

# **“Chief Justice Gilfillan is Defeated”**

**A Study of the 1894 Republican State Convention and Election.**



**HON. JAMES GILFILLAN,**  
**Chief Justice, Supreme Court of Minnesota.**

**By**

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**Minnesota Legal History Project**

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## Foreword.

The Chief Justice was dying and no one knew it.

### 1.

Was it a mere scheme by a single lawyer or did it rise to the level of an organized conspiracy or was it just another example of sectional rivalries within the Republican Party or was it the revolt of the bar that toppled the Chief Justice of the Minnesota Supreme Court at the Party's State Convention on July 11, 1894? By the end of this paper the reader will be able to answer these questions.

### 2.

In 1894 there were five justices on the Supreme Court: Chief Justice James Gilfillan and Associate Justices Loren W. Collins, William Mitchell, Daniel Buck and Thomas Canty. It held two terms the first began on the first Tuesday in April, the second the first Tuesday in October.<sup>1</sup> A closer look at how the Court functioned under James Gilfillan, who had served 19 years as Chief Justice, is necessary to understand what happened at the Republican State Convention.

A justice was solely responsible for the Syllabus of his opinion. When drafting the opinion itself a justice relied heavily on the Court Reporter.<sup>2</sup> On page iv of each volume of *Minnesota Reports*, the Reporter described his duty to summarize the arguments of counsel:

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<sup>1</sup> Stat. c. 63, §4828, at 1276 (1894). During the first tem, Daniel Buck wrote only one decision; the rest of the time he was ill and did not participate.

<sup>2</sup> In 1894 Charles C. Willson was the Court Reporter. He served from 1892-1895, editing volumes 48-95 of *Minnesota Reports*.

The statement of the case is made by the reporters from the return to this court. The epitome of the argument is condensed from the briefs of counsel. For the correctness of these, the reporter alone is responsible.<sup>3</sup>

Thus the justice writing an opinion could reduce or even eliminate case citations because he knew that lawyers could read the Reporter's "epitome" of the briefs with cites.<sup>4</sup> On May 8, to take a date at random, Gilfillan issued 10 decisions. In 8 of these rulings he did not cite a single case; in the other two he cited one case.<sup>5</sup> Attorney General Henry W. Childs remarked in memorial services on January 7, 1895:

His decision are models in their paucity of citations. In expounding the law, in applying its principles to a given case, he found slight occasion to fortify his position by reference to authorities.<sup>6</sup>

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<sup>3</sup> This statement immediately followed the list of the justices, the name of the attorney general and the clerk of court.

<sup>4</sup> This explains the "citationless opinions" of the Minnesota Supreme Court that were published in *Minnesota Reports*. West's *Northwestern Reporter* published the Syllabus and the opinion but not the Reporter's summary of the briefs. An opinion with few or no citations in the *Northwestern Reporter* was hard to decipher, the holding elusive.

<sup>5</sup> *Sharvey v. Central Vermillion Iron Co.*, 57 Minn. 216 (May 8, 1894)(no cases; 1 statute); *John H. Bishop & Co. v. Buckeye Pub. Co.*, 57 Minn. 219 (no case cites); *Havenrich v. Steele*, 57 Minn. 221 (no cites); *Rogers v. Brown*, 57 Minn. 223 (No cites); *State v. Vollander*, 57 Minn. 225 (no cites); *Kennedy v. Chicago, Milwaukee & St. Paul Ry. Co.*, 57 Minn. 227 (no cites); *Shirk v. Hoffman*, 57 Minn. 230 (no cites); *Hill v. Duluth City*, 57, Minn. 231 (no case cites). He chose not to cite cases because the Court's Reporter printed summaries of the lawyers' written arguments after the Court's Syllabus.

He cited one case (and one statute) in *Grundysen v. Polk County*, 57 Minn. 212, and one case in *Oxford v. Nichols*, 57 Minn. 206.

<sup>6</sup> Remarks of Attorney General Child at Gilfillan's memorial services. *In Memoriam Chief Justice Gilfillan*, 59 Minn. 539, 540 (January 7, 1895).

There were few criminal cases on the Supreme Court's calendar in the post war decades. This is not surprising inasmuch as civil cases far outnumbered criminal cases on the dockets of the district courts.<sup>7</sup> Many civil appeals were not complicated—collection cases, real estate and commercial disputes, personal injury claims by an employee or passenger against a railroad and so on. A few appeals were submitted on brief without oral argument.

Generally the Chief Justice released an opinion within two or three weeks after oral argument.<sup>8</sup> The opinions of the Chief Justice reflect his personality. He had complete confidence in his own judgement. He did suffer from self doubt. William Mitchell said, "His clear, plain, terse English is decidedly refreshing amidst so much diffuse rhetoric in this day of typewriters and stenographers."<sup>9</sup> Greenleaf Clark wrote that he had

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<sup>7</sup> See generally Jacob A. Kiester, "The Bench and Bar of Faribault County" in *The History of Faribault County, Minnesota* (1896) (MLHP, 2011). According to Kiester, with few exceptions, civil cases outnumbered criminal prosecutions by a multiples of 10 or even 20. In 1872, there were 39 civil and 2 criminal cases on the calendar; the next year, there were 40 civil and 4 criminal cases; the two terms in 1888 listed 58 civil and only 5 criminal; ten years later, the civil side outnumbered the criminal 67 to 3. 1879 was the exception: "The calendar exhibited 24 criminal and 21 civil cases. This was the first time in our history that the criminal exceeded the civil calendar." About 1883, Kiester writes, "The June term commenced on the 5th, and the calendar presented 3 criminal and 19 civil cases."

This pattern was also documented by Francis W. Laurent, *The Business of a Trial Court: 100 Years of Cases* (Univ. of Wis. Press, 1959). Laurent meticulously inventoried the docket of the Circuit Court of Chippewa County, Wisconsin, from 1855 to 1954. Civil cases predominated in Chippewa County just as in Faribault County.

<sup>8</sup> In some cases, however, he issued a decision a few days after oral argument, which must have aggravated the lawyer representing the losing side. In *Sharvey v. Central Vermillion Iron Co.*, 57 Minn. 216 (May 8, 1894), oral argument was on May 4 and his opinion released on May 8. In *Rogers v. Brown*, 57 Minn. 223, oral argument occurred on May 3 and his opinion issued on May 8. On May 1 oral argument was heard in *State v. Volland*, 57 Minn. 225, and his opinion was released on May 8. In *Flaten v. Moorhead City*, 58 Minn. 324, oral argument was held on July 18 and Gilfillan's opinion issued two days later.

<sup>9</sup> Remarks of William Mitchell at Gilfillan's memorial services. Note 6, at 559.

a “direct, simple method...wrote strong, vigorous English.”<sup>10</sup>  
Dicta cannot be found in a Gilfillan opinion.

Under Chief Justice Gilfillan the justices stockpiled their decisions and released them on a single day or several days, probably at the direction of the Chief Justice.<sup>11</sup> For example, Thomas Canty issued 6 opinions on May 4, 1894, and William Mitchell followed with 12 three days later. The Chief Justice was a prodigious opinion writer. In the first term, from April 3 to July 26, he wrote 59 decisions.<sup>12</sup>

April 14:	5
April 20:	6
May 8:	10
May 24:	10
June 22:	8
June 28:	1
July 13:	13
July 20:	4
July 26:	2

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A story told by George N. Hillman, a long time court reporter for Ramsey County Courts, is relevant here:

James Gilfillan, of St. Paul, served as Chief justice of the Supreme Court for nearly a score of years. I recall seeing him engaged in opinion-writing in his sanctum at the State Capitol, with a stubby pencil in his hand and suggesting that he lighten his labor by use of a shorthand amanuensis. He died before the expiration of his term in 1895. He was concededly, a great jurist.

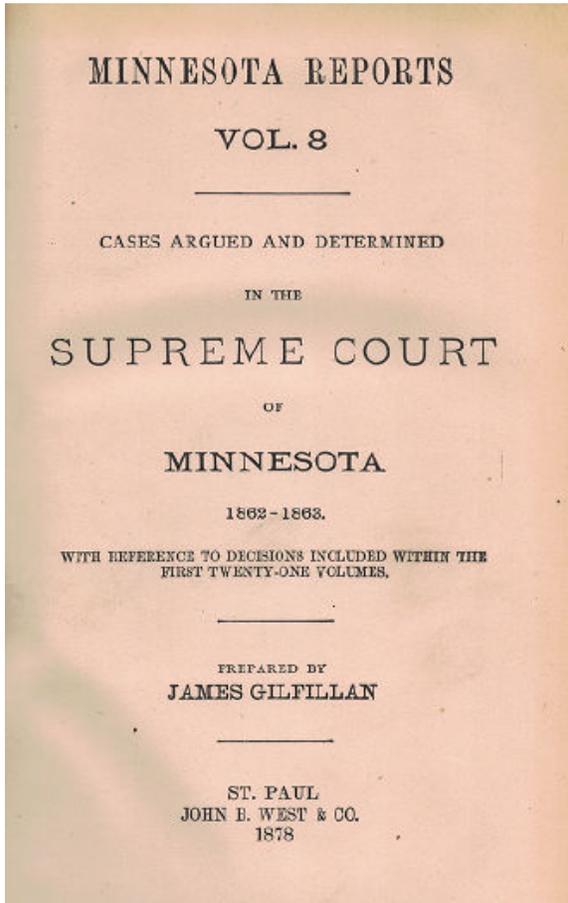
George N. Hillman, “Some Lawyers and Judges I have Known” 14 (MLHP, 2016) (first delivered, 1927).

<sup>10</sup> Remarks of Greenleaf Clark at Gilfillan’s memorial services. Note 6, at 546.

<sup>11</sup> Whether this custom prevailed before or after the Gilfillan years is beyond the scope of this article, but it likely was.

<sup>12</sup> These opinions can be found in Volumes 57 and 58 of *Minnesota Reports* (1894). Newspaper reprints of the Syllabi of these cases can be found in the *St. Paul Globe*, April 17, at 5; April 24, at 8; May 10, at 8; May 25, at 7; July 14, at 8; *Minneapolis Tribune*, June 23, 1894, at 10.

He was a Colonel in the Civil War; exercising authority and issuing commands came easily to him. More important he edited the first 20 volumes of *Minnesota Reports*, which became known as the “Gilfillan edition.” This gave him an encyclopedic knowledge of Minnesota law.



He was an exceptionally fast legal thinker. Lawyers frequently repeat themselves to drive home a point to the jury or judge. Gilfillan got it the first time. Greenleaf Clark described Gilfillan’s thinking:

“I had early impressed upon my mind the very marked ability that characterized Judge

Gilfillan in at once grasping the real point, the real issue, the real merits of the case, disregarding and brushing aside all extraneous matter whether of law or of fact.”<sup>13</sup>

This quickness of mind often became impatience with the lawyer arguing the appeal. Attorney General Henry Childs noted this in Gilfillan’s memorial services:

And thus and has sometimes happened that counsel who saw only the judge upon the bench and knew nothing of the lovable nature of the man, closed his

<sup>13</sup> Greenleaf Clark , Note 6, at 547.

address to the Court with the belief, deep-rooted and pernicious, that his cause had been prejudged, his argument unappreciated, and himself ill-used. This was more especially true of young men to whom the attentive ear and appreciative kindle of the eye are requisite to any degree of success and argument.<sup>14</sup>

Justice Canty echoed these remarks:

When I was practicing, I felt—as a good many of the younger members of the bar and some of the older ones felt—that he was just a little contrary sometimes and a little brusque and curt in his rulings. Sometimes he would “sit down” on me in a way that I did not like.<sup>15</sup>

It may help to understand Gilfillan’s brusque treatment of lawyers during oral argument to realize that he could not forget that back in his chambers—and those of other justices—were opinions that needed to be written or proofed, and the works of other justices read. His court was engulfed in appeals, buried in briefs.<sup>16</sup> This may have led him to express impatience with windy, repetitious, histrionic appellate lawyers.

Regardless of possible explanations for the Chief Justice’s comments during oral argument, the fact remains that they were a major reason for his failure to win the Republican Party’s endorsement at its state convention. A second reason is that the fate of the Chief Justice at the convention became entwined with that of the Clerk of the Supreme Court.

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<sup>14</sup> Attorney General Childs, Note 6, at 541.

<sup>15</sup> Thomas Canty, Note 6, at 555.

<sup>16</sup> *Minneapolis Tribune*, April 3, 1894, at 3: “The April term of the supreme court will open this morning at 11 o’clock. The court has 312 cases on the calendar for this term.” The October term began with 300 cases on the docket. See *infra*, note 63.

#### 4.

For a half century after statehood delegates to Republican State Conventions insisted on having a geographic balanced state ticket.<sup>17</sup> By custom there should be candidates from Southern Minnesota, from the West and North and rarely more than one from Ramsey County.<sup>18</sup>

The delegates viewed each individual race as a part of the entire state ticket. It was not unusual to see the locale of one candidate being traded off for another candidate to achieve a rough geographic balance of the entire ticket.<sup>19</sup> Geographic considerations were also important to balance of the Supreme Court. Stearns County, the home of Justice Loren W. Collins, who was seeking re-election, was mentioned with considerable frequency, as was Olmsted County, the home of Judge Charles M. Start. The Chief Justice resided in Ramsey County.

That the office of the Clerk of the Supreme Court was treated by the delegates as the near equal of the Chief Justice demonstrates how the pervasiveness of politics influenced the selection of members of the Supreme Court.

