

The Story of a Minnesotan

By

Justice Loren Warren Collins

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Foreword

By

Douglas A. Hedin
Editor, MLHP

At his death on September 27, 1912, Loren Warren Collins, who served as a district court judge from 1883 to 1887 and as Associate Justice of the Minnesota Supreme Court from 1887 to 1904, left unfinished two manuscripts: a short history of the establishment of courts in Minnesota and a much lengthier autobiography, *The Story of a Minnesotan*. His memoir was published subsequently (probably in 1919) in an 86 page, compact volume by his sons “for private circulation among friends of their father.”¹ Posted here, it is now available to those interested in the history and particularly the legal history of the state.

Justice Collins’s memoir was reviewed by Solon J. Buck in *Minnesota History*, the quarterly publication of the Historical Society, in 1920:

The Story of a Minnesotan. By Loren Warren Collins, former associate justice of the Minnesota Supreme Court. (N. p., n. d. 86 p. Portrait.)

¹ The book is undated but its one odd footnote on page 66, below, provides a clue as to when it was printed: “Still so, 1919.” Besides, Solon Buck, writing in 1920, states that it had “just been published.”

This autobiographical sketch, written by Judge Collins after his retirement from the supreme bench in 1904, was found among his papers after his death in 1912 and has just been published by his sons for private circulation. It is a narrative of considerable historical interest, not so much for the few striking experiences related as for its vivid portrayal of frontier life and conditions.

The first chapter covers the author's boyhood days in Massachusetts, where he was born in 1838, and gives an account of a "Minnesota Colony" organized at Springfield in 1852, of which Judge Collins's father was a member. The next chapter tells of the family's trip to Minnesota in the winter and spring of 1854, of pioneer farming on Eden Prairie, and of the activities of a claim association. The father sold his claim in the fall of 1855 and took his family back to Massachusetts, but the Minnesota fever was too strong for him and the following year found him keeping a hotel at a boom town named Lewiston, on the Cannon River, near Northfield. The future jurist took up a claim in Goodhue County, but his "ambition to till the soil was washed out" by a terrific hail storm and cloudburst and in 1858 he turned to school teaching. The following year he commenced the study of law at Hastings, and he was soon taking a lively interest in politics.

One chapter tells of Collins's experiences as a member of the Seventh Minnesota Volunteer Infantry in the campaign against the Sioux in 1862, of guarding the Indian prisoners after the outbreak was over, and of the hanging of the condemned Indians at Mankato, which he witnessed. Another chapter is devoted to his Civil War services, which included commanding the military police of St. Louis for several months in 1864, and campaigning in Missouri, Tennessee, and Alabama.

In May, 1866, Collins began the practice of law at St. Cloud. He tells many interesting incidents of life in this frontier community and of his political career, which started with his election as county attorney in the fall

of 1866 and culminated in his appointment to the supreme court of the state in 1887. The famous contest between him and Robert C. Dunn for the Republican nomination for governor is treated only briefly.

To the student of history Judge Collins's autobiography is more valuable than most reminiscent narratives. In preparing it he evidently did not rely wholly on his memory but consulted letters and diaries and in some cases even searched through archives and newspaper files in the endeavor to secure all available information. The book is a distinct contribution to Minnesota history.²

To Buck's observations, it may be added that Collins was a very fine writer. He wrote clearly, directly and concisely; conceit and vanity are absent; he did not embellish his experiences in the Dakota and Civil Wars; and he had the ability to weave colorful anecdotes into his narrative. His *Story* never flags.

But one wishes that he was more frank in describing his colleagues on the Supreme Court. He lists them but does not describe their personalities and work habits, how they interacted, participated in oral arguments and conferences, drafted their opinions and so on.

Justice Collins's autobiography has been reformatted, page breaks and numbered footnotes added by the MLHP; otherwise it appears as first printed.

On October 22, 1912, memorial services for him were held in the Minnesota Supreme Court. The transcript of those proceedings concludes this article. See Appendix, at 85-98.

Justice Collins's "An Incomplete History of the Establishment of Courts in Minnesota" is posted separately on the MLHP.

Once again, the MLHP expresses its gratitude to the staff at the Library of the Minnesota Historical Society. This article and many

² Solon J. Buck, Book Review, 3 *Minnesota History* 299 (1920).

others posted on this website are made possible only because of the collections in the archives of the Historical Society.



**The
Story of a
Minnesotan**

By

LOREN WARREN COLLINS

*former associate justice of the
Minnesota Supreme Court*



Dr. W. G. Louder

Foreword.

Loren Warren Collins, born in New England, but for nearly sixty years identified with the history of Minnesota, first as a farmboy on a settler's claim and during the latter years of his life as a supreme court justice, typified certain things which we like to think are representative of the development of the mid-west—loyalty, fearlessness, honesty.

After Judge Collins' retirement from the supreme bench in 1904, and at the request of members of his family, he devoted some of his spare moments to an informal autobiographical sketch in which he told of experiences before, during and after the civil war. This story of Minnesota was found among Judge Collins' papers after his death in Minneapolis, September 27, 1912.

It is the belief of Judge Collins' sons, who publish the narrative for private circulation among friends of their father, that the story will be of interest to men and women who, like Judge Collins, had their part in the building of Minnesota.

I.

BOYHOOD DAYS IN MASSACHUSETTS — CHARLES P. COLLINS TRAVELS WEST.

MY FATHER, Charles P. Collins, was born at Derby Line, Vermont, in 1810, and about all that I know of his ancestry is found in the genealogy of the Collins family, which starts in this country with Benjamin Collins, who settled at Salisbury, Mass., about 1660. There were several boys and one after the other of them left home and made their way to Lowell, Mass., then a thriving manufacturing city. In just what order they went away, I do not know, except that my father reached Lowell before my Uncle William

My father first met my mother, Abigail C Libby, at Lowell, and they were married in that city. Mother's genealogy appears in the "Libby family" history, where she is numbered 6-3-2-1-12.

At the time of his marriage father was at work in one of the cotton mills, and when I was born, August 7th, 1838, was living, according to the directory, on Suffolk street. The number of the house is not given, but I remember that it was pointed out to me when I was about twelve and on a visit at Lowell, where we had relatives. It was a brick building such as was in common use in those days for mill operatives. Father's name first appears in the directory in 1836. He lived on Suffolk street in 1837 and 1838, but was residing at 52 Merrimac street in 1840 and 1841. In 1841 father moved, with his family, to Cabotville, Mass., a new manufacturing town four miles from Springfield, on the Chicopee river. Here large cotton mills were built and father became an overseer in a dressing room for the Wright corporation. This was then considered quite a responsible position. This room was that part of the factory in which "cotton cloth," now known as "muslin," was finished. Cabotville is now known [6] as Chicopee. My grandfather and grandmother Collins and my Uncle William, with his family, also lived there for two or three years.

I have quite a distinct recollection of some things that occurred at Cabotville while we lived there. On one occasion, my cousin, William

T. Collins, who recently died at Santa Monica, Cal., and I, attempted to cross the factory canal on a narrow foot bridge. He fell off into about four feet of very swift water. I saw him go down the stream rapidly and, of course, made a great deal of noise to attract attention. He managed to keep up until rescued by two or three men who heard my cries and came out of the mill. It seemed to me then that he went down the canal a least a mile, but in later years I visited the place and found that he did not go ten rods.

I remember the accident in which my grandfather lost his life. He was a contractor and engaged upon job of excavating earth for a highway, when an overhanging bank caved in, causing his death. It was several hours before he was taken out of the fallen earth. This was in 1844.

I also remember the return of my Uncle Philip, who had gone to Mexico in Colonel Caleb Cushing's First, Massachusetts Regiment. On the day the Regimen was due to arrive at Springfield on its way to Boston to be mustered out of the service, my father took me to Springfield to meet the returning soldiers. The train, due at 6:00 P. M., was delayed. No one knew when the train would arrive and I went to sleep upon a baggage truck and lay there until about midnight. Then father awakened me and I saw the soldiers, including my Uncle Philip, who seemed a great hero in my eyes.

In 1849, early in January, my father and this same Uncle Philip had the California fever. There was organizing in Boston a company of one hundred and fifty men to go to California. Each man was to pay into the treasury \$300 and with the fund so raised a ship was to be bought and fitted out for the voyage' This was done and, on the 12th of January, 1849, the [7] "Edward Everett" left the port of Boston for California, going, of course, around Cape Horn. The men composing this party were nearly all from Massachusetts, but I think that Uncle Philip and my father were the only ones going from Cabotville.

My mother and I went to Boston to see the vessel sail. A list of its passengers may be found on pages 456-7 "Argonauts of California," by C. W. Haskins.

In the year 1891 Mrs. Collins and I were of a party of G. A. R. men and their wives, going by way of the lakes from Duluth, Minn., to Detroit, Mich., to attend a G. A. R. encampment. We left Duluth about ten o'clock at night and I took along a few magazines, among them a Century for August. The following morning I took this magazine, went up on the hurricane deck, seated myself and commenced to cut the pages at random. On the very first page I cut was the beginning of the story of this California expedition. It was entitled "Co-operative Mining in California in 1849." In this article (Vol. 42, Century Magazine, page 579) one of the members described the voyage and the result, the usual experience of men who undertake to co-operate in any business of that kind. The majority fell victims to the cupidity of a few leaders.

Father and Uncle Philip left San Francisco for the interior without a penny from the sale of the ship and its contents. The "Edward Everett" landed at "Meiggs Wharf," in San Francisco, and the first time I visited that city, I decided to look for the end of this wharf, where the vessel tied up and where my father left it. After reaching the wharf, I looked about with considerable interest. Imagine my surprise when the wharf master told me that if I wanted to go to where this wharf was in 1849, when the "Edward Everett" landed its passengers, I must go back along the street at least 500 feet. The bay had been filled in several hundred feet and the wharf prolonged to meet the new conditions.

I tried to learn from the harbor records what became of the "Edward Everett." She was a new vessel [8] and in excellent condition. It appeared from the books that she had been to San Francisco once after her first visit, but I could learn nothing further, nor did I, upon inquiry at Boston, find out anything about her subsequent history.

Father remained in California about one year. He had a great deal of experience, but it proved very unprofitable. Part of the time he was a mail carrier, part of the time a miner, and he came back with very little money.

When father returned to Massachusetts we were still living at Cabotville, and he brought back to me a five-dollar gold piece which had been coined in a private mint in San Francisco by the "N. G. & N. Co." This gold piece I kept for many years and finally had it made, properly alloyed, into a solid gold ring, which I still have.

During our residence in Cabotville the town was visited by Father Mathew, the great temperance advocate, who delivered several sermons in the Catholic Church. Protestants were very bigoted in those days and many refused to go to the church to hear him. In fact, Protestants then looked upon the observance of Christmas with horror, and that day was observed by the followers of the pope only. New Year's was the day observed in the holidays and usually with church services, morning and evening.

In 1851 the family moved to Palmer Depot, Mass., occupying a house on Main street. There we lived until 1854, when we moved to the Territory of Minnesota.

I remember seeing my father as an officer of the militia company known as the Cabotville Guards, and I now have in my possession a very fine silk sash which he wore as part of his uniform.. The sash was worn around his waist, and over it his sword belt was buckled. James M. Cavanaugh, who afterwards became a member of Congress from Minnesota, Judge Severance, of Mankato, and J. C. Stoerer, of Henderson, Minn., were members of the same company when living at Cabotville. [9]

I had attended the school at Cabotville and the first teacher I have any recollection of was Miss Sarah Cook. Her brother, Samuel A. Cook, was principal of the building, situated on School street. Miss Arms and Miss Cook were the teachers, and I attended a year or two. I also attended the high school in Cabotville for at least one year.

In 1868, two years after I went to St. Cloud to live, I was one of a number of guests invited to N. P. Clark's residence for the evening. While I was engaged in conversation with some gentlemen, Mrs. Coleman Bridgeman, who had resided in St. Cloud for many years and with whom I was well acquainted, suddenly came to the group

and asked me if I was the Loren Collins who attended school in Cabotville in 1847. Upon my replying that I was, she informed me that she was the Miss Cook who had been my teacher. She stated that while she sat across the room looking at the group of men, some gesture of mine reminded her of her young pupil, and it came to her that I was the lad. I had probably seen and talked with her fifty times before she made that discovery, but her identity was concealed behind her husband's name. Mrs. Bridgeman was a most excellent woman and was greatly liked by all who could become well acquainted with her. Her brother, before mentioned, became a very prominent citizen of western Massachusetts, residing, I believe, at Ludlow. I met him a great many times at St. Cloud, where he frequently visited up to the time of his death. Very few men secured the good will and deep respect of their associates as did Mr. Cook.

While we were residing at Palmer, in rooms in the second story of a business block, a burglar opened a window and got into our apartments at night. My father heard him, dashed out of his bedroom, chased the burglar to the landing which led to the street and caught the man. It was a desperate struggle as to who should be thrown over the balcony rail, fifteen or twenty feet from the ground. Father was successful. When the burglar struck the ground his neck was [10] broken. There was great commotion in the little village, and the Boston detectives, coming out next day, recognized the fellow as a notorious crook who had served two terms in state prison.

At Palmer we had a traveling high school. It moved from one village to another. Under the law, as it then existed in Massachusetts, each town having a certain number of inhabitants was obliged to maintain a high school. Palmer had the prescribed number, but several villages did not: the Depot Village, in which we lived, Thorndike, Three Rivers, Bondville and Duckville, small manufacturing places. There was more or less contention between these small villages as to just when the high school should be located in each and for what length of time, but after some experiments, a compromise was effected and the school was located for two terms in succession at the town house, midway between Three Rivers and Thorndike, about one mile from each. The school then traveled on to the Depot Village for a like period. When the school was at the town house, eight or

ten boys who attended from the Depot Village, myself one of them, hired a conveyance and drove back and forth. Among the teachers at this high school was a man named Chamberlin, who seemed to be more successful with me than any high school teacher I had met. In the summer of 1853, while my father was in Minnesota, I attended Mr. Chamberlin's private school at Southbridge, Mass. I am free to confess that, as a mathematician, I was not a great success. History and geography were easy for me, but number work I disliked. In fact, I came near being a total failure at mathematics.

While I lived in Palmer, Kossuth, the noted Hungarian, passed through and appeared on the platform of the car. He wore the Kossuth hat, a black felt with a large black feather or plume on the side. This hat, including the feather, became very popular at once and nearly every man and boy wore one. The hat, minus the feather, still remains with us, and is known as the Grand Army hat. [11]

In the fall of 1852 there was organized at Springfield what was known as the Minnesota Colony, the plan being to secure at least one hundred men who would emigrate to Minnesota in the spring of 1853. Money was paid into a common fund and the colony organized by the election of officers, who were to select two members to go to Minnesota in the fall of 1852 and locate the colony. Two ministers were selected as such pioneers. I regret that I cannot give the names of the colonists. The newspapers in Massachusetts were entirely silent about this colony and the Minnesota papers seem to have known very little about it. I have had the Springfield papers of the proper dates carefully examined and no mention whatever is made of the colony.

The members, eighty-three in number, left Massachusetts in April, 1853. The promoter of this expedition had entered into a contract with its members to transport them from Springfield to St. Paul, but when the party reached Galena, Ill., where a boat was to be taken for St. Paul, he was out of money. This led to more or less trouble, but finally a reorganization was had, the travelers embarked upon a steamer called the "Time and Tide," and, after three or four days on the Mississippi, reached St. Paul. It was raining great torrents, when they arrived. The two ministers, who had been sent out, had failed to

determine upon a location, although they had tentatively agreed that headquarters should be where the town of Faribault now is. The weather and the unpleasant experience with the promoter tended to make the men dissatisfied. Many were homesick and the colony disbanded at St. Paul. I think at least half of the men were back in Massachusetts within ten days and the papers were filled with tales of their unpleasant experience and descriptions of an alleged desolate country which they had visited.

Some fifteen or twenty of the men who determined to remain—among them my father, a man by the name of Arba Cleveland and Henry Collins (not related to our family in any way)—started on a trail across Da-[12]-kota county, which led to the Cannon river, a short distance below where the town of Northfield has since been built. They had hired a team of horses and a wagon and had bought provisions for the trip, but on reaching the Cannon river, several of the men, including the three mentioned, made up their minds to return to St. Paul. They sold out to their associates, who went on to Faribault, and then returned to St. Paul. The three then walked to St. Anthony, a little village built about where the corner of Main street Central avenue, East Minneapolis, now is. There they were told of a very fine section of the country about a large lake some twelve or fifteen miles west. They also learned that a man named Simon Stevens had commenced to build a mill on a stream near the road to the lake and was anxious to get men to work for him. They walked out to where Stevens was putting up his mill, at Minnetonka Mills, and there got employment as carpenters or millwrights.

After working a few days, they went to the lake, Minnetonka, early one Sunday morning, hired a boat from a settler, rigged up a sail and made their way to about where Excelsior is now located. From there they went southerly a few miles through the wilderness into Carver county and made claims on what is now called Lake Hazeltine, in the township of Chanhassen. The government surveys had not then been made, nor was the lake named.

After spending a few days on these claims and making some improvements, the three returned to Minnetonka Mills. Father and Henry Collins never went back, but Cleveland returned and lived

there until 1860, when he was drowned as hereinafter stated. He pre-empted lots 4 and 5 and W¹/₂ of SW¹/₄ of Section 21, Township 116, Range 23, which land lies at the west end of the lake. The surveys were made a year or two afterwards and on the plat made by the government surveyors improvements were noted at the southwest corner of the eighty acres mentioned. Undoubtedly that was the point where Cleveland did his first work. Similar improvements were noted upon [13] lot 6, which lies to the east of Cleveland's claim, and as my father's claim was on the east and joining Cleveland's, I think it safe to say that, these were his improvements.

In July, 1860, Cleveland, with his wife and children, was visiting his brother-in-law, the Rev. Mr. Nichols, who was then pastor of the newly organized Plymouth Congregational Church, of Minneapolis. On the 5th of the month Nichols, with his family, started with Cleveland and his family for Chanhassen. It was a very warm day and the party concluded to go in bathing at Lake Harriet. Several got beyond their depth and Mr. Cleveland, two of his children, Mr. Nichols and his wife and son, were drowned. George Brackett, of Minneapolis, now living, was among the men who took the bodies from the water. A full account of this accident was published in the Falls Evening Star, July 7, 1860.

I have endeavored in many ways to learn something of the members of this Massachusetts colony. It seems that a man by the name of Thompson, of Amherst, Mass., was very prominent. He had two brothers, George W. and John A., residing in Chicago, and in the Minnesota Democrat, of May 4, 1853, is found some reference to the arrival of this colony in Chicago. The St. Anthony Express, of May 6, 1853, contains two brief articles referring to the colony. In one it is called the Massachusetts colony and in the other the North Hampton colony. In the St. Paul Pioneer, of May 5, 1853, reference is made to the North Hampton colony, but careful search of the Minnesota papers of those dates has not been of value in ascertaining its membership, or where the members settled. Mr. Standish, a clergyman, and a man by the name of Crump were among those who located at Faribault, while another minister by the name of Loren C. Collins remained at St. Paul. He bought out a squatter on Dayton's Bluff and finally pre-empted 160 acres of land there. Mr. Collins afterwards

subdivided his land into "Collings' Outlots," adopting, as will be noticed, a new (or old) method of spelling his family name. He was the [14] father of Judge Loren C. Collins, of Chicago, now a member of the United States Court in the Panama Canal zone. Mr. Collins, the elder, left St. Paul about 1860 and went to Monticello, Minn., where he undertook to preach. He was not orthodox enough for his flock, and about 1863 removed to Evanston, Ill., where he died, several years ago. He was of the Massachusetts family of Collins as was the Henry Collins before referred to. We were never able to establish a relationship between his family and our own, although we spent a good deal of time in trying.

