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## LAST DAYS OF WISCONSIN TERRITORY AND EARLY DAYS OF MINNESOTA TERRITORY.\*

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BY HON. HENRY L. MOSS.

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Officers and Associates of the Minnesota Historical Society: At the request of your committee, that I should address you on this occasion, as to the events and actors during the early territorial days of Minnesota, I submit the following review of the times, fifty years ago, around which cluster some of the most important and interesting events of our history. The brief time, in connection with business duties requiring my attention, has precluded my giving the careful examination of records and data which I should much desire; and if perchance errors occur in my statements, a defective memory is the apology.

By an act of Congress approved by President Polk March 3, 1849, the territory of Minnesota was organized; and thereby a government was established, having the usual powers existing under a representative republic, namely, the executive, judicial, and legislative. The executive consisted of a governor and secretary. The judicial department comprised a chief justice and two associate judges, all of whom, together with the district attorney and marshal, were appointed by the President. The legislative department consisted of nine members of the "Council," and eighteen members of the "Assembly," to be elected by the citizens of the territory.

Soon after his inauguration, March 4, 1849, President Taylor appointed for governor Edward G. McGaughey, of Indiana, who failed of confirmation by the senate, which was then in

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session. The President thereupon appointed Mr. Pennington of New Jersey, who declined to accept. Then our honored and esteemed associate, Gov. Ramsey, received the appointment, which was confirmed by the senate. He accepted it, and soon after cheerfully left his Pennsylvania home and entered with zeal and energy upon his duties of directing the political affairs and developing the possibilities of a new empire. He has ever been, and is still, an honor to the Territory and the State, whom every citizen is proud to name and know.

The executive department was made complete by the acceptance of Gov. Ramsey and the appointment of Charles K. Smith, of Ohio, as secretary of the territory. For the judiciary, the President appointed Aaron Goodrich, of Tennessee, chief justice; David Cooper, of Pennsylvania, and B. B. Meeker, of Kentucky, associate judges; H. L. Moss, United States attorney; and Joshua L. Taylor, United States marshal. The two last named were already residents of the territory. Of these first territorial officers, only two yet survive, namely Gov. Ramsey and myself.

Although, as before stated, the organic act was approved March 3, 1849, and the official appointments were made immediately thereafter, the residents within the limits of the territory received no information thereof till the sixth day of April, upon the arrival of the first steamboat coming up the Mississippi river that spring, as the last mail prior thereto reached us about the 25th of February. All travel and transportation of the mail in those days were by the river route, on the ice in the winter, and by steamboat in the summer. The election of Gen. Taylor as President in the first week of November, 1848, was unknown to us until Jan. 4, 1849.

During the months of April and May, Gov. Ramsey, Secretary Smith, and Judges Goodrich and Cooper arrived. As St. Paul was made the temporary capital of the new territory by provision of the organic act, it was natural for the officers to make it the point of their destination. It had at that time an estimated population of about 200 inhabitants. The only place for public resort was a log building located on the corner of Third and Jackson streets, where now stands the Merchants' Hotel. This log building was the "Hotel" at that day,



of which our late esteemed friend, J. W. Bass, was proprietor.

Soon after his arrival, Gov. Ramsey invited his official associates to meet him at this public resort in council on the first day of June, 1849. Here it was, on that memorable day, that the first Minnesota cabinet held its meeting in a small room, about seven by nine feet in size, on the second floor, furnished with one bed, two wooden chairs, a small washstand made of unpainted pine lumber, a trunk, and a 10 by 12 inch mirror. It was then and there in that cabinet council, composed of the governor, the secretary, Judges Goodrich and Cooper, and myself, that the official proclamation submitted by the governor was approved. The proclamation set forth that the Territory of Minnesota was an established fact. It also set forth the names of the officers, that they had qualified and were prepared and ready to perform their respective duties.

In a subsequent proclamation, the governor directed a census to be taken, and appointed the necessary officers to take it, as a basis for the apportionment of the territory for the election of members to the legislature. He also assigned the judges to different portions of the territory for the performance of their duties. The proclamation assigned chief justice Goodrich to administer justice over the civilized portion of the territory, which embraced the entire country lying west of the St. Croix river and east of the Mississippi, extending to the British possessions. It banished judge Cooper to the uncivilized and Indian country west of the Mississippi and south of the St. Peter river, with headquarters at Mendota. It sent judge Meeker into exile in the wilderness, that *terra incognita* lying west of the Mississippi and north of the St. Peter river, a land where lay the beautiful lake Minnetonka, with its charming and picturesque shores, yet undiscovered. His headquarters were in an old dilapidated mill on the west bank of the river at St. Anthony falls.

In directing the census to be taken, the governor appointed John Morgan, of Stillwater, as the superintendent. Upon his report being made, the territory was divided into districts by the governor; and a general election was ordered to be held, for the election of nine members for the council, and eighteen

members for the assembly, of the legislature to meet on the third day of September, 1849.

This first Legislature remained in session till the first week of November following. During this session the territory was divided into counties, also into three judicial districts. Judge Cooper was assigned to the first district, which included the counties of Washington, Wabasha, and Itasca, being that portion of the territory lying upon its eastern boundary and extending to the northern boundary. Stillwater was the county seat of Washington county, to which the other two counties were attached for judicial purposes. Chief Justice Goodrich was assigned to the second district, which included Ramsey county, with St. Paul the county seat, to which were attached for judicial purposes the counties of "Dakotah," "Wahnahta," and "Mahkahto," lying west of the Mississippi river. Judge Meeker was assigned to the third district, composed of Benton county, with county seat located near the mouth of Sauk river, to which Pembina county was attached for judicial purposes.