#### 5.

In newspaper articles about the movement to deny Gilfillan the endorsement of the Republican Party, one name is frequently mentioned: John W. Arctander.<sup>20</sup> He first practiced in Kandiyohi

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<sup>17</sup> Each political party—including third parties—tried to have a ticket composed of diverse geographic candidates. See Appendix, at 45.

<sup>18</sup> The state offices were Governor, Lieutenant Governor, Attorney General, State Treasurer, State Auditor, Clerk of the Supreme Court and openings on the Supreme Court.

<sup>19</sup> A similar balancing act occurred in 1869. See Douglas A. Hedin, “James Gilfillan vs. Christopher G. Ripley: The Contest for the Republican Nomination for Chief Justice of the Minnesota Supreme Court, 1869.” (MLHP, 2018).

<sup>20</sup> *The Minnesota Law Journal* published this profile in January 1896:

County and was elected county attorney, before moving to Minneapolis in 1886. He used guerrilla-style tactics against the Chief Justice in 1894.

Three weeks before the convention, Arctander sent a “confidential” letter to lawyers across Minnesota contending that it was time to replace Gilfillan. Conscious of the Republican Party’s proclivity for geographic balanced tickets, he left blank spaces for lawyers to insert their favorite. The *Winona Daily Republican* intercepted his letter and published it as the centerpiece of a blistering editorial on July 5, one week before the convention.

### ***ARCTANDER’S LITTLE SCHEME***

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The Republican is in receipt of a “confidential” circular, copies of which are being widely distributed in certain quarters throughout the State. As a curiosity of current political literature it is reproduced herewith, as follows:

#### ***Confidential.***

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John W. Arctander was born in Stockholm, Sweden, Oct. 2, 1849, and was graduated from the Royal University of Christiania, Norway, in 1869. At first he adopted the profession of an editorial writer and journalist. He came to America in 1870, and was admitted to the bar in Carver Co., Minn., in 1874, and practiced in Minneapolis, from 1874 to 1876, in Wilmer, from 1876 to 1886, and since January 1, 1886, Minneapolis. He was district attorney, Twelfth Judicial District, in 1880 and 1886. His specialties are negligence law and Supreme Court practice and his record is a noteworthy one. He argued twenty-four cases in the Supreme Court during the last two years, and won twenty-three and lost one.

4 *Minnesota Law Journal* 5 (January 1896). He had literary aspirations. He published a novel, *Guilty?*, in 1910, which is posted on the Minnesota Legal History Project website.

**ARCTANDER & ARCTANDER**  
**Counselors at Law**  
**Minneapolis, Minn., June 22, 1894**

Dear Friend: There is a good lot of us who are not very much stuck on Gilfillan for Chief justice, and who think twenty years has been more than enough for him on that bench. We have between us agreed to support whom you must have heard of as a first class lawyer, a splendid gentleman, and ardent Republican. The movement in his favor is going at a tremendous speed, especially all over Southern Minnesota. We think that we can have at least half of the Hennepin county delegation and perhaps two-thirds, in his favor, and we expect to make a big hole in the Ramsey county delegation. Northern Minnesota will come nobly to the rescue.

Will you help us in your locality?

First—By getting in a notice in one of your local papers advocating him for Chief Justice, and mentioning the fact that there is a strong move in Southern Minnesota to accomplish this end, and the great probability of its success, and send me a marked copy of the paper

Secondly—Can you, by talking this matter up, get me a favorable delegation from \_\_\_\_\_ N H headed by yourself?

Thirdly—Could you not kindly carry through your county convention an instruction in favor of \_\_\_\_\_? It would not only be a tie on the delegation, but would have a good effect outside, as your county won't be the only one I assure you.

Let me know at an early date what we can expect from there, and when your convention is held. In any

event, and whether you are a delegate or not, come down and help in the noble fight.

Our headquarter will be Room 2, Merchants' hotel, and we will open up Tuesday morning, July 10. Come there \_\_\_\_ and help us with your valuable advice.

Very truly yours,  
John W. Arctander

On reading this admonition to secretly "set up the pins" with a view to controlling the forthcoming



Republican State convention, the reader will naturally inquire, Who is Arctander? Is he the disinterested patriot that he evidently desires to be considered or is he only a shyster seeking in this stealthy manner to stab the reputation of one of the ablest, most impartial, and most

incurruptible judges that has ever been elevated to the bench in this State? John W. Arctander is not very widely known to the people of Minnesota, though he has a public record, and in a limited degree has earned a certain sort of notoriety. Politically, he has run the gamut of all the parties and factions in the State. Two years ago he was a blatant Populist, and delivered speeches in the northern

part of the State against the Republican ticket, and especially against Judges Dickenson and Vanderburgh. Recently he announced his return to the Republican party. His motive is now disclosed in the light of the forgoing venomous circular. It is to defeat the nomination of Chief Justice Gilfillan and thus obtain his revenge because the court of which Judge Gilfillan was then a member suspended him from practicing at the bar for fraudulent and unprofessional conduct.<sup>21</sup> This is the milk in Mr. Arctander's coconut. And he is begging the Republican party of Minnesota to lend itself to him as the instrument of his unworthy personal revenge. It will be observed that the typewritten circular is left blank in so far as the names of candidates are concerned, and the blank space afterwards written in to meet the supposed preference of the locality to which the appeal is sent. In certain portions of Southern Minnesota it is Judge Start upon whom Mr. Arctander bestows his praise; in Ramsey county it is Judge Kerr; and in localities further north, still other names are suggested. Whether anyone of these highly esteemed gentlemen is really a candidate for the position now honored by Chief Justice Gilfillan is unknown to us. They each and all possess the right to thus aspire, and either one of the two district judges named would, in particular, if nominated, make an admirable successor to Judge Gilfillan. We do not imagine, however, that any of them cares to be used as a cat's paw to pull Arctander's chestnuts out of the fire, and certain it is that the people of the State, and especially the Republican party, are

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<sup>21</sup> For an examination of the charge that Arctander was motivated by revenge for the Supreme Court's six month suspension, see "The Supreme Court suspends Arctander." Appendix, at 61-72 .

hardly prepared to accept advice from such a man as he in the important and serious matter of reconstructing the Supreme court.<sup>22</sup>

As this editorial notes, Arctander had a history of battling Republican-endorsed incumbents on the Supreme Court. In 1892 Arctander joined the Populist Party and gave speeches against candidates endorsed by the Republican Party.<sup>23</sup> In 1894 he rejoined the Republican Party.

In a front page article at the end of the Republican's convention the *St. Paul Daily Globe* pictured Arctander:

The assemblage was a motley crowd. Among them were many of the old party deserters, who have time and again been denounced by Republican leaders as contemptible renegades, and called various names of a despicable character. Probably the most conspicuous figure of this class was A. Arctander, a member of the Hennepin delegation. Most people would suppose from the terrible things said about Arctander by Republicans that the party that makes so great professions of principles would as soon think of welcoming the devil into its ranks as to

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<sup>22</sup> *Winona Daily Republican*, July 5, 1894, at 2.

<sup>23</sup> *St. Paul Daily Globe*, October 12, 1892 at 1 ("John W. Arctander Strongly Scores the Plutocratic Republicans. Duluthian Crowds Delighted With His Withering Arraignment."). He also criticized Judge Cornish of the Ramsey County District Court. *St. Paul Daily Globe*, October 30, 1892 at 3 ("John W. Arctander, of Minneapolis, created a furor at Cretin Hall last evening. He is an erstwhile Republican who has broken away from his party line because of the iniquitous McKinley bill."); *Minneapolis Tribune*, November 8, 1892, at 2 ("It was late when Mr. Donnelly arrived at Normanna, but the big crowd was being well entertained by J. W. Arctander....At any rate what he did say was anything but distasteful to them. He advised Peoples' Party men to vote the Populist national and state tickets, but could see no hope for the election of the local ticket and urged them to vote for the Democratic candidates to rid themselves from the street car and other monopolies.").

accept Arctander. But Arctander sat there all the same, and the people who sat about seemed mighty glad to have him there, and he won in his efforts to defeat Judge Gilfillan.<sup>24</sup>

Something is missing here. No one shakes Arctander's hand to congratulate him on his supposed triumph.

It is highly unlikely that Arctander had any influence within the Republican Party; it is far more likely that he was viewed as an eccentric, a political gadfly who had gift for attracting publicity.

## 6.

Pre-convention, there were county conventions which sometimes instructed their delegates to the state gathering to support a candidate. One of the first was Ramsey County Republicans who passed resolutions endorsing James Gilfillan for Chief Justice and Darius Reese for Clerk of Court:

"We congratulate our fellow citizens upon the wise, economical and efficient administration of Gov. Knute Nelson.

"We earnestly urge upon the state convention the renomination of our distinguished fellow citizen and jurist, Hon. James Gilfillan, for the position of chief justice, which he has so long and ably tilled.

"Believing that it is the unanimous wish of the Republicans of Ramsey county that our fellow citizen, Darius F. Reese, whose voice and influence have ever been valiantly exerted for the success of

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<sup>24</sup> *St. Paul Daily Globe*, July 12, 1894, at 1. The *Globe* began its report:

The election of a candidate for chief justice of the supreme court developed into a walk-over for the candidate of John W. Arctander, of Minneapolis, who seemed to have an old score to settle.

Republican candidates and principles throughout the state, should be selected as the candidate of the party for clerk of the supreme court, we hereby instruct the delegation this day selected to use all honorable efforts in his behalf, and to work and vote in unison to that end."<sup>25</sup>

On June 28 The *Sauk Center Herald* quoted political gossip from the *Minneapolis Journal*:

The latest candidate for supreme court judge is said to be Judge Kerr of St. Paul. A portion of the St. Cloud delegation is said to be favorable to him and ready to vote for him at the state convention. Justice Collins comes from St. Cloud, and the delegates from Stearns county are instructed for him, so that the candidacy of Judge Kerr. If he is a candidate, looks like an attempt on the part of somebody to prevent Chief Justice Gilfillan's renomination.

There is no question but there exists a sentiment in Minneapolis and St. Paul against Judge Gilfillan. Some of the well known members of the bar in each city are encouraging it in a quiet way, but it is safe to

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<sup>25</sup> *St. Paul Sunday Globe*, June 10, 1895, at 2 ("After the reading and adoption of the resolutions..."). This caught the attention of the *Winona Daily Republican*, June 11, 1894, at 2, which issued a satiric editorial pointing to the arrogance of the Ramsey County convention's nomination of two candidates for statewide office:

**Too Modest By Half**

At their convention held on Saturday, the Republicans of Ramsey county passed resolutions instructing the delegates to the State convention to labor for the nomination of two residents of St. Paul—Chief Justice Gilfillan for the office he now holds, and Mr. Darius Reese for Clerk of the Supreme court. The Ramsey county Republicans are too oblivious to their own and other people's interests. They might have furnished candidates for the entire ticket, and thus saved the necessity for holding the State convention at all.

say that none of them will take an active part in the movement.

Judge Gilfillan seems to be very much “in it,” and the prospects for defeating him appear very remote.<sup>26</sup>

The *St. Paul Daily Globe*, a Democratic organ, followed Republican politics at the county level:

Caledonia, Minn. July 7. — At the Houston county Republican convention held here today the following-named delegates were elected to the state convention to be held at St. Paul, and instructed for Nelson for governor; J. Gilfillan, chief justice; L. W. Collins, associate; L. G. Iverson, state auditor; . . . The thirteen delegates to the congressional convention at Winona were instructed for F. A. Tawney. The usual resolutions, ascribing all good to the Republican administrations and all evil to the Democratic, were passed.<sup>27</sup>

The delegations from Murray, Dakota and Waseca Counties were “uninstructed.”<sup>28</sup> The Steele County Republicans met in

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<sup>26</sup> The *Sauk Center Herald*, June 28, 1894, at 2 (quoting the *Minneapolis Journal*). The *Herald* was quick a rejoinder:

If by the St. Cloud delegation, is meant the Stearns county delegation to the state convention, the Journal is in error.

The convention passed a resolution, without a dissenting vote, endorsing Judge Gilfillan, coupling his name with that of Judge Collins, so that the endorsement is equally strong for both of them. While Stearns county has a warm side for Judge Kerr, yet Judge Gilfillan is held in high esteem and admiration, and no reason has been adduced why he should not be his own successor. His ability, learning, integrity and lofty ideals of justice are fully recognized in an effective way by the republicans of Stearns county.

<sup>27</sup> *St. Paul Daily Globe*, July 8, 1894, at 7.

<sup>28</sup> *Id.*

Owatonna, elected delegates to the congressional and state conventions, and instructed them as follows:

The delegates to the congressional convention were instructed to do all in their power to nominate James A. Tawney. The state delegates favor Judge Thomas S. Buckham for chief justice and Sam G. Iverson for auditor.<sup>29</sup>

At the Meeker County convention in Litchfield, a resolution was passed approving the candidacy of August T. Koerner for secretary of state.<sup>30</sup> The Otter Tail County Republican convention met in Fergus Falls on July 3d and instructed their state delegates to support H. W. Childs for attorney general, and were “instructed for Bob Dunn for auditor. They favor Judges Gilfillan and Collins. The congressional delegates are for A. T. Lund for congress.”<sup>31</sup>

Gilfillan did not campaign for the votes from delegates (neither did Judge Start). He was never active in Republican Party politics, preferring a “life in the law.” In fact, in 1869, when he was seeking the party’s nomination for the office of Chief Justice, in an editorial on August 27, the *Minneapolis Morning Tribune*, which supported popular Attorney General F. R. E. Cornell for the office, severely criticized him for his inactivity:

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<sup>29</sup> Id. The weekly *Princeton Union* reported Freeborn County’s support for the incumbent chief justice in an issue printed a day after the convention. *Princeton Union*, July 12, 1894, at 2 (“The Freeborn county delegation is the first to come out for the re-nomination of Brown for secretary of state. They say they will stand by him as long as there is any possibility of nominating the present secretary. They will also oppose the proposed nomination of Judge Start to defeat Gilfillan. Olmsted county, they say, has a candidate for auditor, and Fillmore, also, while Schwarg and Burkhardt are both from the First district.”).

