

**Leaves from the
Tablets of My Memory Concerning
Early Days of Minnesota**

By

Andrew C. Dunn

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Foreword

By

Douglas A. Hedin

Editor, MLHP

On December 6, 1904, two dozen lawyers, judges and court personnel met in Fairmont, Minnesota, to form the Seventeenth Judicial District Bar Association. They elected Andrew Clarkson Dunn its first president. At age seventy, he was the oldest lawyer and had practiced the longest. He gave a short talk to the new organization on “Fifty Years Practicing Law in Minnesota.”¹ Over the next decade, he expanded, revised and polished those remarks into a memoir he titled “Leaves from the Tablets of My Memory Concerning Early Days of Minnesota.” By 1916 it was ready for public inspection, and the *Minneapolis Sunday Journal* published it in seven installments, beginning March 12, concluding July 9.²

¹ Benjamin G. Reynolds, “The Formation of the Seventeenth Judicial District Bar Association” (MLHP, 2008-2011) (published first, 1904).

² The installments had various headlines. “Leaves From A Pioneer’s Diary of Sixty-two Years in Minnesota” (March 12 and 19, 1916); “A Pioneer’s Reminiscences of Sixty-two Years in Minnesota (March 26, April 2, July 9, 1916).

“Leaves” covers a very short period of a very long life.³ It begins in April 1854 when Dunn leaves New York for Minnesota⁴ and ends in 1858, with the establishment of the government of the new state. He recalls in a matter-of-fact style what he saw and did during those years. His account of how the residents of St. Paul welcomed each new steamboat shows how isolated Minnesota was at the time. A paragraph on how he “learned the art of raking and binding after a cradler” of wheat could appear in any anthology of tales of farming on the frontier in the nineteenth century.⁵ Most memorable is his vivid description of the “great day” in 1854 when the Winnebago Indians assembled near Watab village to receive their annuities from an official of the federal government.

Though a lawyer by trade, he does not repeat war stories of his court contests; in fact, he did not develop much of a practice during these years.⁶ “There was practically no legal business,” he recalled. “Occasional deed-drawing or some petty disturbance caused a slight movement of the legal waters, but rarely sufficient for a full ration.” He admired Judge

³ Dunn died on January 28, 1918, at his home in Winnebago, aged eighty-three.

⁴ Dunn writes that his interest in Minnesota was encouraged by a mentor, Col. Daniel Dustin, who had been appointed U. S. Attorney for the Territory. For his obituary and bar memorial, see “Daniel H. Dustin” (MLHP, 2012).

⁵ With little legal work, Dunn turned to field work, where he earned \$3.00 a day. Most territorial lawyers had several lines of work. Indeed when territorial newspapers encouraged lawyers to relocate to Minnesota, they noted the difficulty in making a living solely from lawyering. In 1851 he *St. Anthony Express* editorialized, “A lawyer in Minnesota should be able to plead a cause in law, to advise a client of his rights, to wield an axe or handle the hoe.” Quoted in Douglas A. Hedin, “Lawyers and ‘Booster Literature’ in the Early Territorial Period” 24 (MLHP, 2008).

⁶ Sometime between 1854 and 1858, he likely was admitted to practice by a territorial judge at one of the terms he attended. He was admitted to practice by the supreme court on July 15, 1858, one of the first lawyers admitted to practice after statehood. *Roll of Attorneys: Supreme Court, State of Minnesota, 1858-1970* 2 (State Law Library, 2011).

Moses Sherburne who presided over a district court session in 1854. "Judge Moses" did not tolerate tardy lawyers during a trial.

Politics is the focus of the second half of "Leaves." Territorial politics reflected divisions over the dominant national issue of the day: slavery, and the attempt by the South to extend it to new states. Slavery, he believed, caused the constitutional convention in July and August 1857 to split into two wings:

The strife for supremacy between the Republicans and Democrats for the control of the convention about to assemble to draft a fundamental law for the new state, was strenuous; nothing was considered unfair in that warfare. One side was frantic lest the state should be organized as a slave state; the other side laughed at their fears, claiming to be, as it is now well known that they were, all free-state men.

He is a modest memoirist, who does not amplify his participation in these events. He is generous in his sketches of the leading political figures of the day.⁷ While he digresses now and then to criticize recent attempts to amend the constitution and a few other irritations, he retains a sanguine view of the past and the future of the state.

On September 8, 1916, he loaned his manuscript of forty-seven typewritten pages to the Minnesota Historical Society for copying. It consisted of the seven articles published in the *Journal* a few months

⁷ At this time he was a Democrat but he soon became a loyal Republican. In 1908, to honor his decades of party service, he was made a Presidential Elector for William Howard Taft.

earlier. Each page had typos that were corrected—words crossed out, others inserted by hand or typewriter. Reading it, a member of the staff of the Historical Society saw other errors and prepared a two and a half page “Notes and corrections on Mr. Dunn’s manuscript.” Most of the pages with these errors were then retyped and corrections made. For example, on page 3, the presidential election year became 1848, not 1853 as originally written. On page 8, the Merchant Hotel is placed on the northeast corner of Third and Jackson, not the southeast. On page 9, several sentences and lines from the newspaper articles were deleted. The manuscript of “Leaves” in the Andrew C. Dunn papers at the Historical Society today has these corrections. This version follows. Dunn’s punctuation and spelling are not changed; underlined words are in the original; page breaks added.

LEAVES FROM THE TABLETS OF MY MEMORY CONCERNING EARLY DAYS OF MINNESOTA

BY

**ANDREW C. DUNN
OF WINNEBAGO**

“In the beginning, God created the Heaven and the Earth.” To trace back to the beginning alluded to in this quotation is a difficult matter; to follow out the development of our commonwealth, the state of Minnesota, is an easier problem. Passing over the historical accounts of the early explorers of the Northwest, Radisson, LaSalle, Joliet, Hennepin, Beltrami, and the host of others, let us come down to the days within the memory of some men now living. In the year 1844, when the writer was a lad at school in the seminary of Hempstead, Long Island, at the annual public exhibition and examination of the scholars he received as a prize for some performance of his a map purporting to be a correct delineation of “the United States of America,” bound, in book form, between two gorgeously emblazoned covers. Included within the same covers was a companion map of the principal cities of the Union and their environments, giving statistics as to their population, as well as that of the several states and territories and of the United States, compiled from the census of 1840. This map, entitled “Mitchell’s Map of the United States of America,” was published in Philadelphia in the year 1842. By some fortuitous chain of circumstances I have preserved it as a memorial of other days; I have looked upon its face and studied its features with a sort of holy reverence, esteeming it a fit object of preservation as a relic of the days ago and as a

storehouse of information. It lies open before me as I pen these lines; from its pages I cull some facts little thought of then, but of some importance now, when memory is permitted to look back through a period of more than seventy years. [2]

The whole of the territory comprising the present states of Minnesota and the two Dakotas lay within the limits of what was then known as the territories of Iowa and Wisconsin. Iowa claimed and had jurisdiction over all the territory lying between the Mississippi and Missouri rivers north of the Missouri state line to the British line, which on this map is placed at 46 1/2 degrees of north latitude. Wisconsin embraced and had jurisdiction over all the territory included between the Mississippi River and the St. Croix Lake and River north to the British line. The accuracy of this old map is verified by the records of the two territories. A noticeable feature of the map is that in all the territory comprising the states of Minnesota and the two Dakotas, there is no indication of any town or white settlement except the military post of Fort Snelling, which is correctly laid down. The whole of this vast domain is represented as being in the possession of the Sioux, Chippewa, Potawatomi, Sauk, Fox, Winnebago, and Iowa Indian tribes.

The population of Wisconsin, based on the census of 1840, is given as 30,345; of Iowa, 43,112; of Illinois, 476,183; and of the United States, 17,069,453. Chicago, now the proud possessor of over two and a half million, is marked as "existing," but finds no place among the principal cities of the nation, a list of which is given, ranging in population as low as 2,737 for Newcastle, Delaware. These statistics are given merely that they may furnish food for thought when contrasted with those of the present time.

Thus it will be seen that our state had no beginning at even so recent a period, as time is measured, as 1842. It was not even in the embryo stage; as a political entity it had not been in the thought mold of any person so far as is known. But with the rolling [3] tide of years came the spirit of adventure to some, the fact of condition to others, and in the last years of the fourth decade of the nineteenth century, the few residents scattered along the St. Croix and the Mississippi rivers, concluding that a form of government was desirable more suited to their needs and conditions and doubtless to some of their number more advantageous from a financial and political point of view, than that emanating from the capital of Wisconsin, held a convention and sent their foremost citizen, Hon. Henry Hastings Sibley, to Washington with their plea for recognition as a new territory to be known as Minnesota. The movement was successful, and on the third day of March, 1849, one day prior to the expiration of the term of administration of President Polk and to the retirement of the Democratic party from power, Congress duly passed an act making provision for the formation and organization of the territory of Minnesota. Under this act the territory was organized and governed until it was superseded by the formation of the state government in 1858.

