

HISTORY
OF
DAKOTA COUNTY
AND THE
CITY OF HASTINGS,

INCLUDING THE
EXPLORERS AND PIONEERS OF MINNESOTA,

BY REV. EDWARD D. NEILL.

AND

OUTLINES OF THE HISTORY OF MINNESOTA,

BY J. FLETCHER WILLIAMS.

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The following are excerpts from a history of Dakota County and the city of Hasting by Edward D. Neill and J. Fletcher Williams published in 1881.

JUDICIAL RECORD.

The hand of the law has been outstretched over Dakota county from various directions.

Michigan territory had jurisdiction over it until 1886, and Wisconsin until 1838. Iowa territory was then organized, and Dakota county, in common with other territory west of the Mississippi river, became subject to its legal dispensations.

The first officer of justice in the county was H. H. Sibley, who was appointed a justice of the peace by Gov. Porter, of Michigan, and again by Gov. Chambers, of Iowa, in 1888. His jurisdiction was over the territory included in Clayton county, Iowa, "an empire in itself," extending from below Prairie du Chien to Pembina, and westward from the Mississippi to the Missouri. General Sibley was, at this time, a resident of Mendota. Several important cases were brought before him, including the trial of Phelan for the murder of Hays, in 1889.

On the 11th day of June, 1849, the governor issued his second proclamation dividing the territory into three judicial districts. The seat of Justice for the third district was at Mendota, and the first court was held there on the fourth Monday in August. Judge David Cooper presided, and H. H. Sibley was foreman of the grand jury, the first ever empanelled west of the Mississippi river in Minnesota. Judge Cooper delivered a written charge, able and finished, "but only three of the twenty old men composing the jury," understood a word of the language he was speaking. Major Forbes, served as intrepeter through the term, but no indictments were found. The court was organized in the large stone ware house belonging to the Fur Company.

Judge Cooper's term of office was from June 1st, 1849, to April 7th, 1853.

He was succeeded by judge Andrew G. Chatfield, April 7th, 1853, to April 23d, 1857. He was born in Butternuts, Otsego county,

New York, June 27th, 1810. After the expiration of his term as above given, he went upon the bench again in 1871, as judge of the eighth judicial district, and was serving in that position when he died, October 3d, 1875.

Charles E. Flandrau, was his successor, April 28d, 1857, to May 24th, 1858. Judge Flandrau is a son of Thomas Hunt and Elizabeth (Macomb) Flandrau, and was born July 15th, 1828, in New York city. Having been educated in private schools, he read law with his father, at Whitesboro, Oneida county, New York, and was admitted 227 to the bar January, 17th, 1861. He came to Minnesota two years later, and was appointed as above. In 1858, he was elected to the same position, associate justice of the supreme court, in the state judiciary, but resigned in 1864.

Under the schedule of the state constitution, Dakota county was included in the fifth judicial district, and the first judge of the state of Minnesota, for this district was Nicholas M. Donaldson. He was elected in the fall of 1867, and succeeded Judge Flandrau in holding courts in the county, May 24th, 1858. His term of office extended to December 1st, 1871. Judge Donaldson was born at Cambridge, Washington county, New York, November, 12th, 1809, his parents being James and Christy Mills Donaldson. He finished his education at Salem Academy, and was admitted to the bar of Ohio, during the fall of 1848. He settled in Owatonna, Minnesota, in 1857, and was elected and re-elected judge as stated. But long before the expiration of Judge Donaldson's terms of office, Dakota county ceased to be a part of his district. The last term of court in Dakota county, as a part of the fifth judicial district, was held November 21st, 1859, at which time Thomas Wilson presided as acting judge. The county now became a part of the newly constituted first district. S. J. B. McMillan held the first court in the county, for this district, March 27th, 1860. Judge McMillan was elected as associate justice of the supreme court, the term extending from July 5th, 1864. From April 7th, 1874, to March 10th, 1875, he served as one of the chief justices of that court. At present he is United States senator.

