would be necessary to serve the Sheriff with a copy of the complaint. As the Sheriff would have to be served ten days before the commencement of a hearing, the earliest date for this would be November twentieth. The Sheriff would have to file an answer, copies of which would be sent to the complainants "...so that they will know what they will have to meet at the trial of the case." Actually, the hearing date would be decided upon once Baker's answer arrived. Also, a commissioner could be appointed with testimony taken at Ellsworth. Therefore, it would not be necessary for anyone to appear on November twentieth.\(^{23}\)

From the law offices of Casey and Magee at Ellsworth, there arrived on the Governor's desk a letter in regard to the complainant Arthur Nelson. The letter revealed that Nelson was not present at the American Legion booth when the alleged incident took place. "When the complaint was drawn, Mr. Nelson was not present, and the whole matter was taken

\(^{22}\)Petition of Arthur S. Nelson, November 8, 1926, FBI.

\(^{23}\)Letter of John J. Blaine to Arthur Nelson, November 9, 1926, FBI.
care of by members of the American Legion." Though Nelson explained that his information was hearsay, the Legion officers "...failed to have the complaint drafted accordingly." An amended complaint was being enclosed so that Nelson would be protected from any difficulties which might otherwise arise.\textsuperscript{24} Elaine broached no objections to this stating that the correction would be duly noted.\textsuperscript{25} In the meantime, Sheriff Baker had received a copy of the complaint.\textsuperscript{26} The Sheriff, though denying Nelson's charges, did admit in his affidavit that the Legion was wholly within its rights displaying the gold fringed Flag.\textsuperscript{27}

Kenneth S. White, a River Falls attorney, explained to Frank Kuehl that the Ellsworth Legion Post requested his firm to represent them in the upcoming Flag case. There was doubt as to the manner in which the Governor would proceed. White wanted to know just when and where the proceedings would commence and whether there would be appointed a Commissioner to hear the matter. In his conclusion, White remarked that "If this hearing gets the publicity which it should get it should prove a knock out blow to the Ku Klux Klan in this state." It was White's belief that no thinking

\textsuperscript{24}Letter of Irwin E. Magee to John J. Blaine, November 13, 1926, FBI.

\textsuperscript{25}Letter of John J. Blaine to Casey and Magee, November 16, 1926, FBI.

\textsuperscript{26}Letter of John J. Blaine to Frank L. Baker November 9, 1926, FBI.

\textsuperscript{27}Affidavit of Frank L. Baker, November 16, 1926, FBI.
person could support an organization which attacked the National Flag.28

Sheriff Baker was advised that a definite time and place had been set for a hearing on the petition for his removal. The hearing would commence on November twenty-ninth at ten o'clock in the morning in the Courthouse at Ellsworth. At that time the defendant would be entitled to be heard, to produce witnesses and be represented by counsel. Fred M. Wylie was to be the Governor's Commissioner.29

At ten o'clock on the morning of November twenty-ninth, Commissioner Fred M. Wylie began to take testimony. The hearing had attracted wide notice as the "...County Judge's office at the Court House was jammed to overflowing with witnesses and curious citizens...."30 All the available seats and standing room were taken up by the spectators.31 Attorney for the complainants was Ferris M. White of River Falls. Thomas Nohn of Red Wing, Minnesota

28 Letter of Kenneth S. White to Frank Kuehl, November 17, 1926, FBI.

29 Letter of John J. Blaine to Frank L. Baker, November 19, 1926, FBI. As Baker had met with an accident, Assemblyman Theodore Swanson suggested the hearing be held at Ellsworth. (Letter of Theodore Swanson to John J. Blaine, November 19, 1926, Blaine Papers Box 59.)