After working a few days more for Mr. Stevens, father and Henry Collins concluded to go down toward the Minnesota river and visit what was known as Eden Prairie, a beautiful tract of land lying a few miles below and across the river from Shakopee, then a little village. On arriving at the Prairie they found a great disturbance and a lynch court in session. A man named Gorman, who had squatted upon a very desirable piece of land, had gotten into an altercation with a squatter by the name of Samuel Mitchell. These men were Irishmen, Gorman a Catholic, and Mitchell a Protestant. This may have intensified the feeling between them. Gorman had filled Mitchell's left arm full of shot and the court gave its judgment that Gorman must get out of the country with his family within twenty-four hours. He had staked out the claim I have mentioned, had built a log house and had ready for crop about two acres of land. Luckily for my father he had about \$100 in gold with him, probably more money than any other man in that community possessed at that time. Gorman sold out to him for the \$100 and father took possession.

There were then a dozen or fifteen settlers in that vicinity, among them the Goulds, the Mitchells, Mr. Abbott and Mr. Gates. There came about that time Mr. Staring, who lived immediately east of us. There was an unoccupied tract of land upon the west, which my father laid claim to for my Uncle William, who then resided in Granby, Providence of Quebec. The land was not surveyed by the government and to get [15] a starting point for staking out claims, which were supposed to be 160 acres each, it was necessary to go about twelve miles toward Fort Snelling, the fort being about seven-teen or eighteen miles distant.

Father's was a fine claim, about one-half prairie and one-half timber. On the west side of the claim was a pretty lake, then known as Collins Lake, but afterwards as Red Rock. At the northeast corner of the claim was another lake which was named after Mr. Staring. It was a beautiful country, and the soil fine, indeed, but there was one great drawback. In order reach water by digging, we had to go through at least one hundred feet of white sand.

My Uncle Shubael joined father in the fall of 1853. During that summer some fourteen or fifteen acres were broken up and the two acres, which had been previously made ready for seed by Mr. Gorman, were planted to corn and potatoes. Father hired a yoke of oxen to use during the summer, and kept one cow.

II.

BY WAGON AND BOAT TO SNELLING — FARMING ON EDEN PRAIRIE IN 1854

IN THE FALL of the year my father returned to Massachusetts, and in the winter we came by rail to Buffalo, by boat to Detroit, and from there by rail to Adrian, Michigan. Father's idea was to buy cattle and provisions in the vicinity of Adrian, thinking that they could be bought much cheaper there, than farther west. Upon inquiry he found that the freight rates were so high that it would be cheaper to buy in the vicinity of Galena, Ill. Thereupon we moved from Adrian to Galena and, renting a house, spent some two months there before the river was free of ice. In the meantime father made trips into the country and bought two yoke of cattle, three or four cows and a two-year-old white heifer, of which special mention will be made later. Cattle were scarce and expensive and the farmers took occasion to work off everything in the way of unruly animals upon the tenderfoot. Father also bought a wagon and a stock of provisions, as everything in the way of provisions, groceries and grain had to be taken up the river by boat. I remember seeing at Galena large tiers of pig lead piled on the river front or levee. The bars were about twenty inches long and from two to three inches thick, weighing about 100 pounds. It was a favorite amusement of the boat deck hands to lift these bars of lead, which were brought in by teams from the surrounding mines. Galena was in the center of the largest lead mines in the United States at that time. Some of the men could lift these bars with their teeth which was regarded as a great feat—and it was.

Galena is some ten or fifteen miles up the Fever river from the Mississippi and this river at that time was easily navigable by the largest boats. Galena [17] long since lost its prestige as a shipping point, and I believe that no boats whatever now ascend the Fever.

We traveled by rail from Chicago, then a place of about 30,000, to Warren, Illinois, and from there went to Galena by means of the old-fashioned canvas-topped stage, known as the "mud wagon." The railroad reached Galena soon after the 1st of May, 1854.

In early May we embarked on the steamer "Nominee," which was then the fastest boat on the river. It had the record of having made the trip from Galena to St. Paul in 2 days, 17 hours and 30 minutes. At the head of the flag staff was a new broom, which indicated that the boat had beaten every other vessel then running on the river north of Galena. The captain was Russell Blakely, who for many years commanded the best boats belonging to the Packet Company. After retiring from the river, he lived in St. Paul and was a highly respected citizen for many years. The mate was also a well known riverman. His name was Laughton, and he soon became a river captain, serving in that capacity until his death.

My Uncle William, with his family, had joined us at Galena, and with a few head of cattle, a wagon and a supply of provisions, came up the Mississippi river on the same boat. We reached St. Paul about ten o'clock on May 7th, and I remember very well that the thing which



THE CAPITOL.

attracted my attention most was the newly tinned cupola of the Territorial Capitol building, which had been erected two or three years before by the general government.³ The building was of brick, two stories high, about 35 feet wide and 70 feet in length, standing where the "Old Capitol" now is.

Two additions were made to this building after Minnesota became a state, one toward Cedar street, the other on the Wabasha street end. It was this building, with its additions, which was burned during the legislative session of 1881, while I was a member of the house. The Capitol building stood, it seemed to me, a long distance from the rest of the town. St. Paul was then divided into upper and lower towns, the upper being in the neighborhood of the present Metropolitan Hotel, [18] with an upper levee for steamboats. The center of the lower town was about where the Merchants Hotel stands, with a boat landing at the foot of Jackson street. There were at least fifteen steamboats at the lower

³ This etching of the capitol is from J. Fletcher Williams, *A History of the City of Saint Paul and of the County of Ramsey, Minnesota to 1875* 339 (Minn. Hist. Soc. Press, 1983) (published first, 1876).

levee when we arrived there, all busy in unloading. They were packed with passengers and freight coming up the river, but going down they carried little, for there was nothing to ship. The first shipments of any consequence were potatoes, in the spring of 1855 and for two or three years after that nearly all the flour and grain used in the territory was brought from Galena.

Father took a pair of oxen and his wagon from the boat, and we made our way up a very steep hill from Jackson street to Third. From there we went up Third a block or two. There we met an obstruction in the way of a very large body of stone which stretched across the street and compelled us to go around toward the river to the edge of the bluff and make our way there for two or three hundred feet. We then came back to Third street, went as far as the corner of Wabasha, on which there were a very few buildings, and came to about where Schuneman & Evans now have a large department store. There we found a flour and feed store kept, in a small frame building, by Mr. A. Varenne, with whom father had dealt the summer before. While we were there, Mr. Varenne brought from the boat a new sign which had been made at Galena to adorn the front of his building. It contained simply the name "A. Varenne," but he was exceedingly proud of it and took everybody into the street to look after it was put up.

Father bought some flour and feed and we drove back to the boat. About five o'clock in the afternoon the "Nominee" steamed up the river as far as Fort Snelling, taking at least one-fifth of its passengers and freight. We tied up at the ferry boat landing at the foot of the hill under the old fort and began to take off our cattle and freight. The hill was very steep leading up to the fort, and father, aided by the boys, commenced to take our goods in small wagon loads to the [19] top of the hill so that we could properly load them. My mother, Uncle William, Aunt Isabel and the small children had been transferred at St. Paul to a small steamboat called the "Iola," which was to take them up the Minnesota river to Hennepin Landing, a mile or two from our claim at Eden Prairie. The boat was making its trial trip and did not arrive at Hennepin Landing for about twenty-four hours after it started.

One of the wagons was left at the top of the hill while father went back for more of the goods. I was told to take care of the cattle. Among the cattle was the white heifer I have spoken of, a very wild animal. Father put a rope around her horns, and gave me the rope to hold while he went down the hill. I put the rope around one hind wheel of the wagon, thinking I could hold the animal better in that way than any other. While I was standing there in the twilight, six or seven soldiers came out of the fort for guard duty and when they passed me, the heifer became frightened, gave a jerk upon the rope and necessarily upon the wheel. The wagon had not been properly coupled and when the animal at one end of the rope and myself at the other brought pressure upon the wheel, the hind wheels separated from the front and the wheels, the heifer and the boy went very hastily to the foot of the hill. Part of the time the wheels were off the ground, some of the time it was the heifer, but it seemed to me that it was the boy who filled air space the greater portion of the period consumed in the descent. This mishap created great consternation, not only among the representatives of Uncle Sam, but among the people who had just left the boat. It was my first encounter with the United States Army in any way, and I was badly scared.

Fort Snelling was then occupied by a company of infantry and a battery, then known as Sherman's Flying Artillery, the battery being moved with horses, a new feature just introduced into the army. The captain was T. W. Sherman, who had lost an arm in Mexico. He became a brigadier general in the Civil War. In the spring of 1865 he was in command at New Or-[20]-leans and I was there with my regiment. I called upon him with Colonel Marshall, with whom he was well acquainted when stationed at Snelling, the colonel, then being a resident of St. Paul. I told General Sherman my first experience with troops under his command and he was much pleased to hear my story. Nothing was too good for Minnesotans meeting General Sherman while he was stationed at New Orleans.

About ten o'clock, after we landed at the fort, we started three wagons with a pair of oxen on each and about ten head of cows and young stock. It was a beautiful night, with full moon, and after traveling a mile to what was known as Bloomington creek, we stopped to graze the cattle and to rest. We all got more or less sleep,

and it was eight in the morning before we were able to start the cavalcade. We arrived in sight of our future home under most auspicious circumstances. The weather was mild and the sun shining brightly when we came to a place from where father pointed out the log house in the edge of the woods. There was a stove-pipe through the roof and the smoke was coming out. My Uncle Shubael had remained an occupant of this house all winter, that he might hold this claim of my father's and the one next to it, which had been selected for my Uncle William. For some reason, which I cannot now give, Uncle Shubael had no desire to become a farmer and did not take a claim as was the universal custom of the men at that time. He was something of a hunter and trapper, and had made good use of his time during the winter, and had a good assortment of furs—otter, mink, wolf, fox and smaller animals. He had killed several deer and was tanning the hides at the time we arrived. He had also caught and salted several hundred pounds of bass, pike and pickerel. There were no trout in that immediate neighborhood and I think it is a fact that until trout fry were planted in the streams (about 1880) no trout could be found in Minnesota north of the Minnesota river and west of the Mississippi. This is rather singular because there were plenty of trout in the [21] streams flowing easterly into the Mississippi river south of the Minnesota and in the streams in Wisconsin flowing westerly into the Mississippi.

Having lived all my life in a factory village in an eastern state where there was no game of any kind, it can be imagined how delighted I was with the prospects for fishing and hunting in our new western home.

My uncle and his family had to live with us until he could build a house, which he did immediately on our arrival. I think he was occupying it in less than six days after we reached Eden Prairie. We had to fence the land we cropped, for cattle were allowed to run at large by common consent. Every man who wanted fence posts or fence rails helped himself and cut them at the most convenient place on government land. We had sixteen acres to put into crop and seed grain was very expensive. By this time father had little money left and we were without seed, except potatoes, for about three acres of our land. Potatoes were of very little value and it was doubtful if it would

pay to plant them, but as we had nothing else to put into the ground, father concluded that he would seed the three acres with potatoes, of which he had plenty of the kind known as Irish Reds, a round potato of exceedingly fine variety. He sowed a few acres of wheat, two or three acres of oats and planted two or three acres of corn. And, of course, we had a garden.

We had to build a yard for the cattle at night and some sort of shelter for them, and we also had to build pig pens. Lumber was almost unobtainable, so these structures were largely of logs. They had to be very well built, strong, as well as high, in order to keep cattle and hogs out of the fields. I remember that we had one hog that would climb anything in sight and what she could not climb she would dig under. Many a time in the summer of 1854 and 1855 did I chase that animal and her offspring back into the pig-pen.

We got our crop in in good season and then turned our attention to breaking more land. In the fall of 1854 father had from 25 to 30 acres of land broken up. It is not out of place for me to say that the change [22] from the factory village to a farm for a boy who was never very strong and usually in rather poor health during the summer months, was very marked. Among other things it gave me a most tremendous appetite. Our food consisted mostly of potatoes, bread (wheat or corn), beans and plenty of game. Ducks, chickens or fish could be had by going a few hundred feet in almost any direction. I know that with an early breakfast two hours' work in the field would make me so outrageously hungry that I would begin to look for the signal that the early dinner, which we had at half-past eleven, was ready at the house.

We had no well and all water that was used, except such as might be caught from the eaves of the house, was hauled from the lake, nearly a half mile distant. Father rigged up a crotch of a tree, upon which was placed a water barrel, and this was dragged back and forth with the yoke of cattle. Starting from the lake with a full barrel, we had good luck if we reached the house with half of it. Water was really a scarce article, although there was plenty of it in sight. I had a log canoe, or dug-out, on the lake and learned to handle it as well as an Indian.

Quite a number of settlers located in the vicinity of our home in the summer, and among them was the Henry Collins, before mentioned. He had gone east with my father in the fall of 1853 and while there lost his wife. He returned to Minnesota in the summer of 1854, locating on what was known as Brush Prairie, three or four miles from our place and not far from where Eden Prairie station now is.

A near relative of my mother's, a widow, Mrs. Beebe, with her family, among them a married daughter and her husband, Mr. Butterfield, came during the summer of 1854 and made claim near that of Henry Collins. Mrs. Wm. H. Conner, of St. Paul, is a daughter of Mrs. Beebe. Henry Collins afterward lived in the Smitten family near St. Cloud and on a homestead in the vicinity of Fort Ripley.

In the summer when the corn began to get into the milk stage, we had a great fight with the blackbirds. [23] They would swarm down upon the fields and, picking open the heads of the ears, would spoil practically every ear they touched. Scare-crows were of no service in keeping the birds off, and finally the boys were put into the fields, upon little elevations made of fence rails, with guns loaded with powder and shot. We killed hundreds of birds in order to save the corn. We had good crops of wheat and oats and also a most remarkable yield of potatoes, so large in fact that we had to build a root cellar in the hillside out of logs. We dug potatoes and picked them up that fall until I was nearly worn out, but in the spring the demand for potatoes was so great that father sold them at \$1.05 per bushel. This gave him a large amount of ready money and he bought a pair of horses. There had been, up to that time, but two pairs of horses on the prairie, so father became quite a prominent man in the community.

I do not remember anything about the local politics, but I do know that Mr. Abbott was Justice of the Peace, and I remember that in the fall of 1854 we had an election, at which county officers were elected. Of course, there were democratic and whig tickets. I believe that the temperance people were also in the field with candidates.

There were plenty of Sioux Indians living in the vicinity of where Excelsior now is, and about the east end of Lake Minnetonka and

there was a large village close by Shakopee. Shakopee was named after the chief of that land. The Indian agent, Major Murphy, lived close by the Indians in a stone house, which is still standing on the bank of the Minnesota river.

A reddish colored stone about two feet high stood a half mile west of our place on the Indian trail leading from Minnetonka to Shakopee. Around this stone the Indians used to gather, engaged, apparently, in some religious exercise and in smoking kinnikinic.⁴

Our trading town was St. Paul, but occasionally we went to St. Anthony, then a village of about 1,000. The principal street of St. Anthony was Front or Main Street, and the principal corner was where this street intersected First avenue southeast. [24]

My cousin William and I raised, that summer, a quantity of nice watermelons, the seeds having been brought from Springfield. In the fall we loaded up two wagons with these melons and, with oxen as the motive power, started one afternoon for St. Anthony. We had to make our way down toward Fort Snelling until we came within about two miles of the fort. Then we turned towards our destination. It was a long and tedious trip. We camped out over night and did not reach the west bank of the Mississippi river, opposite St. Anthony, until two or three o'clock the next afternoon. We fed our cattle in a grove not far from where the Nicollet House now stands, then started for the ferry, which swung across the Mississippi river about where the stone arch bridge now is. The island was heavily timbered and the road ran across at an angle, coming out at a bridge on First street south. This bridge, I remember very well, because it was much higher at one end than at the other. A painting of the bridge is now in the possession of Col. L. W Campbell, of Minneapolis. We got up onto the street just about the time the men were coming out of the mills, sold our watermelons and went home with ten dollars each, the proceeds of our first farming. It was a three days' trip and a very tiresome one for the boys as well as for the cattle.

I went to school in a log school house near my Uncle William's during that winter, but cannot now state who the teacher was.

⁴ Mixture of plant leaves or bark and tobacco or berries which was smoked by Indians.

In the spring of 1855 we put about twenty-five acres in crop. About the 1st of May the United States surveyors appeared and very soon established our lines. We found that the squatters had been generous in their measurements and it was a lonesome man who did not have at least 400 acres in what he called his 160. My father had fully that much. He disliked to part with any of it, but he could only pre-empt 160 acres under the United States laws. My Uncle William, who had been looked upon as very unfortunate because he had only an 80-acre claim, found that he had nearly 200 acres. [25]

President Buchanan immediately put this land in the market and a more heartless act could not have been done. The settlers were all poor and without means to pay for their land. The pre-emption law required that payment at \$1.25 per acre should be made within six months after the filing of a declaratory statement, and this statement could not be filed until the land had been unsuccessfully offered at public auction. The land was offered for sale in the fall of 1855, and this made it necessary for the settlers to organize claim associations. These associations did not hesitate about taking the law into their own hands and by main strength prevent any interference with their claims.⁵

We had a claim association of over fifty men and boys at Eden Prairie. My father was president and ex-officio captain. The public sale for our land district was held at Minneapolis, which then consisted of a few houses and stores, part of them located about where the Union Depot now stands, and the balance in the vicinity of Eighth avenue south and Washington avenue. The land office was toward the river from where the Wisconsin Central freight station now is. The settlers composing the claim associations came to town well armed and camped in large numbers. When the tracts of land in which our association was interested were offered for sale, my father stood outside at the window of the building where the verbal bids were made. When a tract was offered which we wanted to save for a member, father indicated to the bidders to refrain from bidding

⁵ Thus far there is only one scholarly study of claims associations or "claims clubs" in Minnesota: Charles J. Ritchey, "Claim Associations and Pioneer Democracy in Early Minnesota," 9 *Minnesota History* 85-95 (1928). Professor Ritchie was heavily influenced by Frederick Jackson Turner's frontier thesis.

and they did so. There was much competition among the bidders for other tracts, some selling as high as four and five dollars an acre. Immediately after the sale, each settler filed his declaratory statement, which was a blank filled out to comply with the law, stating the government description of the tract desired, date of settlement, when the improvements were made and whether the declarant was a native born citizen or naturalized. This last requirement led to a somewhat novel situation for my father and Uncle William. They were born in the same room, in the same house, but when the latter [26] removed to Lowell from Vermont, he supposed that the house was in Canada, just over the line, and immediately declared his intention to become a citizen shortly after this a new survey showed the house to be in the United States. Of course, uncle and father were native born citizens, but Uncle William, fearing trouble should he then claim that he was native born, went on and completed his naturalization by taking out his second papers. My father found it unnecessary to take any steps towards naturalization. This land sale, as I have stated, caused great distress among the settlers and nearly all of them had to borrow money at 3 per cent a month when they proved up, which was required to be within six months after they had filed declaratory statements. It will be remembered that we had no homestead law at that time; the southern Democrats in Congress having steadily opposed that measure. It may be asked why the settlers did not postpone filing and again protect themselves through claim associations. This plan was agitated but finally abandoned as unsafe. The homestead law did not come until 1862,⁶ at which time the before-mentioned congressmen were otherwise engaged.

In the fall of 1855 my father was offered \$10 an acre for his land. He was in debt, having paid for his own 160 and bought out a man by the name of John Moriarty, who had pre-empted a part of father's original claim. Father sold out and we returned to Palmer. A few days ago (1907) I met Moriarity, a resident of the Soldiers' Home at Minnehaha.

In the spring of 1856, father returned to Minnesota and unfortunately located at a new town called Lewiston, on the Cannon river, about five miles below a rival, town, Northfield. Uncle William remained at

⁶ For the text of the law, see "The Homestead Act of 1862" (MLHP, 2009-2012).

Eden Prairie for a number of years afterward and then removed to Minneapolis. He had to give one 80 for money enough to pay for the 160.