The first officers of the new territory were appointed by President Taylor from among the Whig politicians who had succeeded at the general election of 1848 in wresting the government of the United States from the Democratic party. At the head of these officials as the first governor was that grand old warrior, bluff "Alex" Ramsey, as he was affectionately called. Under his guidance Minnesota began its career as a political entity among the states and territories of the Union,

and during the rest of its course truly has it fared well. [4]

Prior to the date of the organic act creating the territory there was little to attract people to this new land. It was an unknown quantity. No data were existent to warrant settlers coming hither. On the contrary, what was known about the country was not alluring. It was too far north; the climate was thought too cold for the successful pursuit of agriculture. Its soil was untried. Within its borders were to be found hostile Indians and wild animals. All these things helped to prevent immigration from other states or from foreign lands. They who were here during those early days were mostly persons who had come in the employ in some manner of the fur companies operating in the Northwest, or were traders among the Indians, or had followed the military post at Fort Snelling as soldiers, settlers, or clerks, or men employed there in some other capacity. Also there were a few real adventurers, lawyers, doctors, and others, who had fared forth into this new land for reasons pertinent only to themselves. In fact it was not and is not always best to be too inquisitive as to the motives influencing people who leave their surroundings for new ones, especially when the new ones are distant and hard to reach. I can remember when the usual answer to a quest for a missing individual was the remark "gone to Texas," and the quest was silenced forevermore.

When the territory was placed on the map with a stable government, it soon attracted wide attention. The great army of people who are ever on the alert for a new El Dorado, wherein they may better their condition and gain financial and political success, began to turn their faces toward this new land, and the tide set strongly this way in the early fifties. [5]

In the year 1854, about the last days of March, the attention of the writer was drawn to the possibilities of Minnesota, allured by that spirit of unrest which at times takes possession of the young human animal, coupled with the fact that a promising young attorney, Colonel Dustin of New York with whom I was acquainted, had just been appointed United States district attorney for the territory of Minnesota. His advice was sought and taken. And so in the early days of April I left my snug quarters and pleasant surroundings as the chief clerk in a prominent attorney's office in the great city of New York, the city of my nativity, for the new northwestern territory, with St. Paul as the end of the rainbow in constant view. It was a tedious journey of many days—no through trains, no sleeping cars, long stops at the end of the different railroads—a change at Dunkirk, New York, the end of the Erie road; a change at Cleveland, the end of the Lake Shore; a change at Toledo, the end of a road whose name I have forgotten; a two days' stay at Toledo and a resumption of the journey on the Northern Indiana and Southern Michigan road for its terminal point, the town called Chicago; another wait there for a train toward the Mississippi River, which, however, came to a standstill at the end of its line at a village named Warren, about thirty miles east of the river; thence a trip by wagon covering that thirty miles in a little short of a day to the town of Galena, Illinois, where in the Fever River lay the steamboat "Nominee," in which I was to embark for the place of my destination, St. Paul.

The "Nominee" was surely a novelty to me. A three-story house, mounted on a flat-bottomed, sharp-nosed scow, with a stack of boilers, engines, and paddle wheels for propulsive power, she was, when I first [6] saw her, loaded apparently to the sinking

point, but freight, cattle, horses, and all sorts of material were constantly being taken on until I thought she would surely sink at the landing. However, I climbed up on her decks to the Texas, thinking that there I should be above the surface of the water if she did sink; but she survived the loading, and made her way up the river to St. Paul.

That was certainly an enjoyable trip. Never were passengers better cared for than Captain Russell Blakeley of the "Nominee" cared for his people. Nothing was too good for them. Every want was anticipated and supplied, and the change from the stuffy trains to the invigorating atmosphere of the upper Mississippi was a delightful one. We landed at the foot of Jackson Street, St. Paul, on the fifteenth day of April, after a two or three days' journey. I was poor in pocket, but rich in hope, full of life and vigor, and with a determination to make good in the new venture.

St. Paul at that date was a small village of perhaps fifteen hundred people, built along the edge of the bluff overlooking the river. Third Street, extending from Jackson Street on the east to Fort Street on the west, was the main business artery. Along this street, between the points indicated, were small buildings occupied by various tradesmen plying their several vocations. On Fort Street were some buildings, principally residences, of some apparent importance for that period. On Wabasha between Fourth and Fifth streets stood the court house. The Capitol building, a small two-story brick structure, occupied the same ground that the Old Capitol does at the present date. Jackson Street, the lower landing-place of the port, presented an appearance not calculated to impress a newcomer with an idea of thrift. It was the first point that the eye caught sight of; the grade was steep, and

the roadbed was filled with rocks; only a few straggling [7] buildings were in sight. Where Jackson intersected Fourth Street, there was a deep ravine running east, which was crossed by means of a bridge spanning the roadbed. This ravine was some twenty feet deep and a small watercourse occupied its bed. Most of the territory east of Jackson Street and west of Dayton's bluff was a swamp or slough, which in time of high water was overflowed by the river. On Jackson Street between Fourth and Seventh streets, about where the new Hill Building now stands, was a steep hill some fifty feet high. On its summit, reached by a wooden stairway from Jackson Street, stood a small church edifice belonging to the Baptists, and one or two other buildings. This hill sloped down to the east and finally disappeared in a morass called Baptist hell.

For the people of what was known as "lower town" this eminence served as a lookout, a place from which to watch for incoming steamboats, whose arrivals were hailed as epochs in the life of the place. For they were the only means of communication with the outside world enjoyed by the villagers, and when the scream of the siren was heard and a vessel came to rest at the landing, it seemed as though the whole populace turned out to welcome it. Its coming meant mails, foodstuffs, merchandise, and, above all, new faces and friends from "below." The town was divided into lower and upper town, between which there was some rivalry, so that all boats were compelled by force of public opinion of the upper-town folks to make two landings, one at the foot of Jackson Street, and the other at the foot of (I think) Eagle Street, where a sawmill, known as Irvine's mill, was situated.

Of hotels there seemed plenty, the principal ones being the American on upper Third Street, the

Central on Bench Street in lower town overlooking the river, and the Merchants', a small log building [8] sided with clapboards and painted white, situated on the northeast corner of Third and Jackson streets, where its successor stands to this day. On the northwest corner Mr. Auguste Larpenteur, Minnesota's oldest living citizen, carried on a merchandise business, dry goods, groceries, Indian goods, etc., in a neat two-story frame building. On the south side of Third Street, about where Mannheimer Brothers erected their earlier building, stood a two-story brick structure, the Chouteau Building, occupied by lawyers and real estate agents, notably Henry McKenty and Captain Starkey, known as the "broad acres" men, though whether these two were here at that early date I am not so sure. The various religious denominations had church edifices, the Catholics occupying a brick structure enclosed with a high board fence on Wabasha at Seventh Street.

Of the men of that day I can say little, inasmuch as my stay at that time was limited to a few weeks. But I remember with great pleasure Mr. W. P. Murray and Mr. Auguste Larpenteur, and, among the lawyers, Messers. Michael E. Ames and Isaac Van Etten, J. B. Brisbin, M. S. Wilkinson, L. A. Babcock, Lafayette Emmett afterwards chief justice of the state, and some others. Of the doctors I recall only the name of Dr. Thomas R. Potts.

On my arrival I looked up my friend, Colonel Dustin, hoping that something might be found to my advantage. The colonel met me with much apparent pleasure and invited me to his office, a small building about sixteen by twenty feet in size on middle Third Street about opposite the site later occupied by the Metropolitan Hotel. The furniture consisted of one long table, a few chairs, a few books, [9] and the usual

array of sawdust cuspidors, cigar stumps, and old pipes; the floors were dirty, and the place presented a general appearance of mild decay. He offered me a situation as a clerk, but on looking the office over I found that in my opinion he had no need of an assistant and that his proposal was in the nature of a charity, and so I thanked him for the proffer and declined it. Afterwards, as I have looked back to this time, I have thought that perhaps I was unwise to fail to avail myself of this stepping-stone to future usefulness, to get my head in the tent as it were, for I soon found that opportunities for work in a profession were as scarce in this new territory as they were in any other section of the country. Yet on the whole I am of the opinion that the course I followed was best since it placed me entirely on my own resources. My friend, Colonel Dustin, died rather suddenly on the tenth of July [1854].