On the election of Judge McMillan to the supreme bench, he was succeeded in the First district by Judge Charles McClure, August, 1864, to December, 1871. The latter is a native of Greenbrier county, Virginia, having been born there February 20th, 1804, the son of Charles and Martha (Walkup) McClure. He was educated at Lewisburg, Virginia, and was admitted to practice in that state, in 1829. He settled in Red Wing in 1856.

Judge McClure was succeeded January 1st, 1872, by Judge Francis M. Crosby. In the fall of 1878, Judge Crosby was re-elected, without opposition, for another term of seven years. A sketch of his early life is given elsewhere.

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On the first of June [1849], Governor Ramsey, by proclamation, declared the territory duly organized, with the following officers : Alexander Ramsey, of Pennsylvania, Governor ; C. K. Smith, of Ohio, Secretary; A. Goodrich, of Tennessee, Chief Justice; D. Cooper, of Pennsylvania, and B. B. Meeker, of Kentucky, Associate Judges; Joshua L. Taylor, Marshal; H. L. Moss, attorney of the United States.

On the eleventh of June, a second proclamation was issued, dividing the territory into three temporary judicial districts. The first comprised the county of St. Croix; the county of La Pointe and the region north and west of the Mississippi, and north of the Minnesota and of a line running due west from the headwaters of the Minnesota to the Missouri river, constituted the second; and the country west of the Mississippi and south of the Minnesota, formed the third district.

Judge Goodrich was assigned to the first, Meeker to the second, and Cooper to the third. A court was ordered to be held at Stillwater on the second Monday, at the Falls of St. Anthony on the third, and at Mendota on the fourth Monday of August.

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The first courts, pursuant to proclamation of the governor, were held in the month of August At Stillwater, the court was organized on the thirteenth of the month, Judge Goodrich presiding, and Judge Cooper by courtesy, sitting on the bench. On the twentieth, the second judicial district held a court. The room used was the old government mill at Minneapolis. The presiding judge was B. B. Meeker; the foreman of the grand jury, Franklin Steele. On the last Monday of the month, the court for the third judicial district was organized in the large stone warehouse of the fur company at Mendota. The presiding judge was David Cooper. Governor Ramsey sat on the right, and Judge Goodrich on the left. Hon. H. H. Sibley was the foreman of the grand jury. As some of the jurors could not speak the English language, W. H. Forbes acted as interpreter. The charge of Judge Cooper was lucid, scholarly, and dignified. At the request of the grand jury it was afterwards published.¹

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Biographical Sketches

J. R. Clagett, attorney at law, was born at Alexandria, Virginia, October 26th, 1826. His early education was received at the high school of his native place, and from private tutors. He afterward entered Brown's University at Providence, Rhode Island, graduating with the class of 1848. Studied law with Henry W. Davis, of Alexandria, Virginia, and was admitted to the bar at Washington, D. C, in 1863. Four years subsequent, he removed to Hastings, where he has been in active practice since. Has long been identified with the interests of the Episcopal church of Hastings, and is its senior warden. Has been twice married. His first wife, Eliza Thorne, died in January, 1876; his present wife was Mrs. Frances Pringle, of Brooklyn, New York, by whom he has one child: Frances E.²

¹ Pages 118-119

² Page 303.

Charles W. Crosby, lawyer and justice of the peace, was born in Milford, Hillsborough county, New Hampshire, October 22d, 1832. He finished his education at the Nashua high school. At an early age he engaged in the grocery business in Boston, having also a store at Nashua. Closing out that business he spent two years in California. In 1854 started in the printer's business at Dubuque, Iowa, and sold the first printing press used in Hastings. Engaged as a clerk in 1856 on the "Minnesotian, v at St. Paul, remaining until 1859; thence to Cannon Falls where he was in the milling business until 1862. Settled next at Hastings and clerked in the office of register of deeds and auditor, previous to 1865. Has been justice of the peace since 1864. Was assessor in 1865 and took a state census the same year; was court commissioner in 1866-67-68, and police justice in 1872. Admitted to the bar during that year and has been in active practice since. Married Myra G. Smith in 1849. He has had six children, five of whom are living: Charles, Nettie, William, George and Mathias.³