I did not see Eden Prairie again until 1903, when I drove out one Sunday with my boys, taking dinner at the house of George Moran, a relative of my Aunt Isabel. After dinner, Mr. Moran took us down in the [27] woods and there we found what was left of a sled rave,⁷ which had been broken and a new one put in, when my father and Uncle William were helping themselves to government timber with which to make fence rails. This trespass must have been in the winter of 1854 and 1855. Mr. Moran was living there at the time, a very young man. He knew of the breaking of the sled rave and had kept track of it all these years. The boys brought away pieces of this rave in which were hand-made nails.

⁷ A dictionary definition of "sled rave" has not been found. It may refer to runners fixed to the bottom of a sleigh or sled used to haul timber or other heavy loads and pulled by oxen or horses.

III.

TEACHING SCHOOL AND STUDYING LAW— STRENUOUS POLITICS IN PRE-WAR DAYS.

IN THE FALL of 1856, I came west again and found my father keeping a hotel at Lewiston. The building was not quite finished. We had accommodations for about thirty persons and the house was quite a pretentious frame building, well painted and with a stone basement. Father also had a good barn for that new country.

Lewiston had been laid out as a townsite by a man named Charles Lewis. Lewis had several sons. He was a rather rough man in speech and actions. Lewiston was located on the SW¹/₄ of NW¹/₄ of Section 14, SE¹/₄ of NE¹/₄ of Section 15, SE¹/₄ of Section 15, NW¹/₄, of NE¹/₄ of Section 22, Township 112, Range 19, Dakota county, and when I arrived I found a hotel kept by Mr. Lewis and the hotel kept by my father, a store kept by a man named Casey, who was also building a dam across the river, and a small flouring mill. A man by the name of Velie was building a saw mill; John Hunter was a blacksmith and had a very good stone shop. There were a shoemaker's shop and three or four dwelling houses. A bridge had been built across the river and Lewis had a race track out on the prairie not far from his house. We were on the stage road from Hastings (east twenty miles) to Fari-bault (about the same distance west). White & Hill ran a line of stages over this road, stopping for dinner at our hotel. Sometimes three stages traveled together on this line. In fact, it was quite a thorough-fare, all freight going into the country west being hauled through Lewiston.

Hastings was something of a wheat market then and many of the farmers hauled wheat fifty and sixty miles to that place, selling it for from forty to fifty [29] cents a bushel. Of course, these men did not patronize hotels much, but our business was fairly good until the fall of 1857, when there came a panic and a very sharp season of liquidation. My father, who had become somewhat indebted in building the hotel, lost the property, and I believe that the house was never kept as a hotel after that. In fact, Lewiston soon disappeared, one building after another being hauled away for use upon farms.

Northfield had the better location and the better people for upbuilding a town, and naturally and inevitably became the principal village in that section. A few days ago I went over the Chicago, Great Western Railway, from Northfield by way of Randolph to Minneapolis. We passed over the old townsite of Lewiston, now a farm, and I saw nothing to indicate that it had ever had any pretension to being a village.

While we lived at Lewiston it was very gay and there were many well patronized balls at the hotel. We had from fifty to sixty couples at each party, and in addition to the ball-room upstairs we frequently used the dining room for the dances.

It was at the hotel in Lewiston that I first saw the late Judge C. E. Flandreau. He was then Indian Agent and was making his way on horseback from Faribault to Hastings. He had a party of twelve or fifteen men with him, all full blood or mixed blood Indians, and they stopped for dinner. Judge Flandreau was very tanned and clad in the garb of the Indian, as were his associates. It was with great difficulty that I determined which one of the party was the white man, Flandreau.

In the summer of 1857 a friend by the name of Shatto, about my age, and I concluded that we would take up land for our own use under the pre-emption act. He and I went horseback across the country some twenty miles into Goodhue county, where we concluded to take claims upon the prairie two or three miles from the little village of Kenyon. We came back the next day and a week later my father and I started with two yoke of cattle, wagon, plow, a small cook Stove, some bedding and provisions for the claims. We [30] took a saddle horse and made the trip in one day, reaching our destination about dark. We took possession of a small shanty made of oak boards, with a flat board roof, that happened to be in the neighborhood, and set up housekeeping. The next morning we commenced to break up a tract of about ten acres, half on my claim and half on that of Shatto. We had previously filed our declaratory statements. Father stayed that day and until about noon the next, then took his horse and started for home.

The following day was exceedingly hot and sultry and I worked the cattle very carefully, turning them out to feed about eleven o'clock. While they were resting and feeding, I was at work upon a shanty of mi own, having found enough boards in the vicinity to appropriate for that purpose. About two o'clock in the afternoon, I noticed the sudden shifting of the wind, which had been blowing from the south. The wind veered to the north and I could see in that direction a small, black cloud. I knew what this meant and began to round up my cattle and get them attached to the wagon. Putting in the plow, I started for the shanty with the cattle. Before I got there the hail-stones began to fall. I had only time to unhitch the cattle from the wagon and let them go—I did not have time to take off their yokes. I ran into the shanty and attempted to close the door, but about that time the wind took off the roof and blew down the balance of the cottage. I crawled under the door, holding it down while the hail came down without cessation for fifteen or twenty minutes. This was followed by what seemed to be a cloud-burst. I never saw water fall as it did at that time.

When the rain ceased I crawled out and looked around. My stove was broken, everything was water soaked, except some provisions which I had in a bucket which had a cover, and my cattle had disappeared. I considered matters for a few minutes and concluded that the only thing I could do was start for the hotel at Kenyon, some two or three miles away. I was drenched. My boots (all wore boots in those days) [31] were soaked with water and very soon hurt my feet so I had to take them off. I made my way into Kenyon and there saw the great destruction which had been done by the hail. There was not a whole pane of glass in the little village and the inhabitants were engaged in patching up their windows with boards and blankets as best they could. The crops were entirely destroyed. Many people had suffered by being struck by hail-stones, some of which were as large as hens' eggs.

I had in my pocket \$1.50, and I told the landlord, Mr. Bullis, my condition and that I wanted to stay over night. He took me in the kitchen, where I met Mrs. Bullis, a very kind-hearted lady, and she planted me back of the kitchen stove, where I sat until I was partly dried out. When supper was ready I went to the table and, much to my surprise, met a Hastings lawyer, with whom I had some

acquaintance, Seagrave Smith, who afterwards became one of the judges of the District Court of Hennepin county.⁸ Mr. Smith had previously suggested to me that I study law, for he knew that I had taken part as counsel in a number of justice suits at Lewiston. We had a justice there by the name of Byron who managed to keep the people of that neighborhood in trouble all the time and I practiced in his court. I knew the statutes very well which was all that was required in order to practice in justice court. Smith urged me to give up the idea of becoming a farmer and take up the study of law. This was the first time that I really thought seriously of becoming a law student

The next morning, bright and early, I started out bare-footed to look for my cattle. Following Mr. Bullis' advice, I went to the timber, where I had no difficulty in finding the cattle, for they could not go a great ways in the trees on account of the yokes. I drove them out to where I had left the wagon, hitched them, loaded my plunder and started for home. Reaching Kenyon I had to buy something to eat on the road. I had fifty cents left with which to make the purchase, my hotel bill having been one dollar. [32] I ought to say Mr. Bullis at first declined to take any money, but I insisted upon his taking the dollar and he did. In later years I became well acquainted with the gentleman, and had an opportunity to express in a substantial way my gratitude for the treatment accorded me by him and his wife when I was in trouble.

I hastened back with my cattle to the little village, bought a few crackers and some raisins and started. The rain had been so severe that I knew a creek, some fifteen miles out, had overflowed its banks, and I thought the bridge might be gone. It was important that I reach and cross this creek as soon as possible, so I drove the cattle rapidly, and reached the bridge a little after sundown. I found it covered with about three or four inches of water and on the road upon either side for a long distance the water was from a foot to

⁸ Seagrave Smith (1828-1898) served one term in the Minnesota Senate, 1868-70. He ran for judge of the First Judicial District in 1864, losing to Charles McClure; he ran for judge of the Fourth Judicial District in 1884, losing to Arthur H. Young; he ran for Chief Justice of the Minnesota Supreme Court twice: in 1888, losing to incumbent, James Gilfillan, and in 1894, losing to Charles M. Start. He was appointed judge of the Fourth Judicial District in 1889, elected to a full term in 1890, and re-elected in 1896. He died in office on November 2, 1898.

eighteen inches deep. After going across the bridge myself and seeing that it appeared safe, I concluded to take the chances. I got upon the wagon and started the cattle. They kept the road well and we crossed the bridge in safety. I felt much relieved. By this time it was dark. I unhitched the cattle from the wagon, but did not dare take off the yokes, which the cattle had worn for more than twenty-four hours. I was afraid that if I did not keep close by the cattle they might get away from me. I realized, however, that they would not go back across the bridge, so I stationed myself in the road where it entered the timber, a few rods from the water, and in this way kept guard while they ate.

I could not go on a great distance with out injuring the oxen, so I drove through the woods about four miles to the prairie beyond, fastened the cattle to the hind wheels and sat down in the wagon, trying to keep awake. The mosquitoes had been very troublesome in the timber, but a slight breeze that came up on the, prairie served to drive them away, and I managed to get along until daylight, although I was so anxious about my oxen and they made so much noise and trouble around the wagon that I got no sleep. I then drove on and about five o'clock in the morning came to [33] the Cannon river within sight of our house. We had then moved from the hotel and were living in a small building four or five hundred feet away. I found the water dangerously high, the bridge across the river, in bad condition, and every indication that it would soon go out, but I went ahead. Mine was the last team to cross the bridge. The bridge was taken out by the water immediately after. I went to the house, my cattle in the yard and unyoked them before I was discovered by any of the family. I presented myself in a very dilapidated and worn out condition. After having something to eat, I went to bed and out of it I did not get until the next morning. This ended my attempt to make a claim. It may be said that my ambition to till the soil was washed out of me on Kenyon Prairie.

Kenyon prairie is now crossed by the C. G. W. Road and is one of the most prosperous sections in Goodhue County.

Father had a piece of land near Lewiston, but west of the Cannon river, with twenty-five acres broken, and this we cultivated during

the summer of 1858. Later that year he moved onto a farm in the town of Marshan, some five miles from Hastings, and lived there until the fall of 1860.

In the year 1858, there came the great contest in the territory over the voting of a five-million-dollar state loan in aid of railways. The controversy was very bitter, but the proposition to guarantee the bonds carried by an overwhelming majority. A few of us at Lewiston constructed an imitation locomotive upon a wagon and caused it to be drawn up to Northfield. We had quite a parade and our imitation was looked upon as very excellent. At this time the nearest railroad point was Prairie du Chien, Wis., the travel in the winter season being by stage through Winona, Red Wing and Hastings to St. Paul.

In the fall of 1858 I secured a school and was initiated as a country school master. The school house was a log building about two and a half miles up the river from Cannon Falls, in what was known as the Jenkins [34] or Morrill Neighborhood. Mr. Morrill was a typical Yankee. He had been a deacon in the Presbyterian Church in the east and brought with him all of his old ideas. He had two or three sons and at least two daughters. It was one of the finest families I have ever known, the leading family in the vicinity. Mr. Morrill was one of the school trustees. Another trustee was Mr. Hurlbut, who lived within a few rods of the school house. The third trustee was Mr. Curray, who was a prominent Methodist, and frequently preached. The neighborhood was largely Methodist and there was one peculiarity about it—the pupils were all boys, about twenty-five in number. There was not, at that time in the district, a single girl over six years of age and under sixteen. Deacon Morrill had no children under eighteen and Mr. Hurlbut had one boy, Charles, about fourteen years of age.

Very soon after my school commenced for a four months' term, the Methodists concluded that they would have a revival. They used the school house every evening for that purpose, and on Sundays it was occupied all day. Nearly all of the pupils attended these revivals meetings. Very soon they began to profess conversion and in three or four weeks every one had become a probationist.

I had adopted the New England custom of having each pupil read a verse from the New Testament at the opening of school in the morning, and in a short time Deacon Morrill and Elder Curray came to me with the suggestion that I open the school with prayer. I replied that it would not be just the thing for me to be very active in this, for I was not a professor of religion, but that I had considered the matter and if the boys were willing, I should be very glad to call upon them in alphabetical order for prayer each morning. Submitting this question to the pupils, I found that without exception they were anxious to adopt the plan. I then said that if it were adopted, it would have to be followed to the end of school, no matter what their wishes might be.

I made out a roll, putting the names down in order, [35] and called upon one boy each morning for prayer. This worked well for a few weeks, but one evening Mr. Hurlbut said to me that Charlie had told him while they were feeding the cattle that night that he would refuse to pray the next time I called upon him. I had found it unnecessary to inflict corporal punishment upon a single pupil up to that time, but had in my desk a good stout switch. A few mornings afterwards, when it was Charlie's turn to open the school with prayer, I called upon him and met a point blank refusal. I directed his attention to what had been said at the outset about continuing this as a school exercise when once adopted and he still refused. It became necessary for me to stop the insurrection without delay. I took the switch, seized Charlie by the coat collar as he was attempting to get out of his seat, switched him around the legs pretty smartly and the rebellion was at an end. Charlie prayed briefly, but fervently. After that there was no more trouble, but many of the boys had somewhat fallen from grace before school ended. Yet, they kept up their devotional exercises without any urging on my part. Mr. Hurlbut was something of a scoffer at religion and my prompt action with his boy made me extremely popular in the district.

I boarded around, as was the custom in those days, and built my own fires in the school house. Some of the pupils are still residents of that neighborhood, and I rarely meet one who does not remind me of my whipping Charlie Hurlbut until, as they say, he dropped upon his knees in prayer.

After I had been a teacher for some two months, Frank J. Meade came to the neighborhood, and having nothing else to do, became a pupil. He was about my own age and we became intimate friends.

While living in the hotel at Lewiston, one of our boarders was William H. Conner, then at work as a carpenter. We became well acquainted and he afterwards married Miss Beebe, who had become a member of our family. Our intimacy and friendship has been uninterrupted, and I have always had a very high regard for him. [36]

For my four months' teaching, I received a school district order for \$60, and in the fall of 1859, with this, as my sole asset, I commenced the study of law at Hastings, with the firm of Smith, Smith & Crosby. Lewis Smith, the senior member of the firm, had removed from New Hampshire to Minnesota two or three years before and had become somewhat prominent in Democratic circles. He bore a great resemblance to James G. Blaine and was a most excellent man, although rather convivial. Seagrave Smith was from Connecticut, an excellent lawyer and I think one of the best advisers for a business man I have ever known. He was the gentleman I met at Kenyon. F. M. Crosby was a young man who had come from Vermont and settled in Hastings, about 1859. He now has the distinction of having been a district judge a longer term of years than any other in this state.⁹

With my limited resources it was necessary for me to be very economical, and Meade, who was a printer by trade and had obtained work in Hastings, suggested that we rent a room and keep bachelor hall. I had a few articles of furniture, and Meade bought a small stove and we opened up quarters in the best way we could afford. I think we lived in this way for nearly a year. Eugene Dean was county treasurer, and it was through him that I got my money on the school district order. Money was exceedingly scarce and it was paid into the county treasury in small sums. Mr. Dean set apart whatever was due to the district in which I had taught, and paid it to me in installments, turning in the order as his voucher. I think that at least twenty or twenty-five endorsements were made upon that order. In paying me in this way Mr. Dean, was performing a kindness, not an official duty, which I fully appreciated.

⁹ Francis Marion Crosby (1830-1910) served on the First Judicial District Court from January 1872 to death at age 80 on November 15, 1910.

In the fall of 1860 my school money was gone, but I had in the meantime earned enough to live on by doing odd jobs of writing for people at Hastings. In those days the records and briefs for the supreme court were written, not printed, and there had to be three copies for the judges, one for the respondent's counsel, one [37] for the clerk and one for the appellant's counsel. It thus became necessary to make six copies, all written out by hand. My first experience in this line was in case of North & Carll vs. Lowell, subsequently reported in Volume IV of the Minnesota Reports, page 32. It was a very tedious task, but by hard work I finished it in about four weeks, and received \$35 as my compensation.¹⁰ It was easier money than teaching school for \$15 a month.

I kept my political residence with father in the town of Marshan, and well remember the presidential election of 1860. It was a very exciting time. Marshan was largely Irish and democratic, but the five or six republicans who lived there, armed themselves, went to the polls and voted in a body for Lincoln and Hamlin.

While [we] were living at Marshan, my father became well acquainted with Ignatius Donnelly, then a very young lawyer, recently from Philadelphia. Donnelly, it will be remembered, was nominated for lieutenant governor at the Republican Convention, held in the late summer of 1860 at St. Paul. He and my father were delegates from Dakota county to that convention and father made the speech putting Donnelly in nomination

It is hardly necessary for me to say that we were all poor in those days. There was no money and no work except farming, but in this way we could earn enough to live in a very humble manner. I worked more or less on the farm in the years 1857, 1858, 1859 and 1860.

My relations with Smith, Smith & Crosby were exceedingly pleasant, and gave, me an opportunity to do more or less work in justice court. My first case was tried before a justice named Lillie, who lived upon a farm, now a part of the village of Farmington. Three young fellows had stolen some turkeys on the night of July 4th, and I was sent out

¹⁰ Collins's handwritten brief in this case has not been located, but the search continues. His firm's client lost the appeal. *Lowell v. North & Carll*, 4 Minn. 32 (1860)(Atwater, J.).

from Hastings to defend them. It was very easy work for the county attorney to secure a conviction, and I felt a little depressed over my first defeat after becoming a law student, for [38] I had been very successful prior to that time in my justice court practice.

Some time in the fall of 1860 I went to Lewiston to try a case before a justice. Upon arriving there I found that a dispute had arisen between an old acquaintance, Walter Hunter, and a tenant named Jones over the possession of certain wheat which had been recently raised and threshed on Hunter's farm. To prevent the tenant from carrying it off Hunter and a few friends, armed with shot-guns, maintained for one night, and until they were arrested, a patrol about the granary. The charge, as I found it set forth in the complaint, was that Hunter and his associates did wilfully and maliciously stand around for twenty-four hours, "the last half of which was the night time, and had thus prevented Jones from pursuing his daily avocation and labor." That the accused were armed and did "stand around" was easily shown, and I had some difficulty in convincing the justice that this was not a misdemeanor under the laws of the State.

A man named Mosher, who had done more or less work in justice court, appeared as attorney for the state in this case and, when we got through with it, invited me to ride with him over to Inver Grove, where a democratic convention was to be held for the nomination of county officers, Mosher being a delegate. I accepted and we drove over with his horse and buggy. Arriving, we found that the convention was to be held in the loft of a new frame barn. The only way to get into the loft was to go up a ladder and through what was known as the hay-door. It was impossible for Mosher to get up there, and we finally lifted and pulled him up through a manger.

The neighborhood was largely Irish and the candidates were mostly of the same nationality. They had plenty of whiskey at the barn. One of the candidates, John Devlin, the county sheriff, was seeking re-nomination. The convention was called to order by John F. Marsh, then the democratic postmaster at Hastings. The chairman of the county committee was Attorney Seagrave Smith, before mentioned. Both were dele-[39]-gates. By the time the convention had reached

the nomination of a sheriff, nearly every one present was intoxicated. I know that Marsh, Smith, Mosher and myself were entirely sober, about all who were in that condition. The first ballot resulted in a tie; whereupon Devlin's friends commenced to drive the Marsh and Smith crowd, opposed to his nomination, out of the barn. Mosher had a revolver and we backed up in the corner with threats from him that if anyone come near he would shoot. I managed to get Mosher down into the manger and then on to the lower floor. We made our way out just in time to see Marsh and Smith fall down the ladder and to witness a very serious assault made upon the latter, in which the top of his head was cut open. He was bald and this blow left a scar which he carried to his grave. Marsh shouted an adjournment of the convention to Nininger, two weeks later. Devlin's friends, who had by this time obtained possession of the loft, went on and completed their nominations. The adjourned convention put an independent ticket in the field and elected most of it. Devlin was among those who went down to defeat.

There were no particular incidents in my subsequent life at Hastings which need special mention, except that I became in much better financial circumstances and was able to live at a good boarding house.

