

James Gilfillan vs. Christopher G. Ripley
The Contest for the Republican Nomination for
Chief Justice of the Minnesota Supreme Court,
1869.

By

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Preface

There is a recurring figure in Minnesota in the nineteenth century — the young lawyer who sets up shop in a small town and with boundless energy and ambition becomes a leader of the community. He is county attorney for a term or two and sits on the school or library board for years. He may be elected to the legislature, usually as a Republican, and re-elected once or twice. He promotes projects to bring economic development to the town and region. He is a member of the merchants' association, several fraternal and social societies and is active in his church. He earns a statewide reputation as an able lawyer and eloquent public speaker. His death is mourned by all.

And then there is Christopher Gore Ripley.

The Republican Party in 1869

By 1869, the Republican Party had been in control of Minnesota state government for about a decade, and it would retain nearly complete hegemony for another six. Such an organization inevitably divides over personalities (the dominant figures were Senator Alexander Ramsey and former Congressman Ignatius Donnelly), economic issues such as the tariff, social issues such as prohibition and other matters. That year Scandinavian immigrants emerged as a faction within the Party and held two separate conventions. In a few counties there were calls for “People’s Conventions” to reform local government. Fissures in the Party were also created by sectional preferences for local candidates for statewide offices—rivalries, in other words, based on where a candidate lived.¹

¹ Newspaper accounts of divisions within the Party in 1869 sometimes refer to the “Northern” or “First District” and the “Southern” or “Second District.” These terms refer to the two congressional districts in the state—the Southern District encompassing Fillmore, Winona and other Southeastern counties, while the Northern District included Hennepin and Ramsey Counties among others. In 1868, Morton Wilkinson was elected to represent the First Congressional District and Eugene Wilson, a Democrat, was elected by a small margin in the Second because two Republicans, Christopher C. Andrews and Ignatius Donnelly, split the Party vote.

The Appointment of James Gilfillan.

On July 6, 1869, Chief Justice Thomas Wilson resigned from the Court to run for U. S. Senator.² He had been appointed Associate Justice in July 1864, elected Chief Justice in November of that year and served five years. Governor William R. Marshall appointed James Gilfillan of St. Paul to succeed him on July 14.

Gilfillan was almost forty years old at this time. He was a Civil War veteran, who served in the Seventh Minnesota Regiment in campaigns against the Sioux in 1862-1863, and later in battles with the Confederates. He was discharged in July 1865 holding the rank of colonel. This must have been impressed the Governor, a Republican, who also led expeditions against the Sioux and fought the Rebels in the battles of Nashville and Fort Blakeley, leaving the service with the rank of brigadier general. Gilfillan was, besides, a member of a very successful firm, Allis, Williams & Gilfillan, and noted for his legal ability.

The *Rochester Post* was guarded in noting his appointment:

Gov. Marshall has appointed James Gilfillan, Esq. of St. Paul, to be Judge Wilson's successor on the Supreme Bench. The appointment holds good only until the next general election, when the question will be remitted to the people. Mr. Gilfillan is a gentleman well qualified, both by his personal character and legal attainments, to occupy the position.³

² *Freeborn County Standard* (Albert Lea), July 22, 1869, at 2 ("Hon. Thomas Wilson has resigned the office of Chief Justice of the Supreme Court. Hon. James Gilfillan, of St. Paul, has been appointed in his place. The former will be a candidate for the United States Senate in place of Norton.").

³ *Winona Daily Republican*, July 10, 1869, at 2 (republished in *The Rochester Post*, July 17, 1869, at 2, and the *Minnesota South West* (Blue Earth City), July 24, 1869, at 1). The *Blue Earth City Post* agreed: "The Governor has appointed James C. Gilfillan, Esq., Chief Justice of the Supreme Court of this State, in place of Chief Justice Wilson, resigned. Mr. Gilfillan enjoys a very high reputation as a lawyer, and his appointment is well received by the legal fraternity." July 17, 1869, at 2.

Under the constitution, a judge appointed more than thirty days before the next general election was required to run in that election.⁴ But this was a period when political parties controlled judicial elections through their endorsements, which were necessary to get on the ballot. To remain Chief Justice, Gilfillan had to win the endorsement of the Republican Party at its state convention on September 9th and, if endorsed, defeat his Democratic opponent in the general election on November 2nd.

Gilfillan had strengths but they proved illusory. He was the incumbent but this meant little as he had held office only eight weeks before the convention. He was from delegate rich Ramsey County but his residency became a liability. Governor Marshall had little influence as he was a lame duck.⁵

Christopher G. Ripley

Seemingly out of nowhere rose Christopher Gore Ripley — but, on close inspection, he came from Southern Minnesota and that was decisive. In 1869, he was forty-seven years old. A native of Massachusetts and a graduate of Harvard University where he also spent one year at the Law School before reading law in an office in Boston, he moved to Chatfield, a village in Fillmore County, in 1856. Childless, he lived alone with his wife. He was in a law partnership with Edward Dexter offering legal and banking services from September 1857 to August 1858, and in partnership with Henry R. Wells and James M. Cavanaugh from mid-December 1859 to mid-July 1862, when he began practicing alone.⁶ On the eve of the election in 1869, he had two business cards in the local paper:⁷

⁴ Constitution, Article 6, Sec. 10 (“In case the office of any judge shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor until a successor is elected and qualified, and such successor shall be elected at the first annual election that occurs more than thirty days after the vacancy shall have happened.”).

⁵ Marshall, elected in 1863 and re-elected in 1865, was completing his second term. It was customary at this time to serve not more than two terms.

⁶ The *Chatfield Democrat* published the business card of Dexter & Ripley, Attorneys and Bankers, from September 11, 1857 to July 31, 1858. The history of the Ripley, Wells & Cavanaugh law firm can be traced through its business cards published on the front page of

Business Cards.

C. G. RIPLEY,
Attorney and Connselor at Law,
CHATFIELD, MINNESOTA.
May 1st, 1867.

PENSIONS--BACK PAY.

C. G. RIPLEY,

WILL attend to all claims for Pensions, Back Pay due deceased soldiers, bounties and all similar claims, with fidelity and dispatch.
Chatfield, Fillmore county, Minn. May 1st, '67

Unlike other lawyers, he did not sell insurance or real estate or carry on some other separate business to make a living.⁸ He did not serve in the military in the War. Though a staunch Republican, he was not very active in Party affairs.⁹ He never held public office such as city attorney, county attorney, probate judge or state legislator before becoming Chief Justice. In 1864, he was nominated for district court judge at the Republican's Third Judicial District Convention but lost to Lloyd Barber.¹⁰ He was not a delegate to that convention and may not even have attended it but the episode is important because it shows that his fellow lawyers believed he had the intelligence and temperament to hold judicial office. Regardless, he was not a

the *Chatfield Democrat*. The firm's card runs from December 17, 1859 to January 4, 1862, when Cavanaugh is dropped and the card of Ripley & Wells is published. That firm lasts until July 12, 1862, when the card of Ripley, now by himself, appears. Ripley was a sole practitioner thereafter (though he may have taken in clerks to read law in his office).

⁷ *Chatfield Democrat*, October 30, 1869, at 1 (enlarged).

⁸ At this time a lawyer's business card always listed other sidelines in which he offered services such as real estate or insurance. Ripley's card never listed any activity other than law as his business. In the issue of the *Democrat* on December 1868, he listed as a specialty: "Pensions, Back pay due deceased soldiers, Bounties, and all similar claims, promptly and carefully attended to." December 11, 1868, at 1.

⁹ The *Preston Republican* carried a list of campaigners for the Republican ticket in its issue on October 25, 1867, at 4. "Hon. J. Q. Farmer and C. G. Ripley" are headline speakers. The ad is blurry, barely legible and cannot be reproduced.

¹⁰ For an account of this convention, see Appendix 1, at 48-49.

community leader. He seems not to have belonged to social or fraternal societies though most professional men did at the time. A county history published in 1882 does not mention him; a two-volume history published in 1912 has five references to him or his firm.¹¹ A forgettable, colorless man, he possessed four essential qualities for election to the Supreme Court: he was a respected lawyer, well liked, a Republican.....and he lived in Chatfield.