In the foregoing account I have briefly mentioned the incidents pertaining to the organization of the territory and the first year in its history. It will not be out of place, if I here review the conditions that preceded the organization. I must go back to 1845, more than fifty years ago, when I gave up my allegiance to the sovereignty of the State of Ohio and became a willing subject of the Territory of Wisconsin, locating at Platteville in the lead mining district.

At that time the most southern of the three western counties of Wisconsin territory was "Grant" county, extending from the northern line of Illinois to the Wisconsin river, with the Mississippi river on the west, and having its county seat at Lancaster, where resided that distinguished founder of the "Pioneer Press," James M. Goodhue, who came to St. Paul in 1849. Next was "Crawford" county, its boundaries being the Wisconsin river on the southeast, the Chippewa river and Mississippi river on the west and northwest, with the county seat at Prairie du Chien. Then came St. Croix county, which included all the territory from the Chippewa river to the northern boundary of the United States, with the county seat at Stillwater.

This location of St. Croix county, with Stillwater its county seat, was an important and leading factor in the future events and actions culminating in the organization of the Territory of Minnesota. Here lay the remnant of the vast Northwestern Territory, out of which, by a provision of its ordinance, only five states could be established. After the admission of Iowa as a state, the region north of its northern line and west of the Mississippi was known as the Indian Country or Territory. The Mississippi was recognized as the boundary line between Wisconsin territory on the east and the state of Iowa and the Indian country on the west. In the various bills before Congress, and in the two conventions of Wisconsin territory to adopt a state constitution, the question of locating the northwest boundary line of Wisconsin was a leading one.

There were many propositions, all of which had earnest advocates both in Congress and in the convention. One was to include the entire country, to the British possessions, within the new State. Another was to make the Rum river the border line extending thence to lake Superior. Another placed the boundary at St. Croix lake and river; another at the Chippewa river; and still another would take an initial point on the highest elevation of the island of Trempealeau in the Mississippi river, and run a line due north to lake Superior.

It was argued by some that the ordinance of 1787 made it compulsory to limit the entire Northwestern Territory to five States. On the other hand it was claimed that the fifth State, Wisconsin, could be so restricted in its boundary that a portion of the territory could be taken in connection with a portion of the Indian territory (obtained under the Louisiana purchase) north of Iowa, to make a future State, without violating the provisions of the ordinance. This view of the case met with favor and was adopted.

But other contentions arose. Many prominent citizens of Wisconsin wanted the entire territory for a state; yea, they would have taken the entire earth, if they had the power to do so. Others wanted (and this was the leading factor that ultimately settled the contention) sufficient left of the Territory to guarantee a future State in the Northwest,—hence these were advocates for the line of the Chippewa river, or for the Trempealeau line. The Rum river was objectionable, because it

was so near the border of the Chippewa Indians that the future settlement of the country was too remote to justify an immediate organization of a new Territory; and there were no settlements as a basis to make the claim.

The final result we all know. A compromise of conflicting views adopted the St. Croix line, which was approved by the constitutional convention and confirmed by a vote of the citizens of Wisconsin; and subsequently it was accepted and approved by Congress in admitting the State into the Union, although it differed from the enabling act of a previous Congress.

Now arose another question,—a serious one, and one novel in the history of our Government. Not only a Territory had been divided by an act of the general government, but a county also, leaving outside the new State a full and complete county organization, with its officers performing all the functions of their respective offices, in protecting the lives and property rights of its citizens. Although having in name its United States court, county commissioners, sheriff, register of deeds, justices of the peace, and other minor officers, yet St. Croix county had been so divided that the portion left outside the State and containing the officers and offices above named was without any power or authority to protect the citizens, who had prior thereto enjoyed their protection. Congress had failed to continue in force the laws of the territory of Wisconsin over that portion not included within the boundaries of the State. But the people of that day were equal to the emergency; they were law-abiding, and a protecting government under authorized law they resolutely determined to have.

Frequent interviews and conferences were had between the residents of Stillwater, St. Paul, Marine Mills, and Bissell's Mound (now known as Cottage Grove), and with Gen. H. H. Sibley of Mendota, and Franklin Steele, Esq., of Fort Snelling, and others; the result of which was the holding of a general convention at Stillwater the fore part of August, 1848, to secure concerted action and adopt measures for the organization of a new territorial government.

At this point it may be proper to call your attention to the judiciary of Wisconsin territory prior to that date, and its relation to that part of the territory west of the St. Croix.

It was in the summer of 1842, when there were sparse settlements extending from the mouth of the St. Croix lake to the falls of the St. Croix, that Judge Irwin of the second judicial district of Wisconsin territory, living at Madison, was assigned to hold a term of United States district court at Stillwater, the county seat of St. Croix county, although he was a stranger to any resident of the county. He took steamboat at Galena, and landed at Fort Snelling. He knew that Joseph R. Brown was the clerk of the court, and resided at Stillwater; further than that he had no knowledge, and was ignorant of any route or means of conveyance from the fort to the place of holding the court. The commanding officer at the fort provided him with a horse and a guide to pilot him through the unsettled country. Arriving near the head of lake St. Croix, and inquiring for Mr. Brown, he was directed to follow the shore of the lake up about a mile, where stood a log cabin, which was his residence. This was a short distance above the present site of the State Penitentiary. The judge found the cabin, and found it occupied by an Indian woman and children, none of whom could talk in the English language or understand it. Upon inquiry of some people engaged in building a saw mill, he learned that Mr. Brown was at his trading post on Gray Cloud island, in the southern part of the county, twenty or more miles distant. He returned the following day to the fort, and upon the first steamboat down the river to his Madison home, disgusted with his trip, and declared that the next time he held a court in Stillwater he would provide himself with moccasins, clout, and blanket.