<sup>30</sup> *St. Paul Daily Globe*, July 8, 1894, at 7.

<sup>31</sup> *St. Paul Daily Globe*, July 4, 1894, at 3.

He has never, however, been an active member of the party, or done anything in a public manner to contribute to its success. Other things being equal, it would be more consistent and more just for the party to nominate an earnest, active and zealous Republican of long standing, than a man who has never been prominently identified with us.<sup>32</sup>

This leads to the question of whether the Chief Justice was aware of endorsements by county conventions and the growing opposition to his re-nomination among members of the bar? He must have read metropolitan newspapers that covered county conventions and also printed political rumors.<sup>33</sup> He surely spoke to his brother, Charles Duncan Gilfillan, a shrewd analyst of Republican politics, about the upcoming con-

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<sup>32</sup> Quoted in Douglas A. Hedin, "James Gilfillan vs. Christopher G. Ripley: The Contest for the Republican Nomination for Chief Justice of the Minnesota Supreme Court, 1869." 12-13 (MLHP, 2018).

<sup>33</sup> E.g., *St. Paul Daily Globe*, July 5, 1894, at 4:

The move to defeat Judges Gilfillan and Collins is far more wide spread than most people are aware of. The gang is not in this deal. It had its origin largely in the country. The men who have been selected in their places are C. M. Start, of Rochester, for Collins' place, and H. R. Brill, of St. Paul, for chief justice. Gorham Powers, of Granite Falls, is the reserve man if Brill refuses to be a candidate. It is feared that a local pressure will be brought to bear upon him which will bring this about.

Another example is from the *St. Paul Daily Globe*, July 11, 1894, at 4:

There seemed to be a strong sentiment among the delegations to turn down Chief Justice Gilfillan. A very prominent politician of St. Paul admitted that Judge Start, of Olmstead county, would undoubtedly give Gilfillan a hard run for the nomination. Several politicians from Minneapolis and other parts of the state said that Start would capture the nomination. John W. Arctander, of Minneapolis, who is working hard against Gilfillan says Start has over 600 votes and is still gaining.

Judge Graham Powers, of Granite Falls, will be the opponent of Justice Collins. A politician said that Powers had made strong inroads in the following of Collins, but he doubted his ability to defeat him.

vention.<sup>34</sup> Almost certainly he knew his candidacy was in trouble, that he faced two formidable obstacles: the revolt of the bar and the candidacy of Reese.

## 7.

The Republican state convention was held on Wednesday, July 11, 1894, in the St. Paul Auditorium.<sup>35</sup> The *Minneapolis Tribune*, reported that “The convention is the largest that ever assembled in the state. The delegates number 1,017, and there was nearly a full representation. Included in these are many of the old time politicians of the state.”<sup>36</sup>

In the morning session Chairman Alphonso Barto, a former Lieutenant Governor from Stearns County, was elected Chairman of the convention. Committees on resolutions, credentials and rules were elected, and a short speech was given by

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<sup>34</sup> Charles Duncan Gilfillan (1831-1902) who had served in the state Senate, 1879-1887 and was active in Republican Party politics before his retirement to farming in Redwood County. He delivered an address “The Early Political History of Minnesota” to the Historical Society on February 14, 1898, published subsequently in the Volume 8 *Minnesota Historical Society Collections* 167-180 (1902). His memoir does not describe politics in 1894.

<sup>35</sup> The *Minneapolis Tribune* on the morning of the convention described pressure on the Ramsey County delegation to drop Darius Reese:

The defeat of Judge Gilfillan is strongly foreshadowed. Judge Start, of Rochester, is likely to be the nominee, although Judge Kerr has many friends, particularly from the northern part of the state. His long residence at St. Cloud and his wide acquaintance in that section is an element of great strength. . . .

The chief justiceship has taken a new turn. A strong pressure has been brought to bear upon Ramsey county to present Gilfillan's name for chief justice in preference to that of Reese, for clerk of the supreme court. It is now said that this will be done by H. F. Stevens. If this proves to be true it will result in the defeat of Reese. It may and may not nominate Gilfillan. It is said that the name of Judge Kerr will not be presented. This tends to strengthen Gilfillan because it will solidify Ramsey county for him.

<sup>36</sup> *Minneapolis Tribune*, July 12, 1894, at 2.

Russell G. Horr, a humorist and politician from Michigan. Governor Knute Nelson and Lieutenant Governor David M. Clough, both incumbents, were nominated by acclamation. The Governor gave his acceptance speech, while ballots for the office of Secretary of State were counted. Albert Berg from Chisago County was elected as was Robert C. Dunn from Mille Lacs County for State Auditor.

The evening session began at 9:00 P.M. August T. Koehner of Meeker County was nominated for State Treasurer and incumbent Henry W. Childs from Otter Tail County was "nominated by a rising vote." The only contests left were for Clerk of the Supreme Court and two seats on the Court itself. The *Minneapolis Tribune* reported the balloting:

#### CLERK OF THE SUPREME COURT.

Ex-Gov. Yale, of Winona, nominated E. C. Gould, of Winona, for clerk of the supreme court. He called attention to the fact that the six candidates already nominated had been taken from the northern part of the state, and asked this nomination for his section. His candidate, he said, is an able lawyer and would be an honor to the position and the state.

J. D. Lord, of Dodge county, nominated Peter Schwarg. H. F. Stevens, in a speech that called out the most enthusiastic demonstration of the convention, placed in nomination Darius F. Reese, of Ramsey.

Judge Nelson, of Rock, nominated J. L. Helm, the present deputy clerk, making the same sectional appeal in behalf of his candidate. A. S. Crossfield, of Traverse, named John McCallum, of Big Stone. The first vote:

Gould.....	295
Schwarg.....	88
Helm .....	259
Reese.....	327
McCallum.....	42

The names of Schwarg and McCallum were withdrawn, the latter in favor of Reese. The second ballot stood:

Gould.....	386
Helm.....	151
Reese.....	470
Total	1,007

There being no choice, another ballot was taken. There were a number of changes, notably in Hennepin, where Gould's vote was increased from 73 to 106 and Reese's was reduced to 2 from 25. Helm's strength went to pieces. Reese getting a little bit the best of the divide. Reese was nominated by a close margin. The vote:

Reese.....	523
Gould.....	461
Helm.....	26
Total	1,010.

The Ramsey delegation went wild with delight at the announcement of this result, and the nominee was called to the platform to make his acknowledgement. The enthusiastic nominee declared his opinion that the Republicans have an easy thing this year, and that the ticket would have 60,000 majority, and would beat a fusion ticket by 25,000 votes.

## GILFILLAN KNOCKED OUT.

Albert Scheffer, of Ramsey, nominated James Gilfillan for chief justice of the supreme court.<sup>37</sup>

O. B. Stearns, of Duluth, named Charles M. Start, of Rochester, and a ballot was proceeded with. It resulted in the nomination of Start, by a vote of 729 to 287 for Gilfillan.

Judge Gorham Powers, of Granite Falls, Judge L. W. Collins, one of the present Judges, and Galvin L. Brown, of Morris, were named for the nomination as associate justices. The first ballot resulted:

Collins.....	729
Powers.....	188
Brown.....	49

Judge Collins was declared the nominee of the convention.<sup>38</sup>

Why Gilfillan's defeat was the subject of an exceptionally perceptive analysis by a reporter for the *Minneapolis Journal*:

The nomination of Reese made it sure that Chief Justice Gilfillan would be turned down. Ramsey county was out with coat off working for Reese, and when the first ballot was taken for clerk he had voters in nearly every county, indicating plainly that "the Ramsey men had set up the pins well." He

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<sup>37</sup> In its account of the convention, *The Broad Axe* observed, "Hon. Albert Scheffer placed in nomination for chief justice Hon. Charles Gilfillan as one who, though a resident of St Paul, must be regarded as representative of the whole state." July 12, 1894, at 3.

<sup>38</sup> *Minneapolis Tribune*, July 12, 1894, at 3. Just before midnight the platform was adopted, and the convention ended. *Weekly Transcript* (Little Falls), July 13, 1894, at 6.

For portraits of Judge Start, Justice Collins, Seagrave Smith, Judge Willis Sumner Ladd and Darius Reese, see Appendix, at 49-61.

almost got there on the first ballot. Had he been defeated and the place given to Gould, of Winona, Gilfillan would be nominated. With Gould in the field, Start for chief justice would have been an impossibility. But with Gould knocked out, the southern part of the state was entitled to Start. As it turned out, the southern counties did not secure a large share of the offices, but it was in their own fault. The convention was not manipulated in a way, nor did any candidate have full swing. The honest and most successful workers got there, and southern Minnesota must lay at the door of her delegates the blame, if also not satisfied with the result and thinks that she should have had another place on the ticket. Ramsey county undoubtedly got more than her share, but Ramsey delegates were workers.

The move to defeat Gilfillan was sent on foot months ago by lawyers of the Twin Cities, and it spread to the different parts of the state like wildfire. The objection to him was a personal one. It is claimed that he is lacking in courtesy to the attorneys who practice in the supreme court, and does not hesitate to treat them with open disrespect, with or without occasion. That he has made himself unpopular in various ways, among leading lawyers is clear. On the trip to Denver to the Republican league convention there were a dozen lawyers, representing nearly every section of the state, and it is no secret that there was not a Gilfillan man in the crowd. It is said that a desire to defeat Gilfillan prompted John C. (sic) Arctander to come back to the Republican party, and secure election as a delegate to the state convention. From all over the

state delegates came loaded with ammunition against Gilfillan; so that when Reese was nominated for clerk of the court, it was perfectly easy to secure Gilfillan's defeat, on the argument that he was a Ramsey county man, and that Ramsey county had been honored enough.<sup>39</sup>

The Republican Party balanced its ticket.

For Governor.....Knut Nelson  
of Douglas County.

For Lieutenant-Governor.....David M. Clough  
of Hennepin.

For Secretary of State.....Albert Berg  
of Chisago.

For Auditor.....Robert C. Dunn  
of Mille Lac.

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<sup>39</sup> *Minneapolis Journal*, July 12, 1894, at 8. Note that Arctander was mentioned for his decision to return to the party to defeat Gilfillan, not because he influenced other delegates.

Almost 20 years later the *Journal's* interpretation was echoed by Henry A. Castle in the first volume of *History of St. Paul and Its Vicinity* 170 – 171 (1912).

In 1894 Chief Justice James Gilfillan, of St. Paul, princeps maximus in Minnesota jurisprudence, who had presided over the court with infinite credit for twenty years, lost a renomination because a popular Ramsey county candidate for clerk of the supreme court had been successful in the same convention, and honors must be distributed. In none of these cases were dishonorable means employed, nor were unworthy men promoted. But their occurrence vividly illustrates what may be termed the eternal imminence of political vicissitude — also the difficulty of "taking the judges out of politics.

On July 30, the *Minneapolis Tribune* reprinted an indignant commentary from the *Le Sueur News*:

Le Sueur News: Chief Justice Gilfillan was defeated for renomination in the late Republican state convention because of his insolent and severe treatment of young attorneys who practice before the supreme court. It was a just and deserved rebuke.

For Treasurer.....August F. Kroener  
of Meeker.  
For Attorney-General.....W. H. Childs  
of Otter Tail.  
For Clerk of the Supreme Court.....Darius F. Reese  
of Ramsey.  
For Chief Justice of the Supreme Court.....C. M. Start  
of Olmsted.  
For Associate Justice of the Supreme Court.....L. W. Collins  
of Stearns.

8.

The Democrat's convention was held in St. Paul on September 5, 1894. The *Globe* reported the proceedings:

Judge Rand placed David Phillips, of Wabasha county, in nomination for clerk of the supreme court. Frank Larrabee, of Hennepin, presented Thomas Kurtz, of Clay. Mr. Larrabee made a strong plea for Mr. Kurtz and he was nominated by acclamation. This out of the way, delegates became quiet, and the chairman declared the next thing in order was the nomination of a candidate for chief justice.

Judge Seagrave Smith was named in a neat speech by W. P. Murray, of St. Paul. Hon. John F. Norrish seconded the nomination, claiming Judge Smith as a son of Dakota. Seconding motions came from all quarters of the hall, and on motion of Mr. Murray, the nomination of Judge Smith was made by acclamation.

Here commenced a little play that had for its object the defeat of Judge John W. Willis. W. H. Trapp of St. Louis, wanted the nomination of a candidate for associate justice to be left to the incoming

state committee. This was turned down, and Thomas D. O'Brien, on behalf of Ramsey, presented Mr. Willis' name in a brief but neat speech. Judge Nethaway, Judge Rand and a lot of others. Finally "Davey" Johnson took the floor, and speaking for the 101 Hennepin county delegates indorsed Judge Willis and settled the matter. By a rising vote, every man on his feet, Judie Willis was nominated.

There was a period given over to shouting and jubilation, and the tired delegates were then directed



to gather together in judicial districts and select the district members of the new state.