30 Pierce County Herald, December 2, 1926, p. 1.

31 Red Wing Daily Eagle (Red Wing, Minnesota), November 29, 1926, p. 1.
was counselor for the defense. Mohn agreed that the respondent's answer would be to the amended complaint. Both parties agreed to waive the personal appearance of the Sheriff. Later, Attorney Mohn objected "...to the introduction of any testimony on the ground that the petition does not state any legal cause for removal." This was overruled. 32

The first witness for the complainants, A. B. Lord, testified that "When I got there, there was quite a crowd around the booth, probably 25 or 30 men; they seemed to be excited about something." The crowd, said Lord, was threatening the colors. If the flag were not taken down, the crowd said it would tear it down. Though not exactly sure of how many threatened the flag, Lord believed that there had been thirty. The witness testified that he did not see Baker at that time, but did see him the day or day after the Sheriff had received a communication from the Governor.

Why Mr. Baker told me,—he says I was called up there at that time, that the crowd was there and he says I went in there,—he said there was a bunch there and he said they had on display a flag with yellow stripes and he didn't think it was the proper flag to display. He said there was a little small flag in the back end of the booth which did not have the yellow border on and he said he told them they ought to display that in place of the other one. Well, I asked him, I says as long as there was such a mob there and they were rather threatening, didn't you think it was your duty as a peace officer

to protect the flag or disperse the mob, and he says, I didn't want to get mixed up in it at all. He says I got right out and went away. He says he had a talk with his deputy...and he says I told him of the crowds up there, to keep away from it and not go near there at all because we didn't want to mix up in it.

However, as far as Lord could tell, there was no violence and no one laid his hands on the flag or on anyone else.33

Lord later testified that, as a reason behind the demands that the colors be struck, "...I heard it said that this yellow fringe around the colors designated it as the Pope's flag." In regard to the crowd's authority for raising such a demand "I heard one of them, he said he had a pamphlet gotten out by Pat Malone, I believe, saying the flag wasn't right...and that it should be taken down."34 Lord explained that he suggested to Claire Travis that the War Department be contacted concerning the matter. But Claire Travis replied that it was "...no use taking it up with the War Department...that ninety percent of them are Catholics."35

Casper Olson, testifying for the complainants, explained that the first threat to the Flag was uttered by Claire Travis. Too, "the general opinion through the crowd when they was talking seemed to be if we didn't take our

33Testimony of A. B. Lord, Commission Hearing, FBI, pp. 3-6.
34Ibid., pp. 10-11.
flag down they would take it down for us." The general feeling was that the color yellow should not be on the Flag. The crowd, said Olson, did not explain why the Flag should come down. Their only explanation was that it "...wasn't the American Flag,—it shouldn't have anything but red, white and blue." Yet no one stated their authority in this regard. Baker said the Flag would have to come down. Olson said the Legion's reply was that it would were the Flag not proper.36

Sheriff Frank L. Baker was asked what attracted his attention to the American Legion booth. Baker replied that he had heard a great deal of talk on the grounds in regard to the yellow fringe. It was said that the Legion's Flag was not really the American Flag. As to making any comments at the Legion's booth, Sheriff Baker said "Why yes, I says my father fought under the flag, but I don't believe it had a yellow fringe on it...." Baker explained that he did not tell anyone to remove the Flag. However, he did suggest that the fringed emblem be replaced with "...the American Flag they had laying on the table...." The Sheriff explained that his only object in saying this was to prevent any friction that might arise. As to having ever observed a regimental flag with a gold fringe, Baker testified that "I never have, to tell the truth. I suppose every one of

36 Testimony of Casper Olson, Commission Hearing, FBI, pp. 35–38.
our national flags were exactly alike."37

Sheriff Baker was then asked whether he was a Klan member. Baker replied in the affirmative. However, as far as the Sheriff was concerned, the Klan was "...nothing but an American class of people, and I don't understand how it has anything to do with the issues whether we are Klan or not." Baker was not certain whether all the people in the crowd were Kluxers—though some of them probably were. Baker maintained that his being a Klanner in no way served to influence him in the performance of his duties.38

Baker was also asked whether he had anything against the American Legion. Said the Sheriff: "Well, I should hope not, not against the American Legion, not in the least. I don't see how any good American citizen could have,—I would be a pretty poor American citizen holding the position I am if I didn't have respect for the flag. That is what hurts me now to think that they hold that against me." Baker believed that he acted and spoke in good faith. As to other comments, the Sheriff said

all I have to say is, I feel it is trying to humiliate me to think that I am not an American citizen, when I was born in this country and my father fought under the stars and stripes. Mr White knows himself they have been after me ever since I have been in office because I have tried to enforce the law...I was unfortunate to get hurt and be here now....God, I don't want you to think because I show a