No other court was held in St. Croix county till the month of June, 1847. This term had been called by Chief Justice Dunn of the first judicial district, the occasion being the trial of a chief of the Chippewa Indians named "The Wind," who was under arrest for the murder of Henry Rust, a lumberman in the employ of Elam Greeley, whose camp the preceding winter was located on Snake river about thirty miles from the St. Croix river.

The holding of a regular term of the United States district court by the chief justice at Stillwater caused much interest among the attorneys of the district, and they made it the occasion of a genuine social trip of about 400 miles to the Falls of

St. Anthony,—as much for that day as we at the present time would consider a summer trip to Alaska. Judge Dunn, with his daughter, and attorneys with their wives, joined in the excursion. Among the number were Moses M. Strong, Frank J. Dunn, Samuel J. Crawford of Mineral Point, Ben C. Eastman (my partner at that time), George W. Lakin of Platteville, J. Allen Barbour and Nelson Dewey of Lancaster, Thomas P. Burnett of Patch Grove, and Wiram Knowlton and James H. Knowlton of Prairie du Chien. I may here add that the bar of the first judicial district of Wisconsin territory embraced attorneys who in legal acumen and ability, and in forensic eloquence, were not inferior to the members of any district, including the most noted attorneys in the eastern states. I only need mention the name of Moses M. Strong of Mineral Point, a good lawyer, and a powerful and eloquent advocate; he gained an enviable reputation for his skill and masterly defense of James K. Vinyard of Platteville, the slayer of H. P. Arndt of Green Bay, on the floor of the Territorial House of Representatives during the session of the legislature of 1841-'42.

It was such men as I have mentioned who were in attendance of the court at Stillwater in June, 1847, being the first court of record ever held within the limits of the state of Minnesota. On the first day of the term the Indian chief was indicted, and the trial immediately took place. Judge Dunn appointed Samuel J. Crawford of Mineral Point, assisted by M. S. Wilkinson, then residing in Stillwater, to conduct the prosecution; and also appointed Ben C. Eastman of Platteville, assisted by Wiram Knowlton of Prairie du Chien, for the defense of the Indian. A verdict of acquittal was rendered by the jury.

This trip of the party above mentioned was an eventful one. It was, I may say, a vision to the minds of those visitors to Stillwater and the Falls of St. Anthony, as it at once developed a strong and powerful influence in the approaching convention, to establish such a northwestern boundary line of Wisconsin as would leave no doubt of an immediate organization of a new territory. This was especially true of chief justice Dunn. I speak of him with pride, and in honor to his memory and name; for he was ever a good and kind friend to me, as much so as a parent can be to a child. He was dignified and stern upon

the bench; always courteous and genial in his social intercourse with attorneys and friends. His often repeated declaration to me after his return from Stillwater and during the following winter was, that "as certain as the new constitution was adopted for the state of Wisconsin, just so certain was the organization of a new territory to follow." "Go to Stillwater and abide your time," was his advice to me.

My decision was made. In the month of March the vote on the constitution was taken; it was adopted by a very large majority. I again renounced allegiance to state sovereignty, satisfied to be dependent upon, and a subject of the authority of, the United States. Within a few weeks after the result of the constitutional vote was known, I found myself at Galena, on board the steamer "Dr. Franklin," of which my long-time friend, Captain Russell Blakely (our esteemed associate), was chief clerk, bound up the river. At early morn of the last Sunday of April, 1848, at Stillwater, with some misgivings but with a resolute step, I stood upon the land of the unknown future Minnesota. And here I am still, proud of what that Minnesota has done in the past, and of the glorious vision into the future.

Now let us come back to the mass meeting in August, 1848. On my arrival at Stillwater I found living there an attorney who had preceded me more than a year. You all know of him, the Honorable Morton S. Wilkinson. As a member of the bar, and of the legislature, also of the constitutional convention, he was a recognized leader. As a member of the United States Senate, and during the dark days of the civil war, he gained a national reputation by his zealous and eloquent appeals to the patriotism of the people to sustain the integrity and the unity of the United States. Either in June or early in July, 1848, David Lambert, an attorney of Madison, Wisconsin, came and located in St. Paul; he was the first practicing attorney in this city, although at that time there were no courts in which to practice, except that of the justice of the peace. Mr. Lambert soon became the firm friend and confidant of Hon. H. H. Sibley, and co-operated with him in the movement for the new territory. It was with them and Joseph R. Brown that the idea of the Stillwater convention originated. It did not take a long time to enlist such men as Franklin Steele (sutler) of Fort Snelling, Louis Robert, Wm. H. Forbes, A. L.

Larpenteur, Henry Jackson, Ben W. Brunson, S. P. Folsom, and many others, in the movement; so that on the occasion of the land sales, at the United States land office, at the falls of St. Croix, August 14, 1848, when the first government lands of our Minnesota were sold, they came in force, as it were, *en route* to the falls, pitched their tents around a beautiful, cold spring on the shore of lake St. Croix, close below Stillwater, and spent the night. During the evening they were joined by J. W. Furber, John S. Norris, and others, from Cottage Grove and Point Douglas, also *en route* to the land sales. The trip by these parties required two days, and Stillwater was about a half-way stopping place. With this gathering, and mingling with Stillwater people, the subject of a new Territory became the absorbing topic of conversation; and then and there it was decided that a general meeting in convention should be held on the 26th day of August.