On reassembling the district members were announced. A motion was passed giving the A motion was passed giving the Second and Fourth Judicial districts an additional member each, and authorizing Chairman

Winston to appoint seven members at large after consulting with Gen. Becker. This ended the business; and with a sigh of relief the tired chairman declared the convention adjourned without day shortly before 7 o'clock.<sup>40</sup>

On September 14, the *Globe* ran an explosive story charging Justice Loren Collins of lobbying the Stearns County

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<sup>40</sup> *St. Paul Daily Globe*, September 6, 1894, at 4.

Democratic Convention to send delegates to the state convention “who would oppose the nomination of John W. Willis for associate justice of the supreme court.” He did not succeed: “Old Stearns stood by Willis.” He later reappeared at the Democratic State Convention “like some relentless ghost” and was seen “pleading, urging, entreating. . . Don’t nominate Willis.”<sup>41</sup> This was bizarre campaign behavior for member of the Court.

9.

The *St. Paul Daily Globe* reported the convention of the Populist Party which was also known as the People’s Party, which was held on July 11, the same day as the Republicans. Here is its account of the voting for Clerk of the Supreme Court:

CLERK OF COURT.

On the nomination of clerk of the supreme court there was a lively scramble, and more time was wasted in the expenditure of wind than over any other office.

The names of those who got before the convention as candidates are C. H. Johnson. Pipestone; A. H. Hendrickson, Todd; Thomas S. O’Hair, Traverse; Ben. Plowman, Otter Tail; Halner Rosmussen, Clay.

The ballot stood:

Johnson.....	460
Hendrickson.....	83
O’Hair .....	269
Plowman.....	52
Rosmussen.....	45

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<sup>41</sup> *St. Paul Daily Globe*, September 14, 1894, at 8. This article is posted in the Appendix, at 48. A portrait of John W. Willis is posted in the Appendix, at 54-56.

The nomination of Mr. Johnson was made unanimous. Mr. Johnson thanked the convention, saying the honor came as a complete surprise.<sup>42</sup>

The *Minneapolis Tribune's* report of the contest within the People's Party for chief justice was more detailed and colorful than the *Globe's*:

### FIGHT OVER THE JUSTICES.

Chief justice of the supreme court was the next in order. Tom Lucas took the floor as he stated, to nominate a Yankee. All other nationalities had been represented. He proposed Sumner Ladd, of Minneapolis. C. A. Clark, of St. Paul, nominated John W. Willis, of St. Paul, now Judge of Ramsey county.<sup>43</sup>

H. B. Martin spoke in favor of People's Party Judges, so that labor leaders might not be locked up by Republican and Democratic Judges. He seconded the nomination of Sumner Ladd. He didn't think it was necessary to go out of the party and nominated a Democrat, naming Willis.

A. N. McGindley, of Duluth, thought that Cleveland might possibly be impeached for high treason for declaring martial law in Chicago. He

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<sup>42</sup> *St. Paul Daily Globe*, July 12, 1894, at 3 ("A Show of Bad Blood").

The Prohibition Party did not nominate or endorse candidates for the supreme court or for the clerk of the supreme court. 1895 *Blue Book*, at 379.

<sup>43</sup> From the *Globe*, July 12, 1894, at 3:

Francis H. Clark, of Ramsey, placed in nomination the name of John W. Willis. He made an eloquent speech, saying that Judge Willis is the idol of the laboring classes of St. Paul, and that he stood ready to crush the wheat ring and stand with the people when the opportunity offered. . . .

Mr. Clark, in behalf of Judge Willis, said the latter, regarded the action of the president as autocratic, and another delegate stated that Willis is in sympathy with the railroad employes.

wanted to know how John W. Willis stood on that question. He had heard that he indorsed the action of Cleveland.

"He thinks Cleveland is a traitor to the country," cried a voice.

"We have railroad men and A. R. U. [American Railway Union] men in our delegation, cried a voice from Ramsey County, "and they favor John Willis."

The previous question was called for, and there were yells from all over the hall.

The delegates were getting tired and wanted to finish. After a howling time, order was restored.

Then Mr. Martin sprang up and reminded the convention that the president of the United States appointed the supreme court judges, and John W. Willis belonged to the same party as President Cleveland.

H. G. Day, of Albert Lea, tried to get the floor, and there was another row and pandemonium reigned. John W. Willis, he said, had never denied that he was a loyal supporter of the Democratic party.

The previous question was moved, when a voice yelled: "Gentlemen of the convention, I appeal to you—hear, me—I will-speak."

He didn't, however for a vote was called for. and at last they began to prepare their ballots.

The excitement was the most intense of the day, and the fight the most bitter. Many of the counties passed their vote to come in at the finish. Nearly every vote was applauded with wild yells. Hennepin gave Willis 3 and Ladd 71. Polk gave Ladd 68, and settled it. Ramsey gave 64 for Willis and 10 for Ladd. There were wild times as Ladd's vote piled up, and every delegate was on tip toe.

While they were waiting for the count, a resolution of thanks was tendered the Minneapolis Board of Trade for the free hall furnished the convention by that body.

There was an attempt to have Willis made associate justice, when the Ramsey county delegation declared that there had been a conspiracy to deprive Ramsey of a representation, and they washed their hands of the whole affair.

The official vote showed:

Sumner Ladd.....	543
J. W. Willis.....	304
F. W. Davidson.....	9

The nominee appeared and pledged himself to stand by the People's party to the end. He was on the platform just a little stronger than any of the other candidates. He proposed to rescue the country from the boodlers and gamblers, as far as he could.

Ramsey county nominated Frances H. Clark for associate Justice of the supreme bench. Hon. Frank Ives, of Polk, was nominated, also Gorham Powers, of Yellow Medicine.

Mr. Clark took the floor and insisted that his name be withdrawn. There were cries of "No! no!" Judge McDonald arose and stated that it was wrong to slap Ramsey county in the face. He roasted Hennepin county for turning down John W. Willis and thought it would result in a loss of votes to the party. He insisted that John W. Willis should be unanimously nominated. Polk county came to the front and offered to withdraw Mr. Ives in favor of any man whom organized labor might ask to have in the position. It was then moved that John W. Willis be

nominated by acclamation and the motion went through with a rush. His success was due to the withdrawal of Mr. Clark, who could have had the nomination.<sup>44</sup>

Judge Start did not address the Republican Convention upon being nominated, but Sumner Ladd did. As reported by the *Globe*:

Mr. Ladd made a speech of acceptance, saying that if elected his action would lie in accord with the broad, profound and humanitarian principles of the People's party. He spoke somewhat in length, indorsing fully the platform of the party.<sup>45</sup>

This was highly unusual and is more proof of how partisan politics warped the process of judicial selection before 1912, when nonpartisan elections were instituted.

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<sup>44</sup> *Minneapolis Tribune*, July 12, 1894, at 5. From the *Globe* :

It was getting late, and after the hot and acrimonious siege the delegates manifested a desire to leave the hot and stuffy hall and get to their suppers, it being long after 6 o'clock before the convention took up the nomination of an associate judge.

Francis Clark, of St. Paul, was placed in nomination, as was F. B. Ives, of Crookston, both of whom were regularly seconded.

Judge McDonald, of St. Paul, then took the floor, and he proceeded to administer a roast to the convention for slapping Ramsey county in the face in running down Willis. He characterized the action as hasty and ill-considered, and he advocated the indorsement of Clark, who had, however, declined the nomination before the judge rose to speak.

After some discussion the names of the others were withdrawn and Judge Willis was nominated by acclamation.

The convention then adjourned.

*St. Paul Daily Globe*, July 12, 1894, at 3.

<sup>45</sup> *Id.*

10.

1894 was not a presidential year. In 1892 Democrat Grover Cleveland defeated Republican Benjamin Harrison and James B. Weaver of the People’s Party.<sup>46</sup> His second term was rocked by the Panic of 1893. As Professor Jackson Lears has written:

Waves of financial panic broke throughout the economy: within weeks, hundreds of banks failed, and of thousands of men lost their jobs. The worst depression the country had ever seen enveloped the land for the next four years.<sup>47</sup>

In response to the contraction of markets, the Pullman Company, which manufactured sleeper cars for railroads, cut wages but did not reduce rents for workers living in company towns. This led to the Pullman Strike that coincided the Republican and People’s Parties’ Conventions on July 11. The strike fostered secondary boycotts, whose effects were felt nationwide. Owen Fiss writes: “The trains of the nation ground virtually to a halt and with them so did the shipment of the nation’s vital supplies, including food, fuel, and livestock.”<sup>48</sup> At this point the federal government intervened to break the strike. Under the authority of the Sherman Antitrust Act,

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<sup>46</sup> The vote count was:	Vote	Electoral Votes
Grover Cleveland (D).....	5,556,918	.....277
Benjamin Harrison (R).....	5,176,108	.....145
James B. Weaver (P).....	1,027,329	.....22
John Bidwell (Prohibition).....	264,130	.....0
Simon Wing (Socialist-Labor).....	25,512	.....0

<sup>47</sup> Jackson Lears, *Rebirth of a Nation, The Making of Modern America, 1877 – 1920* 169 (2009). He dates May 5, 1893, as the beginning of the Panic, 14 months after Cleveland’s inauguration.

<sup>48</sup> Owen M. Fiss, 8 *History of the Supreme Court of the United States: Troubled Beginnings of the Modern State, 1888-1910* 58 (1993) (citing sources); Rebecca Edwards, *New Spirits: Americans in the Gilded Age, 1865-1905* 237 (2006) (“The Pullman boycott paralyzed parts of the country for a month.”).

Richard Olney, Cleveland's attorney general, secured an ex parte order from a federal court in Chicago enjoining Eugene V. Debs, the president of the American Railway Union, and other union officers from inducing railroad workers to continue the strike. They soon were indicted for violating the injunction, convicted, and served six months.<sup>49</sup> The strike was over by July 20.

Metropolitan newspapers printed articles from wire services on the Pullman Strike. These articles crowded reports of state politics off the front pages to pages 3 or 4. The nominees of the Republican Convention were awarded one column on the front page of the *Tribune* on July 11 but the People's Party ticket was relegated to page 5. Not one of the three parties included a plank in their platforms on the Pullman Strike or the federal military intervention in a labor dispute.<sup>50</sup> But the delegates in all three conventions were very aware of the Pullman Strike. The People's Party passed a resolution condemning the arrest of Eugene Debs:

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<sup>49</sup> Owen M. Fiss, note 47, at 57-64. (This is an excellent account of the government's legal maneuvers during strike and boycott). The U. S. Supreme Court affirmed the conviction of Debs. *In re Debs*, 158 U.S. 564 (1895).

<sup>50</sup> *But see*, a sentence in Plank 10 of the Republican Party's platform provided:

We earnestly advocate such legislation as will secure the peaceful adjustment by arbitration of differences arising from time to time between employers and employes and condemn unqualifiedly capitalists and others who refuse to settle such differences along these peaceful lines.

The Prohibition Party's platform directly addressed the Pullman Strike:

Fifteenth-The recent "strike" on the part at the railroad corporations and their combined employes confirms us in the belief that all railroad, telegraph and other public corporations should be under the entire control of the government, and that, as soon as practicable, the government should own and operate these great lines of commerce of the country in the interests of all the people and without discrimination, under civil service rules.

Resolved, That in the United States it is not a crime for the great mass of the people to unite to improve their material condition by peaceful and lawful means and we cannot but regard the arrest of Mr. Debs and his associates as an unwise and unjust step and a dangerous encroachment of the federal Judiciary upon the rights and liberties of the people.<sup>51</sup>

By election day 1894 the Pullman Strike was over while the depression was in its second year and would linger for two more. Economic conditions were not the only hurdle for the Democrats that year. Historian Richard White writes:

By the eve of the election of 1894, the conditions of 1892 dramatically reversed themselves. The old Democratic Party was badly wounded everywhere except the South – a victim of the depression, its own carelessness, local corruption, and irrelevance.<sup>52</sup>

All signals pointed to a Republican landslide in the state and nation on November 6, 1894.

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<sup>51</sup> *Minneapolis Tribune*, July 12, 1894, at 5. Recall one outspoken People's Party delegate:

A. N. McGindley, of Duluth, thought that Cleveland might possibly be impeached for high treason for declaring martial law in Chicago. He wanted to know how John W. Willis stood on that question. He had heard that he indorsed the action of Cleveland. He thinks Cleveland is a traitor to the country," cried a voice.

<sup>52</sup> Richard White, *The Republic for Which It Stands: the United States During Reconstruction and the Gilded Age, 1865-1896* 809 (2017).

## 11.

Over the decades political campaigns had changed. By 1890s Republicans no longer “waved the bloody shirt” in the faces of Democrats. Torchlight parades were rare.<sup>53</sup> These changes forced politicians to recognize that voters who were once open to emotional appeals to maintain unwavering party loyalty were being gradually supplanted by a more sophisticated electorate which expected rational discussions of the complex issues of the day.<sup>54</sup> These voters were more willing to split their tickets and were interested in issues raised by third parties. In 1894, while local issues predominated such as unchecked logging on state lands, the Hinckley fire on September 1st, and wheat prices, among many others, national issues such as the tariff, silver issue, and women’s suffrage, among others, were also debated.<sup>55</sup> Prohibition was a local, state and national issue.

Political campaigns centered on the platforms of the parties, candidates’ public speeches and acquiring newspaper support. They placed a high value on editorial endorsements. Occasionally a newspaper published a page of short bio-

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<sup>53</sup> On the last day of his campaign for re-election Governor Knute Nelson was feted with “A torchlight parade helped draw several thousand people for the rally, which ended with an emotional Nelson speech in Holmes Opera Hall.” Millard L. Gieske & Steven J. Keillor, *Norwegian Yankee: Knute Nelson, and the Future of American Politics, 1860-1923* 198 (1995).