My financial condition was now about nil. The seven and a half dollars which I was possessed on my arrival was about to go, since the Long Brothers at the American were asking two and a half a week for entertainment. Fortunately I found a kinsman, entirely unknown to me, in the person of Lucius C. Dunn, an employee of Mr. Larpenteur's at his store in lower town. This kinsman recognized me and invited me to his home, where he and his good wife, now both gone, royally cared for me until there came a change in my prospects. These kinsfolk were the parents of Senator W. W. Dunn of the city of St. Paul. [10]

It soon became evident to me that St. Paul in these early days of 1854 presented to a young adventurer seeking his fortune in the virgin West no attraction paramount to that of any other field; hence after some failures of opportunity, my attention was drawn

to an apparently new sphere of activity. The government of the United States had just established an additional land office at a point called Sauk Rapids, so named not by reason of there being a town, village, or any appearance thereof at that site, but because the Mississippi River at the mouth of a small stream, the Sauk River, which emptied into it on the western shore, fell, with more or less abruptness, over a ledge of rock that stood disputing its passage to the gulf, forming a complete barrier to navigation, except in periods of extreme high water in early spring. Here was a settlement consisting of a family or two; the real estate prospect which it held out of developing into a large city, in addition to the fact that it was the county seat of Benton County, one of the few organized counties of the territory, made the seat of the new land office alluring. My attention was called to the apparent opportunity Sauk Rapids afforded by some friends in St. Paul; hence one morning in the early day of June found me on my way thither. The route took me into the village of St. Anthony (now Minneapolis East), where I stopped for the night at the St. Charles Hotel. Here I met a gentleman of fine presence, of elegant, dignified manner, who seemed to take an interest in me. Learning of my purpose to go to Sauk Rapids, he endeavored to dissuade me, saying, "Don't go there. Stay here. There is a town starting on the other side of the river that is bound to be a city some day. [11] If you will go over there and stay, I will build an office, install you therein, and together we can make a success of it." His advice appealed to me favorably, and his proffer of a business arrangement seemed very good to me also. Accordingly the next morning bright and early found me crossing a wooden bridge from the east shore of the river to the island, thence across the main river on board of Captain Tapper's rope-and-current ferryboat.

To one who had never seen such a contrivance for ferriage, the boat was a novelty. A large flat-bottomed scow rising at both ends like sled runners was fastened, floating downstream, to a rope spanning the river by smaller ropes attached at either end, these smaller ropes, in turn, being attached to pulleys or wheels running on the large rope. The end of the boat pointed in the direction it was desired to travel, was drawn up nearer to the large spanning rope than the other end; no particular angle seemed needful, provided only that the boat presented to the current a broadside at an angle more or less acute. The river current, pressing against the side of the boat and escaping at the lower end was the force that propelled it in the direction of the rope fastened to the farther shore. In this manner we made the crossing, disembarking at the head of the falls in safety. The landing-place was about at the foot of the present Hennepin Avenue in Minneapolis. There were building operations on a small scale in progress, and a few residences were scattered about on the prairie. I took my way in turn to each, and at each made diligent inquiry if I might be accommodated with quarters and board for a short time, but at each place I was met by a frost, and curtly informed that the dwellers therein did not "keep folks." Therefore, like the dove from out the ark, finding no landing-place for my foot, I returned to the St. Charles, and made report to my waiting friend, coupled with some mild observa-[12]-tions on the want of foresight displayed by the aforesaid citizens, and with some prophecies as to the future of a city rooted in such apparently barren, inhospitable soil. I thanked my friend and pursued my journey as at first planned, to wit to Sauk Rapids. The gentleman who tried to aid me but whose help I declined, I learned afterwards was Hon. B. B. Meeker, who had been of the bench as United States judge, coming in with the first administration with

Governor Ramsey. In this manner Minneapolis lost a citizen of more or less value, and that probable citizen made apparently a grievous error for want of the faculty of looking beyond the present into the future accurately.

Right here I think an apology is due to those good people who refused me quarters. I have always harbored a feeling of resentment and animosity towards them for their usage of me; but at this distance, and after the reflections resulting from penning this narrative, I look through different glasses, and can now see that they had no reason to suppose that they would be “entertaining an angel unawares.” There was nothing in my appearance that would have given the impression that there was any angelic material in my make-up, and they were justified in looking askance upon all adventurers who attempted a residence among them. Furthermore, doubtless there was some place where sojourners were accommodated, but I did not strike it. And so, good friends, long since passed to the realm of the spirit, be pleased to accept this apology, although tardily presented, and pardon my expression of animosity towards you. [13]

A so-called steamboat, the “Governor Ramsey,” was that season plying between St. Anthony and all ports and landings above on the “Grand River” that could be reached. On that boat I found myself one afternoon, bound for the port of Sauk Rapids. It was a fitful voyage. The current was strong; the various rapids encountered were almost too much for the power of the boat; but after tying up for the night at the mouth of the Crow River, about eight miles above what the present site now known as Anoka, we came to our journey’s end at the head of navigation at the foot of the rapids known now by the name Sauk, but

called on the old map mentioned above the "Big Falls," on the afternoon of the day after leaving our starting point, thus negotiating about one hundred miles of river in a little over twenty-four hours. The landing was in the woods on the east bank of the river, where, warned of our approach by the scream of the siren, wagons were in readiness to transport the passengers, of whom there were five or six, to the Hotel Russell, about a mile above, situated on the highway that ran from St. Paul to Fort Ripley. There were a few buildings in Sauk Rapids, but no town had been established or laid out; there were no streets of any sort or any indication of the existence of a real village, except at this hotel or trading post. It was a long, low structure, one story in height and a school section, owned by the American Fur Company of St. Louis, and kept by Mr. Jeremiah Russell, who acted as agent of the company while managing a large farm in the vicinity. He kept the post-office as postmaster, had been a member of the territorial legislature, and was the general factotum for the locality. Adjoining the hotel on the south stood a small building in which were the offices of the clerk of the district court, the register of deeds, the sheriff, and the other county officials. This structure was about sixteen by twenty-four feet in [14] size, consisting of one low story. Still north and near by was a shop in which one Dugan, a happy Frenchman, officiated as a blacksmith. Somewhere in the woods were the cabins of Mr. James Connell, the sheriff, and of his deputy and son-in-law, Mr. Ellis Kling. Scattered about in the brush stood cabins of some settlers—real settlers, who claimed lands under the preemption laws of the government, notably Hon. R. H. Richardson, who had been a legislator, and who was again and again sent to represent the people in like capacity. Farther down towards the landing-place upon the said highway stood a small building, wherein Mr. George W. Sweet,

register of the United States land office, kept the records pertaining to this office. On an elevation to the east of the said highway and beautiful for situation was a fair-sized mansion, the residence of Mr. William H. Wood, the receiver of the land office, and his gifted wife, who under the nom de plume of Minnie Mary Lee enriched the pages of the newspapers and magazines of that day with the fruitage of her pen. Between these two points, the hotel and the land office, on the bank of the river dwelt one August Cunradie, a German gentleman of good extraction, whose principal business was the dispensation of the cup that inebriates to the way-farer and, occasionally, to Mr. Lo. This man was a character in his way. Governor Ramsey told me that at one time when he was in Germany he was looked up and questioned as to his knowledge of Cunradie (his interrogator having learned that he was from Minnesota), and he found him to be of gentle birth and of good family, but sadly degenerated through the aforesaid cup. The governor took a lively interest in him, however, and regarded him as entitled to consideration, although an unfortunate derelict. Close by the riverside at the very head of the rapids dwelt the register of the [15] land office, Mr. Sweet, and his interesting family, in a small log and frame cabin. Mr. Sweet was a man of good attainments, a veritable pioneer, the son-in-law of Mr. Charles H. Oakes, one of the leading citizens and the pioneer banker of St. Paul. Such was Sauk Rapids, the county seat of Benton County and the seat of the United States land office at that early period, surely not a very inviting prospect for a young lawyer looking for a location, except that the ground floor as well as the upper stories were all vacant, awaiting occupation.

About four miles north of Sauk Rapids on the east side of the Mississippi River was the settlement of

Watab, which consisted of two Indian trading posts or stores, one kept by S. B. Lowry, the other by James Beatty. Mr. Lowry was one of nature's noblemen, a veritable prince among the people of that vicinity. Mr. Beatty achieved renown as a legislator, aiding in the formation of the state. Here, also, was that sturdy farmer, David Gilman. Opposite Watab on the west side of the river was a beautiful piece of open land known as Watab prairie. Here the Winnebagoes, lately removed from Wisconsin and located upon a reservation within the Mississippi, Crow Wing, Long Prairie, and Watab rivers, with headquarters at Long Prairie, were assembled at times to meet the agent of the tribe and receive their annual payments of money. For days and weeks they would be slowly gathering in anticipation of the great day called payment day. The heads of all families were present, as well as all who were entitled to receive money in their own right. Large tents were erected by the government and used for various purposes, notably for councils, conferences, dances, and the performance of the rites observed by the various classes, and for the powwows usually observed [16] on great occasions. All around were the tepees of the Indians, and there were feasting, frolics, dancing, drumming, grunting, parleying, and all sorts of performances by the Indians for the amusement of their guests and the onlookers. Paint and feathers were largely in evidence; in fact it seemed a veritable red-letter occasion in the life of the Indian.