At the time mutually agreed upon, the people came together, without the formality of elected delegates or credentials. It was estimated that over one hundred were present, from the different settlements in the country. Of the lawyers in attendance were David Lambert, B. W. Lott, and William D. Phillips, who had recently arrived and located at St. Paul, and Morton S. Wilkinson and myself of Stillwater. The convention was organized by the election of General Sibley by acclamation to preside. I am not positive, but I think that Gov. William Holcombe was selected as secretary (possibly it was Joseph R. Brown). After a statement by the presiding officer of the purposes of the meeting, a committee of five was appointed to report resolutions.

Of this committee were David Lambert (chairman), H. L. Moss, Orange Walker, Socrates Nelson, and Joseph R. Brown. The committee met during the noon hour recess in the store-room connected with Mr. Nelson's store. Mr. Lambert immediately submitted the draft of a preamble, series of resolutions, and a petition to Congress which evidently had been prepared with careful deliberation. They fully expressed the purposes for which the convention was held, and the committee adopted them after a brief consideration. General Sibley, in later years, informed me that he had written a statement of the convention for preservation; and I am in hopes that among his papers (now a part of the archives of this society), a copy of that pre-



amble and resolutions can be found. At the afternoon session of the convention the report of the committee was adopted.

Several topics under consideration caused at times animated discussion. The name to be given to the proposed new territory was not the least. Rev. Wm. T. Boutwell, who for many years was a missionary among the Chippewas, wanted the name "Itasca," it being the name of the lake given by Schoolcraft, as is well known, from the Latin words *veritas caput*, as he declared that lake to be the true head or source of the Mississippi. This name had many advocates; it was a beautiful name, and was expressive and significant in having a local application. If I am not mistaken, it was inserted in a bill introduced by Hon. M. L. Martin, delegate from Wisconsin territory, in 1845, for the organization of a separate territory in the Northwest.

General Sibley proposed the name "Minnesota," and explained that it was the "Sioux" word for the largest river entirely within the limits of the proposed Territory. This river was then known only as the "St. Pierre" or "St. Peter" river, and appeared as such in all published maps of that day. The Indian name was so little known at that time that discussion and explanation were had, to decide upon the proper spelling and pronunciation of the word, whether it was to be spelled with one "n," and thereby have it "Minesota," or with two. On the 23d day of December, 1846, Hon. M. L. Martin, the delegate to Congress from Wisconsin, introduced a bill for the organization of Minesota territory. On another occasion, when a bill was pending for the organization of "Itasca" Territory, he moved an amendment for the name of Minesota to be inserted. Senator Douglas introduced a bill into the United States Senate for the organization of Minesota. The action of this convention gave it unquestionably that beautiful and sonorous expression, Minne-so-ta, and resulted in selecting it as the future name of the proposed Territory.

Other topics of interest were considered, namely, the location of the capitol and other public buildings. I think that at this point it will not be deemed improper if I allude to what our associate, Judge Flandreau, said a few years since in an address before the Junior Pioneer Association, about a tripartite treaty. Not only in this convention, but also outside, upon the streets, up and down the river, and in the logging camps, the

subject was freely and openly discussed. While there was no formal agreement or resolution allotting the capital at St. Paul, the penitentiary at Stillwater, and the university at St. Anthony Falls, yet there was a general understanding among the settlers, acquiesced in honestly and fairly by the people of that day. Mr. Sibley wanted the capital located at Mendota; it was, however, impracticable to urge it; he knew it would avail him nothing to press it, for the reason that the entire country west of the Mississippi river was Indian territory outside of the limits of the military reservation of Fort Snelling. He favored St. Paul, and was ever unyielding and faithful to the personal pledges and mutual understandings of his fellow citizens. Mr. Franklin Steele, of Fort Snelling, was interested in the water power at St. Anthony Falls; and through his personal influence the location of the university at that point was agreed upon. The reason why the location was not inserted in the organic act, as it was for the capital and penitentiary, was that Congress made no monetary appropriation for university buildings. The survivors of those days well remember and know what those mutual understandings and agreements were, more binding and sacred in their performance and endurance than if made under bond and seal. Could such men as I have mentioned, Sibley, Steele, Holcombe, Brown, Nelson, Walker, and Lambert, have risen from their graves and heard the appeals and demands, during the last session of our state legislature, by those who advocated removal of the capital from St. Paul, they would have been astounded, and would have cried out to them, "Hold! Cease your unjust demands! Ye are a faithless and reprobate generation, despoilers of the monuments and good works of your ancestors!" You must excuse this digression, as it is my desire to place upon an enduring record my testimony as to facts, upon a subject which of late has interested every citizen.

Toward the close of the convention Mr. Sibley informed those present of his intention to spend the approaching winter in Washington in the interests of the territorial movement, and suggested the adoption of a resolution requesting him to represent the people in that behalf, saying that such a resolution would give him an influence and standing with members of Congress, and that through such support he could secure inter-

views with the members with better hopes of success. He also stated that his stay in Washington would be at his own expense, and that he should ask contributions from no one. A series of urgent resolutions was adopted, authorizing him to go to Washington as the representative of the citizens, and to remain during the coming session of Congress, for the purpose of securing the organization of the proposed territory, and also requesting that he be allowed a seat on the floor of the House of Representatives. The convention adjourned after a session of one day, with much enthusiasm among all present for the work before them.