Aside from his obscurity, an even more curious aspect of Ripley's rise was his absence from the state for almost four months before the nominating convention. On May 4, he and his wife left Chatfield on a trip to New England and Europe, and did not return until mid-August, about three weeks before the convention. Needless to say, it is difficult for a sole practitioner to leave his law practice for such an extended time unless he has a compelling reason. What drove Ripley was the urgent need to regain his health. Notices of his illness and recovery appeared in the local weekly newspaper:

From the March 27, 1869, issue in the *Chatfield Democrat*:

We are pleased to meet once more at his place of business, C. G. Ripley, Esq., who we are happy to know is rapidly recovering from his late severe affliction. As the boy says, "it seems awful good to see him 'round."

From the May 8 issue:

¹¹ He is not mentioned in Rev. Edward D. Neill, *History of Fillmore County Including Explorers and Pioneers of Minnesota and Outline History of the State of Minnesota* (Minneapolis, 1882). Chapter LXXIII is a "Chronology" of important events in the county and state year by year. For the year 1870, the inauguration of Horace Austin as governor is noted but Ripley's induction as Chief Justice is not (page 617).

He is mentioned five times in Franklyn Curtiss-Wedge, ed., *The History of Fillmore County, Minnesota* (1912). On page 270 he is listed as an early settler; on page 273 the firm of Dexter & Ripley is named; on page 530 he is on a list of lawyers; on page 531 there is a flattering biographical sketch; and on page 533 his firm is listed as one of the signers of the articles of organization of the Fillmore County Bar Association on November 13, 1860. One of the first acts of the Association was to adopt a minimum fee schedule. Ripley's firm was a signator to that agreement. See "The Minimum Fee Schedule of the Fillmore County Bar Association." (MLHP, 2011) (published first, November 13, 1860).

Hon. C. G. Ripley and his lady, left on Tuesday last [May 4] for a visit to friends in Boston, and from whence they will also make a trip to Europe before they return to Minnesota, which they hope to do about September. A host of kind friends here wish them a safe journey, improved health, a pleasant time, and speedy return.

We may suppose that one purpose of their trip to Europe was to visit mineral springs or baths which were thought to have healing powers. It was not much of a holiday. He was a very sick man. While the name of his “affliction” is not known, it was so severe that he could not practice law for much of 1869. It is noteworthy that four years later, he was forced from office after being struck down by what appears to be a stroke. In any event, he returned to Chatfield, seemingly refreshed, on August 20th. From the August 28 issue of the *Democrat*:

C. G. Ripley, Esq., and his accomplished lady, returned to their home at this place on Friday last after an absence of some four months on a visit to friends in Boston and other parts of New England. Mr. R. is looking remarkable well, and is much pleased to find everything so prosperous, fresh and healthy in Minnesota.¹²

It is likely that Ripley did not know the extent to which his candidacy had snowballed—or even that he was a candidate—until he returned to Chatfield. After his endorsement, a newspaper wrote “In this case it can be truthfully said that the man did not seek the office.”¹³ Being absent, he could not solicit delegates. Others did.

¹² *Chatfield Democrat*, August 28, 1869, at 3. The *Rochester Post*'s story is confusing:

C. G. Ripley, who has been on a European tour this summer, has returned to his home in Chatfield much improved in health. We learn that the Chatfield people strongly favor him for State Senator this fall. He would make an able representative.

Rochester Post, September 11, 1869, at 2.

¹³ *Blue Earth City Post*, September 18, 1869, at 2. The full editorial is on page 25-6 below.

The Shadow of Attorney General Cornell and the Demands for Sectional Representation.

In early August it looked like Gilfillan had the nomination wrapped up. The *Mankato Weekly Review* prophesied:

Mr. Gilfillan, who now holds the office by appointment, will undoubtedly receive the nomination of the convention for Chief Justice of the Supreme Court.¹⁴

On August 19, the *St. Cloud Journal* published two comments about the contest for Chief Justice. From page 2:

The impression seems to be pretty general that Hon. James Gilfillan, who holds the office of Chief Justice by appointment, will be the nominee of the State Convention. He is said to be possessed of a fine legal mind, without disposition to bias, and in personal integrity is *sans reproche*.¹⁵

But the second was a warning to Gilfillan. From page 4:

The *Blue Earth City Post* recommends Hon. C. G. Ripley, of Chatfield, for Chief Justice. Mr. R. is now in Europe, but will return next month.

This is one of the first references to the candidacy of Ripley. In hindsight it is evident that a stealth campaign for him was underway, centered in Fillmore County, and would spread quickly throughout delegates from Southeastern Minnesota. In an overview of the leading Republican candidates for office on August 21, the *Mankato*

¹⁴ *Mankato Weekly Record*, August 7, 1869, at 2. On the same page of that issue, it belittled a suggestion in the rival *Mankato Union*, a Democratic organ: "Judge Austin is not a candidate for Chief Justice. The *Union* too deficient in manhood and moral courage to openly oppose the Judge for Governor, takes that course to injure him, hoping that it will be able to make the Judge appear like the editor of the *Union*, so anxious for office that he is ready to take anything."

¹⁵ *St. Cloud Journal*, August 19, 1869, at 2.

Record repeated gossip about Attorney General F. R. E. Cornell's ambitions for Chief Justice, and again mentioned Ripley as a dark horse candidate if the "northern district" was split:

For Chief Justice there is probably but little opposition to Col. Gilfillan. We have heard of no one mentioned except Attorney General Cornell, but as it has been, we believe, quite generally understood throughout the State that he is to be a candidate for re-nomination for his present position, we are inclined to think no change will be made. We have heard it intimated that should Mr. Cornell be a candidate for the Chief Justiceship, it was quite probable that the Republicans of the Southeastern portion of the State might present the name of C. G. Ripley of Fillmore county, and while the northern district was divided between Cornell and Gilfillan, they might take the prize for Ripley who is a first class man for the place.¹⁶

It was not long before the candidacy of General Cornell became the subject of heated debate within the Party. On Friday, August 27, the *Minneapolis Morning Tribune*, an influential Republican organ, published a brutal attack on Gilfillan. The editorial warrants close reading because it lays out in stark terms the three attributes of a judicial candidate that were important to the Party at that time: 1) Party service and loyalty; 2) residence in a locale of the state that does not result in a concentration of statewide candidates there—that is, geographic imbalance; and 3) legal talent.

For Chief Justice of the Supreme Court.

¹⁶ *Mankato Record*, August 21, 1869, at 2. The latter half of this column was reprinted in the *Chatfield Democrat*, August 28, 1869, at 2. Only five days before the convention, the *Rochester Post* reported:

It is probable that Mr. Gilfillan, the present incumbent, will be renominated for Chief Justice, though Mr. Cornell, the present Attorney General, is a candidate for that position. We do not know who wants Cornell's place.

Rochester Post, September 4, 1869, at 2.

It devolves on the people of Minnesota, this fall, to elect a Chief Justice of the Supreme Court, to fill the vacancy occasioned by the resignation of Judge Wilson, which is now filled *ad interim* by appointment of the Governor. This is, in many respects, the most important place on the ticket, and the task of selecting a man for it requires great care and discrimination. The Chief Justice elected this fall will not merely fill out Judge Wilson's unexpired term, but will hold for the full six years. This point has already been settled by the highest judicial authority. During the next six years a number of questions affecting vitally the interests of the people of the whole State, are likely to come before the Supreme Court for adjudication. That period is also destined to be a grand one in the growth of Minnesota, and the business of the court, as well as of other departments of the government, must assume larger proportions than ever before. The person selected for this high office should be a man of character, of honor, of broad and comprehensive legal attainments and experience.

We have heard the name of James Gilfillan, of St. Paul, mentioned in some quarters for Chief Justice. Against Mr. Gilfillan, personally, we have nothing to object. He has, perhaps all the requisite personal qualifications. But we presume the Republican State Convention will insist that in addition to personal qualifications the candidate shall be a sterling and active Republican. If we are to go outside of the Republican ranks for a candidate, we would better select a man of long judicial experience, like Judge Chatfield, for instance, than one who has had no experience. We do not know but that Mr. Gilfillan claims now to be a Republican, and we do not know that he does. 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.

But the strongest objection to Mr. Gilfillan, we apprehend, will be placed on the ground of locality. St. Paul has already one of the three Supreme Judges, Judge McMillan, and that is enough for one city, even though it is temporarily the capital of the State. St. Paul has managed in the past to absorb the lion's share of the best offices and, we have no doubt, would gladly continue to do so. But the rapid growth of the State has brought other localities into importance, and St. Paul must now consent to a just and equal distribution. St. Paul now has, in addition to the Associate Justice, McMillan, the Clerk of the Supreme Court, the Governor, and the United States Senator, and is down for two or three places on the State ticket this fall, over and above the claims that may be put forth for Mr. Gilfillan.