<sup>54</sup> Michael E. McGerr, *The Decline of Popular Politics: The American North, 1865-1928* 69-70, 76-77 (1986).

Litigation for political gain during an election campaign will never go away. E.g., *St. Paul Daily Globe*, September 26, 1894, at 8 (“A. R. Capehart has begun an action against Darius F. Reese to recover a balance of \$111.05 for board and lodging at the Clifton Hotel.”).

<sup>55</sup> Professor Hollingsworth writes:

Though local issues were that the deciding factor in a few of the 1894 elections, the voters generally focused on national issues. Public discontent found expression through the Populist party and the silverites of both major parties.

J. Roger Hollingsworth, *The Whirligig of Politics: The Democracy Under Cleveland and Bryan* 29 (1963).

graphical sketches of candidates it had endorsed.<sup>56</sup> Individual candidates did not publish personal advertisements in newspapers (those would come a decade or so later). Instead the party ticket was published in weeklies, usually on the front page or the editorial page.<sup>57</sup> The two major parties set up “speakers bureaus” which assigned orators to give “stump speeches” at towns and villages.<sup>58</sup> Candidates for judicial office did not give speeches.

As anticipated the election on November 6, was a Republican rout. Each Republican candidate for statewide office was elected.<sup>59</sup> Judge Charles M. Start and Associate Justice Loren W. Collins sailed to victory.

At the national level in 1894, as Richard White notes, “the pendulum made yet another of the era’s characteristically dramatic swings. The Democrats lost 125 seats, the Republican publicans gained 130. Twenty-four states sent no Democrats to Congress, while six others sent one each.”<sup>60</sup>

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<sup>56</sup> An extreme example is the sketch of Sumner Ladd, the People’s Party candidate for Chief Justice published in *The Representative* published in Minneapolis on October 31, 1894. It amounts to a lengthy partisan address. See Appendix, at 56-60.

<sup>57</sup> Tickets of the major parties are posted in the Appendix, at .

<sup>58</sup> E.g., *St. Paul Daily Globe*, October 24, 1894, at 4:

Thursday, Oct. 25.

Gen. George L. Becker, John Ludwig, Hon. F. W. M. Cutcheon,  
Hon. M. H. Baldwin, at Sank Center.

J. Adam Bede, E. C. Kiley, at Aitkin.

D. F. Peebles, John Moonan, W. Logan Brackenridge, at  
Wabasha.

John E. Hearn, Herman Oppenheim, at Shieldsville.

James Manahan, Gustave Hagen, at Brewster.

<sup>59</sup> The results of the races for statewide office are posted in the Appendix, at 45-46.

<sup>60</sup> Richard White, note 51, at 809. Professor Richard J. Jensen adds, “The elections of 1894 constituted more of a decline for the Democrats rather than a great advance for the GOP.” Richard J. Jensen, *The Winning of the Midwest, Social and Political Conflict, 1888-1896* 229 (1971).

## 12.

Meanwhile James Gilfillan continued serving. The first term, which began on April 10, 1894, ended on July 11.<sup>61</sup>

He had the pleasure of walking down the aisle with his daughter Caroline, who married Terry McClurg on August 7, 1894.<sup>62</sup>

He was 65 years old and had served at the helm of the Court for 19 years. But there was little time for reminiscing. The Fall term of the Court commenced October 2, 1894, with 300 cases on its docket.<sup>63</sup> On November 20, 1894, the Chief Justice released five opinions.<sup>64</sup> Two days later this item appeared in the *Princeton Union*:

Chief Justice James Gilfillan of the Minnesota supreme court has been ill for the past two weeks at his home on South Exchange street. While not yet well, he is slowly improving. His illness is the result of a too close application to his judicial duties.<sup>65</sup>

This bar would not have been surprised at this explanation as he was known to be consumed by his official duties. In late November the *St. Paul Dispatch* published rumors that the Chief Justice would resign,<sup>66</sup> something he had not done in

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<sup>61</sup> *St. Paul Daily Globe*, July 12, 1894, at 8 (“Supreme Court Adjourns”). Although the Court had adjourned, the Justices still released opinions.

<sup>62</sup> *St. Paul Daily Globe*, August 8, 1894, at 2.

<sup>63</sup> *St. Paul Daily Globe*, October 2, 1894, at 2 (“The October term of the supreme court opens today. There are about 300 cases on the calendar for this term. The dates for the hearing of most of these will be fixed at today’s session.”).

<sup>64</sup> *St. Paul Daily Globe*, November 21, 1894, at 8 (“The supreme court handed down five decisions yesterday, all written by Chief Justice Gilfillan.”).

<sup>65</sup> *Princeton Union*, November 22, 1894, at 2.

<sup>66</sup> *Winona Daily Republican*, November 24, 1894, at 1 (quoting the *Dispatch*):

### GILFILLAN TO RESIGN.

The Minnesota Chief Justice Will Soon Step Down. St. Paul, Nov. 24.—The Dispatch says: There is little doubt if any, that before another month has passed Chief Justice Gilfillan of the supreme

1869, choosing to finish his term and even swearing in his successor. On November 24, the *Globe* quickly corrected the *Dispatch's* story by publishing an optimistic statement from a family member:

**WILL NOT RESIGN.**

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**Chief Justice Gilfillan Will Serve  
Out His Term.**

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The report that Chief Justice Gilfillan is about to resign is wholly without foundation. After a term of service extending over twenty years, it is scarcely probable that he would resign but a few weeks before the expiration of his term, whatever might be the state of his health. A member of his family stated last evening that the justice's indisposition is by no means serious; that he has been confined to his bed but a few hours each day. It was added most emphatically that the justice not only has not resigned, but that the published rumor was the first intimation that he had the most remote intention of adopting such a course. Justice Gilfillan himself had retired, but he sent word that the resignation story was altogether false.<sup>67</sup>

During the next three weeks, however, his physicians determined that he was suffering from a serious disease of the liver.

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court will tender his resignation and that Judge Start, the newly elected chief justice, will at once be called upon to take his seat. Chief Justice Gilfillan has not been in the best of health for some time past, and he has never fully recovered from the attack he suffered at the capitol about two months ago.

<sup>67</sup> *St. Paul Daily Globe*, November 24, 1894, at 2.

**Chief Justice James Gilfillan died of liver cancer on Sunday morning, December 16, 1894, at 6:04 A.M.**



**Appendix**  
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# 1. Party Tickets

This ticket is unusual in that the home county of the candidate is not listed.

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**MANKATO FREE PRESS.**

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(\$.50 if not paid in advance.)

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FRIDAY, OCTOBER 26, 1894

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**REPUBLICAN STATE TICKET.**

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Governor.....KNUTE NELSON  
Lieutenant Governor.....DAVID M. CLOUGH  
Secretary of State.....ALBERT BERG  
Treasurer.....AUGUST T. KOERNOR  
Auditor.....ROBERT C. DUNN  
Attorney General.....H. W. CHILDS  
Clerk of Supreme Court.....DARIUS F. REESE  
Chief Justice Supreme Court...CHAS. M. START  
Associate Justice Supreme Court.....  
.....LOREN W. COLLINS

---

---

**CONGRESSIONAL TICKET.**

---

For Congress, second congressional district  
.....JAMES T. MCCLEARY

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This is the customary ticket.

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# THE TRANSCRIPT

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OFFICIAL PAPER OF MOWER COUNTY

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Entered as second-class matter at the post office  
Austin Minnesota.

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GORDON & BELDEN,  
PROPRIETORS.

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AUSTIN, WEDNESDAY, SEPT. 5, 1894.

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## Republican State Ticket.

For Governor,  
KNUTE NELSON,  
of Douglass County.

For Lieutenant-Governor,  
DAVID M. CLOUGH,  
of Hennepin County.

For Secretary of State,  
ALBERT BERG,  
of Chisago County.

For Auditor,  
ROBERT C. DUNN,  
of Mille Lacs County.

For Treasurer,  
AUGUST F. KOERNER,  
of Meeker County.

For Clerk of the Supreme Court,  
DARIUS F. REESE,  
of Ramsey County.

For Attorney-General,  
H. W. CHILDS,  
of Otter Tail County.

For Chief Justice of the Supreme Court,  
C. M. START,  
of Olmsted County,

For Associate Justice of the Supreme Court,  
L. W. COLLINS,  
of Stearns County.

---

October 30, 1894, at 6.

# WINONA DAILY HERALD.

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## DEMOCRATIC TICKET.

---

Governor.....**GEN. GEORGE L. BECKER,**  
Ramsey County.

Lieutenant Governor.....**JOHN LUDWIG,**  
Winona.

Secretary of State. ....**CHAS. J. HAINES,**  
Morrison.

Treasurer..... ..**CHARLES A. LAMBERT,**  
Carver.

Auditor..... ..**ADOLPH BIERMANN,**  
Ramsey.

Attorney Gen'l, **LOGAN BRACKENRIDGE,**  
Olmsted.

Clerk of Supreme Court....**THOS C. KURTZ,**  
Clay.

Justices of the Supreme Court—

Chief Justice .... .**SEAGRAVE SMITH,**  
Hennepin.

Associate Justice .....**JOHN W. WILLIS,**  
Ramsey.

---

For Member of Congress. **JOHN MOONAN,**  
Waseca.

---

*Bodhuggeren*, October 30, 1894, at 2.

**“Bodhuggeren”,**  
Fergus Falls, = = Minn.

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**Die E. Sagens Adresse er:**  
Crookston, Minn.

---

**PEOPLES PARTY STATE TICKET FOR  
MINNESOTA.**

**FOR GOVERNOR,**  
S. M. OWEN, of Hennepin.

**FOR LIEUTENANT GOVERNOR,**  
E. E. LOMMEN, of Polk.

**FOR AUDITOR,**  
A. L. STROMBERG, of Washington.

**FOR SECRETARY OF STATE,**  
P. J. SEBERGER, of Stearns.

**FOR TREASURER,**  
FRED BORCHERT, of Renville.

**FOR ATTORNEY GENERAL,**  
J. ARNOLD KEYES, of St. Louis.

**CLERK SUPREME COURT,**  
H. C. JOHNSON.

**FOR CHIEF JUSTICE,**  
SUMNER LADD, of Hennepin.

**FOR ASSOCIATE JUSTICE,**  
JOHN W. WILLIS, of Ramsey.

---

**FOR CONGRESS,**  
HALDOR E. BOEN, of Otter Tail.

---

## 2. Each political party achieved geographic diversity.

### PARTY NOMINATIONS IN 1894.

#### STATE OFFICERS.

##### REPUBLICAN PARTY.

Governor—Knute Nelson, of Douglas county.  
Lieutenant Governor—David M. Clough, of Hennepin county.  
Secretary of State—Albert Berg, of Chisago county.  
State Auditor—Robert C. Dunn, of Mille Lacs county.  
State Treasurer—August T. Koerner, of Meeker county.  
Attorney General—H. W. Childs, of Ramsey county.  
Clerk of Supreme Court—Darius F. Reese, of Ramsey county.  
Chief Justice of Supreme Court—Charles M. Start, of Olmstead county.  
Associate Justice Supreme Court—Lorin W. Collins, of Stearns county.

##### DEMOCRATIC PARTY.

Governor—George L. Becker, of Ramsey county.  
Lieutenant Governor—John Ludwig, of Winona county.  
Secretary of State—Charles J. Haines, of Morrison county.  
State Auditor—Adolph Biermann, of Olmstead county.  
State Treasurer—Charles A. Lambert, of Carver county.  
Attorney General—Logan Brackenridge, of Olmstead county.  
Clerk of Supreme Court—Thomas C. Kurtz, of Clay county.  
Chief Justice of Supreme Court—Seagrave Smith, of Hennepin county.  
Associate Justice Supreme Court—\*John W. Willis, of Ramsey county  
\*Nominated by People's Party and endorsed by Democratic.

##### PEOPLE'S PARTY.

Governor—Sidney M. Owen, of Hennepin county.  
Lieutenant Governor—Edwin E. Lommen, of Polk county.  
Secretary of State—Peter J. Seberger, of Stearns county.  
State Auditor—Andrew L. Stromberg, of Washington county.  
State Treasurer—Ferdinand Borchert, of Renville county.  
Attorney General—John Arnold Keyes, of St. Louis county.  
Clerk Supreme Court—Charles H. Johnson, of Pipestone county.  
Chief Justice of Supreme Court—Sumner Ladd, of Hennepin county.  
Associate Justice of Supreme Court—John W. Willis, of Ramsey county.

##### PROHIBITION PARTY.

Governor—Hans S. Hilleboe, of Kandiyohi county.  
Lieutenant Governor—Charles M. Way, of Hennepin county  
Secretary of State—Charles O. Winger, of Grant county.  
State Auditor—Seth S. Johnson, of Cottonwood county.  
State Treasurer—Fred L. Hampson, of Norman county.  
Attorney General—James E. Child, of Waseca county.  
No nominations for Chief Justice, Associate Justice or Clerk of the Supreme Court.