It was not many days, however, before a new proposition or theory was started. I have never known who the author of it was. Mr. Sibley and Mr. Lambert came to Stillwater, and had first an interview with Governor Holcombe, then with John McKusick and Socrates Nelson and Orange Walker, of Marine Mills, and the result was a correspondence on the part of General Sibley and Governor Holcombe with Hon. John Catlin of Madison, Wisconsin, submitting to him the proposition that the division of Wisconsin territory and admission of a portion thereof as a State in the Union did not disfranchise that portion outside of the state boundaries. General Dodge, governor of the territory, was elected one of the United States senators from the new State. John Catlin, secretary of the Territory, thereby became *ex officio* governor thereof, under the provisions of the organic act of that territory. As before stated, that portion of St. Croix county west of the state boundary had a complete and perfect organization under the territorial laws, except that no one had assumed to exercise executive authority. The Honorable John H. Tweedy of Milwaukee, soon after the admission of the new State into the Union, resigned his seat in Congress, as the delegate from Wisconsin territory. Mr. Catlin at once responded to the letters of Mr. Sibley and Mr. Holcombe, coinciding with their views on the question. Thereupon a formal request signed by these gentlemen and others was sent to Mr. Catlin to come to Stillwater and assume the duties of governor of Wisconsin territory.

Soon thereafter, about the middle of September, Mr. Catlin with his family removed from Madison to Stillwater, having

in his possession the great seal of the territory of Wisconsin, and immediately issued his proclamation, as the acting governor, for a general election to be held at the usual date, as provided by law, in the following November, for the election of officers under the laws of the Territory, and especially for the election of a delegate to Congress from the Territory to fill the vacancy made by the resignation of Mr. Tweedy. In due time the election was held, after one of the most spirited and active campaigns that ever occurred on the soil of Minnesota, between the friends of Mr. Sibley and the Honorable H. M. Rice. The latter had many zealous and active supporters. During the summer months, he had under a contract with the general government been engaged in removing the Winnebago Indians from their lands in the vicinity of Fort Atkinson, Iowa, to their new reservation at Long Prairie. He was therefore unable to give any personal attention to the territorial movement, and the canvass of his friends was unequal to the stronger influence in favor of Mr. Sibley among his associates of the Stillwater convention.

As is well known, Mr. Sibley was elected by a respectable majority; and in a few days thereafter he started with his family for Washington. He went not only as first intended, as the representative of the voice and wishes of his fellow citizens, but as a delegate from the territory of Wisconsin, with the credentials and the certificate of the governor, with the seal of the Territory attached. Notwithstanding that he was thus fortified with official documents, Mr. Sibley found at once on his arrival that a difficult task was before him; on presenting his credentials, a spirited opposition was developed against his claim as a delegate. He was, however, allowed the privileges of the floor.

The opposition arose from various causes. Ignorance as to the geography of the country, its climate, and the character of its residents, very generally prevailed. One of the senators, on being introduced to Mr. Sibley, expressed astonishment to the dignified and polished gentleman that he was, and said he expected to meet a person of dark complexion, ornamented with trinkets and feathers. My friend and acquaintance, Hon. Joseph M. Root, member of the House from Sandusky, Ohio, in one of his appeals in opposition to the organiza-

tion of the Territory, exclaimed, "When God's footstool is so densely populated that each human being can only occupy two feet square, then, but not till then, will a white man go to that hyperborean region of the Northwest, fit only to be the home of savages and wild beasts."

This ignorance is not surprising, when we call to mind that most of the country lying between the Wisconsin and St. Croix rivers was at that time an unexplored wilderness. Similar ignorance prevailed very generally throughout the eastern and central states, and was the occasion of an amusing incident to our venerable associate, Governor Ramsey, when he was with his family arranging to leave the friends and neighbors of his Pennsylvania home to assume his official duties as governor of a country they knew nothing of. Anxious for his safety and welfare, they inquired of him, by what route he was going to Minnesota? Would he go by the Isthmus and Panama route? or would he take the longer trip around Cape Horn by sailing vessel?

Mr. Sibley had the active and energetic support, during the entire session of Congress, of the Honorable Stephen A. Douglas, senator from the state of Illinois, and chairman of the committee on Territories. After many sessions and deliberations of the committee on elections of the House of Representatives, a report was made in favor of Mr. Sibley's claim; and about the middle of January the House adopted the report of the committee, and he took his seat as the delegate from Wisconsin territory. By this act the House of Representatives established the precedent that the division of an organized Territory and admitting a part as a State into the Union did not annul the continuance of the territorial government over the portion remaining. The final result was, as before stated, that the act for the organization of the Territory of Minnesota passed and was approved March 3, 1849.

It was many weeks after the opening of the river that spring when newcomers began to arrive both at Stillwater and St. Paul, among whom were several lawyers. The largest number stopped in St. Paul. Their first gathering together was at Stillwater, at which place Chief Justice Goodrich had decided to hold a term of court, under the laws that were in force before the division of Wisconsin territory, which was held during the

second week of August, 1849. A regular panel of grand and petit jurors had been summoned for the term by the sheriff, John Morgan, and Harvey Wilson, clerk.