We believe it is generally conceded that Hennepin county has a fair claim to one position on the State ticket this fall. The place which we have claimed, and which has been generally conceded to us is that of Attorney General. Our candidate for this office has been the Hon. F. R. E. Cornell, the present incumbent. But recognizing Mr. Cornell's eminent fitness for the position of Chief Justice, his friends have desired that he should become a candidate for that place instead of for Attorney General. The Republicans of Hennepin county are willing to give up the Attorney Generalship for the Chief Justiceship, but they will certainly claim the one or the other. Mr. Cornell has finally consented to become a candidate for Chief Justice, and we hereby formally announce him as the candidate of Hennepin county for that position before the State Republican Convention.

Mr. Cornell, as will be conceded by all acquainted with him and his record in this State, possesses all the qualifications which we have enumerated as requisite to properly fill the office of Chief Justice, and for a candidate

of the Republican party. There is not a better lawyer in the State, nor a man of more sterling character, nor a more zealous and active Republican. His services to the cause of Republicanism have been invaluable. There can be no objection to him on the ground of locality, but on the contrary, the consideration of local is every way in his favor. We therefore present his name in the full confidence that the Convention will honor itself and the State by placing it on the ticket for the position named.¹⁷

The editorial highlights the major vulnerability of James Gilfillan—that he lived in St. Paul. It also reveals a budding rivalry between Minneapolis and St. Paul smoldering beneath the more public division between the First and Second Districts. Other Party newspapers erupted in fury at the *Tribune's* high-handed attempt to grab the Chief Justiceship for Minneapolis. The response of the editor of the *Winona Daily Republican* began with an *ad hominem* attack on William D. Washburn, one of the owners of the *Tribune* (while confusing him with his brother, Congressman Elihu Washburne of Illinois):

The Chief Justiceship.

That unselfish and distinguished patriot who, on the strength of his previous acquaintance with President Jackson, in Tennessee, demanded of that gentleman a place in his Cabinet, and failing therein, descended step by step until he reached that point where he was ready to accept a second-hand overcoat, has found his counterpart in Hennepin county in this State. Mr. WASHBURNE'S newspaper at Minneapolis—(Mr. WASHBURNE, be it known, is alternately engaged in splitting shingles and dabbling in politics)—this gentleman's newspaper, we say, formally, and with a most pompous and altogether dignified and ministerial air, presents Mr. Cornell as a candidate for the office of Chief Justice. Mr. Cornell, says the Minneapolis

¹⁷ *The Minneapolis Daily Tribune*, August 27, 1869, at 1.

oracle, *must* be the Republican nominee for Chief Justice, because Minneapolis wants him to be; *but* if Mr. Cornell can't be Chief Justice; then we insist, continues the oracle aforesaid, that he shall be made Attorney General. "The Republicans of Hennepin county are willing to give up the Attorney-Generalship for the Chief-Justiceship"—what magnanimity! —"but they will *certainly claim one or the other.*"

These be brave words, Mr. WASHBURNE, but we don't think they will produce any considerable degree of consternation outside of the Minneapolis log-rolling camp. While the Republicans of the State have a high respect for the sturdy fidelity to principle which the majority of the people of Hennepin county have for years uniformly displayed, they entertain none whatever for that sort of audacity which selfishly demands the choice of the offices without consultation with those whose right it is to dispose of them. Whether Mr. Cornell shall have the nomination for Chief Justice, or that for Attorney General, or whether he shall be compelled to accept the alternative of the second-hand overcoat, is a question for the convention to determine, and not the Minneapolis politicians. Against Mr. Cornell personally we have nothing to say. He is a gentleman in his intercourse with men, and as an official has given very good satisfaction to the people of the State. It is in this light, we presume, that the convention, using due forbearance, will consider his "claims" for the nomination to which he aspires, and not in the lurid, reflected light shed upon him by the newspaper luminary which, with such utter lack of sense or discretion, attempts to champion his cause. To prove that this championship is both senseless and indiscreet, we have but to repeat the language which is made use of in Mr. Cornell's behalf. The article of the *Minneapolis Tribune* in which that gentleman's name is put forward as a candidate for Chief Justice is not confined to a presentation of his merits, but is made the medium of an unjustifiable attack upon one of his

competitors—Mr. Gilfillan of St. Paul, the present Chief Justice of the State. It travels out of its way to impugn Mr. Gilfillan's Republicanism, and concludes by saying that— "if we are to go out of the "Republican ranks for a candidate, we had better select a man of long judicial experience, like Judge Chatfield."

This thrust, we are assured, is as undeserved as it is impolitic. It is an old and by no means a creditable illustration of "foul play." Mr. Gilfillan has been a Republican from the inception of the party, and, to use the words of a contemporary, "gave a practical turn to his principles by his services in the army during the rebellion." He is not only an earnest Republican, but, what is equally to the purpose in the present instance, he is possessed of sound legal ability and a thoroughly discriminating judgment—requisites which eminently qualify him for a position on the bench. That he, or some other equally good man, may, uninfluenced by the insane "shrieks of locality," secure the nomination, must be the earnest wish of every enlightened and liberal Republican in the State.¹⁸

In an editorial on September 4, heavy with irony, the *Mankato Weekly Record* noted that "it has also been as generally conceded that Mr. Gilfillan should be the nominee of the party for Chief Justice," and cautioned, "If Mr. Cornell chooses to run for Chief Justice, of course, he is at liberty to do so, but let him take his chances for that position. It will probably result in a triangular contest between Gilfillan, Ripley and Cornell, and it is doubtful who will win."¹⁹ Cornell soon made it known that he would stand for re-election as Attorney General.²⁰ Gilfillan's endorsement seemed certain.

¹⁸ *The Daily Republican* (Winona), August 30, 1869, at 1 (caps and italics in original). The *Tribune* was started in 1867 by several wealthy Minneapolis businessmen, including William D. Washburn. Isaac Atwater, ed., 1 *History of the City of Minneapolis, Minnesota* 361-62 (1893).

¹⁹ *Mankato Weekly Record*, September 4, 1869, at 2. An editorial two weeks earlier expressed the same views. *Mankato Weekly Record*, August 21, 1869, at 2.

²⁰ In an editorial on the day of the convention the *St. Paul Daily Press* complemented General Cornell on his decision not to engage in horse trading that might win the nomination for Chief Justice. September 9, 1869, at 1 ("It is to the high honor of Attorney General Cornell that he

Enter Ignatius Donnelly

As the convention neared, a Party ticket that would appeal to all segments of the electorate came into focus. Attorney General F. R. E. Cornell, a proven vote-getter, would remain where he was. For State Treasurer, incumbent Emil Munch appealed to German voters; Charles McIlrath, another incumbent, ran to remain State Auditor; and Sherwood Hough sought another term as Clerk of the Supreme Court. For Secretary of State, Hans Mattson, a Swede, appealed to Scandinavians.²¹ Until this time, every Party gubernatorial candidate had come from the Second of Northern District and so it was generally agreed that the First or Southern District should have the Governorship in 1869. Thus Judge Horace Austin, who lived in St. Peter in the First District, was unopposed for Governor. Newspaper reports of the horse race for the Chief Justiceship were scarce but when they appeared James Gilfillan was always in front. Ripley was mentioned as a dark horse who might slip through if the convention split over Gilfillan and Cornell but after the latter decided to seek re-election, that gate was closed. That Ripley would be nominated was expected but his

has refused to be a party to any trading of votes for his benefit as a candidate for the Chief Justiceship, and that it was partly to prevent any such political speculation in the office that he withdrew from the contest.”).

Altruism, however, was not a virtue in excessive supply among Republican and Democratic office seekers in the nineteenth century. Cornell may genuinely have feared that hustling votes at the convention would damage the Court, as reported by the *Press*, but the prospect of losing, and being cast entirely out of office, may have motivated him as well. In this regard it is important to recall that a few years later, in 1874, he challenged and defeated incumbent George B. Young for the Republican endorsement for Associate Justice. In April 1874 Governor Davis appointed Young to fill the vacancy caused by his elevation of Associate Justice S. J. R. McMillan to be Chief Justice (following Ripley’s resignation). General Cornell was such a strong competitor that Young was not even nominated at the Party convention on September 9th. McMillan and Cornell were nominated by acclamation. *Minneapolis Morning Tribune*, September 10, 1874, at 3.