It was my privilege to visit this great camp frequently during its continuance. I sat in the councils of the Indians and heard their fiery eloquence, especially on the day of the actual payment. Under the shelter of one of the largest tents, the agent, General Fletcher, established his headquarters with his interpreters, clerks, guards, and retainers for the occasion. On a

long table was spread the record of the names of all the Indians entitled to a money payment. As the names were called by the interpreter, each Indian approached the table, and the amount of his payment was counted out in gold and silver. No paper money went at that table. He took it and signed his name in characters as a receipt, or no, he did not take it at all, for there close by the throne, with their books of account, stood the Indian traders who had financed Lo during the long cold winter previous, and who would not let the Indian touch a cent of the money until he had settled with them and squared his account. At this payment the traders seemed to have pooled their accounts and to have appointed one Isaac Marks, in whose integrity and fair dealing with the Indians all had perfect confidence, to represent them as well as himself in the settlements. Occasionally a brave would try to hold out on him and grab the money, but, no, he was seized, his hand or bag forced open, and the right amount subtracted, and away he would go crestfallen, sullen, and disgraced. That Indian would have a hard time getting credit for things needed during the next year. Absolute uprightness was demanded of the traders, [17] at least so it seemed to me, and a like disposition was required of the Indians. I was much impressed with the honor and fairness of the dealings on both sides of the table. It is possible that some instances of dishonesty occurred, but none was observable or was the occasion of any disturbance. Shortly after the payment was concluded, Watab prairie, as respects human occupation, lapsed into its primeval solitude.

Indian payment occasions such as this are of the past. The government pressed the savage back, back into the wilderness, as the march of the white man demanded his lands for occupation. This was accomplished by solemn treaties recognizing the

Indian as the rightful owner of the soil, at the same time insisting that he vacate when asked to and take some lands set aside for his occupation, apart from the haunts of the white man, where he might roam at will. For this vacation the government undertook to pay interest on the sums agreed upon in council, and by a rather forced consent on the part of the Indian.

The principal appears not to have been considered as ever becoming due as a whole, but was gradually extinguished by pro rata payments annually for the support of the Indian, or rather as a supplement to his support. There are now no more vacant lands upon which to force the tribes; consequently they are stationary, and are being compelled to support themselves largely. The government, however, now allots to the Indians tracts of land in fee, with certain restrictions as to sales, in the endeavor to civilize these wards of the nation. Some of the individual members of the tribes are opulent by reason of the increased value of their allotments, due to the discovery of oil or coal on them. This tribe of Winnebagoes was shortly afterwards in 1855 removed to a reservation in Blue Earth County, whence they were later transferred [18] to Nebraska, where their headquarters now are, and where they will doubtless remain until their tribal existence is at an end and they are amalgamated with the body of the citizens of this great nation.

As an illustration of the high sense of honor for truth possessed by these children of the forest, it is related that at one of these annual gatherings the governor of the territory, who was present, being by law ex-officio superintendent of Indian affairs, by way of endeavoring to induce his wards to forego the use of "fire water," informed them soberly that the white people had already ceased its use. Mr. Indian,

however, who had so frequently had evidence to the contrary of the statement, broke out into loud exclamations of disgust, and a great uproar ensued, and the governor was about to be elected member of the Ananias club right there. Inquiring of the interpreter the cause of the discord, and receiving the answer, the governor at once directed him to add the words "in a large measure." This the interpreter with great shrewdness did by using the Indian word "cup" for "measure." This addendum satisfied the Indian, and the governor saved his election by a narrow margin. I suppress the governor's name, but I am satisfied, from my knowledge of him, that the incident was correctly reported.

It was here in this year that the city of St. Cloud was born. One Sunday morning (no church that day), in the summer of 1854, Mr. John L. Wilson, a resident of Sauk Rapids, who operated a carpenter's kit of tools in the neighborhood, came to me asking my assistance in running out some lines on the west side of the river below the rapids. Mr. Sweet, the register of the land office, was the owner of a Jacob Staff compass and level, which was borrowed for the occasion by Mr. Wilson, he as well as myself having some knowledge [19] of its uses. We passed over the river in an Indian dugout, and proceeded to run the outlines and some inner lines embracing a tract of about forty acres of virgin soil, running to the river in places and extending back on the prairie for about half a mile. It was mostly above the low bottom lands adjacent to the river and on the higher prairie land. This survey he elaborated on paper, and exhibited the same to me some time afterwards with the name "City of St. Cloud" inscribed thereon in plain characters, with the usual certificates of surveying, and with dedication of streets and alleys, requisite to fulfill the law concerning town sites. This map was

afterwards duly file and recorded in the proper office, and thus became the nucleus of the present proud city of St. Cloud. For my services I drew two of the lots, chosen by myself. The Indian title to this land had been extinguished by treaty, but the lands had not been surveyed. Consequently, although they were open to settlement, there was no method of establishing tracts or of identifying them. Settlers, therefore, claimed such boundaries for their tracts as seemed likely to be correct, and, when the government surveys were made, conformed their claims as nearly as possible to these surveys. Claimants of land for town sites were in the same predicament, and were obliged to take chances also. But little difficulty arose, however, by reason of this lapse, arrangements always being made satisfactory to both settler and government. At the time of our survey there was but one settler near this ground, a Mr. Anton Edelbrook, a fine specimen of the Teutonic race, who assisted us in our work.

Thus was St. Cloud placed on the map. Soon afterwards Mr. George F. Brott and others obtained interests in the proposed city, laid out additions, ran stages from St. Paul to St. Cloud, and generally boomed the place, until it soon became a point for shipment to the [20] western country. Its foundations were permanently laid and have been maintained ever since.

In the summer of this same year there appeared on the ground a Mr. Caleb Van Nest and his son-in-law, Mr. Crane, from Kalamazoo, Michigan, who put some life into the dry bones of our little settlement by surveying and platting a large quantity of land skirting the river below the rapids opposite St. Cloud and of like paper fame, and calling it the town of Sauk Rapids. They built and occupied a large, two-

story frame building on the highway through the town, in which a general stock of goods was kept. This store became the rallying place and rendezvous for all the floating population of the vicinity for miles around. It was headquarters for everything social political, and otherwise during my sojourn there.

The land on the east side of the river around Sauk Rapids had been partially surveyed and was open for purchase by any one at a dollar and a quarter an acre and by claimants under the preemption laws, by actual settlers. At the time I entered the office of the register in the late summer of 1854 and made it known that I was authorized to practice law, for my rent, assisting Mr. Sweet, in his absence, with the duties of the office, there had been but thirty sales of land as evidenced by the certificates of purchase recorded, and but very few certificates of preemption had been issued to actual settlers, in the vast domain of the Sauk Rapids land district. In fact the entire country east and west of the river was practically a wilderness, awaiting the tread of the mighty millions that Governor Seward saw in his memorable vision at St. Paul some years later. Well, the settlers came, swarming into the lands on the western side, and a few on the eastern. The reasons for the distinction were that the [21] land on the west side was far superior to that on the east, and was more attractive for the further reason that it was an unbroken domain from which the actual settler could choose to his satisfaction, and he was quick to embrace the opportunity.

On the east side there was some small attempt at farming. Governor Ramsey owned a fine stretch of land just below the town site, which was partly under cultivation to small grains, wheat, and oats the season that I was there. The fur company also

cultivated a tract upon the upper bench above the hotel or trading post occupied by Mr. Russell. Upon that tract in the summer of the year 1854 I assisted, as raker and binder, in the harvesting of as bountiful a crop of wheat as was ever produced anywhere. Machines for harvesting were unknown. The strong man swung the old-fashioned grain cradle, sweeping a swath six feet in width, breasting it slowly and laying the gavels carefully down, the rakers and binders following him making the sheaves. Here the young lawyer from New York learned the art of raking and binding after a cradler, the stipend of three good dollars a day and board luring him from his law books. He acquired the art so quickly that he was the banner man of the gang and kept right up to Pinneo, the crack cradler, calling aloud for more straw until Pinneo would almost fall in his tracks in his endeavor to fill the rake behind him. Exercise at the manual training board was the only means of paying expenses in that primitive country. There was practically no legal business. Occasional deed-drawing or some petty disturbance caused a slight movement of the legal waters, but rarely sufficient for a full ration.

A regular term of the district court for Benton and the adjoining attached counties was held here during the month of September (I think). [22] It seemed as though every full-grown man from a range of fifty miles around was in attendance either as a witness or juror, and that was not many either. There were besides a goodly sprinkling of Indians, real blanket fellows, with feathers in their hair and paint on their faces, who came as witnesses in the cases being prosecuted against hapless traders who were accused of having disposed of fire water, otherwise called whiskey, to Mr. Lo.