As I have said, Mr. Marsh was postmaster and he became satisfied that one of the two clerks he had in his office was appropriating money which belonged to Uncle Sam. He came to our office to consult with Mr. Smith. I was taken into their confidence and we laid a plan to detect the guilty clerk. I went into the office as an assistant clerk, while Mr. Marsh made a trip to St. Paul. He was absent three or four days, and on his return I furnished him with absolute proof of the guilt of one clerk. The fellow was kicked out of the office and that ended the affair. Mr. Marsh became one of my best friends and did everything in his power to help me. He resigned from the post office soon afterwards and a republican was appointed by President Lincoln. [40]

I must here relate my experience with a circus company. Early in 1860 a resident of St. Paul, named George W. DeHoven, who had traveled with a small show, interested Captain Louis Robert and

other St. Paul men and organized a circus company to travel by boat on the Mississippi and Missouri rivers. The show opened in St. Paul for a week and one evening the seats gave way, precipitating several people to the ground and injuring some of them. The circus traveled in Captain Robert's boat, "The Time and Tide," and when the boat arrived in Hastings the circus outfit was seized by the sheriff. Suits had been brought by the men injured in St. Paul. After some discussion a settlement was reached, and it was agreed that I was to have possession as agent for a trustee previously designated. I was to travel with the show, taking a percentage of the daily receipts until the claims were paid in full.

I joined at Hastings and our first performance was at Red Wing. When the ticket office opened, I occupied it with the treasurer for the circus company, took the percentage, about \$75, and immediately expressed it to St. Paul, taking care that this fact was well communicated to the show men. That evening I again kept company with the treasurer, receiving about \$20. The "strong man" of the show seemed to be a very reliable individual and I kept in his company from the show grounds to the boat, locked myself in my state room and did not go out until seven o'clock next morning. That \$20 was a large sum for one to have in his pocket in those days, and I was very glad to send it away with our dividend for the next afternoon's performance. After the first day I took no money at night. We made all of the river towns on the Mississippi as far as the mouth of the Missouri and then went up that stream to St. Joseph, Mo., where I received the last money due and bade good-bye to the show people. A few of them were decent and reliable, but most of them scalawags. How one could travel with a circus as a performer in those days and fail to become entirely bad was a conundrum to me.

IV.

CAMPAIGNING AGAINST THE INDIANS— HANGING OF 38 WARRIORS AT MANKATO

IN THE SPRING of 1861 my uncle Philip, who had been at Pocahontas, Ark., for two or three years, made his appearance at Hastings. He had left Pocahontas between two days, as will be hereinafter related, and had made his way to Minnesota. I got him a job on fanning mills for a man named Tyrrell, a manufacturer, but they were both very impulsive and in less than three days my uncle had given Tyrrell a tremendous flogging and was out of work.

The war had then broken out. Marsh had been a very young soldier in a New Hampshire Volunteer Regiment in the Mexican War, and my uncle had also been in service in that war. They naturally became well acquainted and concluded to enlist. They attempted to form a company at Hastings, but could not secure men enough and finally went over to Prescott, Wis., where both entered the service and later on were mustered in as members of Company B, Sixth Wisconsin Infantry Regiment. Daniel J. Dill was captain of the company, Marsh was first lieutenant and my Uncle Philip became first sergeant.

Marsh became Lieutenant Colonel of the 12th New Hampshire Infantry. After the war he engaged in the manufacture of glazed paper at Springfield, Mass., and is still living there. When the Civil War broke out, I had a severe attack of the prevailing fever, but father was opposed to my enlisting. He had in the meantime moved to a farm near the village of Northfield. When my old friend, John Kennedy, commenced to raise a company of Hastings men for one of the new regiments, organized under the call of August, 1862, I enlisted. We raised our company, called the Hastings Rangers, in a few days, and on [42] the night of the 22nd of August we were given a supper and dance by the citizens. While our frolic was in full blast, a man rode up to the door of the hail, having come from St. Paul, with a note to Captain Kennedy announcing the Sioux outbreak and commanding him to report immediately with his company at Fort Snelling. The dancing was immediately stopped and about seventy-five men started up the river on a boat which left Hastings about 1:30

p. m. I took a team and drove up through the country to notify six or eight of our men who were not in town and reached Snelling some three or four hours after the Captain's arrival.

There was great excitement at the fort. Men who had enlisted in the Sixth, Seventh, Eighth, Ninth and Tenth Minnesota Regiment, then being recruited, and independent volunteers, were coming in to aid in suppressing the outbreak, which had become very serious in the neighborhood of Fort Ridgley.

Kennedy had been commissioned a second lieutenant in the Sixth Regiment, but was crowded out by J. C. Whitney, a Presbyterian minister from Minneapolis with a full company. Both men manifested a good deal of ill feeling at the time—which developed later on, as I will mention—so Kennedy with his company was assigned to the Seventh. We were permitted in those days to elect our own officers. There was but one candidate for the captaincy, John Kennedy. There were two or three candidates for first lieutenant and three or four for second. Very little had been said about my being a candidate, but we had in the company some twelve or fifteen young Germans from Hampton, twelve miles west of Hastings. They were members of the Catholic church, and with them at the Fort was their priest, a young man to whom I had been of some service in the law office when he was trying to secure a public highway past his church. I had prepared his papers, attended to the legal part in securing the highway, had declined compensation and he felt, it seemed to me, unduly grateful. He became much interested in my behalf and on the second ballot [43] brought all of his men to my support. On the fourth ballot I was elected second lieutenant. I was commissioned August 25th. The first lieutenant was Thomas Huddleston, a Hastings lawyer, a native of England.

We camped about, half a mile from the old fort, of which the so-called block house is still standing, and I at once commenced to study the duties of a soldier. I knew nothing about drilling, but procured a copy of Hardee's Tactics and began to read it. In a day or two I was quite a teacher and drilled our men with great persistency and some success. We were furnished uniform trousers, shoes and stockings, and in a few days there came to us the little blue caps which were

worn in those days by the troops. We had nothing further in the way of governmental clothing. We were also furnished Belgian muskets, which seemed to me quite as effective at the breech as at the muzzle. With haversacks and cartridge boxes, we were ordered into the field and embarked at noon at Fort Snelling on a little boat called the Albany for the upper Minnesota. We had about one hundred men and two or three farmers' teams which we had pressed into the service. By this time the people were pouring out of the Minnesota Valley, using teams, wagons, steam and rowboats, and it was fully believed that the Indians were right at their heels. A few troops had been sent to Fort Ridgley before my company.

That afternoon we succeeded in getting our boat above the rapids in the vicinity of Chaska, and there about six o'clock we tied up for the night. I was officer of the guard and while Captain Kennedy and Lieutenant Huddleston were eating their supper in the cabin, I was in charge of the hurricane deck. I heard the whistle of a boat below the rapids and knew that it could not possibly come up to where we were that night. In a short time I saw a splendidly uniformed young officer on the opposite bank. When he got within hailing distance, he asked me if Captain Kennedy's Hastings Rangers were on that boat. On my replying, he announced that he was Doctor Ames and under orders to report to Captain Kennedy. I [44] sent a boat for him, and he came on board. This was my first acquaintance with Dr. A. A. Ames. He had just been commissioned second assistant surgeon of our regiment, and had clothed himself in a new uniform. He looked quite out of place among the officers of my company, who were entirely without anything in the way of uniform except the trousers and caps before mentioned, and these were far from being articles of beauty in either material or fit.

The next morning we started up the river, meeting at every turn the refugees, who told horrible stories of Indian outrages. We had been ordered to disembark at Henderson and march across the country, and this we did, leaving Henderson early in the morning. We had picked up a few stragglers. Our men were armed with the guns before mentioned, and three or four wagons loaded with our baggage, cooking utensils and extra ammunition were along. We had also been provided with what were called wedge tents, in which five men could be crowded although they were designed for four.

We camped on the prairie that night and resumed our march the next morning, reaching Fort Ridgley about half past three the afternoon of September 5th. We were shown camping ground and immediately set up our tents. I was ordered by the captain to report the company at the fort and made my way in that direction, but discovered that some sort of a military exercise was being held near by. I stopped and found it to be a dress parade. Imagine my surprise when I heard the sergeant of Company A announce, "Seven men killed and eight wounded in an engagement with the Indians at Birch Coolie. All others present or accounted for." This was the first that I knew of this engagement with the Indians, and it made a deep impression on me. Company A was the only company of the Sixth Regiment engaged in that very noted fight and it suffered severely.

Five companies of my regiment were brought together and remained at Fort Ridgley for a few days. On the 18th of September, we started on the expedi-[45]-tion which ended in a fight with the Indians at Wood Lake on September 23d. In this engagement the savages were whipped for the first time and in the afternoon two of their number with flags of truce came into our camp. The result of their interview with General Sibley was that the so-called peace Indians separated from the unfriendly, taking with them the prisoners which had up to that time been held in camp in the vicinity of what is now the town of Montevideo on the Minnesota River.

On the 26th of September, we surrounded the Indian camp without opposition and took charge of the prisoners. Women and children had suffered severely at the hands of the Indians and you can imagine the demonstrations of joy when they found themselves with their friends. The proper marking of this battle ground Wood Lake has been the subject of attempted legislation for many years, the proposition being to suitably designate it with a monument, as has been done with other less important places in the state. Nothing came of these efforts until 1907, when we succeeded in securing an appropriation of \$500 and the appointment of three commissioners to locate the field, cause a survey to be made and to purchase not less than one acre of ground on which to build a monument. This commission, of which I was a member, visited the locality last summer and bought from Mr. Homme, who owned the land, an acre

right where our troops were in camp when the Indians attacked a foraging party some forty rods away. This acre of land lies upon a main highway and commands a splendid view of the entire battle field, which extended from near the camp to a ravine about a hundred rods distant.

An accurate survey of the ground, including both camp and battlefield, has been made and filed with the Secretary of State. We also reported our proceedings, together with the revised and accurate account of the battle, many errors having been theretofore made. We were greatly aided in preparing this map by a survey and plat of the camp made in 1871 by Mr. L. Truesdell, a civil engineer residing in Minneapolis. [46]

After the surrender of the women and children the male Indians, some three hundred in number, were arrested, tried by military commission, and nearly all sentenced to be hanged. President Lincoln refused to approve the findings of the commission and discriminated between the Indian who had been engaged in massacre and the one who had simply taken part in some of the numerous battles. The result was, as will be hereinafter related, that thirty-eight men were hanged on the 26th of December, 1862, at Mankato, Minn.

The trial of these Indians began at what we called Camp Release, where the prisoners were surrendered. The ground is marked by a granite monument and when on the Wood Lake Commission I visited the place. It is in the midst of cultivated fields and there is very little there to show just where we camped. We built there a log pen in which to keep the Indians as they were being tried, but it has entirely disappeared and nothing marks its site, but slight elevations showing its outline on the ground.

We moved the Indian women and children down to the Upper Sioux Agency, a few miles from Wood Lake, and Company B, Captain Whitney, of the Sixth Regiment, and my company of the Seventh, were detailed as a guard, our camp being about a mile from the Indians. While there men out hunting captured an Indian straggler, and I was ordered to take him to our headquarters at Release. I went up one afternoon with two or three soldiers as guards and on the

road met Company A of the Seventh Regiment on its way to relieve my company. This was because of the ill feeling between the two captains, Whitney and Kennedy, the former being the senior in rank. At four o'clock next morning I was ordered to report to General Sibley and was informed of very serious difficulty at our camp between Whitney and Kennedy, in which the former had attempted to put the latter under arrest and to deprive him of the command of Company F. The first lieutenant, Huddleston, was away, so Kennedy was the only commissioned officer [47] with the company. In the evening when he had received the order placing him under arrest, Kennedy disregarded it. Next evening he formed his company line, had the guns loaded, and in command marched the men out of camp. My orders were to meet the company as soon as possible, give the Captain an order from General Sibley and assume command myself. This was done as soon as I met and delivered the order to Kennedy. This affair led to the court-martial of Captain Kennedy and he was sentenced to be deprived of command for one year upon half pay.

October 24th the companies of my regiment moved down to the Lower Sioux Agency where the sessions of the military commission were resumed with the result before mentioned. C. A. Miller here took command and on November 8th we started for Mankato, the convicted Indians being loaded into wagons and closely guarded by lines of infantry on each side. We marched through the little village of New Ulm about noon of the second day, and the inhabitants could not resist an opportunity to assault our prisoners. Clubs and pitchforks were used by the assailants, and the guards clubbed their guns to beat them back. Two or three Indians were badly hurt, but we finally quieted the irritated people and had no more difficulty on our journey. It will be remembered that only a few weeks previous New Ulm had been besieged and many residents were killed by the Indians.

On November 10th we camped a mile or two from Mankato on what is now known as Sibley Park at the junction of the South Bend with the Minnesota River. Here we remained until the men could build a log prison in Mankato, relieving a part of the 25th Wisconsin Infantry which had been brought into the State for service against the Indians. December 5th we moved with our prisoners into the village,

then a place of about 1,500. Several companies of my regiment were located at Mankato for the winter; Company I, Captain Libby, and my company, occupying what was known as the Leech Building, a three-story Stone structure on Main Street, nearly opposite the [48] present Saulspough Hotel. The lower story of this building was designed for two stores. The one farthest north was used as a guard house, the store south for a cook room for both companies. The officers' quarters were on the second floor, and the third story, a large unfinished room, was filled with bunks for the men. The log prison was, in part, a lean-to along the north side of this stone building. It was in the shape of an L, the long part running up the street about seventy-five feet to a small frame building which stood on the corner and in which Colonel Miller, commanding, established headquarters.

We settled down to garrison duty. Having about 250 prisoners to look after in this log jail, we were kept extremely busy. We took up drill and for the first time had battalion exercises under the command of Colonel Miller, who had been lieutenant colonel of the old First.

The findings of the military commission had been in the hands of President Lincoln for some time and a great deal of comment had been made over the apparent delay in his action. The people of the State were continually being inflamed by newspaper articles in which mob law was urged, but about the 15th of December the order came commanding Colonel Miller to hang thirty-nine of our prisoners, all that had been found guilty of rape or actual massacre. The Colonel was directed to hold the remainder as prisoners until further orders.

Immediately upon receiving this order, which was written in President Lincoln's own hand and is now among the valued possessions of the State Historical Society, the condemned men were quietly taken out of the log prison, heavily ironed and placed in the guard house. The order was translated to them by one of the interpreters and they were told that there was no possibility of an escape from the gallows. I was present when the order was read and, watching the faces of these men closely, I saw no trace of emotion whatever, except in the case of a half-breed, Henry Milord, who was quite well educated.

Tears [49] came to Milord's eyes as he protested his innocence, but he had been proven guilty beyond any question and his tears excited no sympathy. Preparations were made for the execution by erecting the gallows almost directly opposite and across the street from the stone building; a few feet south of where the front entrance of the Saulspaugh House now is. It was a square frame structure with 24-foot sills. The upright posts extended some twelve feet in the air and on these was built a scaffold some four feet wide, so constructed as to slip up and down these posts. From this scaffold ropes were brought over to an iron ring which hung loosely around a pole which stood in the center and from this ring over the top of the pole ran one rope which came down and fastened over a block on the ground.

Troops were brought from other parts of the State, where they were doing guard duty, and on the morning of the execution, the 26th of December, 1862, we had about 3,000 men under arms. It became necessary for the Colonel commanding to declare martial law over all territory within ten miles of Mankato, and this order was in force four days, three days before and one day after the execution.

I. V. D. Heard, a St. Paul attorney, was a judge advocate of the military commission which tried the Indians, and subsequently published a History of the Sioux War, in which he clearly stated the execution of the Indians to have been on the 26th day of February, 1863, a most surprising error.

My company was detailed to remain as a guard in the rear of the log prison so the men were entirely out of sight, of the gallows. I was stationed on the roof so as to be able to communicate with the troops in front as well as with this guard then commanded by Lieutenant Huddleston, Captain Kennedy still being suspended. At the appointed hour the irons were taken off the prisoners and they were marched out of the guard house, with the exception of one who was Part negro and had been reprieved by the President the day before. Thirty-eight marched out between [50] lines of soldiers, walked directly to the gallows and ascended the scaffold. There the ropes were placed about their necks. The signal was given by beating a bass drum three times, and at the last tap William Duley, who had

served as a scout under General Sibley and whose family had been murdered by the Indians during the war, cut the rope as it stretched across the block at the foot of the pole and the scaffold fell with its occupants.

From the time the Indians left the guard house until they dropped, they kept up a war song, nearly every one joining in it. Two very heavy men fell to the ground, either because the ropes broke or the knots gave way, but their necks were broken and they were again suspended, although dead. The bodies were cut down in about thirty minutes after being examined by surgeons, placed in army wagons, taken to the burial place about a mile above the scene of the execution, and there buried in the sandy soil near the river.

During the execution I was in position, of course, to know what was going on in the log prison below. It was perfectly quiet. Not a sound escaped from the prisoners there, who sat upon the ground with their blankets over their heads. But immediately after the drop, which was plainly heard, there was some commotion and many tears were shed by the survivors.

That night many of the bodies were taken out of the pit in which they were buried, presumably for dissecting purposes, by medical students who had journeyed to Mankato for that express purpose. I think at least half the bodies were thus exhumed and taken away.

After the execution we settled down to ordinary camp duties and drill, and early in January Lieutenant Huddleston sent in his resignation, which was accepted. Every officer in the regiment had previously joined in a request that our captain, a general favorite, be restored to duty, and about the middle of January he was gladly welcomed back and resumed command. I was commissioned First Lieutenant January 8th, 1863.

In the spring our prisoners were shipped by boats [51] to Rock Island, where they were imprisoned for a short time and then transferred to a reservation in South Dakota. They remained upon their reservation and I have no doubt that some of them are living there yet. The Winnebago Indians had a beautiful reservation south

of Mankato, but a few of them were mixed up in the Sioux outbreak and this led to a demand that they be removed, and they too were sent out of the State in the spring of 1863.

Immediately after this we began to make preparations for what was known as the Sibley Expedition of 1863. May 30th we left Mankato for a camp near Redwood Falls, where the expedition was to be organized and from which it started. Nothing need here be said about that expedition, for the story was written by me years ago and published in Volume 2 of the Loyal Legion papers (Glimpses of the Nations Struggle).

On returning to Fort Snelling from the Missouri River, we marched through St. Cloud, and that was the first time that I saw the place which was afterward in home for many years. We crossed the Mississippi there, marching on the east side, and again crossing at Minneapolis.

V.

CHIEF OF ST. LOUIS MILITARY POLICE— FIGHTING WITH THE SEVENTH MINNESOTA

ON OCTOBER 7th my regiment was ordered to report for duty at St. Louis, and we embarked on steamers at St. Paul for Prairie du Chien, at which place we took cars and proceeded to St. Louis by way of Chicago.

We reached St. Louis October 11th in the evening, after dark. In going to our headquarters at Schofield Barracks, some three miles away, we were thoroughly soaked with a severe rain. I had scarcely gotten into my room when an order came directing me to report for duty to Captain Weatherwax, commanding the provost guard of the city. I made my way to his office on Washington Avenue and attempted to report to him personally. I found a sergeant on duty who, said to me that the captain was in a back room in bed and, if I chose, I could go in and report. I made my way into a small room in which there was a very dim gas light and soon found that the captain was altogether too drunk to appreciate my errand. About an hour afterward, the only officer he had with him, a lieutenant by the name of Prevost, came and together we started out on horseback to look after our men on guard. This guard was really the military police force of the city, which was under martial law, and we rode for two or three hours in the rain inspecting the men at their posts and seeing that they were properly attending to their duties. Guards were stationed at the many government warehouses in various parts of the city. This was just at the time that General Sterling Price was making one of his raids through Missouri, and the city had been drained of soldiers ordinarily stationed there, so that the provost [53] guard, which usually consisted of about one hundred men and four officers, was reduced to eighteen men all told.