37 Testimony of Frank L. Baker, Commission Hearing, FBI, pp. 103-105.
38 Ibid., pp. 102.;09. 239.
little emotion that I am chicken hearted or anything like that, but it humiliates me to be classed as un-American here. I felt terribly out of place when I didn't have a boy old enough to go to war and I myself was too old. The American Legion has never had anything going on at any time when I didn't contribute to it, but I can't help this now.39

Edward Guest testified for the defense that the Legion admitted to not knowing what the fringe meant. Sheriff Baker's point was that as long as this was the case, the Post could stop the criticism by placing an American Flag by the fringed emblem. Guest said he asked one of the Legion members "...why they didn't put the American Flag up beside it and they said they didn't know how to hang it up. We thought it was funny how they knew how to hang the other flag up but didn't know how to hang the American Flag up." Upon further questioning, Guest admitted that the fringed emblem was indeed the American Flag, but that he believed the yellow fringe to be out of place. Guest testified that he told no one to take the Flag down.40

Probing further for the rationale behind Guest's objection to the fringed flag, Attorney White asked the witness what authority he based his objections. Guest replied that he got it into his own head. As to the matter of yellow being a gold color, Guest said "I wouldn't swear to it, but I don't think it is." Guest was brought up to


believe the American Flag was red, white and blue. The yellow fringe had no place on the National Flag. As to being a member of the Ku Klux Klan, Guest admitted that he was, but that it had no bearing on the situation. He was interested in the Flag matter because he believed it to be his duty as an American citizen. Guest had seen service in the Army and the Marines, but never saw a yellow fringed Flag, and never took the time to give this subject his consideration. Though he had no objection to gold, Guest was not able to tell the difference between gold and yellow. As to what the Legion's Flag stood for Guest explained that "I couldn't tell you what that did stand for with that yellow on it." 41

Ferris White, in his summation, stated it was the complainant's position that Baker's duty was to quell disturbances which interfered with citizens' rights. The Sheriff had an inkling earlier on September sixteenth that there was to be a disturbance over the Legion's Flag—which was why his deputy was told to say or do nothing. Baker admitted to being a Klansman. A number of individuals in the crowd also belonged to this organization. The question was why Baker left the scene when he knew trouble was brewing. Though there was a dispute as to the exact words of the Sheriff, the evidence indicated that Baker had said something akin to ordering the disputed colors struck. The

41 Testimony of Edward Guest, Commission Hearing, PBI, pp. 173-177.
crowd threatened the flag with the apparent knowledge of the Sheriff. The undisputed evidence was that the Legion had the legal right to display the fringed emblem. Not only had the Sheriff acquiesced in the demonstration, but went "...deliberately upon the streets...tackling members of the Post and discussing it publicly, showing that he himself was publishing the facts of the disregard they had for the rights of the Legion at the time." As the incident was widely publicized, the Sheriff's actions had the additional effect of disturbing the "...peace and good will of the citizens of this county, causing turmoil and dissension between neighbors...." It was in this manner that the peace of Pierce County was disturbed and, inasmuch as Frank L. Baker encouraged the crowd, he had failed in his duty as a public official. Baker should therefore be removed from office.  