Court convened in the building which I have described above. Hon. Moses Sherburne of Maine, a learned lawyer and an ornament of the bench, a recent appointee of President Pierce's, presided with dignity and urbanity. The court had two aides, federal and territorial, combined in one judge, who exercised all the powers of a United States judge concerning offences and litigation involving federal law, as well as those of a territorial judge concerning offences and litigation involving the laws of the territory. The United States district attorney, Hon. John B. Brisbin, one of the brightest lawyers the West ever knew, was present in his official capacity as public prosecutor of offenders charged with offences committed against the federal laws. A Mr. M. W. Irwin, United States marshal, who was present in his official capacity and who was also a fine lawyer, was appointed county attorney to prosecute offenders against the territorial laws. Because of their supposed superior ability usually when Brisbin would prosecute, Irwin would be employed to defend, and when Irwin would prosecute, Brisbin would be employed to defend. Thus this duo "had 'em coming and going," and local or other attorneys were not in it. This performance seemed to me a strange method of conducting official duties.

However, an incident occurred that perhaps [23] never had an equal in the history of the courts of this state or of any other. A party was being tried for an assault with a dangerous weapon with intent to do great bodily harm by firing a loaded gun through the panels of a door and grievously wounding James Beatty of Watab. It was a close call for a real murder. Irwin prosecuted, and Brisbin defended. Watab was a short four miles from the courthouse. "John Barley-corn" held his court at Watab during that week, and these eminent attorneys were wont to adjourn every

evening to the court of the convivial John, engage in high practice there all night, and return to the more quiet cloisters of Judge Moses the "morning after," sometimes in time, but more often out of time, and generally filled with the wine of refreshment, or something stronger. This occasioned the prolongation of the trial and occurred so often that Judge Moses became indignant and wearied thereat, resenting properly the conduct of these officers of his court. And so he served notice at the close of one day's session that if Judge John detained the eminent counsel another time beyond the hour of assembling, he would discharge the jury and the prisoner also, and quash the indictment. As good as his word, the next morning the court of Moses, in the absence of the eminent counsel in charge of the case, discharged the jury as well as the defendant, and likewise the indictment, much to the disgust of the hilarious barristers when they appreciated the facts as they really were. Thus John Barleycorn won the fight, as he usually does when given an opportunity.

But John had a defeat coming at the same term. It so happened that a party was under accusation by a grand jury of having illegally disposed of some fire water, otherwise whiskey, to one of the gentle children of the forest. The accused sought not the services of either [24] of the eminent attorneys as a defender, but requested and obtained the service and aid of a young attorney from New York, who chanced to be present, to defend him against the baseless accusation. This young attorney challenged the grand jury that found the indictment upon some ground which perhaps had best not be disclosed here for fear it might be again successfully invoked and perhaps in not so meritorious a cause. Sad to relate John Barleycorn had gained such an ascendancy over the

eminent prosecutor that he was incapacitated to refute the challenge, which might possibly have been done, and so it was sustained, and the son of the "Grand Empire" under accusation was discharged, and the indictment quashed. This victory, as it was improperly called, of the young lawyer over St. Paul's brilliant attorney was heralded the length of the road, from the Rapids to St. Paul, as a well-merited rebuke to the devotee of the jovial king. Had it been capitalized, as it would have been in these days of big business, it would have enured to the material advantage of the young attorney, but the true worshipper at the throne of the blind goddess lacks those qualities that make merchandise of professional success.

The "Grand River" at a point nearly opposite Hotel Russell is, at certain seasons of the year, fordable, and, although not shallow by any means, good pilots are able to negotiate the crossing safely. The summer I spent at the Rapids this ford was used by the Red River or Selkirk settlers when making their annual pilgrimage, or trek, from their abodes on the lower reaches of the Red River, below Pembina, in the British possessions to St. Paul as their market town. They came down in droves and multitudes, a veritable caravan. The vehicles were all two-wheeled carts, drawn by one ox or one pony harnessed mainly with ropes and rawhide thongs, walking between thills. [25]

The carts were made entirely of wood, not a scrap of iron or other metal being used. Also there did not seem to be any work performed in their construction that was not done by axes, adzes and drawshaves, chisels, and like tools. No evidence of machine work was visible, and, when the cavalcade moved, the screaming of the wooden wheels revolving upon

wooden axles scantily greased, was something to be remembered. The voyageurs comprised men, women, children, dogs, cows, oxen, ponies, sheep, chickens, and all domestic animals needed to make the long trek possible and easy. A more happy, care-free lot of folks it were hard to imagine — chattering, singing, smoking all the time, and not a murmur of discontent to be heard. They journeyed long, camped at will, with nothing to prevent their going and coming, no guards or unwelcome settlers on the way to annoy them and bid them move on. The object of the trek was to trade and barter the load of the carts for the things needed for the coming winter season. This journey was apparently an occasion for much joy and pleasure to them. Their starting point was about three hundred miles northwest from St. Paul, and their average speed would not exceed, I was told, ten or fifteen miles a day. So it consumed a good part of the summer to make the trip and return. This sight will never again be in evidence. The railroad has annihilated this vast space, and no longer do the settlers voyage in this primitive manner. Whether they are happier for the change is a debatable proposition. They were just as happy as it was possible to be, and what more could they be under the present circumstances? [26]

The territory of Minnesota was organized under the Whig administration of President Taylor, continued after his untimely death by President Fillmore during the quadrennial following the general election of 1848. The official family was selected from the North and South all Whigs or near Whigs. The two great parties, Whig and Democratic, separated, and the line of cleavage ran apparently and mainly through the misty haze of revenue raising by the imposition of duties upon the imports of the nation. The southern states, depending for prosperity mainly upon the

results of agriculture, looked with frowning eyes upon any policy that apparently increased the price they paid for manufactured goods needed by them, their labor, through their institution of human slavery, enabling them to produce so abundantly the staples required by foreign manufacturers as to warrant, if not to compel, their shunning production other than agricultural, as in no other line of work could their enforced slave labor be profitably employed. But the Whigs and Democrats were mainly together on the question of the constitutional right of one man to own another man where the law permitted it, by the fiction of calling the other man his property (Exodus 21; Leviticus 25: 45, 46). Hence, during this quadrennial, the new arrivals in the territory who essayed a part in the government naturally drifted toward the "powers that be."

At the general national election of 1852 the tables were turned; the Democracy nominated and elected to the presidency Franklin Pierce. With that election a complete change of the official family of the territory was made. This new family was in the saddle at the time of my advent in the territory. Political [27] lines at this period were loosely drawn. The administration was Democratic in name, and the Democrats were the only party having a national organization. The Whig party had become practically extinct in 1850, when its great leaders, becoming fearful of the threats of the South to dissolve the Union unless they were treated better in the preservation of the numerical equilibrium between the slave and free states, succumbed to their fears and led Congress to the passage of the Clay compromise measures, especially the act known as the fugitive-slave law, by which everybody, north and south, was compelled to aid a so-called master to recover his slave property if it escaped. This cost the

northern Whig leaders their congressional seats, especially Senator Daniel Webster, the most profound constitutional lawyer in the land, and rang the funeral knell of the Whig party.

**The opponents of the great Democratic party, including free soilers, abolitionists, and constitution-
alists, were, however, numerous, but for want of consolidation and organization their effort were not fruitful. Therefore it came about that, at the period, of which I write, young men, just arrived on the scene, who had been nurtured in the ranks of the Whig free soilers, but who were without accurate knowledge of the real issues involved, finding the Whig party dead, drifted towards the party in power, believing that its principles were, as claimed, founded upon a proper construction of the fundamental organic laws of our government both in letter and spirit; that its members were patriots, loyal to the flag, and were therefore right. The personnel of the official family was well calculated to impress young minds and confirm their first impressions. The governor, Willis A. Gorman, was a courtly, dignified, and learned gentleman, [28] who had achieved fame as a soldier in the war with Mexico as a leader of volunteers from Indiana. The secretary, Mr. J. Travis Rosser, was a gentleman of the old school of Virginia, chivalrous, gentle, dignified, courteous, and with every mark that should attach to the position of trust he occupied as a worthy incumbent, and with a personal magnetism that attracted strangers, especially young men, to his side.**

W. H. Welch, the chief justice, and Moses Sherburne and Andrew G. Chatfield, associate justices, were men learned in the law, of judicial temperament, dignified, urbane and with all the graces that make for the adornment of the bench. To question the probity,

integrity, and fitness of such men would seem sacrilegious, and to doubt their political affiliations as unbecoming their judicial position was not to be thought of, for how could such men entertain personal views as to the welfare of the people and the wisdom of the national administration inimical to their best interests?