²¹ In late July, a “Convention of Norwegians” was held in Rushford and passed a “unanimous declaration that only a Norwegian can fairly represent the Scandinavian population of Minnesota on the Republican State ticket. It suggested Lewis Lewiston for Secretary of State. *Winona Daily Republican*, August 2, 1869, at 2. In mid-August, a “Scandinavian Convention,” held in Minneapolis and attended by delegates from fifteen counties, endorsed Col. Hans Mattson for Secretary of State. *Mower County Transcript*, August 12, 1869, at 1.

chances for endorsement were slight.²² He never announced his candidacy for Chief Justice.²³ He did not attend the convention. He was silent, an unknown.

Suddenly and unexpectedly, Austin had a challenger and the Party was thrown into turmoil. On September 1, the *St. Paul Dispatch* published a letter from Ignatius Donnelly stating that he would accept the Republican gubernatorial nomination.²⁴ In a front-page editorial on September 4, the *St. Paul Daily Press*, a major Party organ, endorsed Donnelly for governor.²⁵ Only he, it argued, could bring harmony to the Party. Although Donnelly was a resident of Nininger City in Dakota County in the Second or Northern District and although no governor had ever come from the First, the *Dispatch's* editorialists asserted that "the minor claims of locality" should be disregarded in favor of a unifier. Donnelly was particularly suited for that role because he had been defeated as a result of a nasty intraparty dispute for his Congressional seat the year before and, the editorial continued, if his opponents were conciliatory he could bring the diverse elements together:²⁶

²² *Winona Daily Republican*, September 3, 1869, at 2 ("It is believed that Fillmore county will present the name of C. G. Ripley, Esq., as a candidate for the nomination for Chief Justice. Mr. Ripley is an able lawyer and a polished gentleman, who would do credit to the position and to himself."). At the Fillmore County Republican convention held in Preston, the county seat, on September 4, the following resolution was passed:

Resolved, That the delegates are authorized to fill any vacancy that may arise in their delegation; and that they are instructed to present and support C. G. Ripley, Esq., of Chatfield, for Chief Justice of the Supreme Court.

Preston Republican, September 10, 1869, at 2 (This issue was published after the convention because the paper was a weekly).

²³ This may have been a tactical decision by Ripley and his supporters. A formal announcement might have drawn the attention of newspapers to his medical history.

²⁴ *St. Paul Dispatch*, September 1, 1869, at 4. Donnelly's biographer rephrased the message: "he was not an active gubernatorial candidate but would accept a draft." Martin Ridge, *Ignatius Donnelly: The Portrait of a Politician* 125 (Univ. of Chicago Press, 1962).

²⁵ *St. Paul Daily Press*, September 4, 1869, at 1.

²⁶ Donnelly was first elected Congressman for the Second District (the Northern District) in 1862, and re-elected in 1864 and 1866. In 1868, he was denied the party nomination but ran as a "Republican without party endorsement." With the Republicans split, Democrat Eugene M. Wilson squeaked through. The results of the election on November 3, 1868, were:

It has become evident, indeed, that a very widespread desire exists not only among his friends in this District [the Second] but in the other, that Mr. Donnelly would permit the use of his name for the position. It had been understood that that gentleman had resolved in no event to be a candidate. But it has recently become known that, in deference to the earnest wishes of his friends – and in view of the conciliatory attitude of many of his recent adversaries – Mr. Donnelly has reconsidered this determination and would now be willing to accept the nomination for governor if it were tendered in a spirit of conciliation and concession by those who had recently been his opponents.

Aside from Mr. Donnelly’s brilliant personal qualities, and the distinguished claims which a long course of useful public service gives him to honorable recognition by the state convention, there can be no doubt that in view of his position, as a leader of a powerful wing of the Republican Party in this District, whose enthusiastic wishes were disappointed in his defeat, his nomination at the head of the State ticket, with the cordial concurrence of those heretofore opposed him, would do more than anything else to extinguish the factious animosities and disaffections occasioned by the events of last fall. We believe that the heretofore divided elements of the party in this district will gladly seize the occasion offered by the presentation of his name for the first office of the State, to reunite in a spirit of mutual good will.

Christopher C. Andrews (Republican).....	8,598
Ignatius Donnelly (Rep. without party nomination).....	11,265
Eugene M. Wilson (Democrat).....	13,506

Bruce M. White, et al, *Minnesota Votes 69* (Minn. Hist. Soc. Press., 1977). For Wilson’s obituary, see “Eugene M. Wilson (1833-1890)” (MLHP, 2008-2016).

This split in the Republican Party is discussed in the “Origins of the Donnelly- Washburn Feud,” an excerpt from *3 Minnesota in Three Centuries* edited by Lucius F. Hubbard & Return I. Holcombe, Appendix 8, at 70-74.

The draft-Donnelly movement quickly found support among Republican newspapers, as the *St. Cloud Journal* noted in its issue published on the day of the convention:

POLITICAL.—Mr. Donnelly has announced his willingness to accept the nomination for Governor, if tendered him with a view to conciliation. The *Press, Dispatch, Winona Republican* and a majority of the Republican papers in the State earnestly urge his nomination. The *Minneapolis Tribune* opposes, with characteristic virulence.²⁷

The Donnelly surge set off a counter movement to stop him, centered in Hennepin and Fillmore Counties. And, despite the newspapers' advice, the delegates' belief in the importance of "locality" hardened.

²⁷ *St. Cloud Journal*, September 9, 1869, at 3. The following is an excerpt from the *Minneapolis Tribune's* "virulent" response:

That is the argument upon which the *Press* supports Mr. Donnelly's candidacy Can such insolent imposture stampede the whole State? Will the Republican party of Minnesota bow down to the fiat of that frightful combination—Ignatius Donnelly and the *St. Paul Press*—as to inevitable destiny? It is very wonderful, very startling, very prodigious, yet nobody, we apprehend, is going to be irrecoverably soared. Let us with returning animation after so terrible a shock ask ourselves what truth is there in the *Press'* plea. It is claimed that the Southern District is so torn with factional discords, so rent with contending and implacable fends as to the gubernatorial candidacy, that harmony or unity with any candidate from that District is a thing impossible and not to be hoped for! That is not true.

There is not the beginning of one side of the truth in the assertion. . . .The Hon. Horace Austin of St. Peter has been the only gentleman named with any degree of prominence as a candidate for Governor from the lower District. He stands today the only candidate, to all intents and purposes, from that District. There has, indeed, been until recently a general concession in all parts of the State, to which the secret Donnelly conspiracy had not power to reach, that Mr. Austin would be nominated Governor without opposition. There have been no dissensions in the Southern District upon this subject, because there has been, up to the present time, no contest there of opposing candidates.... It was the acknowledged privilege and right this fall of the South District to present the candidate who should receive that nomination. Mr. Austin is prominently the man who is so presented.

Minneapolis Daily Tribune, September 7, 1869, at 1.

The Republican State Convention

The Republican State Convention was called to order at noon on Thursday, September 9, 1869, in Ingersoll Hall in St. Paul. There were 230 delegates and they were apportioned among counties on the basis of votes in the last Presidential election.²⁸ Committee reports were received, delegates seated and a resolution regarding the State Railroad Bonds, an open political sore that festered for years, was tabled.²⁹ The nomination of the candidate for Chief Justice came next. This is the account of the balloting for Chief Justice from the *St. Paul Dispatch's* lengthy coverage of the convention:

Chief Justice

The convention then proceeded to nominate a Chief Justice.

General McLaren [Ramsey County] nominated Judge James Gilfillan, saying that he was fully qualified for that position, and an able and talented lawyer.

J. C. Braden, Fillmore, nominated C. Y.(sic) Ripley, of Chatfield, and payed a tribute to his ability.

Mr. Washburn [Minneapolis] seconded Mr. Ripley's nomination.

Mr. Gordon [St. Cloud] said St. Paul had already one judge (McMillan), and if Mr. Gilfillan was nominated this would give it two.

Mr. McLaren said the Judge McMillan's home was in Stillwater, and he was living there only temporarily, for convenience.

The chair appointed as tellers Messrs. G. B. Cooley [Dodge County], S. H. Nichols [Douglas] and James G. Lawrence [Wabashaw].