Hon. Francis Marion Crosby is descended from an old Massachusetts family. His parents, Eliel and Grateful, nee Allen, Crosby, belonged to the agricultural class. Francis was born at Wilmington, Windham county, Vermont, November 13th, 1880. He was educated at the Wilmington high school and the Mount Caesar Seminary, Swanzey, New Hampshire, and was early a teacher himself. He read law with Hon. Oscar L. Shatter of Wilmington, since chief justice of California, and at Manchester, Vermont, with Hon. Daniel Roberts. He was admitted to the bar in December, 1855, and began practice at Wilmington. He served in the session of the Vermont legislature for the same year, 1855, and also in the session of 1856. In May, of 1858, he settled at Hastings. During his residence in Dakota county, he has been city attorney of Hastings for two or three terms, and was judge of probate in 1860 and 1861. He was member of the school board from 1866 until he took his seat as judge of the first judicial district of Minnesota, January 1st, 1872. He was re-elected to this latter position without opposition for another term of seven years,

³ Page 303-304.

at the election held in November, 1878. Judge Crosby has the reputation of being an able, conscientious and courteous jurist. Originally he was a free soiler in politics, but since the organization of the republican party he has been one of its staunch supporters. Judge Crosby was first married, in 1866, to Miss Helen Mar Sprague, of Cooperstown, New York. She died in 1869, leaving one child, Frank Noble. His present wife was Miss Helen M. Bates of Cherry Valley, New York; married in October, 1872. By her he has three children: Howard Walworth, Marion Emma and Helen Bates. ⁴

W. H. DeKay, attorney at law, was born in Sullivan county, New York, November 4th, 1845. When a mere child removed with his parents to McHenry County, Illinois. In 1859 removed to Hastings and attended school, also lived on a farm until 1864. He enlisted July 30th, 1864, in Second Minnesota Cavalry, serving until mustered out at Fort Snelling, May 11th, 1865. Returning to Hastings he read law with Eli Robinson a short time, then with Clagett and Crosby. Was admitted to the bar in 1870, and has been in active practice since. Was elected police justice in 1878 and re-elected in 1880. Married in 1874 to Miss Julia Van Inwegen, of New York. Richard H. and Frank C. are their children. ⁵

O. T. Hayes was born in New London, Merrimack county, New Hampshire, December 2d, 1827. Was reared in his native place and received his early instruction. Early in life he embarked in mercantile pursuits, having three stores, one of which was in his native town. He first read law with Samuel Butterfield of Andover, New Hampshire, remaining with him four years. He was also postmaster and justice of the peace at George's Mills, Sullivan county, which offices he held until coming to Hastings during the fall of 1853. Was practicing law and dealing in real estate; also appointed county attorney of Goodhue county by Governor Gorman. In 1855, was made county attorney of Dakota county, also postmaster. The latter position he resigned soon after. Was one of the first aldermen in Hastings and Mayor in 1860. At the

⁴ Page 304.

⁵ Page 304.

first call for volunteers in 1861, he assisted in raising Company H, First Minnesota Infantry, with which company he went out as first lieutenant. After the battle of Bull Run, was mustered out on account of physical disability. In March, 1863, was commissioned major of the First Minnesota Cavalry, by Governor Ramsey, serving until mustered out at Fort Snelling in December, 1863. Returning to Hastings he resumed his practice but soon retired in consequence of declining health. He was a member of the legislature in 1863; has been justice of the peace several years; was elected court commissioner in 1880. He was admitted to the bar of supreme courts in 1854, at Hastings, and is now the oldest lawyer in Dakota county. Mr. Hayes has been twice married. Lucina A. Emerson his first wife died in 1858, leaving two children, Henry H. and Lucina A.; his second wife was Mary C. Matthews, married in 1859. Kate and Archie M. are children by his second wife. ⁶

William Hodgson, attorney at law, was born at Elizabeth, Jo Daviess county, Illinois, May 29th, 1847. His father visited Dakota county, Minnesota, in 1854, and being favorably impressed returned for his family. The following year they settled in Green Vale township, after preempting one hundred and sixty acres. Here William was reared by working on the farm during summer, and attending school winters. December 8th, 1863, he enlisted in Company F, Second Minnesota Cavalry, and served until mustered out at Fort Snelling, December 5th, 1860. After returning home, he resumed his studies attending Hamline University three terms. Commenced the study of law at Red Wing, with Phelps and Tabor, being admitted to the bar in July, 1870. Began his practice in Farmington, continuing there until establishing himself at Hastings in 1874. In the spring of 1880, was elected city attorney. Married in September, 1870, to Drucilla S. Hutchinson, of Manchester, England: Lawrence C. and Edith C. are their living children. Mrs. Hodgson died in May, 1878. ⁷

⁶ Page 310.