I remained with this detachment for several months, and it was very pleasant duty after Company A of the Tenth Minnesota, Captain Edgerton commanding, was installed in place of Captain Weatherwax and his company of Kansas soldiers.

About the first of February Edgerton was sent out to Benton Barracks to assume command of a negro regiment which was being raised there and of which he became colonel. This left me in command for three months and I had hard work and very great responsibility.

While I was at St. Louis, in command of the guard, General Grant passed through the city on his way east and was entertained at a largely attended dinner given by the citizens at the Lindell Hotel. The police arrangements of the affair were under my supervision, so I had an excellent opportunity to see the General. His quarters were across Washington Avenue, one block towards the river from the hotel.

While at St. Louis I was sent by General Fisk to investigate a difficulty between a white planter and some negroes near the little village of Washington, on the Missouri River, and found it necessary to arrest one negro, who was the leader of five or six who had been committing many depredations in that vicinity. Company H of the 9th Minnesota was stationed at a railroad bridge three miles distant, and five men of this company with a sergeant, John Beaulieu, were ordered to report to me. We started out to make the arrest, the negro being at work with two others chop-ping wood about two miles from town. As the sergeant approached him, the negro drew a pepper box revolver, fired at Beaulieu and immediately ran into the woods. Beaulieu, who was a very fine shot, fired and felt much chagrined when the fellow kept on his way. We returned to town and were informed soon afterwards that a wounded colored man was lying beside the road, not very far from the scene of the [54] shooting. An ambulance was sent out with a surgeon and the man brought in. He had been shot through one of his lungs, had bled a great deal and no one supposed he could live. He recovered, enlisted in Colonel Edgerton's regiment, served through the war and was mustered out as first sergeant of his company; he then located on a farm not far from where he had been shot, became an excellent citizen and died some five or six years ago, a man of some means and of first class character.

I had, while on provost guard duty at St. Louis, several adventures, one at least of a very dangerous character. Some men of the Second Illinois Cavalry, who had been home on furloughs and were returning as veterans, got into difficulty in an Irish grocery, where whiskey was kept, some eight or ten blocks from headquarters. I started with a few men on horseback to quell the disturbance and to arrest the disturbers. They were armed with carbines and when we went into the grocery they commenced to fire. They shot the glass out of the front windows without injuring a single one of my men. We very discreetly got out of the room, placed guards about the building and sent for reinforcements. About the time that help came, Colonel Mudd, who commanded their regiment, appeared upon the scene and we made our arrests without any further trouble. How the six or seven men of the guard who went into that room escaped without injury I could never tell, for at least twenty-five shots were fired at us by soldiers not fifty feet away. The leader of these men, a sergeant, was killed a few days afterwards in a similar row at Memphis

On another occasion several soldiers attempted to "get satisfaction" at a store at which an auction was being held. There were at least fifty men in this affair and we very soon subdued them by calling upon city firemen, whose headquarters were within a block, and turning the hose on the riotous gentlemen. In my judgment there is nothing quite so effective as a stream of water upon men disposed to be unruly. It not only drenches, but knocks them down and quells them very speedily. [55]

While I was on this duty my regiment was sent to Paducah, Ky., and remained there until about the middle of June. On the 5th of July, 1864, I was relieved, directed to report to my company at Memphis, Tenn., and did so. We were engaged that summer in making hasty marches into the country, our forces being under General A. J. Smith and consisting of about 20,000 troops, artillery, cavalry and infantry. My regiment was in the 3d Brigade, 1st Division, 16th Army Corps. We did not know at that time the object of these expeditions, but afterwards, on reading official reports, I found that Selma, Ala., the second manufacturing point in importance of munitions of war, was being threatened. We also kept General Forrest busy so that he could not turn his attention to Sherman's communications, Sherman then being on his way to Atlanta.

Once when we were on a march constantly and had crossed the Tallahatchie River, Forrest, with some 2,000 men, rode around our rear and made a raid upon Memphis. He succeeded in reaching the city, but his troops were so demoralized by desertion that they were of no value as an independent command afterward.

In the fall of 1864, General Price made his last raid into Missouri and we were hastily transported by boat from Memphis to Devalls Bluff, Ark., and then to Brownsville, where an expedition was organized to intercept Price, then marching west of Little Rock in the direction of St. Louis. While at Brownsville, Captain J. M. Bowler, now living in Minneapolis, then an officer in a colored regiment, loaned me twenty dollars, and today, March 28, 1908, he gave to me a letter I wrote to him from Eastport, Tenn., Jan. 24, 1865, in which I informed him that he would find the money enclosed. This letter I gave to Colonel Marshall, who was on his way north, to mail. In due time it reached Bowler and he found it among his old Papers about a week ago.

September 17th we marched in the direction of Cape Girardeau, Mo., under command of General Smith. [56] We had about 20,000 men. It was supposed that Smith would give up chasing Price after he had satisfied himself that the latter could not be overtaken, but we kept on and reached Girardeau, on the Mississippi 300 miles in 19 days, ragged, hungry and nearly all of us barefooted. It was one of the most severe marches my regiment had been in. The weather was extremely bad. We had an equinoctial storm with torrents of rain for several days. One night we camped opposite the little village of Pocahontas, Ark., on the Black River. My uncle Philip and cousin William had been residents of Pocahontas for about two years before the outbreak and both had to leave it at night when war was declared. I had some curiosity to see that village, as might be imagined, and went across the river in a dug-out. It was a very forlorn looking place. I saw but two or three men, old and feeble, with whom I conversed. One of them remembered my cousin well for he had been a clerk in a drug store until he concluded that he had better go north. The old gentleman was very courteous and kind. He told me that he would be glad to invite me to his house but "guessed" that his "women folks" would not be agreeable, should I go there. A good guess.

On reaching Girardeau, we found provisions and clothing with plenty of boats and on the boats we embarked for Jefferson City, Mo. At Brownsville I had been detailed as brigade picket officer and all during this march and all the time thereafter while I was in the service, until I became post-adjutant at Selma, Ala., in May, 1865, I was mounted. My duties as such officer were to post picket guards on the roads leading into our camp, to see that the guards obeyed orders during the night and that they were properly relieved in the morning. During the daytime, while on the march, I was at liberty to go anywhere, but at night I was on the picket line most of the time.

We took boats at Cape Girardeau and landed at Jefferson City, Mo. Price in the meantime had threatened St. Louis, but finding it too well fortified for him, [57] mounted force and General Smith undertook to keep his infantry in touch with this force so that if Price made any effort to oppose our troops, our infantry might be brought up in time to participate. We followed Price from Jefferson City through Missouri, but never came up within sight of his men, all mounted. On one occasion, near the Little Blue River, Mo., we were near enough to see the wounded men brought to the field hospitals, but we were not under fire.

We had an unusual experience on the border of Missouri when we struck three counties which had been depopulated by order of General Ewing. They were the rendezvous of bushwhackers, who kept out of the rebel army as well as our own, but sympathized with the former, and General Ewing ordered that the residents remove from their homes and locate in three places named by him. We marched through this depopulated section in the fall. There were deserted houses, abandoned fields and orchards, with abundance of fruit, but not a living inhabitant.

We camped one night in Kansas and then returned, marching all of the way to St. Louis, wasting much time in making a distance which should have been made by boat or rail.

During this time Sherman had cut loose from Atlanta for his march to the sea, and Hood was pressing Thomas back toward Nashville. A part of the time Colonel J. J. Wood of the Twelfth Iowa, commanding

our brigade, and on whose staff I was serving, had command of our division and I was with him. General Joseph A. Mower, our division commander, had been directed to report for duty to General Sherman, and our new Brigadier McArthur, did not arrive to take command until we reached St. Louis. We marched into that city November 23d, and the next day, as soon as we could be properly provided for, started for Nashville, Tenn., by boat. We reached there November 30th, on the day of the fight at Franklin, twelve miles distant, one of the severest engagements of the war.

My brigade was placed on the line of defenses three [58] or four miles out from the city and our left rested upon the Franklin pike or highway. We reached our position about two o'clock in the afternoon and in a few minutes had many of the Franklin wounded. All who were not actively engaged at Franklin fell back upon Nashville, and at night what was left of General Scofield's command, which made the fight at Franklin, came straggling in.

General Hood occupied our front the next day and the two armies faced each other for about two weeks. Our picket lines were so close that we talked back and forth and several times I met the officers commanding the rebel pickets in a cornfield opposite our line. We declared a truce, observed it and had many pleasant visits. I think I met a dozen officers in this way. They were eager for newspapers and coffee, but they had nothing to give us in exchange except tobacco. Many of them conceded their ultimate defeat.

I shall make no attempt to describe the battle of Nashville, which commenced December 15th. It was not fought until General Thomas was prepared and then his plans were so complete and so well executed that the rebel line was crushed without much trouble. Our division was on the extreme right of the infantry. Beyond us to the right was quite a cavalry command and we were engaged both days in doubling up the left of the rebel line in our front. By this manoeuvre their line was shortened about five miles in two days and about four o'clock on the second day the charge was made which ended the battle and Hood's men ran from the field like rabbits.

I was then riding a chestnut colored horse, which had been captured by that part of my division which had been with Banks on his Red River expedition. The horse had been taken from a Louisiana battery and when I rode across the field in that charge and came to a stone wall behind which were two guns of a rebel battery and a few men who had belonged to it, already prisoners of war, one of their lieutenants recognized the horse and shouted out that we had captured part of his battery at Fort De Russe and had now [59] taken the balance at Nashville He gave me his sword and it is now in my possession with the word "Nashville" inscribed on it.

Before the battle Colonel Wood had left the service and Colonel Hill of the 35th Iowa had succeeded to the command of the brigade. On the afternoon of the first day, almost at the close of hostilities, our brigade charged a small redoubt near the Hillsboro Pike or road occupied by the enemy with two pieces of cannon. The rebels defended their guns until nearly all the gunners were shot down and among the last shots fired by them was one which instantly killed Colonel Hill. I immediately informed Colonel Marshall, who was the senior officer of the brigade, of Colonel Hill's death, and he at once assumed command.

On December 19th our army started in pursuit. The roads were simply horrible, the mud at least six inches deep. We were without food except such as we might happen to have in our haversacks. We were not supplied with rations until the day after Christmas when we were overtaken by supply wagons. Christmas Day we spent near Columbia, Tenn., and I sent the negro boy out to get something to eat. We had nothing for food for brigade headquarters, consisting of four officers, but a few pieces of hardtack. The boy paid one dollar to a native for an old hen, a pint of sorghum molasses and a small quantity of cornmeal. We borrowed a kettle from one of the soldiers and boiled that hen for at least three hours. It was not fit to eat, but it was the best we could do for a Christmas dinner.

We reached Pulaski on the 27th and then turned west and made our way to Clifton, on the Tennessee River, where we went into winter quarters and remained until we embarked on steamboats for Vicksburg, Miss. I had been in exceedingly poor health for some time. I

had been taken sick while at St. Louis and kept growing worse. I had kept on duty, but Colonel Marshall obtained a leave of absence for me and I was on the point of starting north when I was privately informed that we were about to go [60] south. The leave of absence I never used, but went with the regiment to Vicksburg, starting February 5th.

We remained about one week in Vicksburg, giving us plenty of time to inspect the fortifications and to appreciate what had been done there by our troops. We then took a boat for New Orleans and camped there upon the old Jackson battleground February 21st. The floors of our tents were some two or three feet below the surface of the waters of the Mississippi River and it was a novel sight to witness the vessels on the river, apparently sailing along elevated above us. We camped but a short distance from the unfinished Jackson monument and our camping ground is now a part of the Federal Cemetery at Chalmette. We remained at New Orleans until March 5, then marched some six or seven miles on the Shell road to Lake Pontchartrain, where we embarked on boats for Dauphin Island off Mobile Bay. The boat we were on was a common river steamboat. We went out through the lake and Mississippi Sound.

Dauphin Island is a low, sandy tract of land situated at the entrance to Mobile Bay, with scarcely any timber or brush upon it. We went into camp there and it was surprising to see how rapidly the men recovered from diseases which had fastened upon them, while farther north. The weather was beautiful and there were plenty of oysters to be had by the men who waded out into the water and picked them up by the wagon load. The wagons were driven up to the company kitchens with large quantities of oysters in the shell and they were opened as needed. It was a very agreeable change of food from poor bacon to fresh oysters.

We camped on the island until March 18th, and then started on boats for the east shore of the bay. We steamed up a few miles and entered the Fish River, not a long stream but exceedingly deep. After going a few miles on this river, we landed and went into camp among pine trees seven or eight miles from Spanish Fort, one of the land fortifications built for the protection of Mobile. While here we

frequently [61] formed skirmish lines and advanced through the small pine timber until we met the enemy on picket and drove them into their fortifications. The men had great amusement here in choosing sides and indulging in battles with pine cones, which were very large and could be thrown as well as a snowball. Sometimes two or three hundred men would be engaged in a frolic of this sort and occasionally a man would be rather severely injured by one of the cones.

March 25th we marched upon Spanish Fort. Just as my regiment was going, into line of battle, Colonel Marshall was shot in the side of his neck. He fell from his horse and for a few minutes seemed to be paralyzed. The ball passed very close to the spinal column and it affected him seriously for a short time, but he joined the command in less than an hour with no marks of injury except a slight abrasion where the ball passed along the cuticle. That day we moved on Spanish Fort, approaching very close to it. As I was riding to the front with a box of cartridges on the pommel of my saddle for use in the skirmish line, I heard a bullet strike a pine tree apparently some 25 or 30 feet above my head. Immediately thereafter a man of my regiment, who was lying with others on the side of a hill and out of range, was struck in the back of the head and instantly killed. There was no question at all, but that it was this glancing bullet which caused his death.

We steadily made our way towards the fortress, which was built of earth, and remained for several days intrenching and digging ourselves forward toward the line of fortification. On the outside in the meantime was a deep ditch and behind the earth which was thrown up back of this ditch were the heavy siege guns in position. We dug parallels and protected ourselves fairly well as we enclosed the line. In that country there is a very hard tree called the gum. Out of this tree, our men made wooden mortars which were placed in the trenches and from them shells were thrown over the fortification and among the Confederates. The shells exploded, of course, but I do not [62] think they did very much damage. We were assured by those whom they were designed to kill and injure that they simply served to make the men run as explosions became imminent. One of these mortars was brought home and is now in the Historical Society collection at St. Paul.

About dark on the evening of the 8th day of April our batteries commenced to shell very vigorously and we were soon given orders to charge. We then went over the obstructions, logs and brush and, I presume, some torpedoes, into the ditch and up over the earthworks before the enemy knew that we were there, and very soon found that the rebels were running away. We discovered that Spanish Fort had been guarded by old men and boys, scarcely a soldier of military age on duty there.

The next morning, Sunday, about ten o'clock, we marched in the direction of Blakely, four or five miles nearer Mobile, and there my division was held in reserve while an assault was made by other troops General Andrews of Minnesota commanded a division 2 in this attack and I called upon him, finding Captain Pettibone, also of Minnesota, and one or two other officers of my acquaintance serving upon his staff, it was not a great while before the order to charge was given and I had an excellent opportunity to witness the advance. The charge made by the colored troops was very creditable one and was met with stout resistance, but the engagement lasted a very few minutes. The Confederates were taken prisoners and the fight at Blakely was at an end.

Our division went into camp without delay and on April 12th started on a march for the interior of Alabama. Our destination was Montgomery and we were the first Federal troops between Mobile and that city. The whites kept away from us, but the colored people were in evidence all along the road. We marched through a poor country, largely covered with pine, and frequently saw turpentine stills, the material for making turpentine being taken from the tree about the same way as sap is taken for the making of maple [63] sugar. We met no Confederate troops on this trip and reached Montgomery April 25th.

Near the city a courier from Mobile overtook us and rode hastily through the lines with a message for General Smith. After receiving the message the general gave strict orders about straggling and informed every regimental commander that he would be held strictly accountable for the men as we passed through Montgomery. Great vigilance was observed and every officer saw to it that his men did

not break ranks or leave the line of march. Very few of the white citizens were to be seen. We of course had a large audience of negroes, but they made no demonstration and were no doubt afraid to express their feelings. We marched some, miles beyond Montgomery, went into camp and after we were settled down the information came from General Smith that the message he had received announced the death of President Lincoln. We realized that the war was at an end before we reached Montgomery and there had been many demonstrations of joy over the assurance that we were soon to be mustered out of the service, but the news of the assassination created a profound sorrow among the men. For several days our camp was as quiet as a country churchyard.

Some eight or ten days afterward two paroled officers from Johnston's army came into camp and told us what had transpired in the east. We then made preparations for stationing the troops at different places through the country. My brigade was ordered to Selma, Ala., about fifty miles west of Montgomery, and I was sent ahead with a few men to report to General Andrews, who was in command of the post, and had with him about 5,000 men. I took a boat at Montgomery with my men and went to Selma. We reached there about three o'clock in the morning and I learned that General Andrews had left Selma with his men, only a few remaining, and these sick and unable to travel. About half past four I quietly led my small force up the main street to a building which had been Andrews' headquarters. It was locked but we broke [64] in the door, took possession, and when the citizens appeared next morning they found that eight or ten Yankees had quarters in one of their bank buildings. We were not at all afraid of trouble with the citizens, but we were not so certain about the conduct of men who had recently been in the army, and at that time, we supposed, were feeling exceedingly hostile. But we were mistaken. Very soon after breakfast the mayor called and assured me that so far as Selma was concerned the war was at an end and that we would be treated with the utmost courtesy. This gentleman was afterwards commissioner of education under President Cleveland.

I was in command at Selma for two days and then Colonel Marshall arrived with the Third Brigade. My regiment and the Twelfth Iowa

were put in camp in the city, while two regiments were sent down the river about ten miles to the county seat, Cahawba.

Selma had been a beautiful place, laid out after the northern fashion, with streets at right angles and without that abomination usually found in southern towns, a square, in the center of which is the courthouse with mercantile establishments on each side. General Wilson, with his cavalry, had been through Selma some two or three weeks previous, had met with a spirited resistance and the loss of quite a large number of his men. As I have stated before, Selma was a town in which large quantities of munitions of war were made and the manufacturing plants, as well as a large portion of the business part of the town, were destroyed by fire after Wilson captured the place. The business portion was ruined and it looked as if the town would have difficulty in regaining its former prestige and good looks. Here we had very little to do except guard duty and prepare for our return trip north. I held the position of brigade picket officer for a few weeks and we kept up camp guards as well as pickets.

We had more or less police work to do, for the inhabitants were demoralized and the streets filled with colored people, who had just discovered that they were free, and with returning Confederate soldiers. Under orders we established an office at which men who had been in the rebel service gave their paroles for future good behavior and were allowed to go on their way, our quartermaster in many instances furnishing transportation at the expense of the Government.

Selma was in the center of what was known as the black belt of Alabama, where there were more negroes in proportion to the whites and more cotton raised to the acre than in any part of the south. Wilson's force was the first Federal expedition to reach Selma and the whole country about had been free from real war. There were large quantities of cotton stored there and hundreds of bales were taken by the Government. As the summer approached there was more or less stealing of cotton and mules from the people, not from the Government, and the attention of post headquarters was often called to these depredations. We did the best we could to put a stop to them and were fairly successful, but we were unacquainted with

the country and received very little assistance or information from the people. A few weeks after we reached Selma I was made post adjutant, taking the place of Lieutenant Hoover of the 35th Iowa, who had been brigade-adjutant for many months, a most estimable gentleman. He resided at Muscatine, Ia., for many years before and after the war and his son is now a member of the Minnesota Loyal Legion.

Nothing of much importance transpired at Selma while my regiment remained there. About July 20th we started home, going by rail nearly all the way to Vicksburg, where we took the steamer "Magenta" for St. Louis, and then another boat, the "Savanna," up the Mississippi to St. Paul. A jollier lot of men than those on that boat could not be found, for the war was over and we were on our way home. August 8th we arrived at St. Paul, marched up to Fort Snelling and immediately began to prepare our muster-out rolls and other papers necessary for the proper discharge of the men. On the 16th day of August, 1865, after three years' service, we were discharged from the army. [66]

The history of my regiment has been written by J. T. Ramer of Company B, and is published in Volume I, "Minnesota in the Civil and Indian Wars." It is accurate and interesting. In the second volume of that work, page 625, are some matters of personal interest to me.