The convention then proceeded to take a formal ballot for Chief Justice, with the following result:

²⁸ A list of the counties and their delegations is posted in the Appendix 2, at 51-53.

²⁹ On the "long and disgraceful" history of the Railroad Bonds, see William Watts Folwell, 2 *A History of Minnesota* 37-58, and 3 *A History of Minnesota* 418-44 (Minnesota Historical Society Press, 1969) (published first, 1926).

C. G. Ripley.....	158
J. Gilfillan.....	<u>81</u>
	239

A delegate said there were only 230 legal votes in the convention.

The Secretary said that was so.

Another ballot was called for, and ordered but before it was commenced –

Mr. McLaren said that it was perfectly apparent that Judge Ripley was the choice of the convention, and he moved to make his nomination unanimous, which was carried.³⁰

The balloting reveals the underside of Minnesota politics at this time, when one party was so dominant that its candidates were assured of being elected. As a practical matter the delegates to this convention—actually only 158 (which may have included nine fraudulent votes)—selected the next Chief Justice, though over 50,000 votes would be cast in November. It also reveals the speciousness of the concept of “locality” that consumed the party. It was so rootless and malleable that some First District delegates believed it was entitled to the Chief Justiceship because that was the district of Chief Justice Thomas Wilson, a Winona resident, before he resigned and was replaced by James Gilfillan.³¹ Unlike talk about the governor, the “locality” of

³⁰ *St. Paul Dispatch*, September 10, 1869, at 2. The *Minneapolis Tribune's* account also noted the delegates' almost obsession with St. Paul's over representation on the Court:

Mr. McLaren of Ramsey nominated Jas. Gilfillan, and presented his claims in a neat speech.

J. C. Braden of Fillmore nominated C. G. Ripley of Chatfield, forcibly urging the claims of locality, that Mr. Gilfillan was a St. Paul man, and that St. Paul already had one Judge on the Supreme Bench.

Minneapolis Tribune, September 10, 1869, at 4 (excerpt). Shorter stories were published in *The Winona Daily Republican*, September 11, 1869, at 2, the *Mower County Transcript* (Austin), September 16, 1869, at 1, and other outstate papers.

³¹ *St. Paul Daily Press*, September 10, 1869, at 1 (“[T]he convention, chiefly on the ground that the Southern District was entitled to a place made vacant by a resident of that section, fixed its choice on a gentleman from Fillmore County...”).

candidates for the Court usually referred to cities or towns not Districts. There were two Districts and three justices, which meant that two justices necessarily were from the same District. That incumbent Associate Justice John Berry was from Rice County in the First District, where Ripley resided, was not mentioned at the convention; instead Chief Justice Gilfillan's residence in the city of St. Paul, where Associate Justice McMillan also lived, became a liability. It is difficult not to suspect that the definition of locality was narrowed to help Minneapolis and Hennepin County in their drive to deprive St. Paul of having two residents on the Court.³²

In any event the selection of the Chief Justice was followed by the nomination of Judge Austin, who garnered 147 votes to Donnelly's 64 and John McKusick's 17. After three ballots, William H. Yale of Winona was endorsed for Lieutenant Governor over H. L. Gordon of Stearns County and Jared Benson of Anoka (139-57-29). Next Hans Mattson, Meeker County, easily defeated Frank E. Daggett of Wabashaw for Secretary of State (191-38); and Charles McIlrath of Nicollet County, was nominated for State Auditor, defeating Orlan P. Whitcomb, Olmstead County and A. C. Lane (128-99-1). Attorney

³² Several days after the convention, the *Stillwater Republican* belittled the importance of "locality":

Where Our State Officers Live.

Whenever a State Convention meets, this question always comes up and candidates who have lived for seven or eight years in St. Paul claim some outside county as their residence.

This is a convenient dodge to adopt when the question of "locality" is urged against them. For instance our State Auditor is credited to Nicollet County when he has not lived there seven or eight years, but has had his family in St. Paul all the time and votes there. The same in the case of Judge McMillan. When the question of locality came up on the Chief Justice question, the friends of Mr. Gilfillan claimed that Mr. McMillan was a resident of this city [Stillwater], when in fact he has not lived here for six or eight years and has not voted here, but has in St. Paul. We notice that when election time comes around, they are fast enough to claim St. Paul as a residence. We, for one, are for making them stick to that, and not because they happened to live in a county some fifteen or twenty years ago, to forever be thrust onto that county, when they have no interest there of kind.

Stillwater Republican, September 14, 1869, at 1.

General Francis Russell Edward Cornell, Hennepin County, State Treasurer Emil Munch, Pine County, and Clerk of the Supreme Court Sherwood Hough, Ramsey County, were nominated by acclamation.

The Party's slate was received favorably by Republican newspapers. The *St. Cloud Journal* noted that each district was awarded a candidate on the state ticket:

As the result of an unusually full Convention, in which much of the ground was warmly contested, will be found the ticket at the head of this column. The names are those of men well and favorably known to the people of Minnesota. Although the friends of Mr. Donnelly had, under the circumstances of the case, strong hopes of his success, yet they cheerfully accept the nomination of Judge Austin—the Governorship being claimed by the First District. The candidate of the party is a gentleman of ability and of unblemished reputation.

The Chief Justice was likewise claimed by the other District, and the selection of Judge Ripley is granted as eminently wise and judicious.³³

The editor of the *Minneapolis Tribune*, who two weeks earlier argued that the Party's candidate for Chief Justice should have a record of "earnest, active and zealous" support for it, must have turned somersaults when drafting the following editorial praising nominee Ripley because he had "kept removed as far as possible from the mire of partisan politics."

The Ticket and Platform.

The State Convention yesterday did its work well. The ticket which it nominated is remarkably strong and well

³³ *St. Cloud Journal*, September 16, 1869, at 2. In later editions his prominence is exaggerated:

Judge Ripley, Hon. F. R. E. Cornell and Sherwood Hough, are all well known to be deserving the confidence of the party, and should receive its suffrages.

St. Cloud Journal, October 29, 1869, at 2.

proportioned, and the platform it constructed concise and comprehensive.

We have space this morning only for a very brief notice of the several candidates. . . .

C. G. Ripley, the nominee of the convention for Chief Justice, resides at Chatfield, in Fillmore County. If he is not generally known to the people of the State, it is because he has not been an active politician, and never attempted to make himself conspicuous. He is acknowledged to be one of the ablest, if not the ablest, lawyer in the Southern District, a man whose natural sense of justice is acute, and whose acquirements admirably fit him to fill the high place recently vacated by Judge Wilson. The popular demand that the position of Chief Justice should be kept removed as far as possible from the mire of partisan politics is admirably met by the nomination of such a man as C. G. Ripley.³⁴

From the *Blue Earth City Post*:

There is no nomination on the State ticket which gives us so much pleasure as that of Mr. C. G. Ripley, of Chatfield, for Chief Justice. In this case it can be truthfully said that the man did not seek the office. Mr. Ripley has resided in this State some twelve years or fourteen years, and we believe, if elected Chief Justice, as he undoubtedly will be, that office will be the first he has ever held. He is singularly deficient in those arts which constitute the politician's elements of success, but richly endowed with all that goes to make up the honorable, upright and impartial judge. Few men in the State are as well qualified as he, both by nature and by education, to discharge the

³⁴ *Minneapolis Morning Tribune*, September 10, 1869, at 1. The *Chatfield Democrat* editorialized, "At the late Republican State Convention, our worthy citizen, and able Attorney, C. G. Ripley, Esq., was nominated for Chief Justice. Mr. R. is well fitted for the position, and if elected, will more than meet the expectations of his friends." It went on to quote the last paragraph of the *Minneapolis Tribune's* editorial. *Democrat*, September 18, 1869, at 3 ("Good Nomination").

duties of the eminent office to which he has been nominated.³⁵

The *Mankato Weekly Record* was effusive in its praise of Ripley:

The nominee for Chief Justice, C. G. Ripley, is a nomination really worth the party that made it. Mr. Ripley is a gentleman of a very fine culture, superior literary attainments and one of the very best lawyers in the State, and the Fillmore county Republicans have done themselves credit in presenting to the convention for its approval a candidate so well qualified for the position. Mr. Ripley has never been a prominent politician and is not therefore extensively known throughout the State. He will be better known and appreciated before the term of office to which he will be elected in November shall expire.³⁶

Expressing pleasure in Ripley's selection *The Mantorville Express* was the only newspaper to recall that fleeting moment four years earlier when he was nominated for district court judge:

Of Mr. Ripley, the candidate for Chief Justice, too much can not be said in praise. We believe he never held an office, but such is his recognized worth that no office would add to his honor or exalt his reputation.