⁷ Page 311.

Roswell Judson, whose native state is New 367 York, was born in Delaware county, November 19th, 1806. He attended school at Butternuts, Otsego county, then for nearly five years taught school. Began the study of law about 1829, with Timothy Jenkins, of Oneida county, New York; after reading five years, was admitted to the court of common pleas, in 1884, was admitted to practice in the supreme court of chancery. Removed to Sherburne, Chenango county, in 1835, where the firm of Maynard and Judson was formed. Was appointed first judge of court of common pleas, of Chenango county in 1843, also surrogate, continuing in these offices seven and one-half years. Located at Hastings in 1863, and in 1867, at Farmington. In connection with his duties as a lawyer, he has held the office of justice of the peace. Married in 1836, Miss Amanda Harris, who died the same year. His present wife was Lucy M. Babcock, who has borne him three sons; J. Walls residing at Louisville, Kentucky, has been in the employ of the government since 1872; R. C. is secretary of the state agricultural society, and H. Harris is clerk of the town. They are all married. ⁸

W. C. Levitt was born July 17th, 1854, at Patten, Maine. Graduated from Bates college, June 22d, 1876. The fall of the same year he entered the law-office of Hutchinson, Savage and Sanborn; was admitted to the bar during the fall of 1877. Entered the Boston University Law School in the fall of 1877, which he left in July, 1878, and started for Bismarck, Dakota territory. In April, 1880, located at Farmington. Miss Pettingill became his wife in 1878.⁹

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An Incident

In 1863, a Mr. Arnold of Cannon Falls, at that time a member of a cavalry company stationed at Fort Snelling, received information that there was sickness in his family at home. In order to visit

⁸ Page 366-67.

⁹ Page 367.

them he obtained a furlough, and in company with two others, S. W. Mattison, and another whose name does not appear, started out on foot. At noon they stopped for dinner at the Willoughby house, on the St. Paul and Cannon Falls road, in the town of Inver Grove, about half a mile north of the line between that town and Rosemount.

A number of farmers from the neighborhood were collected at the hotel and considerable drinking was going on. It was not long before a quarrel arose as the result of a political discussion and a general row ensued, the crowd against the three soldiers, or rather two, for Arnold took the part of peacemaker, and the two soldiers were soon worsted. They succeeded in getting away and concealing themselves. While the excited crowd were looking for them Arnold started down the road on his way home. The crowd failing to discover the other two, started after him in a wagon, driving at full speed. He jumped the fence and endeavored to escape through the field, but they overtook him and sprang upon him, beating and stamping him until life was extinct. About an hour later, Mr. Whittemore and others living near, went to him and found him terribly mangled. Although it was "town meeting day," but a few were aware of the crime committed in their midst until the next day.

Great excitement prevailed, and the three most active participants in the crime were forced to hide for a time. Patrick Mehan fled to Iowa and escaped altogether. Thomas Eagan and Michael McHugh were arrested and taken to Hastings. Eagan was tried first and by the aid of a packed jury was acquitted. The prosecution seeing it was useless to try the cases in the vicinity, secured a change of venue to Stillwater, and there McHugh was tried, convicted, and sentenced to the state prison for a term of years.

Mrs. Arnold, the widow of the murdered man, brought suit against Eagan for damages, and secured a verdict for a large sum. Eagan being apprised of the result in advance, was enabled to dispose of

his property. He soon after left the country, and so far as known has not been seen in the county since. ¹⁰

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Related Article

Francis M. Crosby, "The Bench and Bar of Dakota County"
(MLHP, 2008)(published first, 1910).

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¹⁰ Page 462.