All the attorneys present were required to take the oath as attorneys under the laws of the territory of Minnesota and made of record. The first on the list was Mr. Wilkinson, as he was the first to settle within the limits of the territory; my name appears as second; then follow the names of David Lambert and Henry Lambert, who both came from Madison, Wisconsin, and located in St. Paul; then James Wakefield, and Wiram Knowlton, the latter a resident of Prairie du Chien, Wisconsin, where he continued his residence and subsequently became a judge of the district court of that State; Charles K. Smith and Alexander M. Mitchell, both residents of St. Paul, who came from Ohio; John S. Goodrich, from Michigan; William D. Phillips, from Maryland; Edmund Rice, from Michigan; E. G. Whittall, from Virginia; Samuel S. Dent, from Kentucky; Putnam Bishop, from Ohio; L. A. Babcock, from Iowa, who located, on coming to the Territory, at Sauk Rapids; Alexander Wilkin, from New York; B. W. Lott, from Illinois; and S. H. Quay and L. B. Wait, from New York.

As I make this record of those nineteen members of the first judicial proceedings in the history of our Territory, on the 13th day of August, 1849, I cannot refrain from a sober reflection, that I am the only survivor, and that ere long my name will be included with the departed, and the record thereof ended.

During the autumn of 1849 a number of other attorneys arrived in the Territory. Among them were Michael E. Ames, from Wisconsin, and Fred K. Bartlett, from Wisconsin, who located at Stillwater in September; H. F. Masterson and Orlando Simons; George L. Becker, from Michigan, who arrived in St. Paul in October; and William P. Murray, from Ohio, who reached St. Paul late in December, arriving just in time to be known as an "Old Settler," thanks to the United States mail carrier, who landed him in Stillwater, bringing with him the first mail through from Prairie du Chien, after the close of navigation.

As before stated, the first legislature divided the territory into counties and judicial districts. The first district, which included Washington county, with county seat at Stillwater,

was presided over by Judge Cooper. The second district, which included Ramsey county, with St. Paul for the county seat, was placed under the jurisdiction of Chief Justice Goodrich.

The second term of the court held in the territory was by Judge Cooper in Stillwater in the month of February, 1850. This term is noted for having the first criminal trial for murder under Minnesota laws. It was a case of a boy about thirteen years of age, by the name of Snow, killed by a companion of about the same age, on Third street, near the corner of Franklin street. The prosecution was conducted by Morton S. Wilkinson and Putnam Bishop; the defence by Michael E. Ames and myself. The firing was from the southerly side of the street, with an ordinary shotgun, directly across the street, where stood the Snow boy, both looking at each other. A single small bird shot penetrated the eye and brain of the Snow boy. The jury convicted the boy of manslaughter, holding that, even in the absence of malicious intent, the firing of a gun across a public highway where people were passing was an unlawful act. Judge Cooper, in pronouncing sentence, there being no penitentiary in the Territory, committed him to the guard house at Fort Snelling for ninety days, during the first two of which, and the last one, he was to be kept in close confinement and fed on bread and water. James M. Goodhue, of the "Pioneer," commenting on the decision of Judge Cooper, said it was a specimen of dispensing justice in homeopathic doses.

Judge Goodrich held the first term of the court in St. Paul, in a public room adjoining the bar-room in the American Hotel, which stood on the corner of Third and Exchange streets, in the spring of 1850. At this term of court was the trial of the first cause in Minnesota in which the United States was a party plaintiff. It was a case where Henry Jackson and his sureties were defendants on his bond as postmaster at St. Paul, in which the government obtained a judgment of about one hundred and fifty dollars for a deficiency in his accounts and remittances.

During the years 1850 to March, 1853, at which time there was a change in the administration of the general government by the election of President Pierce and the appointment of new

judges, a large number of attorneys settled in different towns in the territory, whose names afterward became prominent as leading lawyers, many of whom are still living. William Hollinshead settled in Stillwater in the month of September, 1850; after remaining there the following winter, he removed to St. Paul in the spring of 1851, and soon formed a copartnership which became the well known and distinguished firm, Rice, Hollinshead, and Becker. Among other arrivals were Isaac Atwater, at Minneapolis; S. J. R. McMillan, at Stillwater; and Lafayette Emmett, at St. Paul; all of whom subsequently became judges of the Supreme Court of the State and are still living. Another who came at this time was R. R. Nelson, whom we all know as the present distinguished judge of the United States district court.

Prior to and with the second session of the territorial legislature in 1851, and extending to 1853, began official criticism and censures, political strifes and contentions; and ere long a very general condition of antagonism and animosities prevailed. There were no political organizations nor partisan politics at issue. It was simply a series of personal politics and conflicts. There were the Sibley party, the Rice party, the Mitchell party, the Todd party, the Wilkin party, etc., etc. Each man was for himself, with a "don't care for the hindmost." The judges and other officials did not escape censure and complaint. Among some of them there seemed to exist a want of confidence or respect for each other. Many of the attorneys did not hesitate to freely and openly denounce the judges of the first and second judicial districts as unfit and incompetent to represent the judiciary of the territory; but no charges of corruption or malfeasance were made against them. James M. Goodhue, in his editorials of the "Pioneer," continually added fuel to the flames; he was sensational, exasperating, and even vindictive in his articles.

There are gentlemen still living who were of a self constituted committee who in the early spring of 1851 went to Washington and called on Daniel Webster, secretary of state, to secure the removal of Chief Justice Goodrich, and at the same time called on James Collamer, postmaster general, to secure the removal of Franklin Steele, the postmaster at Fort Snelling. This committee met with no success. The secretary of state,



after hearing their complaints, decidedly and positively declined to give the matter any consideration. General Collamer turned their application over to Henry Fitz Warren, first assistant postmaster general, who, unfortunately for their purpose, was personally well acquainted with Mr. Steele; and their application for his removal was not entertained.