### 3. Results of the election on November 6, 1894.

#### Governor

Knute Nelson (Republican).....	117,943
George L. Becker (Democrat).....	53,584
Sidney M. Owens (People's).....	87,890
Hans S. Hilleboe (Prohibition).....	6,832

#### Lieutenant Governor

David M. Clough (Rep).....	148,914
John Ludwig (Dem).....	65,025
Edwin E. Lommen (People's).....	66,026
Charles M. Way (Pro).....	9,347

#### Secretary of State

Albert Berg (Rep).....	152,701
Charles J. Hiermann (Dem).....	69,102
Peter J. Seberger (People's).....	58,614
Charles O. Winger (Pro).....	9,306

#### State Auditor

Robert C. Dunn (Rep).....	148,281
Adolph Blermann (Dem).....	76,737
Andrew L. Stromberg (People's).....	55,411
Seth S. Johnson (Pro).....	9,007

**State Treasurer**

August T. Koerner (Rep).....	150,980
Charles A. Lambert (Dem).....	70,144
Ferdinand Borchert (People's).....	58,571
Fred L. Hamson (Pro).....	9,208

**Attorney General**

Henry W. Childs (Rep).....	150,529
W. Logan Breckenridge (Dem).....	66,905
John Arnold Keyes (People's).....	60,265
James E. Child (Pro).....	9,490

**Clerk of the Supreme Court**

Darius F. Reese (Rep).....	151,021
Thomas C. Kurts (Dem).....	68,520
Charles H. Johnson (People's).....	65,473

**Chief Justice**

Charles M. Start (Rep).....	152,508
Seagrave Smith (Dem).....	72,741
Sumner Ladd (People's).....	59,912

**Associate Justice**

Loren W. Collins (Rep).....	162,701
John W. Willis (Dem & People's).....	113,019

(the Prohibition Party did not nominate anyone for Clerk of the Supreme Court, Chief Justice and Associate Justice)

4. Article on Justice Loren W. Collins lobbying at Stears County Democratic Convention, *St. Paul Daily Globe*, September 14, 1894, at 8.

---

**COLLINS IS QUEER.**

---

**HIS METHODS THOSE OF A  
WARD HEELER.**

---

**He Works Hard Against Judge  
Willis, but Doesn't Seem to Ac-  
complish Anything.**

---

Judge Collins has introduced some political novelties into the ineffectual campaign waged by him against Hon. John W. Willis.

Hitherto it has not been considered either honorable or "in good form" to attempt to influence conventions of an opposing political party. For the candidate of one party to lobby with delegates to a convention of another party has always been held to be highly improper. However, Judge Collins has ignored this fundamental rule of propriety. He pleaded with the delegates to the Democratic county convention at St. Cloud to send delegates to the Democratic state convention who would oppose the nomination of John W. Willis for associate justice of the supreme court. He "got left." Old Stearns stood loyally by Willis.

Hovering about the delegates to the recent Democratic state convention, like some restless ghost, was seen Judge Collins, pleading, urging, entreating. The burden of his song was, "Don't nominate Willis." He was compelled to mourn again. The convention nominated Judge Willis by acclamation.

On Tuesday of this week a convention of the Democracy was held at St. Cloud to nominate a candidate for representative in congress from the Sixth congressional district. Judge Collins was "thar." He was very much in evidence. His electioneering among the delegates was vigorously carried on, but he succeeded in creating naught save amusement and disgust.

Judge Willis was a universal favorite with the delegates, and Collins' disappointment at having this fact thrust bluntly upon him can better be imagined than described.

## 5. Profiles of Judicial Candidates.

### a. Judge Charles M. Start.

From 2 *Minnesota Law Journal* 201 (August 1894).

Hon. Charles M. Start was born on a farm in Franklin County, Vermont, in 1839, and received his early



HON. CHARLES M. START.  
DISTRICT JUDGE, THIRD JUDICIAL DISTRICT.

education at Bakersfield and Barre Academies. He was admitted to the bar of Franklin County in 1860. In July, 1862, he enlisted and Co. I, Vermont Volunteer Infantry. On account of ill health, however, he was discharged December of the same year. In October 1863, he came to Rochester, Minnesota. In 1865 he was elected city attorney, in which capacity he served until the fall of 1869, when he was to chosen county attorney of Olmsted county, which position he held for eight years.

In the fall of 1879 he was elected attorney-general of the state, serving until March 11th, 1881, when he resigned to accept the office of Judge of the Third Judicial District in place a Judge Mitchell, promoted to the Supreme Court Bench.

In the fall of 1881 he was elected and has twice been reelected Judge. His third term commenced January, 1894. He was elected each time, unanimously what the formality of any party nomination.

He was nominated July 11th, 1894, by the Republican State Convention for Chief Justice of the Supreme Court of Minnesota.

Judge Start he is in a very prime of judicial life, and his vast experience as a practicing lawyer, county attorney, attorney general and district judge will make his services on the supreme bench of inestimable benefit.

Though never courting popularity, he is beloved by the people. He enjoys popularity which Lord Mansfield desired, "that which follows; not that which is run after."

There is progress in law as in everything else, and Judge Start has always been under its conservative, yet forward, impetus. He is a student, not out of books, but of the events in midst of which he lives. He belongs to that class of jurists who recognize that the law is not a fixed science, ossified in the reports, but that it is expansive, in the hands of enlightened magistrates, to accommodate itself to every exigency of a social system which is continually increasing in complexity and in necessity for the administration of adequate justice



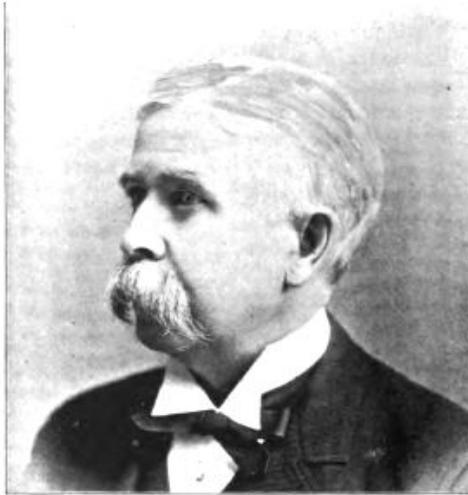
#### **b. Associate Justice Lauren W. Collins.**

From 2 *Minnesota Law Journal* 236 (September 1894).

Lauren W. Collins, Associate Justice of the Supreme Court, whose portrait we present our readers this month, is a native of Massachusetts. His father was one of the early settlers of Eden Prairie, Hennepin County, removing the family there in 1854. Young Collins studied law in the office of Smith & Crosby at Hastings, and during the war, enlisted in the Seventh

Minnesota Infantry, where he rose to the rank of first lieutenant. He was discharged with his drug regiment in 1865, and located in St. Cloud, where he commenced the practice of law.

He was sent to the legislature for the session of 1881-1883, and during the latter year he was appointed District Judge to fill



HON. LOREN W. COLLINS.  
ASSOCIATE JUSTICE, SUPREME COURT OF MINNESOTA.

the vacancy caused by the resignation of Hon. James McKelvy. In 1884 he was elected for a full term. He reassigned this office in 1887 to accept appointment as Associate Justice of the Supreme Court to fill the vacancy caused by the decease of Hon. John M. Berry. In the fall of 1888 he was elected to the position which he now holds, by the largest majority of any candidate on the ticket.

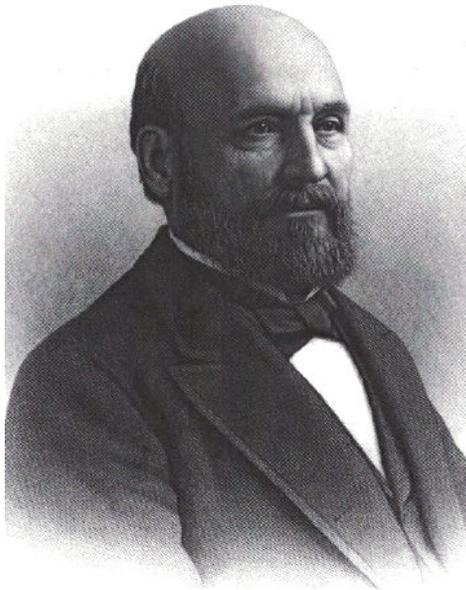
Judge Collins is in the prime of life and in the full possession of his powers, both mental and physical. While thoroughly judicial in his temperament and devotedly industrious in the performance of his official work, yet he is interested in all the living questions of the day and has never permitted himself to get out of touch with world around him. Acute and learned as a lawyer, his practical knowledge of men and affairs greatly aids him in the correct application of legal principles. Strictly fair and impartial, his natural sympathies are with the great body of the people, but without any element of either the demagogue or partisan. In short, he has all the qualities of a safe, able and useful judge.



**c. JUDGE SEAGRAVE SMITH.**

**From Hiram Stevens, *2 History of the Bench and Bar of Minnesota* 103-104 (1903).**

**Seagrave Smith was born September 16, 1828, at Stafford, Connecticut. His parents were of Welsh and English extraction, and his ancestors were among the early settlers at Scituate and Vexbridge, Massachusetts. Seagrave worked upon his father's**



*Seagrave Smith*

**farm and attended the schools of the village until fifteen years of age, when he was placed under the tutelage of Rev. Geo. W. Pendleton, a Baptist clergyman, of whose church his parents were members. After three years' study he entered the Connecticut Literary Institute, at Suffield, Connecticut, from which he was graduated in 1848. Having decided upon the law as a profession, his father discouraged his ideas, and offered him a one-half interest in his business and possessions if he would abandon the law as a future vocation. This glittering offer did not deter young Smith from his**

**purpose. He immediately began teaching school and reading law under Alvin T. Hyde, of his native town, which was in September, 1849. He continued his studies until admitted to the bar, August 13, 1852. Soon after his admission he decided to go west, but his mother's gentle persuasion induced him to abandon the idea, and as he was the only child he felt duty bound to remain at home. His mother induced his father to give**

him a thousand dollars with which to purchase a law library, which he did, and Seagrave, after purchasing his library, settled down in Colchester, Connecticut, in October, 1852, and began the practice of his profession. In the fall of 1854 he was elected town clerk, in 1855 he was elected as a democrat to the state senate, and still later, was appointed clerk of the probate court of the Colchester district, which office he held until his removal to the west in 1856, and to Minnesota the following spring, locating at Hastings. Here he formed a partnership with J. W. De. Silva, and began the practice of law. During his residence in Hastings he was the attorney for the Hastings & Dakota railroad, the St. Paul & Chicago railway, the Minnesota Railway Construction company, and the Chicago, Milwaukee & St. Paul railroad. He also held many important positions while a resident of Dakota county, among which he served as county attorney in 1857, county commissioner in 1860, judge of probate from 1861-63-65, and elected to the state senate in 1867.

In 1875 he ran as an independent candidate for the state senate against Ignatius Donnelly, and was defeated by a small majority. In 1877 Judge Smith moved to Minneapolis and formed a partnership with W. E. Hale, which continued until the spring of 1880, when this partnership was dissolved, and in 1883 he entered into partnership with S. A. Reed, which continued until March, 1889, when he was appointed judge of the district court of the fourth judicial district, and in 1890 he was re-elected without opposition and was again elected in 1896, on the democratic ticket.

Judge Smith was honored by his political friends with numerous nominations to important positions. As a lawyer and a judge he always tried to discharge his duties so as to command the confidence and respect of the profession.

Judge Smith was very domestic in his habits and could always be found at home when not engaged in business. He Was married three times. His first wife was Miss S. Almira Cady,

eldest daughter of Capt. John P. Cady, of Monson, Massachusetts. The issue of this marriage was four children, two sons and two daughters. Two of these are still living, Cady and Claribel. His second wife was Mrs. Pedelia P. Hatch. By this marriage he had one son. For his third wife he married Mrs Harriet P Norton, who survives him



#### **d. Judge John W. Willis.**

From Hiram Fairchild Stevens,  
*1 History of the Bench and Bar of Minnesota* 160-161 (1904).

Hon. John W. Willis, late judge of the district court of the second judicial district, was born in St. Paul. July 12, 1854. His parents were Chas. L. Willis and Anna M. Willis. He was educated in the schools in his native city, at the Minnesota State University, Macalester college and Dartmouth college.

After his graduation Mr. Willis entered as a law student in the office of John M. Oilman, W. P. Clough and Eugene F. Lane, then co-partners under the firm name of Oilman, Clough & Lane. While pursuing the study of law Mr. Willis served one year as instructor of the Latin and Greek languages in the St. Paul high school. On October 18, 1879, he was examined for admission to the bar before the supreme court, and was duly admitted to practice as an attorney and counselor-at-law. He remained in the office of Messrs. Oilman & Clough for some time after his admission to the bar, and in the year 1880 opened an independent office. After that time, until the date of his elevation to the bench, he was actively engaged in the practice of the legal profession. During the years 1881 and 1882, Mr. Willis was a member of the board of education. In the year 1883

he was unanimously nominated by the democratic state convention for the office of attorney general of Minnesota. During the political campaign which followed he made an extended canvass of the state, delivering public addresses in all the principal cities and towns. Although he received a very large and flattering vote, he was defeated in company with all his associates on the democratic state ticket. In the year 1888 Mr. Willis was appointed by Hon. Andrew R. McGill a member of the state board of corrections and charities.

On the 8th day of November, A. D. 1892, Mr. Willis was elected one of the judges of the district court for the second



HON. JOHN W. WILLIS,  
Judge of District Court, Ramsey County, Minn.

judicial district of the state of Minnesota. His term of office extended for six years from the 1st day of January, A. D. 1893.

On the 11th day of July, 1894, he was unanimously nominated by the people's party for associate justice of the supreme court of the state of Minnesota. On the 5th day of September, 1894, Judge Willis received the nomination of the democratic state convention, by acclamation (all the delegates rising), for associate justice of the supreme court.