A young lawyer, thrown into, personal contact with this class of citizens and public servants, would naturally be largely influenced thereby; and so, in the conditions as they existed politically, it seemed that the Democratic party must be the party best calculated to administer the affairs of the nation and community, and that all the other fragmentary organizations were simply engaged in the warfare usually waged between the ins and the outs, the outs trying to get in, and the ins trying to stay in and defend their position. Party lines were not in evidence to any appreciable extent, although the local offices were eagerly sought by opposing factions. St. Paul was the gateway for all Minnesota, through which the stream of immigration poured during the high tide of the years 1854-56, and from which it [29] radiated in all directions into the surrounding wilderness of prairie and forest.

Soon, however, this placid stream of political quiet was disturbed. In 1854 Senator Douglas of Illinois, as chairman of the committee on territories, introduced in Congress and pressed to its passage a measure providing for the organization of two new territories, Kansas and Nebraska, and with it coupled a provision repealing the Missouri compromise of 1820, by which compromise all of the territory of the United States not covered by the Ordinance of 1787, namely that west of the Mississippi River and included in what was known as the Louisiana purchase and lying north

of latitude 36° 30' (except Missouri), was by congressional enactment dedicated, to freedom and from it slavery was to be forever excluded, so far as Congress could lawfully determine. The territory indicated in the compromise included all of the territory of Minnesota lying west of the Mississippi River, as well as the proposed territories of Kansas and Nebraska. By the terms of the Kansas-Nebraska bill the question of slavery or freedom was declared to be a matter to be settled by the people of the territory affected when forming a state constitution, and was to be determined by a majority vote. Immediately there began in earnest the efforts of the slave states adjoining the new territories of Kansas and Nebraska to establish slavery firmly in them by organizing the state governments with pro-slavery state constitutions, thus opening the way for the further extension of the slave power.

Minnesota, being a territory and lying partly within the Louisiana purchase, was liable, after the repeal of the Compromise of 1820, to be organized as a slave state, so far as the same lay west of the Mississippi River, there being nothing in its organic act prohibiting such an outcome. It was claimed in fact by our southern states [30] that until the people had formed a constitution and had become a sovereign state prohibiting slavery in terms, slavery existed here by force of the Constitution itself, and this claim was apparently borne out by the holding of the Supreme Court of the United States in the celebrated Dred Scott case that neither Congress nor a territorial legislature could so legislate as to impair the provisions of the Constitution of the United States respecting slavery; that it is only by the act of a state acting as a sovereign entity, exercising its right to regulate its own affairs, that slavery could be prohibited; and that as slaves were property, a master

could reclaim them in the same manner as other property in any part of the national domain. This extreme doctrine, pronounced by the highest tribunal in the land caused an abiding distrust of the party in power, and set all the forces antagonistic to it at work. All the outs that wanted to be in, all the opposers of slavery, both in principle and in its further extension, who cared nothing for the decisions of the Supreme Court in its interpretation of the Constitution upon this great moral question and who feared for the future of the state, began to wage political warfare upon the party in the saddle.

The contest between the newly formed Republican party, led by John C. Fremont, and the Democratic party, led by James Buchanan, for the presidency at the general election of 1856, was the first real test of the strength of the two parties. The Democrats made the fight on a platform bristling, as usual with slavery as a fixed constitutional institution and insisting on the enforcement of the fugitive-slave law. The Republicans, on the other hand, were opposed to the platform of the Democracy upon all essential points, except that they were silent as to the status of slavery in the states, though they [31] they opposed its extension, or nursing, in any manner, by the national power, and especially arraigned the Democrats for their upholding of the institution.

James Buchanan was elected president, but without the aid of Minnesota, for its people could take no part in the election by reason of their territorial status, but their voices were loud and long, some on one side, and some on the other, in places where men were wont to congregate, in barrooms, stores, and shops, all through the land, in either praise or denunciation, as the speaker was that aligned politically. It was in this election that Abraham

Lincoln came to the front nationally in his memorable debates with Senator Douglas in Illinois in a contest for the senatorship in that state; and it was in the course of these debates that Lincoln made use of the phrase, "A house divided against itself cannot stand," adapted from Matthew 12:25, and that other equally pertinent epigram, "This government cannot endure half slave and half free. I do not expect the house to fall but to cease to be divided." Senator Douglas never satisfactorily answered the argument based upon those propositions; yet he succeeded by a narrow margin in retaining his seat in the Senate, and Lincoln was saved for the presidency in 1860.

Thus matters stood politically when in 1857 Senator Douglas, as chairman of the committee on territories in the Senate, championed and forwarded to its passage in that body the bill introduced in the House of Representatives by our delegate, H. M. Rice, called the enabling act, authorizing the people of the territory of Minnesota to form a constitution preparatory to admission to the Union as a sovereign state. The succeeding election of delegates to the constitutional convention occurred in June, 1857, and to say that it was a warm number hardly expresses the true condition. It was hot. [32]

The party in the saddle had been entirely changed by President Buchanan. Samuel Medary of Ohio had succeeded Governor Gorman, and Charles L. Chase of Minneapolis, Minnesota, was appointed as secretary in place of J. Travis Rosser; William H. Welch of Red Wing retained his position as chief justice, while two young Minnesota lawyers, Rensselaer R. Nelson of St. Paul, and Charles E. Flandrau of St. Peter were named as associate justices. These young lawyers were intimate friends from New York, and were men of mark, prominent in the affairs of the territory and

state; Nelson was afterwards appointed United States district judge, serving with marked distinction until his resignation at the age of seventy; Flandrau was chosen as one of the supreme court justices at the first state election, retaining that office until his resignation during the war in 1864, and distinguishing himself later as soldier, lawyer, and editor. Two purer-minded, nobler men have never lived within the borders of this young commonwealth; both were ornaments of the bench, and were influential factors in the jurisprudence and upbuilding of the state. Both have long since passed from the scenes of their labors here, full of years and honors, to the "land of the leal," outstaying the scriptural allotted span of mortal life.

The shortness of the official term, due to approaching statehood, doubtless led the president to appoint to these positions Minnesota men instead of prominent political workers from the states. Medary, the governor, was an exception, but his preeminence as editor of an influential Ohio journal compelled recognition. He never really removed from Ohio to Minnesota; he was here occasionally, hardly enough to know or be known by the people, just enough to perform some gubernatorial functions and, perhaps, draw his salary. Mr. Chase, the territorial secretary, who was authorized to act in the absence of the governor by the organic act of the territory, performed [33] many of the duties of the office. In fact so little known was Governor Medary to residents of Minnesota that at one time during the administration of one of the late governors (Governor Van Sant, I think), when the writer was paying a visit to the executive chamber, his attention was called by an official to a portrait upon the walls which no one had been able to identify, and he was asked, "can you place it?" Fortunately, for the enlightenment of the

questioner, I was able to do so, recognizing the fleeting Governor Medary's features, and I was told that I was the only person who had been able to identify the portrait as that of a former governor. Of course there were others in the state that could have done so, had the opportunity come to them, notably James J. Hill, C. C. Andrews, and Charles A. Gilman. I have had the pleasure of a personal acquaintance with every governor from Alexander Ramsey down to the present incumbent, including Frank Day, whom to know is to be fortunate indeed, and who, although a "near governor" only, would adorn and magnify the real position, if called.

The strife for supremacy between the Republicans and Democrats for the control of the convention about to assemble to draft a fundamental law for the new state, was strenuous; nothing was considered unfair in that warfare. One side was frantic lest the state should be organized as a slave state; the other side laughed at their fears, claiming to be, as it is now well known that they were, all free-state men. Many prospective possibilities as statesmen went out at that election, their lights prematurely extinguished ere they had a chance to burn. The state probably lost largely in effective material, among others, the writer, who led a forlorn charge in the tenth representative district as a Democrat, falling outside the breastworks. The loss was somewhat ameliorated by the knowledge [34] that by reason of the charge the election of Charles E. Flandrau in the same council district to a seat in that convention was made certain, and so the sacrifice was not altogether in vain. After the battle it was doubtful for a long time which party held the victory; both sides claimed it. But the Republicans so distrusted either their claim of victory or the honor of the Democrats that they undertook a snap judgment deal by assembling

quietly, on the night previous to the legal date of meeting, in the hall at the Capitol where the sessions were to be held; they remained there all night, and in the morning attempted to organize the convention. This caused a disturbance in the harmony that should have prevailed on the eve of so tremendous an occurrence—the birth of a state. The Democrats, claiming a majority of the legally elected delegates, appeared in the morning, headed by Mr. Chase, who, as secretary of the territory and member elect, proceeded to call the convention to order, when the Republicans, by an apparently cut and dried program, under the leadership of delegate John W. North, called to order at the same time, whereupon pandemonium prevailed. The Democrats moved an adjournment until the next day, and the motion was carried, a few Republicans voting for it. The Democrats went forth; the Republicans “stood pat.”