I went to Northfield on a construction train, running from Mendota to Northfield while they were building the old Central Minnesota railroad. After a few days visit I went to Hastings and began to inquire what I had best do. I had been admitted to practice law, but as I looked about and saw that my acquaintances, who had stayed at home, had opened up law offices and apparently were thriving, I began to fear that my three years' absence had sidetracked me so far as practice was concerned and that I better turn my attention toward some other occupation.

After a month or six weeks, a letter came from headquarters at Montgomery saying that my services were required there, as an agent for the Treasury Department. I had been connected with some cotton seizures at Selma and knew more or less about that which

had been seized and stored there. It was thought by General Swain, commanding the department, that I was well qualified to take charge of that branch of the work, make further investigations and put the evidence in shape for the courts, which would soon be held in that country. I accepted the position, was directed to report at Selma, and did so with a very serious idea of settling in that country.

I commenced the work required and was progressing fairly well with it when my attention was turned to another matter, the alleged robbery in daylight of a national bank which had recently been opened at Selma. A few days spent in investigation led to the arrest of the president of the bank. He was taken to Cahawba and there placed in jail to await his trial. The evidence was conclusive. He had stolen the money with which to speculate in cotton and, discovering that he was a defaulter, had concocted the story of robbery. Soon after his arrest, while he was taking [67] exercise in front of the jail, which stood some 200 feet from the bank of the Alabama River, he ran for the stream and, although the military guard fired at him, made his way into the water and was drowned. His body was found next morning.

It was not long before I discovered that a man from the north who wanted to live in Alabama must do one of two things, either attach himself to the leading citizens and become one of them in thought and action or affiliate with the carpet-baggers who were then in full charge, politically and otherwise. Quite a number of Jews had brought goods into town. They had no hesitation about what they must do in order to flourish and without exception had joined hands with the citizens. I regret to say that many of the northern officers who remained there became carpet-baggers, pure and simple. It seemed to me that it would be impossible for me to join either of these factions and I abandoned the idea of becoming a citizen of Alabama.

V I.

SIX MONTHS OF LAW PRACTICE NETS \$15— NORTHERN MINNESOTA IN SEVENTIES.

ABOUT THE 1st of May, having completed my work, I returned north to Hastings. While at Selma I became well acquainted with General John T. Morgan, who was a practicing lawyer there, and also had been a brigadier in the rebel army and was a most excellent citizen. He afterwards became United States Senator from Alabama, and I was told by Senator C. K. Davis that he was the best informed man Senator Davis had ever met. His range of information extended over every field and to every subject. Davis remarked that if any member of the Senate wanted information, no matter on what subject, he could get it from Morgan.

On reaching Lake City, in Wabasha County, I left the boat and went up town to investigate the place as a location for a lawyer. The town had many attractions and the field was apparently a good one, but it was not a county seat and I think that determined me to go elsewhere.

Taking the steamboat again, I found as a passenger Seagrave Smith, with whom I had studied law at Hastings. He told me that the best place, so far as he knew, for a lawyer, was at St. Cloud. He had been there a short time before and had found everything favorable for his own nomination as Democratic candidate for district judge in the Seventh District, just created. A judge was to be appointed in August and the election would take place the following November. The district was supposed to be Democratic, there had been more or less trouble among the Democrats over a candidate, and this trouble had also made itself somewhat manifest among Republicans. William S. Moore, a man who had practiced at St. Cloud [69] for several years before the war, had just returned from Montana and was the candidate of one faction of the Democrats. He was also favored by what was known in those days as the Clark, Waite and McClure crowd of Republicans. N. P. Clark, H. C. Waite and T. C. McClure were prominent and worthy citizens and associated with them was

one of the most skillful politicians of that country, Charles A. Gilman. Waite and McClure had married sisters of Mr. Clark and they were also closely allied in politics and in business.

St. Cloud was the county seat of Stearns County, in which nearly half of the people resided who were living north of a line drawn along the south line of Stearns County and thence extended across the state. The country was practically uninhabited from Stearns County north to the British possessions and from Lake Superior to the Red River of the North, and, as might be expected, Stearns County controlled the politics of all that region. Mr. Smith advised me to go to St. Cloud and I did. He had already opened an office there and we formed a nominal partnership, the firm name being Smith & Collins.

The railroad had been completed at that time, May, 1866, to Big Lake, and from there I traveled by stage to St. Cloud, crossing the Mississippi River at Clearwater.

I had some acquaintances at St. Cloud and, as a soldier, had been there. Company I of my regiment had been recruited there, and on the evening of my arrival I called upon Captain J. E. West of that company. The next morning, Sunday, I found upon inquiry that a young lady acquaintance, Miss Mary Mitchell, whom I had met at Mankato, was a regular attendant at the Presbyterian church, in fact, sang there, so I naturally turned my footsteps in the direction of that sanctuary. The church was a new organization and its pastor was a young man named E. V. Campbell. He was the first pastor and that was his first church. Dr. Campbell still lives at St. Cloud and still occupies the pulpit of the Presbyterian Church.* I cannot refrain from paying a tribute to [70] him. My acquaintance with him has been intimate for more than forty years. There is no better man anywhere, in the ministry or out of it.

I met Miss Mitchell after services and walked with her down to her father's house. He was then postmaster and an excellent and leading citizen. On the way down a note was handed Miss Mitchell and, after reading it, she said that she had business for me right away. I was then informed that a young man who was to take part in a little play

* Still so, 1919

which was to be given the next Thursday night, had been called to Chicago upon business and could not be present. Miss Mitchell immediately drafted me into service, so the next Thursday night I made my appearance on the stage at St. Cloud as the bridegroom in a little play called "The Day After the Wedding." Miss Mitchell was the bride and we were expected to be the stars. I have a suspicion that the play was not very meritorious, but it was well received. We were loudly applauded and, better than anything else, we made money enough out of it to buy green blinds for the church. This was the object in view.

Mr. Smith had opened an office in a frame building which has since been destroyed by fire, but the building was on Fifth Avenue S., and I immediately took possession, boarding and rooming at the Central Hotel. St. Cloud was a pretty active town and just at that time was the headquarters for one of the Fisk expeditions to Montana. About two hundred men, many of whom had been in the army, were there and waiting for the grass to start that they might commence their journey with horses and mules.

I had been in St. Cloud but two days when I saw a novel bet decided. Wesley Carter, who still lives in St. Cloud, had made a bet with W. A. C. Ryan, a member of the Fisk expedition, that the latter could not swallow six dozen raw eggs within one hour.¹¹ Ryan wagered a twenty dollar gold piece against Carter's rifle that he could. The feat was to take place in the dining room at the hotel. One table was left in the center of the room and the rest put back against [71] the wall. The room was filled with men to witness the affair. Ryan broke about three dozen eggs in a tin pan and, without much difficulty, swallowed them. He then absented himself for about thirty minutes, came back into the room smoking a cigar and very soon swallowed another three dozen eggs. He walked off with the rifle. This man had been a captain in the Federal army and had distinguished himself as a daring, capable soldier. He went to Montana with Fisk, but soon afterwards made his way to New York and became one of the men who went to Cuba in the steamer "Virginus." These men were captured by the Spanish and shot as a filibusterers.

¹¹ Compare "Cool Hand Luke" (1967), where the Paul Newman character wins a bet by swallowing 50 hard-boiled eggs in an hour.

I bought an old desk and a few book shelves from a lawyer by the name of Hicks, who was leaving town, and started in, the proud possessor of some twenty volumes of law books. Business was not very flourishing. I had a small collection sent me from Hastings, out of which I got a fee of \$3.50. I also picked up a few collections in town and drew some papers; but until after election I earned practically nothing. I do not think my entire receipts for the first six months after going to St. Cloud exceeded \$15.00.

As the 1st of August approached, we took much interest in the appointment of a judge for the new district. Colonel Marshall of my regiment had become Governor and refused to appoint Moore, who was backed by many of the leading citizens. Moore had left the State while the draft was impending and the Governor asserted that he had gone to escape it. Moore was a rabid Democrat and I always suspected that there was some truth in the charge, but I will say that he was not the only man open to suspicion along this line. Several of the Republicans, myself included, asked the appointment of Captain James McKelvy, who had been Captain West's predecessor in Company I and was a capable practicing attorney at St. Cloud. Marshall, for certain reasons, disliked to appoint McKelvy, but as he had refused to appoint Moore, Messrs. Clark, Waite and McClure consented to urge the appointment of McKelvy if he would agree not to be a candidate against Moore at the election. [72]

McKelvy was appointed on the 1st of August as the district judge, and as the time approached for the election became an open candidate. He was very anxious that a full Republican ticket should be put in the field in Stearns County, his idea being that it would increase the party vote and thus benefit him. A Republican county convention was held while I was absent at Hastings and I was nominated as county attorney. My candidacy seemed to me to be a hopeless task, but my opponent was Captain Taylor, who had made himself unpopular as a partisan of Moore, especially to Democrats favoring the nomination of Mr. Smith, who had been defeated in the judicial convention. Taylor had recently been mustered out of the service as a captain in the First Mounted Rangers. Most of his men

lived in Stearns County. After carefully looking the field over, learning the extent of the dissatisfaction and taking advice of leading men whom I felt to be disinterested, I accepted the nomination and commenced my canvass for votes. Judge McKelvy was a very valuable friend, and largely through his efforts I was elected by a majority of 126 in a county where the normal Democratic vote was twice as great as the Republican. Judge McKelvy carried this Democratic county by a majority of 76, and, much to our surprise, we found the Republican majority outside of Stearns County to exceed 500.¹²

In making our canvass in this election, Judge McKelvy and I started one Thursday morning with a team. We drove to Rockville, where there was a new election precinct, and from there to Cold Spring, where we stayed over night. We made Richmond, New Munich, Melrose and Sauk Center the next day, and while returning from Sauk Center on the third day went to the town of Avon where a precinct had just been established. From Avon, by way of St. Joseph, we went back to St. Cloud, reaching there Sunday evening, tired out. It was my first experience in this kind of work and when the campaign ended I resolved never again to be a candidate for political office. Later I reconsidered this resolution, as others have done and will do for all time. [73]

On the Monday before election we drove to St. Augusta and Main Prairie, and in visiting the places mentioned covered all the precincts then in Stearns County, except Winnebago Prairie, Lynden and Paynesville. My expenses were not very heavy and, including tickets, which were then the old fashioned ballots with names printed, did not exceed \$100.

¹² The results of the election in the Seventh Judicial District on November 6, 1866 were:

James M. McKelvy (Republican incumbent).....	1,176
William S. Moore (Democrat).....	919
Write-ins.....	13

Source: Journal of the House of Representatives, January 10, 1867, at 14-15; SAM 66, Roll 1, Image 52, MHS.

About the last of December I moved my office into a new brick building which had just been erected by Jas. A. Bell, for many years auditor of the canal department of the State of New York. This building, with the adjoining one, has recently been remodeled and is now No. 7 St. Germain Street. I commenced my duties as county attorney on the 1st of January, succeeding Oscar Taylor, who had been holding the office by appointment from the county commissioners to fill a vacancy caused August 1st by the resignation of Judge McKelvy. The commissioners fixed my salary at \$600 a year and I was paid in county orders which were worth from 85 to 90 cents on the dollar. St. Cloud was then a place of about 2,000. The entire population of the county was 8,000 or 9,000.

Soon after I became county attorney business commenced to come to me and before the end of the year I was doing fairly well. Judge McKelvy and all of the lawyers residing at St. Cloud had to travel over the district by stage or private conveyance. One line of stages ran from St. Cloud up the Mississippi River as far as Crow Wing, a tedious day's travel. Another ran from St. Cloud up the Sauk Valley by way of St. Joseph, Cold Springs, Richmond, New Munich and Melrose, also a day's travel. From Melrose, the next morning, started a line of stages northwesterly to Alexandria, which for several years was the terminus of what was known as the J. C. Burbank & Company's stage line.

In the fall of 1866 the St. Paul and Pacific Railroad reached St. Cloud and a grand celebration was had in the grove just back of where the McClure residence now is. The tract of land now occupied by N. P. Clark and the McClure estate then being unfenced [74] and in a very wild condition, was used for picnics and on Sunday for a beer garden. It was known as the Pine Garden and on Sunday evenings during the summer season a dance was had at a pavilion erected for the purpose. At these dances large quantities of beer were consumed. The Rev. Dr. Campbell lived just where he does now and I remember very distinctly how disgusted the doctor was at these Sunday evening entertainments. And well he might be.

In traveling to the various points where he held court, Judge McKelvy used his own conveyance. He had bought a gray horse in

the summer of 1867 from a preacher and, as might be expected, was unfortunate in its purchase. He also bought a one horse "Democrat" wagon. In driving the horse frequently balked, sometimes delaying the Judge and his traveling companion for an hour or two. I frequently went with the Judge to the terms of court in the surrounding country. In the fall of 1867 he held the first term for Pope County at Glenwood. We then drove from there across the country to Alexandria, where he held the first term for Douglas County. He also drove from St. Cloud to Little Falls and Crow Wing in 1867, the latter place, nothing but a memory now, was the county seat of Crow Wing County. Brainerd came later as the county seat of Crow Wing. A term of court had been held at Crow Wing before and two terms had been held previously at Little Falls. One or two terms had been held in Benton County prior to 1867. We went together to St. Paul by rail and from there by stage to Duluth in 1868, where Judge McKelvy held his first term. Duluth was then a place of perhaps one thousand people—a few houses on the water front and all upon one street. In the fall of 1870 Judge McKelvy held his first term at Brainerd. We went from there by rail to Detroit, in Becker County, and from there by sleigh to Fergus Falls, to which place the county seat of Ottertail County had just been removed from Otter Tail city.¹³ From there we went to Moorhead, that then being the terminus of the Northern Pacific Railroad [75]

At Detroit court was held in the largest room in town, a hall over a saloon. The only method of getting into it, the hall, was through the saloon, passing the bar in front and the billiard table which ornamented the rear. The first case to be tried in this somewhat novel court room was an action on a promissory note, the defense being a want of consideration. Just before we went to supper the jury was charged and was supposed to be escorted by the sheriff to a room in which to hold deliberations. Going down stairs, past the billiard table, I discovered quite a number of men, who looked rather familiar, gathered about the billiard table and using it for a desk on which make figures. As we passed the bar I looked round and recognized these gentlemen as the jurors. It turned out upon investigation that the sheriff had taken this jury to the rear end of the

¹³ For a participant's story of the removal, see Eben E. Corliss, "Reminiscences of the Early History of Otter Tail County" (MLHP, 2012) (published first, 1916).

saloon for their deliberations and that they were engaged in figuring up the interest due on the note when we passed. Judge McKelvy looked to it after this that the deliberations of his jurors should be conducted in a much more appropriate place than about a billiard table in saloon.

A day or two after this a jury in a civil case was sent out about seven-thirty in the evening. The Judge and the attorneys retired to the hotel for the night and soon afterwards the sheriff reported to the Judge that two of the twelve jurors were missing. This had been discovered after the jury had deliberated about an hour. It was a very serious question for the sheriff as to what had become of two of his men, but about midnight, while the village was being very closely searched for the absent men, someone reported that he had seen them get into a wagon drawn by a pair of horses driven by a son of one of them who lived out about three miles from town. The sheriff made trip to the house and found the two jurors sound sleep, one having gone home for a visit with the other. These were among the incidents of holding court in a new country. .

At Moorhead, I think it safe to say, every juror had [76] a gun with him and there was no hesitation about exposing the weapons. Nearly everybody went armed and shooting affrays on streets and in saloons were quite common. One gambler was killed by another while we were there. The grand jury then in session indicted the man who did the killing. At the trial a plea of self-defense was interposed. The defense was very weak, but the man was acquitted, evidently because the jurors believed that the town was well rid of the deceased.

I held the office of county attorney for five or six years and, of course, mixed a great deal in politics. One issue in those days, in that part of the State which comprised the Third Congressional District, was over Ignatius Donnelly. Mr. Donnelly had easily managed to make himself very obnoxious to the Washburns and this finally led to his downfall. The fight became so acute in the year 1868 that two Republican Conventions were held at St. Paul. In one Mr. Donnelly was nominated for Congress and in the other the nominee was General L. F. Hubbard, both Republicans. The Democrats nominated

a very popular citizen of Minneapolis, Captain Eugene M. Wilson.¹⁴ After two or three weeks of wrangling between the Republican factions Hubbard and Donnelly agreed to arbitrate their differences, the one in whose favor the decision was rendered to withdraw and give hearty support to the other. The decision of the arbitrators was in favor of Mr. Donnelly and General Hubbard very promptly withdrew.

I thought at the time, and still believe that General Hubbard was rightfully nominated and should have remained in the field, but I had been an adherent of Donnelly's and stayed with him in the campaign, making many speeches in Stearns and adjoining counties.

The Congressional Committee, a majority being personal friends of the Washburns, put into the field Gen. C. C. Andrews who then resided at St. Cloud. Andrews was furnished with plenty of money and made his campaign with a pair of fine horses, a top carriage and a driver. He spent six weeks in campaigning. [77] The result was the election of Capt. Wilson.¹⁵ Within a short time General Andrews was appointed Minister to Sweden and Norway and remained there for a number of years.

This defeat marked Mr. Donnelly's retirement from Republican politics. I knew him very well indeed. He was an exceedingly able man, but very erratic. He was a splendid campaigner and a most entertaining speaker, no matter what the subject might be. I had several opportunities to compare Mr. Donnelly with men of much greater reputation as orators, but never heard one [who] could excel him, especially in repartee or vituperation.

¹⁴ "Eugene M. Wilson (1833-1890)" (MLHP, 2008 -2016).

¹⁵ In 1868, General Andrews, who had the Republican Party endorsement, and Ignatius Donnelly, who ran as a Republican without party designation, split the Republican vote, permitting Eugene M. Wilson to win:

Christopher C. Andrews (R).....	8,595
Ignatius Donnelly (R).....	11,229
Eugene M. Wilson (D).....	13,506
Write-ins.....	89

Bruce M. White, et al, *Minnesota Votes: Election Returns by County for Presidents, Senators, Congressmen, and Governors, 1857-1977* 69 (Minn. Hist. Soc., 1977).

When I located in St. Cloud in 1866, the lawyers practicing there were William S. Moore, William J. Parsons, Charles D. Kerr, Oscar Taylor, James M. McKelvy and E. M. Wright. William Wood and George W. Sweet had offices at Sauk Rapids. James Hall was in practice at Little Falls, and N. H. Minor at Sauk Center. E. O. Hamlin had previously practiced at St. Cloud, but just at that time, was residing in Memphis, Tenn. He returned to St. Cloud one or two years later. Edward F. Parker had just gone to Duluth, and these gentlemen, with myself, constituted the entire bar of the Seventh District in May, 1866. At this date, March, 1910, I am the sole survivor.¹⁶

There were two or three men living at St. Cloud and at other neighboring points at the time, who had been admitted to the bar, but were not engaged in practice. Among them were Henry C. White, who still lives at St. Cloud, and Thomas C. McClure, who died many years ago. L. A. Evans had also been admitted, but at that time was Judge of Probate and confined himself exclusively to the duties of that office.

In 1870 I had a law partnership for a short time with H. L. Gordon who came to St. Cloud from Monticello in 1869. Gordon was a good lawyer, with a great deal of natural talent. He tried his cases without regard to what other people might think and his methods frequently led to his defeat at the hands of the jurors. [78] He is still living in California, but is not engaged in practicing law.