Responding for the defendant, Attorney Mohn believed the matter of Baker's membership in the Ku Klux Klan was irrelevant with regard to the late proceedings. Also, the Sheriff was not a part of the riotous group and, as such, the complainants testimony was invalid. Baker was not responsible for the talk about the propriety of the flag. Most importantly, the Sheriff went to the Fair as an individual. In short, the Sheriff was not guilty of misconduct in office, and, as such, there were no grounds

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42 Summation of Attorney Ferris White, Commission Hearing, FBI, pp. 259-262.
for his removal. 43

Fred M. Wylie in reporting his findings to the Governor, cited Pat Malone as the instigator of Klan activity in the Ellsworth community during the previous summer. It was a group of Klansmen and Klan sympathizers which disputed the authenticity of the yellow fringed flag—which in reality was gold—and alleged that this emblem was not only the Pope's color but the Pope's flag. Threats were made in the direction of this emblem. Too, the Sheriff was a Klansman. Evidence indicated that the Post was asked to take the yellow fringed emblem down. Furthermore, the Legion offered to have the matter investigated by the War Department, but that several individuals stated that this was to no avail as the personnel there was largely Catholic. Also, said Wylie

it seems that the authority the Klansmen had for their objection to the "yellow" fringe, and that this was the Pope's color, was secured either from a pamphlet by said Pat Malone, or from material in the Fellowship Forum, a periodical published at Washington, D. C., dealing principally with activities of the Klan and propaganda against the Catholic religion. 44

Though there was not a mob riot, the Sheriff aided and abetted the disturbance. This was an irresponsible action. Baker should have foreseen that this act would have had the effect of degrading the "...office of Sheriff in the eyes

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43 Respondent's Brief, FBI, pp. 1-4. This was sent down to Commissioner Wylie after the hearing.

of a great majority of citizens...not only the Catholic citizens of the County, but all citizens other than Klansmen and their sympathizers, to have lost confidence in the official integrity and judgement of Sheriff Baker.... and must have caused resentment that a public official should ally himself with the Klan...." This only served to aid the Klan in its preaches of hatred and bigotry.45

Concluding his report, Commissioner Wylie stated that the Sheriff was guilty of misconduct in office "...and... should be removed from office except for the circumstance that his term will expire before the order could be enforced." Thus removal proceedings would be futile and would tend to create disrespect for the constitutional authority of the Governor. Under the circumstances, the best that Governor Blaine could do would be to concur in his Commissioner's findings. The Governor might also issue a severe condemnation of the Sheriff's conduct.46

Governor Blaine, in rendering his decision, reiterated Commissioner Wylie's findings. Blaine went on to state that the Post was constituted of both Protestants and Catholics who shared together the burdens of the recent War. "Yet the Klan, in the furiousness of its fanaticism and its extreme intolerance participated in an act that disturbed the peace, that was an affront to the American flag and to

46 Ibid., p. 6.
the World War veterans, and the sheriff of Pierce County aided and abetted this disturbance and affront." It was intolerable that Baker, as a public official, was in alliance with an organization that practiced dissemination of prejudice, hate and intolerance. Blaine agreed that time did not permit the successful conclusion of impeachment proceedings. Nevertheless "...public officials who associate themselves with an organization that undertakes to take government into its own hands are guilty of official misconduct, and the membership of Frank L. Baker in the Ku Klux Klan no doubt was responsible for his neglect of duty and his official misconduct." In short, Sheriff Baker had brought dishonor to himself by his association with this blighting organization.\textsuperscript{47}

After the expiration of his term of office on January 1, 1927, the erstwhile Sheriff returned to River Falls. Charging the Governor with slander, Baker stated that

I do not deny that I am a Klansman, but I do deny that being a member of the Klan in any way disqualify me for performing the duties of Sheriff. There was slander in the testimony of several witnesses who appeared in the investigation of the Legion flag affair...and the Governor has slandered me in charging that I neglected my duty. I am going to take the matter directly to the Supreme Court.\textsuperscript{48}

Baker also contended that the fact he was not removed by the Governor did not make Blaine's charges any less

\textsuperscript{47}Decision of Governor John J. Blaine, December 27, 1926, FBI, pp. 1-4.

\textsuperscript{48}River Falls Journal, January 6, 1927, p. 1.
serious. However, the case never did reach the Wisconsin Supreme Court. Thus the late fringed flag affair was, for all intents and purposes, closed.

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49 Pierce County Herald, January 6, 1927, p. 1.

50 Personal Letter of Frank L. Clarke to John A. Turchenese, Jr., October 22, 1970. Mr. Clark is the Clerk of the Wisconsin Supreme Court.