The next day the Democrats again assembled at the door of the chamber and found the Republicans in possession and organized as a constitutional convention. The secretary announced that the hall was occupied by a meeting of citizens of the territory who refused to vacate. The Democrats thereupon adjourned to the council chamber on the opposite side of the Capitol and organized the convention. There were thus two conventions, both claiming regularity. Technically [35] the Democrats were apparently in the right, for the law provided that the returns of the elections should be made to the territorial secretary, Mr. Chase, who should canvass them and issue certificates of election; and it was his apparent duty to call the convention and see that it was organized. Which was the true convention was a disputed point, and always will remain so, for no one can tell to this day which was the “real thing.” The result was, however, that in the end wise counsels

prevailed; the fire eaters and hot-heads on both sides were quieted; and, by a happy compromise such as great men are always willing to make in matters of supreme importance, a single document was framed and adopted by each body, engrossed in duplicate, each duplicate signed by the members of the respective bodies but not by both together, each called the constitution, and both as one submitted to the people for ratification as the constitution of the state of Minnesota. It was adopted by a neatly unanimous approval of the voters at the election held October 13, 1857. Too much praise can not be given to the patriotic minds of that day, composing both assemblies, for the happy result. Had any other course been taken and had factional political warfare resulted at the election for ratification, the possibilities were, as it was claimed by all, that, as Congress was then organized, our state would have been much longer reaching its goal of statehood. For its pathway through a hostile Democratic Congress had not been strewn with roses; rather had thorns predominated. The Democracy would have pursued for a much longer time than it really did a course of "watchful waiting," before further destroying the "equilibrium" by the admission of Minnesota to the Union as another free state. [36]

The constitution thus formulated is a model of excellence upon which to build other fundamental law. A state constitution is one of limitation and dictation. Any body of men charged with framing a law limiting the powers of legislatures to follow, and dictating certain matters that must be provided for without stating terms and methods, are set a hard task indeed. The temptation to legislate is, and must be, strong. Hence a difficult proposition confronted these delegates, and the wonder is that they were able to steer clear of the temptation which we have

seen other conventions in these days fail to avoid. The phenomenon of two bodies, each composed of men of one party, meeting separately without the animosity and rancor engendered in debate between rival parties bidding for public favor, or between radically different points of view, and their final agreement upon one instrument show how little foundation there really was for the seeming hostility at the commencement of the sessions. The two opposing camps were in fact in agreement upon all the fundamental propositions, although they were bitterly arrayed against each other at the outset. There was really but one matter upon which there was any sort of dissension, and that was the anti-slavery or pro-slavery character of the constitution to be drafted, though perhaps the division of the new state into congressional and legislative districts, in view of its bearing upon subsequent elections, afforded another point of disagreement. But it was found that the Democrats were no more slavery propagandists than were the Republicans; the redistricting was fairly done, neither side having any advantage over the other. The elective franchise, as under the organic act of the territory, was limited to white males of twenty-one years or upwards, citizens of the United States, or those who had declared their intention to become citizens under the laws [37] of the United States. Upon these, the only probably disputed points, there was no real difference. The limitations placed upon legislation by constitutions is always a sore matter for the average legislator, who finds his actions hampered thereby. Consequently at the first session of the state legislature we see this model instrument emasculated, as it were, by a hideous amendment, the five million credit loan bill; and since that time, at almost every session amendments to this instrument have been proposed, some of them possessing merit, but most of them

merely attempts to obtain ends forbidden by it, and generally without merit. Even as I write, there are no less than nine amendments presented for the sanction of the voters at the next election; many of them contain a great deal of mere routine legislation. Happily, however, the amending of our fundamental law is hedged about with difficulties imposed by an amendment passed for that purpose, namely that each amendment must receive a majority of all the votes cast at a general election, not of the votes for and against the amendment, in this way preventing special elections for the purpose. I look upon this provision as one of the safeguards of our liberties.

Again, when amendments are proposed in the legislature, the cry is always raised by the proponents, why merely let us allow the people to vote on the matter, censuring those who, they claim, thus distrust the people, overlooking the provision in the instrument that each member of a majority of each body, acting severally and alone, must be satisfied individually that the amendment sought is deemed necessary by him as an individual legislator. I call to mind an instance which occurred in the legislature of 1881, in which I served as a member. An amendment was proposed giving women the right of suffrage in questions involving the sale of liquors. [38] One member stated clearly the provision noted above and announced that he did not personally deem the amendment necessary, although he was willing to submit it to the people, yet under his view of his duty he voted against the submission and thereby defeated the proposed amendment by one vote in the lower branch. If legislators should imitate this member hereafter, there would be less friction over propositions to amend our fundamental law. As a concrete example of legislation in proposed constitutional amendments, the amendment now pending concern-

ing the initiation and referendum may be noted. It occupies five solid pages of almost pure legislation in the Laws of 1915. As to its merits nothing is said, except that attention is called to the departure from all well-advised constitutional provisions.

It is now nearly sixty years since the convention which drafted our fundamental laws assembled and performed its duties. Those who took part in its deliberations have nearly all passed from this sphere of life's expression. The writer was personally acquainted with over sixty of the members of both bodies, and does not know of one who is living at this writing. Their work was well done; they were faithful to their trust; and at this stage in the history of our state a retrospective view will serve to enhance their worth to all of us. Their divergent opinions changed largely as the years sped after their work in the convention; many who were most ardent in the ranks of the Republican wing, became, with the passage of time, equally militant Democrats; and many who were zealous Democrats became equally militant Republicans. Some changed their views more than once, furnishing to the present generation a change lesson that may well be learned—that thinking men change their opinions when convinced of the necessity of so doing, that everything is subject to investigation, and that when the facts are found to be not in [39] accord with Present understanding, then views based upon such facts should be changed accordingly. In other words, “a wise man will change his mind, a fool never does.”

Looking out upon the world from my present place of vantage, I find my viewpoint enlarged, and I feel willing to assert that there are very few of the voters of our own or any other state who are able to give a satisfactory reason for party affiliation. Party distinc-

tions are now, by reason of so-called advanced legislation styled progressive, practically lost to view. Party labels exist, but real uniform principles are, with few exceptions, no longer subscribed. It is sufficient now to plaster the label on a party and expect the voters to rally around it on account of bygone victories under its banner; principles are only referred to as traditions; no mouthpiece exists to exhort men to stand fast to any principles; every man is a party of his own making. Platforms have become moldy with age, and no one is authorized to retouch them or transfer them to new positions. The wise are no longer permitted to assemble and deliberate nationally for the welfare of the nation, except at periods of four years; and even they do not always possess wisdom.

The rising generation is thus compelled to follow blindly self-constituted candidates upon platforms formulated by themselves. How long this nation can endure politically under present conditions is a problem that must be seriously considered. Let us all hope that the institutions established by the fathers of the republic may be kept in repair, and may be improved by wise counsels and action, ever remembering that we are a people that claim to be governed "by law and not by men." Our sister republic of Mexico is a conspicuous example of men-governed people. Let us beware! [40]

The period between the framing and adoption of the constitution of the state and the final adjournment of the first state legislature was epochal. The election held in October, 1857, at which the constitution was presented to the people for consideration, was also to decide the question of the political control of the state for the ensuing two years, since all the officers designated by it were to be chosen at the same time.

The two great parties girded up their loins for the fray. The adoption of the constitution was not seriously opposed, there being only about seven hundred votes cast against it out of a total vote of about thirty-seven thousand. The contest for state officers and members of the legislature was fiercely waged.

The schedule of the constitution provided that the governor of the territory, Samuel Medary, (Democrat), Joseph R. Brown (Democrat), and Thomas J. Galbraith (Republican), the two latter members and leaders of the respective wings of the constitutional convention, should act as a board to canvass the returns of the election for the state officers. The two Democrats proved numerically paramount to the lone Republican, and the canvass resulted in a proclaimed Democratic victory by very small majorities on the face of the returns for the entire Democratic state ticket. Although the election was held on the thirteenth of October, the task of canvassing the returns was so arduous that it was sometime in the following December before the result was finally made known. This result was seriously questioned by the defeated party, but was acquiesced in without a contest. The Democratic legislative ticket was successful in a majority of the districts, giving that party a slight predominance in each branch of the legislature. [41]

This legislature convened on December 2, 1857, and was organized in both houses by the Democrats. The writer was chosen secretary of the senate and served in this capacity throughout the session. This position gave him an opportunity to view from within the operation of the legislature, the battles royal waged between the two political parties in, as well as out of, the legislative halls, and likewise some of the inner

workings of the dominant party. The Congress of the United States was not in session at the time of the assembling of the legislature, but convened some days afterwards. The constitution of Minnesota was duly certified to that body by Governor Medary. It was supposed that, inasmuch as this instrument was the product of the combined wisdom of both parties and was satisfactory to each, and as it was republican in form and had been duly authorized by the enabling act, it would at once, as a matter of the highest privilege and importance, be recognized, considered, and speedily acted upon, and the new state be admitted to the Union. But the old nightmare of slavery had fast hold of that Congress. The southern members were opposed to the admission on account of the anti-slavery provisions of the constitution, unless some other state with a pro-slavery constitution should be admitted at the same time so as to preserve the "equilibrium"; and a large number of the northern members were aligned with the opposition, some because, as they claimed, the state was in the control of the Democrats unlawfully, and some because they sided with their Democratic brethren of the South on the slavery question.