At the legislative session in 1866 the Seventh Judicial District was created, the bill to take effect on August 1 of that year.¹⁷ Two counties, Carlton and St. Louis, were taken off from the north end of the old First District. The balance of the district was that part of Minnesota lying north of the southern line of Stearns County, extending on the west to Dakota and on the east to Anoka County, thence northeast. By the census of 1865, this district had a few less

¹⁶ Many of these early lawyers and judges are profiled in James E. Jenks, "Bench and Bar of Stearns County" (MLHP, 2013) (published first, 1915).

¹⁷ Stat., c. 64, Title II, §24, at 417 (1866). The Seventh Judicial District was composed of the following counties: Stearns, Sherburne, Benton, Morrison, Crow Wing, Aiken, Cass, Douglass, Todd, Mille Lacs, Polk, Stevens, Traverse, Pembina, Clay, Andy Johnson, Otter Tail, Wadena, Becker, Pope, Saint Louis Carlton, Itasca and Lake

than 14,000 people, although it extended north to the British possessions. Nearly half of these residents were in Stearns County. In 1905, the census showed approximately 700,000 people in this same territory, the increase in forty years being more than thirty-eight per cent.

I held the office of city attorney in St. Cloud for four years and was mayor in 1876-77-78 and again in 1880. In the fall of 1880 I was elected to the legislature; my opponent being John W. Tenvoorde, a German merchant of St. Cloud. I was a member of the judiciary committee of the house and chairman of the normal school committee, Session of 1881. The latter was a very important place, because up to that time the existence of the normal schools of the state, there being three, one at Winona, one at Mankato, and one at St. Cloud, was constantly in jeopardy. We got no appropriations whatsoever except by going to St. Paul in squads and lobbying hard for every dollar. A dozen or fifteen leading citizens would go from each of the towns named and simultaneously make raids upon the members. At one session of the legislature not a dollar for expenses was appropriated for these schools, but the school at St. Cloud managed to get through because it had in its treasury a surplus which had accumulated from prior appropriations. This surplus was used up and the school was in debt at the end of the year. We had yearly legislative sessions in those days and by making extraordinary effort we managed to secure an appropriation to cover the deficiency just [79] mentioned and for the current expenses of the next year.¹⁸

It will be remembered that we had an extra session in the fall of 1881, called by Governor Pillsbury for the purpose of settling up the old railroad bond question. The Governor was a very earnest advocate of this measure and made the enactment of the law a personal matter with all his legislative friends and acquaintances. He finally saw the measure passed, witnessed its endorsement by the courts¹⁹ and the settlement of a controversy which had existed in the state for many years.

¹⁸ 1881 Laws, c. 190, §1, at 234 (approved February 24, 1881).

¹⁹ *Secombe v. Kittelson*, 29 Minn. 555, 12 N.W. 519 (1881)(Mitchell, J.). David A. Secombe was a prominent Minneapolis lawyer; Charles Kittelson was the State Treasurer from 1880 to 1887.

For the story of the bonds, see William Watts Folwell, 3 *A History of Minnesota* (Appendix 9) 418-441 (Minn. Hist. Soc. Press, 1969) (published first, 1926).

I was re-elected to the House in the fall of 1882, was a member of the Judiciary Committee and chairman of the most important committee, to me, that of appropriations. Senator Charles A. Pillsbury, of Hennepin County was chairman of a like committee in the Senate. He was a most agreeable gentleman with whom to work. We had \$90,000.00 of U. S. internal improvement funds to dispose of and Senator Pillsbury and I set about distributing this where it would do the most good while we asked for appropriations for the normal schools and state university, the latter being of great concern to Mr. Pillsbury. We divided the money among the poor frontier counties and in that way brought to our aid a large number of members who had previously opposed the appropriations we were most interested in.

I secured for the normal school at St. Cloud an appropriation of \$12,000.00 with which to build the ladies' dormitory, the building destroyed by fire a few years ago. It went through in the omnibus appropriation bill which bill was my own invention. Up to that time appropriations had been made in separate bills, one for the university, another for the normal schools, another for the state prison and others for various institutions and objects. I devised this idea of an omnibus bill in which all the appropriations were brought together and, attracted by the money which we set apart for the rural roads and bridges, almost every member was brought to the support of the bill [80] and passed it without any trouble whatever. Since then, the custom has been universal to make appropriations in this manner and while it has been an excellent plan for those personally interested it has sometimes resulted disastrously to the state.

General Hubbard was then governor and had at his disposal an appointment which was thought by some to be quite lucrative. This appointment he had offered to Capt. Henry A. Castle, of St. Paul, a most intimate friend of Governor Hubbard.²⁰ Castle was editor of the Dispatch and did not care to accept the appointment, that of state oil inspector, unless it was very profitable. The office was held by a gentleman named Hoffman, who had been appointed several years

²⁰ Two publications of Henry Anson Castle (1841-1916) are posted on the MLHP: "Reminiscences of Minnesota Politics" (MLHP, 2014) (published first 1915); and "The Bench and Bar of St. Paul and Vicinity" (MLHP, 2009)(published first as a chapter in the last of his three-volume *History of St. Paul and Vicinity* in 1912).

before when it was not regarded as of any value. Castle had exhausted every means to find out what the office paid, but the then incumbent did all the work himself and disclosed nothing concerning the receipts. Wm. H. Conner, before mentioned, was manager for the Standard Oil company in St. Paul and I did not hesitate to tell him what I wanted. Mr. Conner was not at liberty to give me the figures, but one afternoon when I was in the office his books containing his account with Hoffman lay open on his desk. Conner had business elsewhere and I got the figures. The books disclosed that the Standard Oil company, which paid about nine-tenths of the entire revenue of Hoffman's office, had turned over to him more than \$8,000 as fees the year before. I made a memorandum showing the payments for each month to Mr. Hoffman and showed Capt. Castle what there was in the job. A day or two afterwards it was announced that the governor had appointed Capt. Castle as oil inspector to succeed Mr. Hoffman.

In the spring of 1883, soon after I returned from the legislative session, Judge McKelvy very suddenly resigned. His resignation was sent to the governor the 6th of April to take effect on the 12th. The subject of his successor had frequently been discussed among the lawyers throughout the district, which had been reduced in area by the establishment of a new district [81] along the line of the Northern Pacific Railroad, stretching from Duluth to Moorhead, over which Judge Stearns had been appointed to preside. This subject was of particular concern to attorneys residing at St. Cloud and D. B. Searle had frequently urged me to accept the place when the vacancy came. I had become somewhat prominent in legislative circles and knew that I could be re-elected from my district if I chose. I also felt certain that I could be chosen speaker of the house at the next session and for these reasons hesitated about accepting a judicial appointment.

The resignation was not disclosed until the 10th of April when the judge came to my office and told me what had happened and the manner in which it had been brought about. The resignation was secured by Charles A. Gilman, A. Barto,²¹ D. B. Searle and N. P.

²¹ Alphonso Barto (1834-1899) served two terms in the state House of Representatives, 1872-1874, and one term as Lieutenant Governor, 1874-1876.

Clarke after they had agreed that Searle should be named as district judge. Many of the lawyers throughout the district felt very indignant at the proceeding. I was among the number, and, determined to prevent the carrying out of the plan, I went to St. Paul and saw my old friend Capt. Castle, who immediately went to Governor Hubbard, told him of his obligation to me and asked that I be appointed. After a few days of very warm discussion, I was commissioned and at once abandoned the practice of law.

My district had become quite well populated, and the business had been neglected so that there was quite an accumulation of work. I held terms of court in 1883 in the counties of Sherburne, Mille Lacs, Morrison, Benton, Stearns, Pope, Douglas, Todd, Ottertail, and Grant. There had been a great contest in Grant County over the county seat and it had just been removed from Herman, in the southeast corner of the county, to a new town called Elbow Lake, in about the center, thirteen miles from a railway. It was in a new and exceedingly small court house that we held the first term there in the month of September, 1883.²² In returning from the Dakotas with the

²² Seventeen years later a new court house for Grant County was dedicated. At the ceremonies, a letter from Collins, now in private practice, was read. It was quoted in this passage from a history of the county published in 1916:

STORY OF THE FIRST COURT SESSION.

At the dedication of the new court house, in 1906, a letter was read from Judge L. W. Collins, who presided at the first session of the district court held in Grant county, in 1883. This letter is of interest, as it gives an insight into the conditions which confronted the early lawyers in Grant county. Judge Collins wrote as follows:

“I held the first term of court in your county at Elbow Lake in 1883 in the old court house, a small building erected for public purposes. There was but one hotel, kept by Mr. Laastuen, and, if I remember right, no store at all in your place. I am told that the hotel I speak of was on the ground now occupied by the new court house—a beautiful site for a public building.

“Things were very crude in those days. I remember that an appeal was made to me to transfer the court to either Herman or Ashby, because there were no proper facilities in Elbow Lake. I thought that those who had business might be discommoded, and stated, upon opening the court, that if any complaints were to be made, I would listen to them at that time, and, if there was no well founded reason for transferring the court to some other town, it would be held here. I heard no complaints and we went on with the business.

“The lawyers were all taken care of by the then county auditor, Mr. Sanford, who lived about a mile away, across a small lake. Farmers took jurors, litigants and witnesses to their houses in the neighborhood. The hotel proprietor and his good

Sibley Expedition in 1863, I had marched through this section of the country and we had camped one Sunday on the lake [82] after which this little village was named. I had kept a diary of this expedition and on this particular Sunday had found a section corner and made a record of it. I took the diary with me and found upon inquiry that I was holding court within a quarter of a mile of the section corner and within a half mile from where we had made our camp when we were there precisely twenty years before.

In the year 1893 I was engaged 126 days in jury trials in that district. The next year was a very strenuous one, but in 1885 the legislature passed an act giving the district an additional judge and L. L. Baxter of Fergus Falls was appointed to the place. For reasons which Judge Baxter thoroughly understood, and which seemed to me to be quite sufficient, I had opposed him for this appointment and had urged that John W. Mason of Fergus Falls be given the position. But we became excellent friends and co-workers. Our association was always exceedingly agreeable.

My duties as district judge for the next few years were of the monotonous character which might I expected. I enjoyed the work thoroughly, except it took me away from home, but I was within easy reach at all times and could be at St. Cloud upon few hours' notice. The work was much easier than that I had later in the Supreme Court and I did not feel that degree of responsibility which would naturally come to men occupying the higher position.

wife did exceedingly well with the crowds that were thrust upon them, and, upon the whole, it was not an unpleasant condition of things.

“I held, as district judge, one or two terms later, when the town had commenced to grow and could boast of a store and three or four dwelling houses. I look back upon those days and the friends I met there with a good deal of satisfaction.”

Constant Larson, ed., *History of Douglas and Grant Counties* 460 (B. F. Bowen & Co., 1916).

VII.

APPOINTED TO STATE SUPREME COURT— GUBERNATORIAL CAMPAIGN OF 1904.

IN the fall of 1887 the Hon. John M. Berry, who had been Associate Justice of the Supreme Court for many years, an exceedingly capable man, died at Minneapolis. Some of my friends urged my appointment to the place, but I hesitated. I knew it was hard work and realized a place in the Supreme Court would take me, away from home more than I had been. Mr. Searle, who had become a very warm supporter of mine, was anxious to become district judge and he and many others urged my appointment to the Supreme Court, which would make Searle my successor in the District Court. I very reluctantly yielded to the demand and November 16 of that year was appointed Associate Justice of the Supreme Court to fill the vacancy caused by the death of Judge Berry.²³ My first opinion will be found on page 502, volume 37 of the Minnesota Reports. That term of court, October term, 1887, we had 168 cases on the calendar. The number has never been so small since that term and at one time reached 375. A few years ago the number of cases had decreased so that at the April term, which has always been the shortest, there were but 170 cases.

At the time I became a member of the St. Paul court, James Gilfillan was chief justice. He had been a captain in my regiment. William Mitchell, Daniel A. Dickinson and Charles E. Vanderburgh were associates and they served with me until October, 1894, when Judge Dickinson resigned to practice law at Duluth. This he did with great success for the few years he lived. He had been defeated at the previous election in 1893 (sic), together with Judge Vanderburgh, the two new men being Daniel Buck and Thomas Canty.²⁴ Judge

²³ By law he ran for a full term in 1888. The results of the election on November 1886, were:

Loren W. Collins (inc.).....	148,785
George W. Batchelder.....	101,937
G. S. Livermore.....	569
Write-in.....	76

²⁴ The results of the "top 3" election on November 8, 1892 for Associate Justice for terms beginning January 1894 were:

Buck was appointed to fill the unexpired term [84] of about three months and on the 1st of January following Buck and Canty qualified and entered upon their duties, each for the full term of six years.²⁵ The court was then composed of Chief Justice Gilfillan, Judges Mitchell, Buck, Canty and myself, and it so remained until the death of Chief Justice Gilfillan which occurred in November, 1894. His term of office would have expired on the 1st of January following for he had been defeated for re-nomination in the Republican convention by the Hon. Charles M. Start who was elected chief justice a few days before the death of Judge Gilfillan. Judge Start commenced his work in January following.

Our court was far behind with the cases, caused in part by the death of Judge Gilfillan; in part by the sickness of Judge Buck, but mainly by the greatly increased number of causes to be argued and submitted. At the next election, in 1898, Judges Mitchell, Buck and Canty were defeated, their successors being C. L. Brown, J. M. Lovely and C. E. Lewis.²⁶ Judge Buck resigned October 1st, 1899, and Judge

William Mitchell (R, D, Pro & inc.).....	165,541
Daniel Buck (D. & Peoples').....	113,194
Thomas Canty (D. & Peoples').....	109,166
Daniel A. Dickinson (R, Pro & inc).....	101,148
Charles E. Vanderburgh (R, Pro & inc).....	100,064
William N. Davidson (Peoples').....	42,084

²⁵ Collins ran for re-election in 1894, the results of which were:

Loren W. Collins (Republican incumbent)...	162,701
John W. Willis (Democrat & People's).....	113,019

In his last election in November 1900, he was unopposed:

Loren W. Collins (R & inc).....	192,427
Write-in.....	59

²⁶ The results of the “top 3” election on November 1898 for terms beginning January 1900 were:

John A. Lovely (R).....	129,268
Calvin L. Brown (R).....	107,523
Charles L. Lewis (R).....	100,806
Thomas Canty (D, Pop & inc).....	99,002
William Mitchell (D, Pop & inc).....	89,527
Daniel Buck (D, Pop & inc).....	78,441
S. Grant Harris (Mid. Road & Pop).....	7,020
Josiah H. Temple (Mid. Road & Pop).....	5,019
Edgar A. Twitchell (Mid. Road).....	4,592

For sources of these results, see “Results of Elections of Justices to the Minnesota Supreme Court, 1857-2016)” (MLHP, 2010-2016).

Brown was immediately appointed to fill the vacancy and began his duties without delay.

No further changes were made in the court until I resigned April 1st, 1904. My relations were pleasant, extremely so, with all of the gentlemen with whom I served. Some of them were more agreeable and abler men than others, but my acquaintance and contact with all was such as to lead me to form a very high opinion of the men.

Until my marriage to Miss Ella Stewart, of Berlin, Wis., in 1878, I was the victim of hotels and boarding houses in St. Cloud although about 1869 I improved matters somewhat by buying a house and lot.

This house I removed from the corner where it stood to the center of the lot, and added to it, so that it became a respectable residence, and it was the only house I ever occupied in St. Cloud, No. 300 Third avenue south. I bought other lots and added to lot 1, so that it became quite a large tract of ground.

Mrs. Jane Taylor, an old resident of St. Cloud, [85] and a splendid woman, at my solicitation, rented the house from me and kept ten young men as day boarders for more than three years. I was one of the boarders. We all roomed at our places of business. Attached to my office was a sleeping apartment which I had fitted up and occupied for a number of years.

My life at St. Cloud was uneventful and my work in the supreme court will have to speak for itself. Mrs. Collins died in 1894 and the following winter I closed the house and took my three boys to St. Paul. In the spring, we returned to St. Cloud, and re-established housekeeping.

In 1904 I was strongly urged to become a candidate for governor. R. C. Dunn, of Princeton, had announced himself as a candidate, but was meeting with very vigorous opposition. He had opposed Governor Van Sant's program in regard to the Northern Securities Company. Governor Van Sant and many of his friends were active in their efforts to induce me to become a candidate and at last I consented, with the distinct understanding with my friends, that I

should not resign from the Supreme Court. The result is well-known history, and I need not go into the details.²⁷ I was defeated in the convention. In fact the defeat was so apparent, through the unscrupulous manipulations of Mr. Dunn's friends, that I would not permit my name to be presented. I was satisfied from the beginning that Mr. Dunn could not be elected if nominated, and the result fully warranted my belief.

There were several things connected with that campaign which caused me much regret. Many men who were under great obligation to me, politically, personally and financially, opposed me and, as might be expected, were most abusive in their opposition. It was unpleasant to have my opinion of them completely changed, but politics sometimes work wonderful results. I should like to mention names in this connection, but it would not be of value and I refrain.

Another thing which annoyed me very much was the situation of the Supreme Court. A Republican governor, Pillsbury, had appointed Judge William [86] Mitchell of Winona, a Democrat, as one of the Justices of the Supreme Court. Judge Mitchell was an exceedingly able and honorable man and served the state with great credit to himself. In the first convention held after his appointment he was nominated by the Republicans, but the Democratic mob, which composed the Democratic convention, were particularly opposed to the placing on their ticket of the names of his colleagues nominated in the Republican convention, Vanderburg and Dickinson. The Republicans, six years later, again nominated Mitchell, Vanderburg and Dickinson, but the Democrats and Populists combined and nominated Mitchell, Buck and Canty, and these gentlemen were elected, displacing Vanderburg and Dickinson.

During the campaign for the nomination for governor, I felt compelled to resign from the Supreme Court and did so, my resignation taking effect April 1st, 1904. The Governor immediately appointed Attorney General Douglas to fill the vacancy. When the Republican convention was held, Douglas was defeated for the

²⁷ For a lively account of this contest see "The Dunn-Collins Contest for Governor in 1904" in Harlan P. Hall's, *Observations: Being More or Less a History of Political Contests in Minnesota From 1849 to 1904* 317-44 (1904). It will be posted on the MLHP at a later date.

nomination, Brown, Jaggard and Elliott being nominated. Judge Lovely, who had been elected six years before in place of Judge Canty, was declared defeated by Judge Elliott, after having been fairly nominated. He was simply counted out, the moving spirits in the proceeding being the delegates from Hennepin County who had been seated by Dunn's followers in place of 106 delegates who had been elected in my interests. It was a most outrageous political manoeuvre and for the first time in the history of the court, the nominations were made to serve political ends.

I maintained my residence at St. Cloud, although actually living in Minneapolis, until 1906, when I felt that I was no longer a bona fide resident of St. Cloud, and became a citizen of Minneapolis, thus returning after many years' absence, to a residence in Hennepin county. •



APPENDIX

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**PROCEEDINGS
IN MEMORY
OF
ASSOCIATE JUSTICE COLLINS
AND
HONORABLE WILLIAM LOCHREN** ²⁸

. . . .

**LOREN WARREN COLLINS
August 7, 1838 – September 27, 1912**

On the afternoon of October 22, 1912, in the court room at the State Capitol, HON. ELL TORRANCE addressed the Supreme Court, then in session and said:

May it please the Court:

On behalf of the Minnesota Bar Association and upon motion of the Attorney General, the committee appointed by this Court to prepare and present to the Court a memorial of the life and public service of the Honorable Loren W. Collins, late Associate Justice of this Court, who departed this life September 27, 1912, in the discharge of its duty, has prepared a memorial which will now be read by Mr. Farnham, secretary of our committee.

The CHIEF JUSTICE then said: Mr. Farnham.

CHARLES W. FARNHAM, Esq., then read the following:

²⁸ Memorials for both judges were delivered during this court session. The transcript has been divided so that only the section on Collins is posted here. For the complete transcript of the memorials, see "Proceedings in Memory of Associate Justice Collins and Honorable William Lochren," 119 Minn. xix (1913). The tribute to Collins is also published in *Testimony: Remembering Minnesota's Supreme Court Justices* 132-138 (Minn. Sup. Ct. Hist. Soc., 2008).