The opponents of Judge Goodrich did not cease in their efforts to secure his removal. There were not wanting other causes of complaint against him during the year 1851, and early in January, 1852; and a letter to President Fillmore was formulated, containing specifications of incompetency as a lawyer and unfitness as a judge, and of improprieties on and off the bench. The letter was signed by a number of prominent attorneys, and was sent to a gentleman now living, who at that time was stopping in Washington, with a request that he make a personal presentation of the same to the president. Whether or not he did as requested, I never knew. The opposition and charges against the judge were sufficient, and in a short time thereafter, in January, 1852, he was removed by President Fillmore, and Jerome Fuller of New York was appointed chief justice of the territory.

The opposition to Judge Cooper arose from entirely different causes. He was considered a good lawyer, technical and precise; he sat with dignity on the bench, which was natural for him; but he was so positive in his convictions that he could not endure opposition to them, and frequently exhibited irritation and sometimes anger to those who differed from him. His refinement in manner and dress was the occasion of ridicule among the hardy and robust lumbermen with whom he came in contact. As early as the winter of 1851 Mr. Goodhue's editorials were overbearing and unmerciful toward him. Friends made an effort to have these attacks upon him cease. It was of no avail. Joseph Cooper, residing at Stillwater, a brother of the judge, took up the matter and made it a personal affair in the defense of his brother. Rumors of threats and personal attacks were in the air. Each had prepared himself for any emergency. On a February morning they met face to face on the sidewalk a short distance above where now stands the Metropolitan Hotel, and the conflict came. I am not aware that it is known which of them made the first attack. A shot

from the pistol in Goodhue's hand struck Cooper over the left groin, inflicting a wound, which, though not fatal, made him an invalid for life. The knife in Cooper's hand made a deep slash across Goodhue's abdomen; it fortunately did not penetrate the intestines, but left his life in peril for many days. This tragedy occurred directly in front of the building where the territorial legislature was then in session.

These personal animosities continued during the year, until the meeting of the legislature in January, 1852. With the appointment of Chief Justice Fuller, the legislature at the same time being in session, a new deal was made in the formation of the judicial districts, as the result of the opposition to Judge Cooper in connection with the removal of Judge Goodrich. Pembina county, heretofore an unorganized county and attached to Benton county, was organized and set apart for judicial purposes. Its population consisted almost entirely of half-breeds, with a few white traders.

On March 6th, 1852, an act was approved setting apart the counties of Washington, Ramsey, and Chisago, as the first judicial district, to which Chief Justice Fuller was assigned. Benton county was made the second judicial district, to which Judge Meeker was assigned; and the new county of Pembina was made the third judicial district and Judge Cooper assigned thereto, thus removing him from Washington county of the first district, where for nearly three years he had been the presiding judge.

Chief Justice Fuller arrived in St. Paul while the legislature of 1852 was in session; and on the third day of May he opened the spring term of the district court, which had a session of about three weeks. The session of Congress that year was the "long" session, and the action of the senate upon the nomination of Judge Fuller was delayed by the strong opposition of senator William H. Seward of New York, which resulted at a late day of the session in the rejection of his nomination. Thereupon President Fillmore appointed Hon. Henry Z. Hayner, of Troy, New York, chief justice of the Territory. There was no opposition to him, and his nomination was confirmed by the senate. He arrived in St. Paul early in the month of September, but too late to hold the fall term of the court. There being no winter term of the supreme court in 1853, Judge

Hayner had no opportunity to preside at any term; his duties were limited to such matters as came before him at chambers. The validity of the act of the legislature known as the "Maine liquor law" was argued before him, and he decided it as unconstitutional.

By the provision of the organic act, the time for which the territorial officers were appointed was limited to four years. During this time there were held only two terms of the supreme court. The first was held in July, 1851, Chief Justice Goodrich, and Judges Cooper and Meeker, presiding. Of the attorneys present, whose names are enrolled on the records of the court, and who still survive, are the Hon. R. R. Nelson, now the senior judge of the United States district courts; Hon. Isaac Atwater and Lafayette Emmett, who subsequently became judges of the supreme court of our State; William P. Murray, Esq., myself, and others. Another session was held in July, 1852, when Chief Justice Fuller and Judges Cooper and Meeker presided.

The terms of the judges having expired by limitation, President Pierce, soon after his inauguration, appointed Hon. William H. Welch, of Red Wing, chief justice; and Hon. Moses Sherburne, of Maine, and Hon. A. G. Chatfield, of New York, judges of the territory, who held their offices for four years, the limit of their appointment.

At the next session of the territorial legislature following the appointment of the judges by President Pierce, there was a readjustment of the judicial districts of the territory and assignment of the judges. Washington county and the counties bordering on the western bank of the Mississippi river constituted the first judicial district; and Chief Justice Welch was assigned to preside over the same, having his residence at Red Wing. Honorable Moses Sherburne, upon his arrival in the territory, located at St. Paul, and was assigned to preside over the second judicial district, which comprised the counties of Ramsey and Benton, with other counties attached thereto for judicial purposes. The new counties west of the Mississippi river and bordering on the Minnesota river became the third judicial district, to which the Honorable Andrew G. Chatfield was assigned, who made his residence at Belle Plaine.

Of the territorial judges appointed by the presidents of the United States during our existence as a territory, two survive,

namely, Honorable R. R. Nelson, of whom I have hereinbefore made mention, and our esteemed associate, Honorable C. E. Flandrau.

With this résumé of the executive and judicial administration for the first four years of our territorial existence, I bring this article to a close, leaving it to others, more familiar and capable than myself, to take up the theme with the Hon. Willis A. Gorman, our second territorial governor, and the judges appointed by Presidents Pierce and Buchanan.