Thus, as time went on, there was presented a condition at once anomalous and perplexing—a state with the attributes of sovereignty as respects the legal form, but outside the family group as a political equal in the Union. The elected state officers could not qualify [42] under the terms of the constitution until the state had been admitted to the Union. This inhibition did not apply to members of the legislature, so that at the outset of the session the two parties came to grips as it were. A serious conflict of opinion arose concerning the legal situation; the right of the territorial governor (Medary) to cooperate as such with a state legislature by approving its acts

so as to give them the force of law or by giving his advice to that body as governor was challenged by the minority party in written protests spread upon the records, notwithstanding the express provisions of the constitution continuing in office all civil territorial officers until they were superseded by the elected state officials. The matter was referred to a select committee in the senate, and reports pro and con were made by the two parties. The majority Democratic report was adopted after a good deal of wordy fireworks. The authority of the governor to act and the legality of the legislature were sustained. The protests of the minority party were swept aside by the dominant party, who assumed command of the situation, Governor Medary, by his secretary, presented to the legislative joint session a message filled with wholesome suggestions worthy of the man and of the needs of the hour. The minority finally ceased its attacks by means of written protests, but continued during the session to harass and annoy the majority by voting solidly on all subjects upon which it could, with any sort of justification, differ politically.

Governor Medary, realizing that the situation was incongruous, although perhaps it was strictly legal—holding, as he did, a commission from President Buchanan as governor of the territory of Minnesota and acting by virtue thereof as governor of a state—practically abdicated the throne. His approval is upon one act only, and that the first one passed by the legislature, providing for the time and manner [43] of electing United States senators. All the other acts of the session prior to the admission of the state were approved by Charles L. Chase, who, by reason of holding a federal commission as secretary of the territory, was, by the organic act of the territory, authorized to act as governor in the absence or disa-

bility of that official. Such a state of affairs seemed perfectly legal, yet a more incongruous, inconsistent scheme of government it were hard to imagine. This condition, however, ceased upon the admission of the state, when the elected state officials qualified and assumed their respective offices.

The election of the United States senators by the legislative body in joint convention occurred on December 19. The joint meeting was harmonious, except for a short excursion by the minority into the realm of inquiry concerning the previous election, which was checked by the majority before it was fairly begun. Both parties placed candidates in nomination. The Democratic candidates, Henry M. Rice and General James Shields, were chosen; the Republicans cast their votes for Judge David Cooper of St. Paul and Henry D. Huff of Winona. The popularity of Mr. Rice was so marked that some of the most prominent Republicans slipped their traces and voted for him, and, so far as is known, were not disciplined therefor. The majorities of the successful candidates were meager, Mr. Rice's being ten and Mr. Shields's six, with a total vote of 116. The election was followed by a banquet at the Fuller House, the leading hostelry of the city, situated on the northeast corner of Jackson and Seventh streets. It was entirely non-partisan in character, and was an affair long to be remembered. The speeches laudatory of the dominant party were cheering music to the faithful, though hardly so to the defeated. I remember Governor [44] Gorman's asking in strident tones, "If not to the Democratic party, where else shall one go?" He paused for answer, and a voice rang out, "Better to Hades," using, however, a stronger word. The answer was applauded as proper. Good fellowship prevailed. The "oil of joy and wine of refreshment" were much in evidence.

The senate consisted of thirty-seven members, of whom twenty were labeled Democrat and seventeen Republican. There were a few of the Democrats who were not to be depended on for attendance on the sittings of the body for social reasons. The allurements of the bright lights of the city seemed to call loudly for their presence at festive refreshment boards. The hardy sons of the prairie and forest were hardly able to withstand the temptations spread in their pathway, and, as a consequence, the majority occasionally had difficulty in maintaining their majority when matters political were pending. Yet, sad to relate at this late date, a few of the senators labeled Republican were equally frail, yielding to the seductive influences surrounding the wayfarer in a large town. Thus, fortunately for the majority, it was able to carry its measures. The strife for political mastery was at times heroic. The dominant party strove to walk in a straight path, in which the minority seemed to delight in placing obstacles for use in future campaigns. But no question looking to the advancement of the state pure and simple, shorn of any political cast, failed to receive the support of all.

Senators Rice and Shields and Congressmen elect W. W. Phelps of Red Wing and James M. Cavanaugh of Chatfield were in Washington with their credentials, all Democrats, holding in their hands the duly ratified constitution of the new state, knocking at the doors of Congress and asking to be admitted to their rightful seats, when [45] alas, the question of equilibrium lifted its head again. The admission of Kansas with her Lecompton pro-slavery constitution was antagonized. The South insisted that Minnesota and Kansas should both come in together; the North would have none of it, when suddenly and secretly

word came from Washington that, "if Minnesota would instruct her members to vote for the admission of Kansas with her slave constitution, all objection to her admission would be withdrawn." This nefarious attempt to bribe the state of Minnesota was seriously considered by the dominant party in the legislature. The writer as secretary of the senate had the ear of its members, and as a Free-Soil Democrat was so outspoken in condemnation of the infamy sought to be perpetrated that, at a secret caucus of the party in the senate, it was seriously proposed to silence his opposition by removing him from office. This information was brought to his attention by a Republican senator with an assurance from him that, if he could obtain the personal aid of at least three friends in the party, the whole Republican vote would be cast against his removal. There was no difficulty in obtaining the required friendly members, and the proposition was therefore abandoned. The state was afterwards admitted without a sacrifice of principle, and the admission of Kansas with its fraudulent constitution was prevented, but the equilibrium was disturbed.

The finances of the state were absolutely nothing at the beginning of the session. The government of the United States had always financed the executive, legislative, and judicial departments of the territory, but owing to the prospective admission of the state had made no appropriation for this legislature. Hence because there was no fund out of which to meet its expenses, resort was had to the issuance of treasury warrants in the semblance of bank notes known as state script, which were by law made receivable for taxes, [48] etc. Moneyed men as well as banks and similar institutions took sad advantage of the needs of the private holders of these warrants, and cashed them at large discounts so that the compensation of

the members at three dollars a day was sadly reduced. Yet there was no murmuring. The men who composed that legislature were engaged in laying the foundations of a state; they appreciated fully their responsibility and wrought manfully to that end.

One of, the most important measures of that session, the result of an effort to hasten the development of the state by the speedy upbuilding of a railroad system, was an amendment to the constitution loaning the credit of the state to encourage the building of the land grant railroads, commonly known as the five million loan act. This measure was in no sense partisan, commanding as it did on passage a large majority of both parties. It was ratified by an almost unanimous vote of the people at a special election called for that purpose. But because the measure failed of its object, it served as a weapon wherewith, to oust the Democratic party from power at the next general election, which party was charged by the Republicans with being responsible, not only for the measure but also for its failure. Its history from its enactment to the final settlement of the obligation incurred under it in 1881 form a chapter at once interesting and instructive to all of which the writer had some part.

The legislature took a recess from March 25 to June 2, and in the interim on May 11 the state was admitted to the Union. It reassembled on June 2 with the new governor and other state officials in office, and adjourned August 12. It was in session 148 days, and for this reason it is sometimes called the "long parliament." Its members have nearly, if not all, passed from this expression of life, but the work of the result of their labors endures to their honor to this day. The clerical [47] force of the senate consisted of four officials, the secretary, assistant

secretary, enrolling clerk, and engrossing clerk, who performed all the work in connection with the session. The secretary read all the matter presented, called the roll, and had general charge of the force; the assistant secretary kept the journal; the enrolling and engrossing clerks performed their duties with very little outside assistance. There were no clerks of committees, the members doing their own clerical work. The pay roll of the entire force was a paltry twenty-four dollars a day.

The legislative manual of that session was a small brochure of sixty pages, bound in paper, containing the organic act of the territory, the constitutions of the state and the United States, the names of officers and members of the two houses and of the standing committees, and the rules. My copy lies before me as I write and seems to awaken pleasant memories of that early period. Of the members of the senate all but two were born in the United States. Of the fourteen foreign-born members of the house five were from Ireland, two from England, two from Germany, one from Saxony, two from Norway, one from Scotland, and one from Canada. The roll of any of the later legislative bodies would present a different nativity schedule.

Thus was the new ship speeded on her voyage on the national seas. The horizon has widened, and the state still feels the impetus given by those pioneers of statehood of 1857-58. •

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