During his term of service on the bench Judge Willis attracted widespread public attention by his decision upholding the constitutionality of the statute providing for the construction of a state elevator; also by his decision declaring the "ticket scalper license law" unconstitutional upon the ground that it created a privileged class, and by his instructions to the grand jury of Ramsey county to enforce strictly the statute forbidding the

employment of child labor.

Judge Willis is a member of the societies known as the "Sons of the Revolution" and "Sons of the American Revolution," being entitled to such membership by reason of the military services of his great-grandfather, Sylvanus Willis, and other ancestors, upon the patriot side of the war of the American Revolution.

Judge Willis was admitted to appear in the United States supreme court in 1890. He also appears in the United States circuit and district courts, supreme court of the state of Minnesota and all the district courts throughout the state. He is a member of the Minnesota State Bar Association and of the Ramsey County Bar Association.

June 30, 1897, Judge Willis was married to Margaret, only daughter of Alfred Wharton, M. D., of St. Paul. His first wife, Eleanor Forsyth, died June 22, 1894.



### **e. SUMNER LADD**

This profile of Sumner Ladd, the People's Party's candidate for Chief Justice was published in *The Representative* published in Minneapolis on October 31, 1894:

#### **SUMNER LADD.**

People's Party Candidate for Chief Justice of the Supreme Court, Mr. Ladd is descended from Daniel Ladd, who came over from England in 1634 and settled in Haverhill, Mass. Daniel Ladd was a captain in the early Indian wars in New England. Mr. Ladd's great grandfather, Abner Ladd, of Norwich, Conn., was a captain in the Revolutionary war, and his grandfather, Jedediah P. Ladd, entered the army the last year of that war

at the age of 16 years. His maternal grandfather, Dr. Samuel Whitney, was a surgeon in the war of 1812.

Sumner Ladd was born in Mayfield, Ohio. His parents were natives of North Hero, Grand Isle county, Vt., and after residing one year in Ohio they returned to their old home and old farm in the Champlain valley. Mr. Ladd worked on his father's farm and was a clerk in a country store until he was 17 years old, fitted for college, and in 1859 entered the University of Vermont at Burlington, where he graduated in 1863, teaching school



winters and with his own earnings paid the expenses of his college course and preliminary schooling.

He studied law at Burlington and at the Albany Law School, and was admitted to the bar in August, 1865, and in the following fall was elected state's attorney of Grand Isle county. Mr. Ladd came West in August, 1866, settled in St. Peter, Minn., and became at once one of the leading lawyers in that

part of the state, several cases which he won in the supreme court during his 16 years' residence in St. Peter, becoming what is called leading cases in our state's jurisprudence, on account of the important legal principles settled by them.

In 1877 Mr. Ladd was nominated by the Republicans of Nicollet county for the legislature, and was elected without opposition, the Democrats refusing to put up a candidate against him, and in the following session he was chairman of the committee on ways and means, and one of the leading

members of the judiciary committee, and was a very hard-working member.

Mr. Ladd came to Minneapolis in the fall of 1882, and he has resided here ever since in the practice of his profession. Early in 1883 he was appointed professor of medical jurisprudence in the College of Physicians and Surgeons, and has occupied that position ever since. He delivered before the students of that institution the first course of lectures ever delivered on that subject in this state. Five years ago he was appointed lecturer on the law of taxation in the law school of the University of Minnesota, but has not filled the position.

In April, 1892, Mr. Ladd delivered an address before the Single Tax League on the subject of the so-called Minneapolis street railway franchise. He took the position that the street railway company had at most a license and not a franchise; that the city council had no authority to pass any irrepealable ordinance; that it had no right to abridge its own powers to control the public streets, nor could it yield up its power to regulate the charges of any person or corporation who were common carriers upon the public streets; that the state legislature could confer no authority on a city council to parcel out or bargain away its sovereign control over public streets, nor could the legislature legalize any such action of a city council; and that the general welfare and convenience of the inhabitants of a city were paramount considerations to which all claims or pretended franchises of street railways or other corporations must yield. This address was considered an exhaustive and comprehensive statement of the law upon that subject.

By resolution the Single Tax League ordered it to be published, and it attracted wide attention. In fact, the position which Mr. Ladd took on this question, and the legal proofs he arrayed in support of it, was a revelation to many persons who

had supposed that the street car company had a contract right or franchise to run its cars for 33 years longer in this city, and could not be interfered with, however much the changing needs of the people might require a change.

The principles enunciated by Mr. Ladd in this address were more than a year afterwards incorporated by Seagrave Smith, one of the judges of the district court of Hennepin county, in his decision in mandamus proceedings against the Minneapolis street car company to enforce the so-called Harvey ordinance; Judge Smith therein holding that the company's so-called franchise was a license merely.

Mr. Ladd saw many years ago the conditions that vast wealth concentrated in the hands of a few men would bring upon this country. He saw that it would prove, as it is proving, a menace to American liberty, that it has already gained large vantage ground in this country, where it is directing its assaults against the very citadel of liberty. Mr. Ladd believes that the welfare of the people is the supreme law in America; that the republic was built upon that foundation: that by the spirit of that maxim the national constitution must be interpreted, and that any system, scheme, contract or franchise whose tendency, either directly or indirectly, is to destroy, hinder or impede the welfare of the people, is hostile to the spirit of the constitution.

His conviction is that the government, through the agency of both the old political parties, has fallen into the hands of millionaires, who by means of unconstitutional legislation and by lack of restrictive constitutional legislation, have enormously plundered the people and absorbed their earnings and the public domain, and in a large measure destroyed the welfare of the people: that the inalienable rights of the people have been bartered away; that the only remedy lies in the reassertion of those only remedy lies in the reassertion of those fundamental principles which gave birth to the republic, to our liberties and to the constitution itself; and that the People's party offers the

only available plan of salvation, restoration of the government to the simplicity of the fathers of the republic, who designed it for the welfare of all.

Mr. Ladd voted for Mr. Owen four years ago, and the People's party ticket two years ago, and he is proud of the fact that he is among the first who took their places in the ranks of the new movement.

Men of Mr. Ladd's stamp and convictions and unquestioned legal ability are needed on our supreme court bench as never before, where within the next few years are to be settled grave and momentous questions affecting the welfare and prosperity of the people of this great state.



## f. Darius F. Reese

After his nomination for Clerk of Court, this profile was published in the *St. Paul Sunday Globe*, June 10, 1894, at 2:

### DAR. F. REESE.

The Man for Whom the Convention  
was Held.



Darius F. Reese, in whose behalf the Republicans held their county convention yesterday, was born in Fulton county, Illinois, thirty-eight years ago. At the age of seventeen he engaged in school teaching and later completed his education at Hedding, Ill. He came to St. Paul in 1882 and opened a law office, residing here ever since. As politics goes, there is no question relative to his being entitled to recognition at

the hands of his party, and his endorsement yesterday was deserved. He has always been one of the loudest party shouters, never missing the opportunity of making as many speeches as the number of days in the campaign would permit. If he should be nominated for clerk of the supreme court he will appear throughout the state in the new and thrilling olio, entitled "On the Bowery," but "he'll never go there any more."



## **5. The Supreme Court Suspends Arctander**

**Did Arctander's suspension by the Supreme Court in 1879 cause him to seek revenge against Chief Justice Gilfillan at the Republican State Convention in July 1894?**

On July 5, 1894, *The Winona Daily Republican* suggested in an editorial that John W. Arctander was motivated to oust the Chief Justice at the Republican State Convention because of his suspension from practice by Gilfillan's Court. Here is an excerpt from the editorial which was headlined "Arctander's Little Scheme":

It is to defeat the nomination of Chief Justice Gilfillan and thus obtain his revenge because the court of which Judge Gilfillan was then a member suspended him from practicing at the bar for fraudulent and unprofessional conduct. This is the milk in Mr. Arctander's cocoanut. And he is begging the

Republican party of Minnesota to lend itself to him as the instrument of his unworthy personal revenge.<sup>68</sup>

And so it is necessary to approximate how much merit this accusation has. Our conclusion is, not much at all.

Initially Arctander was in fact suspended from practicing law for six months by the Supreme Court in 1879 for deliberately ante-dating the oath of office of a Justice of the Peace. While the disciplinary proceeding was pending before the Supreme Court, Arctander was held in contempt by District Court Judge John Harrison Brown and fined \$20.00.<sup>69</sup> The *Sunday Globe* printed a squib of the story:

John W. Arctander, the Kandiyohi county attorney who was brought up in the supreme court a day or two ago, had a row in the district court in his own county a few days ago. Referring to one of the witnesses in a suit he was trying, he said: "I have gone into his dark, dirty heart, and God forbid that I should go into such a dirty place." The court fined him \$20 for contempt.<sup>70</sup>

According to *Stevens County Tribune* Arctander sought revenge on Judge Brown in the 21st Legislature:

A bill was introduced into the legislature last week relating to practice in the District Courts. This bill was the work of a pettifogging shyster named

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<sup>68</sup> *Winona Daily Republican*, July 5, 1894, at 2. For the complete editorial, see *supra*, at .

<sup>69</sup> For a biographical sketch and bar memorials, see "Judge John Harrison Brown (1824-1890 )" (MLHP, 2008-2027)

<sup>70</sup> St. Paul Sunday Globe, April 7, 1878, at 8; *Stevens County Tribune*, April 11, 1878, at 1. He planned to appeal according to *The Weekly Valley Herald*, April 11, 1878, at 1.

Arctander, and was an assault on the integrity of Judge J. H. Brown of this district, as it prohibited his sons from practicing in the courts, in cases where their father presided.

Last Friday the house, by a vote of two to one, voted to "indefinitely postponed," thus virtually killing the bill. It is much to Judge Brown's credit, that a man of Arctander's type should assail his integrity, for the ill will and enmity of this rancorous booby, so plainly apparent in the infamous measure he attempted to have enacted, is but the expression of feeling entertained by all characterless persons towards those, the skirts of whose government they are not fit to touch.

It is sufficient to show Arctander's standing and reputation when we say, that a decision is now pending in the supreme court, of the state, which will probably cause his expulsion from the bar.<sup>71</sup>

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<sup>71</sup> *Stevens County Tribune*, February 20, 1879, at 1. *The Minneapolis Tribune* took a closer look at the bill:

#### THE IRREPRESSIBLE ARCTANDER

The impressive Arctander has turned up. Since being pulled before the Supreme Court the eminent diplomat and political acrobat has remained in respected retiracy. He has been hanging around the capitol for a week with a smile upon his face, and subdued fire sticking out through his plate glass fronts. An air of mystery has enveloped him, however, and the burden of his song has always been lispd into the ear of confiding members. His mission came to light yesterday.

There has been a long continued feud in Judge Brown's district, in which the sons of Judge Brown who are prosecuting attorneys, have figured as antagonist of Arctander. The bill presented, and in which the whom Minneapolis lawyer is interested, proposed to amend the statutes relating to practice in the district court making consanguinity a bar to practicing before a judge.

When the bill came up Mr. L. L. Baxter and Mr. Hicks presented the facts, and asserted that it was an insult to so upright a gentleman as Judge Brown to impugn his integrity by assuming that he is influenced in his decisions in cases where his sons appear. On the other hand Mr. McCracken stated of six cases

There were three charges filed against Arctander. One was by A. F. Nordice that Arctander had predated a J.P.'s oath of office and filed it with the clerk of court; the second was by Andrew Swift accused Arctander with pressuring an unwed mother to falsely declare that the father was E. Smalley, a neighbor of Arctander with whom he was feuding.<sup>72</sup> The third was filed by John A. Bonista. The Supreme Court appointed a referee to take testimony in the "several informations" against Arctander and he filed his report on May 21, 1878.<sup>73</sup> Arctander

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decided favorably to the side represented by the sons of the Judge, five had been reversed on appeal to the Supreme Court. The discussion took on a personal turn, but the committee, by a very decided vote, recommended it to be indefinitely postponed. Arctander is disconsolate but not daunted. His activity has been increased.

*The Tribune* (Minneapolis), February 15, 1879, at 1.

<sup>72</sup> *The Mankato Weekly Union* reported the background of the complaint:

Information is filed in the Supreme Court by Andrew Wilson of Swift county that John W. Arctander of the county of Kandiyohi is accused of deceit and wilful misconduct in office. He informed this informant that he was a Norwegian lawyer, and told an unmarried woman who was with child that he had been employed by the county to take charge of her case and commence proceedings in court against one Smalley, as the reputed father of her child; that she could just as well as not recover \$1,000 or \$1,500, as Smalley was going to leave the county. The woman denied that Smalley was the father of the child and refused to make complaint. Arctander threatened the woman that he would institute proceedings against her if she refused to make complaint against said Smalley, and by intimidation and threats he induced her to falsely complain of said Smalley and accuse him in her said complaint gotten her with child. That the object of Arctander was not justice, but to extort money from Smalley, against whom Arctander held a personal grudge.

*The Mankato Weekly Union*, April 12, 1878, at 2. The *Globe* also carried the story. *St. Paul Daily Globe*, April 6, 1878, at 4 ("A Lawyer in Trouble. Serious Charges Filed Against John W. Arctander").

<sup>73</sup> *St. Paul Daily Globe*, May 22, 1878, at 2 ("The report of the referee appointed to take testimony in the several informations against J. W. Arctander were filed yesterday, and the matter will come for disposition to-day.").

objected and the Court appointed a new referee.<sup>74</sup> Ten months later Justice John M. Berry ordered Arctander suspended from practice of law for six months. Justice Berry's opinion was joined by Justice Francis R. E. Cornell. The Chief Justice was ill and did not participate in this case.<sup>75</sup>

### *In re Arctander*

Minnesota Supreme Court  
26 Minn. 25, 1 N.W. 43 (1879)  
March 28, 1879

In the matter of John W. Arctander, Attorney-at-Law

**Syllabus. Misconduct of Attorney—Suspension.** — A., an attorney and counsellor-at-law, admitted to practice in all the courts of this state, was employed and acting in his professional capacity, in conducting a criminal prosecution before a justice of the peace.