In conclusion, I desire to pay a tribute to one still living, who has passed fourscore and ten years, being now in his ninety-second year, one who was in October, 1836, elected as the delegate in Congress from Wisconsin territory, when the limits of that territory extended from the western shores of lake Michigan, along the northern lines of the states of Illinois and Missouri, to the Missouri river on the west, and to the British possessions on the north, with its capital at Burlington on the Mississippi river. I refer to the Honorable George W. Jones, of Dubuque, Iowa.\* I first made his acquaintance in August, 1845, and last met him in October, 1847. His life and history are an essential element in the history of that Wisconsin Territory, of which are now composed five States of the Union, namely, Wisconsin, Iowa, Minnesota, and South and North Dakota. He has ever been an ardent and zealous friend of every movement for the advancement of the Northwest. In 1838 his political aspirations were checked and his future prospects darkened by his adherence and devotion to the "code of honor" which then existed, in becoming the second of Jonathan E. Cilley, of Maine, who was brought to an untimely end at the hands of William J. Graves of Kentucky. He has ever since retained his residence within the limits of Iowa, either as territory or state. Yet we are justified in claiming him as our first delegate in Congress. Every delegate that has succeeded him, either as delegate from Wisconsin, Iowa, or Minnesota, has passed away, and he the first still survives. Recalling the time when I knew him personally, fifty years ago, I wish to place upon the records of this Society our testimonial in remembrance of him and his services in former days in developing the vast possibilities of this Northwestern territory.

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\*Since this was written, General Jones died July 22, 1896.

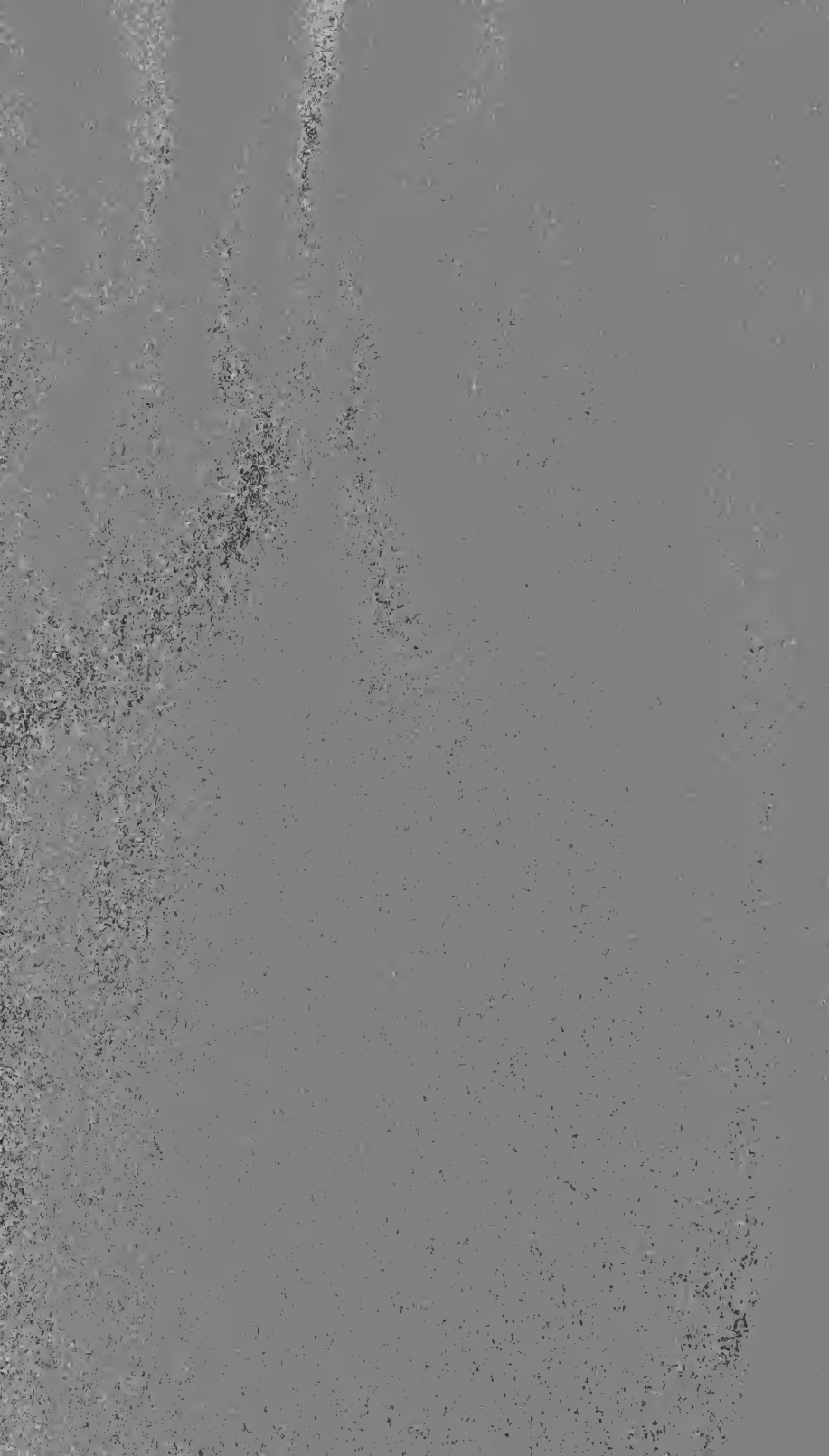












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