³⁵ *Blue Earth City Post*, September 18, 1869, at 2.

³⁶ *Mankato Weekly Record*, September 18, 1869, at 2. In other journals he was overlooked, a familiar place for him. From the *Rochester Post*:

We publish the ticket nominated last week at the Republican State Convention. While not as strong a ticket as we had hoped to support, it is a good one and will undoubtedly be elected by a handsome majority.

Judge Austin the Candidate for Governor is a gentleman of high personal character and will compare favorably with his recent predecessors. Mr. Yale, the candidate for Lieutenant Governor, is a dignified gentleman and a good speaker and the other gentlemen are all well qualified for the positions to which they are nominated.

The Rochester Post, September 18, 1869, at 2.

Often brought into professional contact with the ablest lawyers in the State, it was his good fortune to win while he overcame. His delicate regard for the feelings of his adversary, and a solid legal acumen, developed by much experience and study, long ago placed him in the front rank of his profession.

At the last election of Judge in the Third Dist., embracing the counties Winona and Olmsted, he was a prominent candidate and no one questioned his adaptation to the office.³⁷

The disappointment of the *St. Paul Daily Press*, which had pushed Donnelly into the gubernatorial race, was palpable:

We take pleasure in placing at the head of our columns the State ticket nominated by the Republican State Convention yesterday. Though the wishes of many are necessarily disappointed in the composition of the ticket it will still prove generally acceptable to the great Republican constituency represented by the convention, and will command—we doubt not—the cheerful acquiescence and zealous support of the unsuccessful aspirants and their friends.

The peculiar fitness of Chief Justice Gilfillan for the office which he holds by the Governor's appointment, and the further fact that he had surrendered a lucrative business in the confidence that that appointment would be ratified by the convention, inspired an ardent hope among his friends, and especially the members of the bar throughout a great portion of the state, that he would receive the nomination. But the convention, chiefly on the ground that the Southern District was entitled to a place made vacant by a resident of that section, fixed its choice on a gentleman from Fillmore County, of equally high reputation for

³⁷ *The Mantorville Express* (Dodge County), September 17, 1869, at 2 (two misspellings corrected).

the purity of his character and for his professional qualifications for that position—Mr. C. G. Ripley. The state is exceedingly fortunate which has two such men to select from in filling its highest office. The bar, who are most capable of appreciating the qualities necessary to the right administration of that important office, will recognize the selection of Mr. Ripley as a most fortuitous compensation for the defeat of Mr. Gilfillan.

Whatever importance the convention might, under other circumstances, have been prepared to attach to the considerations upon which the nomination of Mr. Donnelly for governor was urged upon it, the results showed that the Southern District was not prepared to yield its conceded claim to that office, and that the Convention was not disposed to ignore it, in face of the pressure with which it was sustained. The short notice, moreover, which had been given of his candidacy, placed Mr. Donnelly at a marked disadvantage before the Convention; most of the delegates were committed or carried into adverse combinations, and under the circumstances the vote which he received, though not what the sanguine enthusiasm of his friends had led them to anticipate, was still a strong and flattering manifestation of good will.

Much as we regret the decision of the convention we see no reason to complain of it, and cheerfully acquiesce in what was proved to be a foregone conclusion. Judge Austin, the successful candidate, is a gentleman whose ability and integrity will sustain the high character which his predecessors in the executive office have borne. It is a sufficient testimony of the high esteem in which he is held as a Judge that every one of the twelve counties of his Judicial District came up earnestly to his support. A good Judge cannot fail to make a good Governor. A stern judiciary integrity in the executive office is necessary to

defeat the schemes which dishonest men sometimes succeed in logrolling through the legislature.³⁸

The reaction of the *Saint Paul Dispatch* deserves close study as it strips the veneer from the convention, revealing the ugly politics of judicial selection of the day. It begins with expressions of praise for the ticket, which includes this bromide about Ripley:

C. G. Ripley, of Chatfield, the nominee for Chief Justice, enjoys a reputation of being an able lawyer and an upright man. He is an old resident of Fillmore County, but has mingled but little in political life. Few lawyers in the State have given so close attention to professional duties as Mr. Ripley, and those who know him best speak in the highest terms of his qualifications.³⁹

It proceeds to describe a traditional American political convention in the nineteenth century (before primary elections) where temporary alliances are formed among several sections or interest groups to support a candidate or oppose another—where, in other words, votes are counted and swapped to nominate candidates whose merits are unexamined. In the political terminology of the day, these coalitions were “rings” or “combinations.” As the *Dispatch* tells the story, Donnelly’s entry into the gubernatorial race alarmed Hennepin County Party leaders and they vowed to defeat him.⁴⁰ They offered to support the First District’s Ripley in exchange for their votes against Donnelly (i.e., for Judge Austin). It worked. Here is the *Dispatch*’s indigent though insightful editorial:

³⁸ *St. Paul Daily Press*, September 10, 1869 at 1.

³⁹ *Saint Paul Dispatch*, September 10, 1869, at 2.

⁴⁰ The *Minneapolis Tribune*’s shrill editorial on Donnelly’s candidacy on September 7 (note 27) shows that it became almost apoplectic when he arrived on the scene. The feud between Donnelly and W. D. Washburn, one of the wealthy founders of the *Tribune* (and future U. S. Senator, 1889-1895) began a year earlier when both vied for the Party’s endorsement for Congressman for the First District. A short account of the conflict from 3 *Minnesota in Three Centuries*, edited by Lucius F. Hubbard and Return I. Holcombe (1908) is posted in the Appendix 8, at 70-74.

Trading with Improper Goods.

When the Republican State Central Committee assembled in July to arrange the call for a State Convention, four members of the Committee advocated a separate convention for the nomination of the Chief Justice, on the ground that it was an office which should not be the subject of a political scramble. Though the separate convention idea was rejected, the view very generally prevailed that the judicial position should be left open upon its merits, and now made a part of the political stock in trade. It is with profound regret that in making up the record of the Convention yesterday we are compelled to say, that instead of being omitted from rings and combination, this high office was made the pivot for a grand combination, which in the main dictated the remainder of the ticket.

Mr. Donnelly's name was presented as a candidate for Governor not with a view of his personal advancement, but for the purpose of reuniting discordant elements in the party, and giving strength and popularity to the ticket. To the politicians controlling Hennepin county any attempt to restore harmony was distasteful while there was a Republican majority in the State of fifteen thousand, to guard against the defeats which might result from dissension. Hennepin county accordingly entered the ring holding the Chief Justiceship as a bait to secure votes against Mr. Donnelly. Mr. Cornell, the Hennepin county candidate, fell back upon the Attorney Generalship, and the tender was made to Fillmore county, which had a candidate for the Judgeship. Nearly the entire Fillmore county delegation accepted the proposition and the combination was formed. With this as a basis, other counties were brought into the ring to save or attempt to save candidates they desired, and, with the Chief Justiceship at the center stake, the union was formed which controlled the Convention and, so far as the combination desired, made the ticket.

It is fortunate that Mr. Ripley happens to be an honorable legal gentleman of ability, whose elevation will not mar the Judiciary, but that was a matter to which not a moments thought was given, and the result would have been the same had a venal and incompetent man been the subject of the trade. It is this point which merits the severest reprobation. It is the first time in history of Minnesota that such a position has been put up in the political market, and as a stepping stone towards debasing and corrupting the entire judicial system of the State. It is to Mr. Ripley's credit that he was not present, and in no way a party to the transaction, but the fact that such an office was bandied about to determine the complexion of an entire State ticket, is nevertheless disgraceful, and unless pointedly condemned, fraught with danger.⁴¹

There is independent support for the *Dispatch's* report. How individual delegates voted for Chief Justice and Governor was not recorded but raw statistics suggest that the south-north sections voted in blocs. According to the *St. Paul Press* "every one of the twelve counties of [Judge Austin's] Judicial District came up earnestly to his support."⁴² The vote totals for the two offices are very similar: 158 votes were cast for Ripley and 81 against him (or for Gilfillan), while 147 votes were cast for Austin and 81 against (but in the balloting for the Court nine more votes were cast than there were delegates; when they are

⁴¹ *St. Paul Dispatch*. *Id.* This editorial was condensed and reprinted in the *Winona Daily Republican*, September 13, 1869, at 2.