The case prosecuted was, upon an affidavit of bias, transferred, on August 11th, to one Iverson, who had been elected justice of an adjoining town, but who had never qualified. A. persuaded Iverson to take the case and try it, and, for the purpose of qualifying him to do so, A., as notary public, on August 11th, administered to him the official oath of a justice of the peace, took the acknowledgment of him and his sureties of his official bond, and administered the oath of justification to such

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<sup>74</sup> *St. Paul Daily Globe*, May 23, 1878, at 4 (“A new referee was appointed to take testimony in the complaint against Arctander.”).

<sup>75</sup> The *St. Paul Globe* followed its usual practice of printing the Syllabus of the Court. *St. Paul Daily Globe*, March 29, 1879, at 2. While the Court wrote that the subject of the disciplinary proceeding was “In the matter of John W. Arctander, Attorney-at-Law” the *Globe* reported the case was captioned “In the matter of the information of A. F. Nordice vs. John W. Arctander.”

sureties. A. dated the jurats and acknowledgement as of August 4th. Thereupon, when the constable arrived at Iverson's, with the prisoner and papers, on August 11th, Iverson took cognizance of the case, and on that and the following day proceeded with the trial thereof, (A. conducting the prosecution,) and the prisoner having been found guilty, sentenced him to pay a fine of twenty-five dollars.

On August 17th, A. filed the oath and bond (the latter having been approved by the chairman of the town board) with the clerk of the district court. No justification, excuse or explanation of the false dating is offered or attempted.

*Held*, that upon the foregoing state of facts, A., in affixing the false dates, was guilty of "willful misconduct in his profession," for which he may be suspended from practice, under Gen. St. c. 88, § 18.

Proceeding against the respondent for misconduct as an attorney-at-law.

S. L. Pierce, for informant.

Davis, O'Brien and Wilson, for respondent.

Berry, J. \*

In 1874, the respondent was admitted by the district court in and for the county of Carver to practise as an attorney and counsellor-at-law in all the courts of this state. In August, 1876, he was employed and acting in his professional capacity, in conducting a prosecution against one Baldwin, for selling intoxicating liquors to a minor. The prosecution was commenced before one Broberg, a justice of the peace for Swift county. Baldwin having made an

affidavit of bias upon the part of Broberg, the latter transferred the case to Iver Iverson, who lived in the adjoining town of Kerkhoven, and whom he supposed to be a justice of the peace. Iverson had been elected a justice of the peace at the election held in Kerkhoven in the spring of 1876, but, up to August 11th of that year, had not signified his acceptance of the office, or taken an official oath, or furnished any official bond. The transfer was made on said 11th day of August. On that day, the respondent, having reached Iverson's house before the arrival of the constable with Baldwin and the papers in this case, and having ascertained that Iverson had not taken any official oath or furnished any official bond, and finding him reluctant to receive the case which had been transmitted to him, persuaded him to take the oath and execute the bond, and to receive the case and try the same; and, in furtherance of this purpose, drew up a form of oath and bond, both of which were subscribed by Iverson. The respondent, who was a notary public, administered the oath to Iverson, and took the acknowledgement of Iverson and his sureties of the execution of the bond, and also administered an oath of justification to the sureties. These things were all done on the 11th day of August, but the respondent dated the jurats and the acknowledgement as of August 4th. When the constable arrived with the prisoner and the papers, Iverson took cognizance of the case, and on the following day proceeded with the trial thereof, the respondent conducting the prosecution; and Baldwin having been found guilty, he was sentenced to pay a fine of \$25, whereupon he appealed to the district court, where the pro-

ceedings were dismissed. On August 17th, the oath and bond were filed by the respondent with the clerk of the district court, the bond having been first approved by the chairman of the board of supervisors of Kerkhoven.

We shall not stop to determine whether, after having neglected to qualify until the 11th day of August, it was competent for Iverson to enter upon the duties of a justice of the peace, upon qualifying on that day. For the purposes of this case, and in favor of the respondent, it may be admitted that this was competent. Even if it were not, the respondent might honestly have believed it to be so, and therefore have been guilty of no intentional wrong in advising Iverson that it was competent. But on what ground can the respondent's conduct, in ante-dating the jurats and the acknowledgments of the bond, be justified or excused? The respondent, whose testimony was taken in the present proceeding, though explicitly interrogated on this point, neither offers nor attempts to offer any justification, excuse or explanation whatever. He does not claim that he believed that he was doing right. We cannot suppose that a man possessing so much intelligence, ability and learning as he manifests, could have imagined that he was justified by any legitimate or proper consideration in thus falsely dating the jurats and acknowledgment. He must be taken to have known that this was wrong, for no good purpose could be subserved by it. It is quite apparent that the respondent's object in affixing the false dates was to make it appear that the justice had qualified before he in fact had; that he had qualified before the case was transferred to him, so that the transfer was

properly made to a justice legally competent to take the case. A justice elect who has not taken his oath of office has no authority to act as justice. He is liable to a penalty if he does so act. Gen. St. c. 10, § 43. He is not a justice to whom a case can properly be transferred.

The false appearance in this case was produced by what was, in its essential nature, a falsification of a record. No argument can be required to show that the act done was wrong, and that it was done for a wrong purpose. It is of no avail to say that the respondent did it, not in his professional capacity, but as notary public. His admission, to practise was an admission to practise in all the courts of this state. This includes justice's courts, our statutes repeatedly recognizing attorneys-at-law in courts of that grade. See Gen. St. c. 65, §§ 3, 18, 104, and c. 88, §§ 1, 4; 30. What the respondent did as notary public, he, as an attorney-at-law conducting the prosecution in which he was engaged, procured himself to do. As respects the point that this procurement was in his professional capacity, the case in principle is in no respect different from what it would have been if he had procured some other notary public to do what he procured himself to do.

We are of opinion that the act of the respondent in affixing the false dates to the jurats and acknowledgment were acts of "wilful misconduct in his profession." For such misconduct, Gen. St. c. 88, § 18, authorizes an attorney to be removed or suspended. The respondent is suspended from practising in any of the courts of this state for the period of six months from the filing of this decision;

and it is further ordered that he pay the costs and disbursements of this proceeding.

\* Gilfillan, C. J., because of illness, did not sit in this case.

To lift his suspension, Arctander retained former Governor Cushman K. Davis, who had nominated John Gilfillan to the office of Chief Justice in 1875.<sup>76</sup> The full court heard this motion and promptly denied it. As reported in the *Globe* on April 8:

The supreme court reconvened yesterday, at 11 o'clock A. M., as per adjournment, all the judges present.

Hon. C. K. Davis appeared before the court in behalf of John W. Arctander, recently suspended, in an argument for a modification of the suspension so far as to allow Mr. Arctander to prosecute cases before the term of court to be held in Kandiyohi county, he being county attorney. The court declined to interfere.

The regular calendar was then proceeded with.

No. 4. In the matter of the information of Andrew Wilson, relator, vs. John W. Arctander, respondent. Argued and submitted

No. 5. In the matter of the information of John A. Bonista, of the county of Kandiyohi, relator, vs. John W: Arctander, respondent. Argued and submitted.<sup>77</sup>

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<sup>76</sup> Douglas A. Hedin, "Lafayette Emmett v. James Gilfillan: The Contest for the Election of Chief Justice of the Minnesota Supreme Court, 1875." (MLHP, 2021).

<sup>77</sup> *St. Paul Globe*, April 8, 1879, at 1. The Tribune also reported the actions of the Court but did not mention Davis. *The Tribune* (Minneapolis), April 8, 1879, at 2.

The "informations" of Andrew Wilson and John A. Bonista are listed on the Court's calendar; their outcomes can be found in the Clerk's Minutes.

According to the *Mower County Transcript's* report of a libel suit brought by Arctander against Hugh Sanderson, the former Treasurer of Kandiyohi County,

The Kandiyohi County Board appointed Lewis C. Spooner acting County Attorney.<sup>78</sup> During his suspension Arctander remained active in politics. He was a delegate to the Republican Kandiyohi County Convention in early September 1879,<sup>79</sup> and to the Second Congressional District in July of the next year.<sup>80</sup> His suspension expired on September 28, 1879. This judicial reprimand did not seem to hinder his practice at all. He was elected Secretary of the newly-formed Twelfth Judicial District Bar Association in August 1880.<sup>81</sup> He was appointed Twelfth Judicial District Attorney, an odd law covering only this district,<sup>82</sup> and won was elected in 1881 with the endorsement of the *Willmar Republican-Gazette*.<sup>83</sup> Within two years of the end of his suspension he argued two cases before the Supreme Court, and lost both.<sup>84</sup>

In the wake of his suspension, several newspapers clobbered him. When the accusations became known, even before his suspension, the *Stevens County Tribune*, for example, editorialized, “Arctander can now pack up his eye glasses, put on a green choker, and go further west. He's too fresh to live in these parts.”<sup>85</sup> Disregarding this advice, he went East, to Minneapolis, but that was not until 1886.

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there were “29 charges or accusations” against Arctander. February 26, 1880, at 1.

<sup>78</sup> *Mower County Transcript*, May 8, 1879, at 2.

<sup>79</sup> *St. Paul Daily Globe*, September 3, 1879, at 1 (“Ring Rule”).

<sup>80</sup> *St. Paul Daily Globe*, July 9, 1880, at 1.

<sup>81</sup> *Western Minnesota Press* (Willmar), August 20, 1880, at 8.

<sup>82</sup> Laws 1881, c. 147, at 190-193 (effective February 14, 1881).

<sup>83</sup> *Willmar Republican-Gazette*, September 22, 1881

<sup>84</sup> *Libby v. Mikelborg*, 28 Minn. 38 (Minn. Reports, 1881); *Libby v. Husby*, 28 Minn. 40 (1881). Justice Berry, who wrote the decisions, suggests that Arctander committed procedural error below.

<sup>85</sup> *Stevens County Tribune*, February 20, 1879, at 1. A week after his suspension, it editorialized:

By a recent decision of the Supreme court, John W. Arctander, a Willmar Attorney, has been suspended from practicing in the

The point of this exercise is to discern Arctander's motives in waging a campaign to deny the Chief Justice's re-nomination at the state convention. Undermining the speculation in the *Winona Daily Republican* that Arctander possessed a thirst for revenge against the Chief Justice for the Supreme Court's suspension order fifteen years earlier is the fact that Gilfillan was ill and did not participate in this case. More important perhaps, while Arctander's professional life was interrupted by this six-month suspension, it did not affect his reputation among other lawyers. He resumed practicing law in Willmar and, according to his self portrait in *Progressive Men of Minnesota*, "built up quite a reputation in the western part of the state as a criminal lawyer."<sup>86</sup>

Conclusion: the Supreme Court's suspension did not motivate Arctander to plot to oust the Chief Justice from the office of Chief Justice. There were other reasons.



## 6. Two Historians Describe Gilfillan's Defeat.

The sorry state of Minnesota legal history can be seen in how two of our foremost historians have described the Republican

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courts of this state or a period of six months. Arctander was for sometime County Attorney of Kandiyohi County, and his reputation was none of the best but having plenty cheek, and being of service to the politicians of that county, he managed to keep his head above water.

*Stevens County Tribune*, April 3, 1879, at 1.

<sup>86</sup> Marion D. Shutter & J. S. McLain eds., *Progressive Men of Minnesota* 219 (Minneapolis Journal, 1897). It is subtitled "Biographical sketches and portraits of the leaders in business, politics and the professions; together with an historical and descriptive sketch of the state." Needless to say, he did not mention his suspension.

Party's failure to re-nominate the Chief Justice Gilfillan at its State Convention in July 1894. In a word, they didn't.

William Watts Folwell devotes over six pages (197-203) to the election of 1894 in the third volume of *A History of Minnesota* first published in 1926. The Chief Justice is not mentioned. In *Minnesota: A History of the State* published in 1970, Theodore C. Blegen has one paragraph about the election of 1894. Again the Chief Justice is not mentioned. In fact the name "Gilfillan" is not listed in the Index.

All this will change in the next twenty years. The state's legal history will no longer be ignored, overlooked, forgotten. Soon independent scholars, practicing lawyers and retired lawyers—never more than 2 or 3—will research, write and publish original articles on many aspects of the Minnesota's legal history.



## 7. Acknowledgments

The drawing of Chief Justice Gilfillan on the first page is from *The Minnesota Law Journal* (July 1893). The photograph of John W. Arctander on page 11 is from *Progressive Men of Minnesota* (1897).

This paper could not have researched without the Historical Society's Minnesota Digital Newspaper Hub.



## 8. Related Articles.

***“In Memoriam, Chief Justice James Gilfillan (1829-1894).”***

**Douglas A. Hedin, “James Gilfillan vs. Christopher G. Ripley: The Contest for the Republican Nomination for Chief Justice of the Minnesota Supreme Court, 1869.” (MLHP, 2018).**

**Douglas A. Hedin, “Lafayette Emmett v. James Gilfillan: The Contest for the Election of Chief Justice of the Minnesota Supreme Court, 1875.” (MLHP, 2021).**

**Douglas A. Hedin, “Chief Justice Gilfillan is Re-Elected, (1882).” (MLHP, 2022).**



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