MEMORIAL

The Honorable Loren Warren Collins, once Associate Justice of this Court, died at Minneapolis on the twenty-seventh day of September. He was born at Lowell, Massachusetts, August 7, 1838, of old New England stock. His ancestors served in the French and Indian War of 1760, King William's War, the defense of Fort Edward and of Black Point. They also held many positions of trust and responsibility in civil life, one of whom was the last Colonial Governor of New Hampshire. At the age of sixteen Judge Collins came to the then territory of Minnesota with his father, who located on some unsurveyed land at Eden Prairie, Hennepin county. His education up to that time had been meager, being such as was afforded by the public schools of Chicopee and Palmer, manufacturing towns in Massachusetts, where his father, a mill operator, resided. In the fall of 1858 he taught a four-months term of school near Cannon Falls, for which he received a school district order for \$60; and in 1859, with this as his sole asset, he commenced the study of the law at Hastings with the firm of Smith, Smith & Crosby. In January, 1862, the firm dissolved and he remained with Judge Crosby until August following, when he entered the army and was at once promoted to Second Lieutenant of Company F, Seventh Minnesota Volunteer Infantry.

While reading law he had some experience in trying cases before justices of the peace, but that was all. His army service was a meritorious one. For eighteen months he defended his adopted state against the depredations of the Indians, the ancient foes of his ancestors. He participated in the Sibley campaign, which terminated in the Battle of Wood Lake, in which the Indians were routed and five hundred white women and children released from captivity. In the winter of 1864 his regiment was ordered south, and until the close of the war he was actively engaged in operations against the Confederate forces. He participated in the decisive battle of Nashville and was breveted Captain for gallant and meritorious services. Was honorably discharged from the service August 16, 1865, and spent the following six months in Alabama, as a treasury agent.

In May, 1866, he commenced the practice of the law at St. Cloud, and continued such practice until April, 1883, when he was appointed to succeed Judge McKelvey of the District Court. During this period of seventeen years he acquired distinction as a lawyer and man of affairs. For four years he was associated with Colonel Charles D. Kerr, in the practice of the law, and for a somewhat shorter period with Theodore Bruener, Esq. In 1876, 1877, 1878 and 1880 he was Mayor of the city of St. Cloud, and for eight years was County Attorney of Stearns county. From 1881 to 1883 he was a member of the State legislature. November 16, 1887, while serving as Judge of the Seventh Judicial District, he was appointed an Associate Justice of this court, to fill the vacancy caused by the death of Justice Berry. The following year he was elected to succeed himself, and again in 1894 and again in 1900. April 1, 1904, he resigned to become a candidate for Governor of the state. In his unmerited defeat, the state of Minnesota sustained a loss from which she has not yet recovered. At the age of sixty-six he resumed the practice of the law in Minneapolis and met with a success quite unusual for one so advanced in years and who had been out of active practice for so long a period of time.

At the time of his death he was a member of the firm of Collins & Eaton. While he was a member of this court he wrote over fifteen hundred opinions. They are models in style and composition, and no one, in reading them, would question his scholarly attainments or surmise that his early education had been fragmentary. He had the manners of a scholar, and in his conversation and writings disclosed a self culture that was the full equivalent of a liberal education.

He was a man of sterling integrity, of great moral courage and unblemished honor. He had a profound sense of duty, which with his natural vigor of mind enabled him to accomplish much. The history of Minnesota from territorial days down to the present time cannot be properly written without a recital of the civil, military, and judicial service of Judge Collins. He was a man of strong personality, uniformly courteous and agreeable, and commanded the respect, confidence, esteem and friendship of all who knew him. Of him it can be truly said that he combined in rare degree the virtues, qualities and excellences of jurist, statesman, soldier and citizen.

ELL TORRANCE,
KNUTE NELSON,
THEO. BRUENER,
J. N. SEARLES,
LYNDON A. SMITH,
CHARLES W. FARNHAM,
M. B. WEBBER,
WALLACE B. DOUGLAS,
C. L. LEWIS,
Committee.

HON. ELL TORRANCE then addressed the court and said:

May it please the Court:

The records of this court contain many cherished memorials, and today another is added to the lengthening roll of honor. These memorials are the incense that envelop the shrine of justice. They are tributes which the living pay to those

“Whose actions, like the just,
“Smell sweet and blossom in the dust,”

and their chief value consists in the inspiration to better things which follows the contemplation of the lives and services of those distinguished for excellence of character, efficiency of service and nobility of soul.

Minnesota, since her birth, has been fortunate in the character of her judges, and especially so as to those who have constituted the court of final resort. In the history of American jurisprudence the opinions of this court will, I am sure, share an immortality no less illuminating and instructive than that of the courts of other commonwealths, and the moral qualities and high ideals of her judges will lend strength and beauty to the written page.

Invaluable as the work of this court has been in interpreting and applying right rules of conduct to human affairs, and in safeguarding

life, liberty and the pursuit of happiness, I firmly believe that the character of the eminent men, who from time to time have composed the Court, has exerted upon society a beneficial influence as helpful and enduring as the product of its official labors.

A just, wise and fearless administration of the law is possible only when those who administer the law are men of wisdom, courage and uprightness, and to the memory of one whose life and public services measured up to the highest standard that can be applied to conduct and duty, we today out of grateful hearts pay a sincere and affectionate tribute.

For more than half a century Judge Collins stamped his personality upon the affairs of this great state, and it is a pleasure and a privilege on this occasion to speak his just praise. He was a learned, clear-headed, right-minded, honorable and just judge. He met all the requirements of his great office. His services as a member of this Court were contemporary with those of some of the greatest jurists of the state. For years he was a colaborer with Chief Justice Gilfillan and Justices Mitchell, Dickinson and Vanderburg. He had great capacity for work and was a man of extraordinary industry. Patient, tireless, painstaking, he could not rest content with a single duty unperformed. He had an attentive mind and a retentive memory. He grasped with readiness the facts in a case, even to the minutest detail, and with ease arranged them in orderly sequence so that, with the law clearly in mind, he could speedily reach a right conclusion.

But I will not longer dwell upon his services as a member of this court. They are monumental and constitute a part of the permanent wealth of the state, and among the illustrious names that have adorned the bench and bar of Minnesota, none will shine with a clearer or steadier radiance than that of Judge Collins. For a few moments I now ask the indulgence of the court while I speak of him as a man, for he was more than a great administrator of the law. He was a lovable man, a good citizen, a true patriot, a devoted husband, an affectionate father and a sincere friend. He was a many-sided man, but at all times and everywhere he was sincere, steadfast and dependable. He was a courteous, well-bred gentleman, and although

at ease in the abodes of the rich, he was not a stranger in the homes of the poor. He was a popular man in the best sense of the term. His friends were legion. I have often walked with him on the crowded streets of my home city, feeling that I was almost among strangers, while Judge Collins would again and again be greeted in the most cordial manner by those who knew him. I have traveled with him on long journeys, rarely seeing anyone that I knew, while he would meet and greet friends at every turn. He had a sane and wholesome mind, always hopeful, optimistic, and of two evils he rejected both. He believed in his fellow men and his fellow men believed in him. He looked upon the bright side of life and the windows of his soul opened toward the south and to the sunshine. He did not, as many do, regard the age in which he lived as a sordid one. While recognizing the evils in society and the importance of their correction, he believed that the world was growing better every day and that belief helped to make the world better.

His attachments were strong and applied to places as well as to persons. While his duties made it necessary for him to be absent from St. Cloud much of the time, and finally to change his residence to another city, his real home remained at St. Cloud until the day of his death. For it was there that he had achieved his early successes in life. It was there that his children were born and where the hearth burned brightly with a sanctifying warmth. It was there that the wife of his affection and his dearly beloved daughter fell asleep and at whose graves sorrow carved deep lines of grace and beauty upon his soul. It was there that many of his compatriots of the Great War resided, and strong as were the inducements for him to transfer his membership in the Grand Army of the Republic to another Post, he would not desert his old comrades in their declining years, and one of the most touching and pathetic incidents connected with his funeral was the tender tribute paid by the venerable survivors of his Post as they gathered about his casket and covered it with flag and flowers.

True friendship is the staff and comfort of our earthly pilgrimage and the severing of the silver cord that binds friend to friend gives lasting pain. Nevertheless, there is more of joy than of sorrow on occasions like this. When the summer is ended, the bountiful harvest is

gathered with gratitude and song into the barns and the ripe fruit is plucked with gladness from the overladen branches. If it were not so, then would the remembrance of the blossoming trees and the waving fields of grain bring pain rather than pleasure, for without fruitage all ends in disappointment and sorrow. But the contemplation of the useful life of our friend brings to our hearts comfort and satisfaction, and we are thankful that he rests from his labors and is at peace in the abodes of the blest.

HON. WALLACE B. DOUGLAS then addressed the Court and said:

May it please the Court:

While shocked at the sudden going from our midst of Justice Collins, it still affords me pleasure to bear testimony to the fact that my thought harmonizes with the expression of his most intimate friend, Judge Torrance, who has spoken here today. It was my very great good fortune to know Judge Collins intimately while judge of our District Court in the old Seventh Judicial District, and I recall the first impression gained after his appointment, namely, that he was always alert and quick to decide, and as our acquaintance deepened, I was impressed by his sound judgment and the hearty good fellowship in his make-up which was always dominant. We learned later that he was an accurate lawyer, and he gained in full measure the regard and confidence of the bar upon his circuit.

It was my good fortune to be associated with him still later in many ways during the longest period of his usefulness, while he was Associate Justice of this court, and it occurs to me at this moment that naught has been said by his most intimate friend, except that which we can all testify to with reference to his many-sidedness, his judicial ability and to his accuracy as a lawyer, and it affords me very great pleasure to say that, during the many years of our acquaintance and friendship, I always found him to be a man of the highest integrity, great courage and one of the most useful officers who ever served in this state.

HON. MARSHALL B. WEBBER then addressed the Court and said:

It had not been my expectation to say anything, personally, in memory of Justice Collins, except what is uttered in the memorial, and I do so only through insistence on the part of members of the committee. I am very glad to bear testimony to the many lovable characteristics of Justice Collins.

These occasions always appeal to me as somewhat hollow. What we say in commemoration of those that have gone on cannot be heard by them, and the thought often comes to me of the expression of another that "A single rose to the living is more than sumptuous wreaths to the dead." Of course, all the virtue there is in these memorial exercises is in commemoration of those characteristics of the dead which are worthy of exemplification on the part of the living. I remember Justice Collins as a very lovable and approachable man, a man, who, upon all occasions, whether upon the bench in his official capacity, or upon the street, or in any social gathering, was always a lovable acquaintance and valued friend.

I have thought, at times, that there was seemingly an impenetrable wall between the bench and the bar, but with Justice Collins I believe no lawyer ever felt that he was not at any time welcome, or that he could not approach him as an acquaintance on terms of intimacy, and with that intimacy between the bench and bar, judge and lawyer both become stronger and better.

I cheerfully bear my testimony to the lovable characteristics of this dead Justice. I shall ever revere the memory of Justice Collins.

CHARLES W. FARNHAM, Esq., then addressed the Court and said:

From Mr. Bruener, of St. Cloud, a member of our committee, comes this communication:

Owing to my inability, on account of illness, to be present at the memorial exercises in honor of the late Justice, Loren W. Collins, I have requested the secretary of your committee to present this my

tribute of respect, of love and admiration for the life and character of the deceased jurist.

I regard it as a great privilege and my utmost good fortune to have made the acquaintance of that good and noble man, Judge Collins, soon after my arrival in the North Star state in 1879, and to have become associated with him in the practice of law in the summer of that year, in the city of St. Cloud. Having at that time just graduated from the University of Michigan, with but a meagre working knowledge of the law, Captain Collins, as he was then addressed by everybody, was ever ready and willing to be interrupted in his work to answer questions and to extend a helping and sympathetic hand. He was indeed a father to me in these early days of my career. But not to me alone did his kindly and sympathetic soul go forth, but to everyone needing assistance. No young man ever applied to Captain Collins for assistance, advice, or comfort, in vain. Courteous and cheerful at all times, casting sunshine wherever he went, Judge Collins was loved and admired by everybody. The fact that he was elected County Attorney for three consecutive terms, and once for the legislature, in a county where the great majority of the voters affiliated with a different political party than his, is evidence of the great esteem in which he was held by the people. It was, therefore, not surprising that with his untiring energy, a well educated mind and his admirable traits of character, he rose rapidly in his profession, was chosen District Judge of the Seventh Judicial District, and while still a young man, was elevated to the high and responsible position of Associate Justice of the Supreme Court, which he filled so excellently for so many years. In his death the state has lost one of its best, most beloved, and most distinguished citizens. Long will his memory live in the hearts and minds of all who knew him, and long will his services to his country be gratefully remembered by those who justly appreciate them.

HON. D. N. SEARLES then addressed the Court and said:

My first recollection of the late Judge Collins dates back to the time he became a citizen of Hastings, in this state, in the year 1858, I think. I remember his being in the law office of the late Judge Seagrave Smith and his partners for the purpose of qualifying himself for

the legal profession. Under the tuition of Judge [Seagrave] Smith he had the leadership of one of the many solid legal intellects who have graced the bench of this state, one who had graduated from a Connecticut law office at a time when lawyers were confined in their studies chiefly to the leading text books. Then it was difficult to find, what we now speak of as a "case lawyer." In those days we took delight in consulting the text books for the principles of law. It was chiefly a day of Kent, Greenleaf and leading works on Equity and the other main branches of the law that constituted the lawyer's library. It has been a matter of common knowledge that lawyers of that age were among the most successful members of the bench and bar in this country. Judge Collins had that very desirable training. When the war broke out circumstances led him in one direction and me in the other.

My next acquaintance with him was of a casual character, when I found him practicing law at St. Cloud. Afterwards I had the pleasure of meeting him in the legislature in the session of 1881, where he took a leading and active part in the House as one of its members. I remember the activity and zeal that was displayed by him in the adjustment of the old Minnesota Railroad bonds. They had been a subject of constant discussion ever since the organization of the state. With the aid of this Court that controversy was adjusted. He was largely instrumental in bringing about that result.

Judge Collins' intellect as a lawyer was exceedingly alert. He had the faculty of taking the proper focus of legal propositions. He could hold off a state of facts at the right distance and get a correct photographic outline of its legal qualities. He was always ready to justify his opinion by reference to the fundamental principles that he had absorbed from his early reading, and he possessed, in addition to that, the quality of a good mixer among men. He had, far beyond most of us, the quality of extending his acquaintance with men with whom he associated. He was thereby less subject to the criticism that has been made of the legal profession, especially in these later years, that they are so conservative that they do not keep abreast of the movement of the masses of people; that their studies lead them to look backward instead of forward; that they are looking for precedent on which to base their action and, consequently, their

eyes are turned rather to what has been than to what is or should be. Judge Collins was comparatively free from such criticism, largely owing to his extended acquaintance with all classes of men.

The seventeen years that he served on this bench, as one of the members of this Court, were seventeen of the most eventful years of the legal life of this state, and during the entire period he acquitted himself with honor and credit, not only to himself, but to the people who placed him there. The fifty or more volumes of this Court that contain the results of his labors on this bench are, and ever will remain, a memorial to the industry, integrity and courage of Judge Collins. And those are the fundamental elements of good citizenship.

HON. ELL TORRANCE then said:

May it please the Court:

I believe that all the members of the committee present have now addressed the Court. At the time of Judge Collins' death he was associated in the practice of law with Mr. Eaton. Mr. Eaton is here and I am sure we shall be glad to hear from him.

The CHIEF JUSTICE then said:

The Court will be glad to hear from Mr. Eaton.

LEW K. EATON, Esq., then addressed the Court and said:

In all that has been said I concur, and deeply cherish this opportunity of saying something of the affection and admiration that I bore for Judge Collins, and of the reverence I bear for his memory.

I believe that it is perhaps more difficult for me to express my regard for him than for any person present, outside of his immediate family. My association with him was wholly confined to the later years of his life, and I can only speak of his more active period from the records of this court, where for all time is preserved the remarkable clarity of his mind. I do not believe that in the records of any court are found

the principles of justice, however profound, laid down more directly, more clearly or more purely, than in the opinions written by Judge Collins.

My knowledge of his character, mind and disposition comes from intimate, personal and daily contact as a business associate. It is difficult to say which of his many admirable qualities seemed to predominate, but during our association what seemed to me more remarkable than anything else, in these late days of new theories and ultra-modern economics, was his admirable sanity. Though past three score and ten, his mind was that of ripened manhood. Whatever public question was being discussed, in a few sentences he would go to the root of the subject, discard its nonessentials, and give his opinion clearly and concisely, and one might always be sure that that opinion was the reasonable and sane opinion. He could not abide the sycophant, the demagogue, nor any of those "miserable aims that end in self." He stood for humanity. He had many charities and gave freely in a material way, and what was vastly more important, he gave his sound healthy-minded advice. Wherever he was known he was respected and admired, and I believe that admiration was caused by his rugged honesty, which stood four square to all the world. His love for his comrades in arms and his enthusiasm for their well-being showed itself by some act each day. He gave unstintedly to these objects, both of his purse and of his life. No journey was too long, no work too hard for him to undertake, if it concerned the Grand Army.

Since January, 1911, his health had not been of the best, but in spite of the fact that he had full knowledge of his condition, he did not in any wise diminish this labor of love, nor did it in any wise diminish his interest in affairs, his nimble wit or kindly humor. He was always courteous, always kindly to every person, whatever be his or her circumstances. I find it very difficult indeed to speak of our relationship. It taught me that he was an ideally devoted father and a firm friend. Our relations were more than those of professional associates, for with the same feeling with which I would have consulted my own father I repeatedly asked and took his counsel and advice in the every-day affairs of life, and that counsel and that advice were always good. In him the state has lost one of her first

citizens, the bench and bar have lost one who should be an example to all members, his sons have lost a devoted father, and I have lost my guide, counselor and friend.

It is therefore trebly difficult for me to express my affection and admiration. From his own lips, and from the records of this Court, from the history of this state and the testimony of those who knew him well, I have learned of his life; from daily association I learned to know his mind and character; from all of this, it seems to me that, when I say that Judge Collins was of the finest type of the American and the lawyer, the jurist and the citizen, one who was a true friend, whose memory I shall ever revere, I have only spoken the truth.

CHIEF JUSTICE START then responded for the Court and said:

Gentlemen of the Bar:

It is difficult for me to speak of Judge Collins without seeming exaggeration, for he was one of my most intimate and cherished friends. I knew him personally for some thirty years; but it was not until 1895, when I became a member of this Court, that I came to know him intimately and to appreciate his great ability and sterling character. We were associated in the work of this court for more than nine years, and our official relations resulted in a close and devoted friendship which grew stronger as the years advanced.

His was a lovable and interesting personality, and he made friends readily and retained them by his worth and cheerful readiness to help them. He was a devoted father, and his care for his motherless boys was touching. He was to them a loving father, mother, comrade and friend; their inspiration and example. His mental grasp was clear and incisive; his impulses honorable; and his manner simple and unaffected. He was a man of manly common sense, of unquestioned integrity, and of great intellectual force.

He was, as was his nature, always courteous to his associates on the bench, and deferential to their views. He was, however, a man of independent judgment, reaching his conclusions with care, to which he adhered unless, upon a full discussion in the consultation room, he became satisfied that they were not legally right and just. He was

a keen and accurate observer of men and things which, with his knowledge of the history and traditions of the state, its public men, laws, and institutions, together with his great ability, industry and legal learning, made him a practical, able and just judge. The state in his death has lost one of its best and most eminent citizens, whose life was clear and clean, and full of useful work and unobtrusive kindness. The Court receives with grateful appreciation your memorial, which is a just and merited tribute to a loyal friend, a public spirited citizen, a brave soldier, an able and just judge, and a man of unblemished honor. As a tribute to his memory, the Court directs that your memorial and addresses be entered in the records of the Court for the day.

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