The *St. Paul Daily Press* must have heard rumors of deals being negotiated for votes for Chief Justice because in an editorial on the day of the convention, it warned against "any attempt to bargain away the highest judicial office in the State, in the general dicker of huckstering political conventions. We believe that the very respectable and intelligent body of gentlemen who comprise the large majority of this convention will protest as one man against any such shameless trafficking and tampering with the purity of the judicial office." September 9, 1869, at 1. But that, according to the *Dispatch*, is exactly what happened.

⁴² *St. Paul Daily Press*, note 37. Actually there were sixteen counties in Austin's Sixth Judicial District. See Stat. c. 64, Title II, §23, at 417 (1866) (The counties of LeSueur, Sibley, Nicollet, Blue Earth, Faribault, Martin, Jackson, Nobles, Rock, Pipestone, Murray, Cottonwood, Watonwan, Red Wood, Brown, Renville, Chippewa, Lac qui Parle and Bigstone constitute the sixth judicial district.).

subtracted from Ripley's votes, the totals for the two offices are nearly identical).

And so, finally, we have answers to the puzzle: How did Ripley do it? Ignatius Donnelly's entry into the Governor's race spurred the formation of a coalition lead by Hennepin County and First District delegations to defeat him and support Ripley, and that plus the delegates' fervent belief in the importance of the candidates' "locality" handed him the prize.

The Democrats Nominate Charles E. Flandrau.

Charles Eugene Flandrau was the Republican nominee for Chief Justice. He was a forty-one year old Minneapolis lawyer (he later moved to St. Paul). He was appointed to the Territorial Supreme Court by President Buchanan in 1857, and elected in October 1857 to serve on the Court after statehood. There he served until July 1864, when he resigned to accompany his friend and fellow Justice, Isaac Atwater, to Nevada where the latter made money to satisfy his creditors.⁴³ The *Saint Paul Pioneer*, a Democratic paper, had this editorial about him:

The Chief Justiceship, and judicial officers generally, ought not to be made political offices. The duties that they involve are not political, nor administrative; they relate purely to the determination of rights as they exist between men of all parties, and with which the attachments, biases, and inclinations generated by political action ought never to interfere.

The late radical State convention, however, placed in nomination for this office a thorough and unprincipled partizan. He was made a candidate by the corrupt bargain to control the action of that convention. This course by that party left the Democratic convention no alternative. It was obliged to place a candidate for that office in the field.

⁴³ Penny A. Petersen, "Isaac Atwater" 12 (MLHP, 2012).

The convention discharged this duty, imperatively demanded at its hands, in the most acceptable manner possible. The Hon. C. E. Flandrau was a Judge of the Supreme Court of this State during the first seven years after the admission of the State into the Union. In that capacity his decisions, and his clear judicial mind, formed the subject of general eulogy. He was one of the best judges that ever sat upon the bench of this State. The person nominated for this great office on the radical ticket, is in no way his equal. In legal learning, in judicial experience, in all the qualities that make a good a judicial officer, Judge Flandrau is infinitely the superior of Mr. Ripley. The people will elect him, if they are determined, in spite of party, to secure a good Chief Justice.⁴⁴

The *Pioneer* then compared the two political conventions, beginning with a scathing description of the Republican convention. It is vintage nineteenth century political rhetoric:

They [the Republicans] were a profane, boisterous, drinking mob. Outside managers, leaders of corrupt cliques, pimps and go-betweens, were even more numerous and more noisy than the members of the convention. As the hour approached for the convention to meet, the throngs in the bar-rooms of the hotels, on street corners and in liquor saloons swayed against each other; they swelled and thickened and gave the city the appearance of a riotous carnival.

At this point of time, the buying and selling of the delegates and the offices was the business of every hand. Lurking in dark corners away from the public gaze, in private rooms paid for as the dens of the thieves, or openly, over whisky and cigars, the radical delegates were purchased for one candidate, and transferred from one to another, or bargained for violated pledges or broken oaths. Through all the city corruption sneaked and crawled, or

⁴⁴ *St. Paul Pioneer*, September 24, 1869, at 1.

strutted in open and brazen effrontery, defying the shame of publicity and reckless of the most open exposure. In one hiding place the conspirators planned the slaughter Donnelly; on another open corner, the intrigue for Gilfillan's defeat was perfected; in houses of prostitution, and in other retreats of infamy, the delegates retired between the proposition and the consummation of bargains, and while their leaders were higgling about the terms upon which the votes were to be gained or lost.

The convention itself was composed of the same set of politicians, demagogues, shysters and mountebanks, that have represented the radical party in the State since it has had an existence – the old smooth bores and worn out hacks; the members of the little, local cliques, the four corner loafers and wayside political hucksters who have been brought and sold by every faction in turn, during the last ten years....Their expenses to reach here had been contributed from a fund raised by black mail and thievery for that purpose. When they came together, there was a tumultuous scene of turmoil and strife; bad passions and revengeful hates encountered each other on each side and at all hands. Fraud and rascality were the ruling powers in deciding each consecutive ballot as it was taken. The total result was the most infamous indecency ever perpetrated upon the people of a State.

In marked contrast to every feature of this disgraceful scene, was assembly of delegates that formed the Democratic Static State Convention, yesterday. It was composed of honest men, who earn their living honestly, by their labor, their business in trade or their profession. They had no time, (except for a great and urgent purpose,) to spare away from their everyday pursuits at home. For that reason they did not generally arrive until the last boat or train reached here, previous to the hour of the meeting of the convention. The entire business, even to perfecting the platform, was completed at the open session of the

Convention; for the announcement of their principles was the most important labor they had to perform.⁴⁵

Republican newspapers could not resist harpooning Flandrau. This from the *Mankato Union Weekly*:

Judge Flandrau is the only man on the ticket whose name relieves it from the charge of mediocrity. He is not simply a dashing political Hotspur, but a jurist of no mean pretensions. In politics he's afflicted with rabies. He is a more virulent copperhead than even the Democratic rebels of Alabama and Mississippi. They accept Negro suffrage. He insisted that opposition to the 15th amendment should be a plank in the platform. Mr. Ripley is every way his peer in legal attainments, and in the graces of manhood, and more than his peer in breadth of mind and earnestness of purpose, which led him, at the outbreak of the rebellion, to range himself on the side of his country.⁴⁶

The Temperance Party Nominates Edward O. Hamlin

At noon on October 6, 1869, the State Temperance Convention assembled at Ingersoll Hall in St. Paul to nominate, for the first time, a slate of state-wide candidates favoring prohibition. After passage of the usual resolutions and the platform, candidates for Chief Justice were nominated. The *Saint Paul Pioneer* described the proceedings:

Rev. Mr. Copp, of Sauk Rapids, nominated Hon. E. O. Hamlin, of Stearns county.

M. D. Bartlett, of Minneapolis, nominated A. H. Young, Esq., of Hennepin county.

The chair appointed Charles Hoag and Wm. A. Bentley as tellers.

⁴⁵ Id. (the first paragraph has been reworded as it was garbled in the original)

⁴⁶ *Mankato Union Weekly*, October 8, 1869 at 2 (emphasis in original).

The ballot resulted as follows: Hamlin, 28; Young, 7; scattering 1.

Hon. E. O. Hamlin was declared the nominee for Chief Justice.⁴⁷

Edward O. Hamlin was forty-one years old, a former Democrat and a well known St. Cloud lawyer. He served as judge of the First Judicial District (later designated the Fourth) from October 1858 to December 1859 and made several unsuccessful runs for state-wide office thereafter.⁴⁸ If this nomination was an honor, it may also have been a surprise because, according to the *St. Cloud Journal*, "It is generally known here that Judge Hamlin's name was placed on the Temperance ticket, as a candidate for Chief Justice, without his knowledge or consent."⁴⁹ In any event, the new party's slate was published in papers around the state. The Temperance Party ticket was published in the *Chatfield Democrat*, on October 9, 1869:

The Temperance Convention.

Notwithstanding the attempted whipping in and ridicule of the temperance men of State, they did hold a State Convention at St. Paul on the 6th inst, which was well attended. The members were bold and enthusiastic in their proceedings, and everything but complimentary to the republican party for the treatment they received from the late convention at St. Paul.

A full State Ticket was placed in nomination, as follows:

A full State Ticket was placed in nomination, as follows:

Chief Justice—E. O. HAMLIN, of Stearns county.

Governor—Rev. D. COBB, of Olmstead county.

Lieut. Governor—JOHN H. STEVENS, of Hennepin county.

Secretary of State—E. J. THOMPSON, of Houston county.

Auditor.—C. C. COMEE, of Waseca county.

Attorney General—J. HAM DAVIDSON, of Ramsey county.

Clerk of supreme court—A. P. CONNELLY, of Ramsey county.

⁴⁷ *St. Paul Pioneer*, October 7, 1869, at 1.

⁴⁸ Hamlin (1828-1895) was appointed First District Court judge in October 1858 to succeed James Hall, who resigned. In the election in November 1859, he was defeated by Charles E. Vanderburgh. In 1861, running for governor as a Democrat, he was defeated by Alexander Ramsey. In 1864, he ran as a Democrat for a seat on the Supreme Court, but in a "top-two" election, Samuel J. R. McMillan and John Berry were elected.

⁴⁹ *St. Cloud Journal*, October 14, 1869, at 2.

As a separate political organization, the temperance party posed the greatest threat to the Republican Party. Republican newspapers such as the *Minneapolis Tribune* criticized the motives of the temperance leaders:

It is impossible, under any recognized rules of evidence, to account for the organization of the temperance party, and the nomination of a ticket to be voted for at the coming election, without imputing to its managers a desire to cripple the republican party, and to help its opponents to a victory.⁵⁰

The *Mower County Transcript* advised the prohibitionists to work within the Republican Party:

The temperance people of Minnesota are just now engaged in a misguided movement. Being mostly Republicans they are likely to make trouble in the Republican Party. They have planted themselves upon certain ground and say to either of the great parties, "Come to us and we will be with you." Their doctrine is prohibition as a political creed. The Democratic Convention will repudiate them at once. So very likely will the Republican. This leaves to them their threatened alternative of nominating a third State Ticket.

Nothing is more to be desired than temperance rulers. Drunkenness is the bane and disgrace of our national councils. But these temperance reformers have taken a wrong way to accomplish a very good result. The right way is to go to work in republican style among the people and see that none but temperance men are nominated for office.⁵¹

⁵⁰ *Minneapolis Tribune*, October 26, 1869, at 1 ("The Cause of Temperance").

⁵¹ *Mower County Transcript*, September 2, 1869, at 2 ("Temperance in Politics").

The fledging party, with one plank in its platform, did not do as well in the November election as its founders hoped. Its goal was reached a half century later when the Eighteenth Amendment was ratified.⁵²

The People's Conventions

There were other internal threats to the Republican Party that year as well. Lurking here and there around the state were dissidents chafing under local Party rulers, good-government activists from both parties and others who came together for "People's Conventions." The *Chatfield Democrat* endorsed local candidates proposed by the "people's convention" in Preston, the Fillmore County seat:

The people's convention held in Preston on the 8th inst. has been the ruling sensation in this county since its adjournment. We had not the pleasure of being present on that occasion, but are informed that it was the largest convention ever held in Fillmore county, and composed of the substantial men of both political parties. . . . It was proposed by a very large and respectable portion of the republican party, and seconded by the whole democratic party, with a few exceptions. That portion of the republican party, we believe a large majority, who set the project on foot on foot, have reached that point where forbearance ceases to be a virtue in submitting to the tyranny, and corrupt rule of a few men known as the "Court House Clique," or the Easton Butler, Braden & Co., "Ring." The Democracy who have ever fought this most corrupt combination of money and political trickery, gladly embrace the opportunity offered, laying politics aside, to aid in the plan of ousting these political shysters from the public trust, and placing honest men in their places. . . .

⁵² The Eighteenth Amendment which prohibited "the manufacture, sale or transportation of intoxicating liquors" within the United States was ratified on January 16, 1919, and repealed on December 5, 1933, with the passage of the Twenty-First Amendment.

Vote the "Peoples Ticket," the candidates upon which are pledged in favor of reducing the oppressive taxation upon the people, to drive the "money changers" from the court house, and in every way reduce the county expenses. . . . If you wish to break up a dangerous faction that use the public money to enrich themselves, and maintain their power over you, vote for the People's Ticket.⁵³

One week after the Republican State Convention, *The Federal Union*, a paper in Rochester, carried the following story, which must have alarmed party regulars: ⁵⁴

A Republican informs us that the following copy of a paper, which he hands us with a request to publish, has received signatures of Republicans in nearly every township of the [Olmsted] County embracing even the names of some who were delegates to the Republican County Convention.

PEOPLES CONVENTION.

The undersigned, voters and tax-payers of Olmsted county, interested only in good government and in securing equal and exact justice to all, and not being satisfied with the organization of political parties as at present constituted, hereby invite all electors who sympathise with these briefly expressed views, to meet us in County Convention at the Court House in the City of Rochester on Friday, 22d October, 1869, at 12 o'clock, M., for the purpose of considering the public safety and welfare.

MANY REPUBLICANS

⁵³ *Chatfield Democrat*, October 16, 1869, at 2.

⁵⁴ *The Federal Union* (Rochester, Olmsted County), October 16, 1869, at 2.

A long letter to the editor of the *St. Paul Pioneer* in early October, captioned "A Secret Donnelly Republican Movement" shows the lingering bitterness of the supporters of the Sage of Nininger.⁵⁵

The fact is, the friends of Donnelly are much disgusted and in every direction are preparing to manifest their disgust by action at the polls. In traveling over a good part of the Second Congressional District lately, I have two or three times come across a People's State Ticket, which is being secretly circulated amongst the Donnelly republicans. I enclose the ticket as follows:

PEOPLE'S DONNELLY STATE TICKET. }
Chief Justice—C. G. Ripley, (Rep.)
Governor—George L. Otis, (Dem.)
Lieutenant Governor—Wm. H. Yale, (Rep.)
State Auditor—L. A. Evans, (Dem.)
State Treasurer—Emil Munch, (Rep.)
Attorney General—Seagrave Smith, (Dem.)
Clerk of Supreme Court—Sherwood Hough,
(Rep.)
Secretary of State—T. G. Fladeland, [Dem.]

The People's Conventions were insurrections in several counties, inspired by local conditions, and never came together to form a recognizable state-wide political party.⁵⁶

⁵⁵ Reprinted in the *Chatfield Democrat*, October 16, 1869, at 2 (excerpt). The author called himself "Democratic Progress."

⁵⁶ On September 23, 1869, the *St. Paul Pioneer* published an invitation to "The People of the State of Minnesota" to send delegates to a Peoples' Convention in Ingersoll Hall in St. Paul on October 7th to nominate a slate of state-wide candidates. See Appendix 2, at 52. It apparently was not held. Minneapolis and St. Paul papers carried long accounts of a "Methodist Convention" that day but nothing about a People's Convention.

The People's Conventions became targets for some Republican satirists. The following is an excerpt from a letter to the editor of the *St. Cloud Journal*, a Republican paper, giving "a plain, unvarnished tale" of how a recent convention of Wright County Democrats negotiated a ticket with a local "people's convention" comprised of "soreheads":

At this juncture a gentleman appeared who was supposed to be a "sore-head," and claimed that he was the representative of a People's Convention, at that time assembled in solemn conclave on an adjoining pile of logs, and requested that a committee of three be appointed to confer with a like committee from said People's Convention, to the end that said committee of conference should attempt to agree on a mixed ticket. He retired to the pile of

The Campaign

Political parties waged election campaigns on three fronts in the 1860s. Newspapers were openly partisan and the party relied upon them to spread the party line and publicize the names of its candidates. A newspaper usually printed the slate of candidates of the party it supported in the upper left corner of the first or second page.⁵⁷ The home county of each candidate was noted.

The St. Paul Daily Press.

SAINT PAUL, SEPTEMBER 10, 1869.

REPUBLICAN STATE NOMINATIONS

FOR GOVERNOR,
HORACE AUSTIN,
OF NICOLLET.

FOR LIEUT. GOVERNOR,
WILLIAM H. YALE,
OF WINONA.

FOR SECRETARY OF STATE,
HANS MATTSON,
OF MEEKER.

FOR AUDITOR OF STATE,
CHARLES McILRATH,
OF NICOLLET.

FOR TREASURER,
EMIL MUNCH,
OF PINE.

FOR CHIEF JUSTICE SUPREME COURT,
C. G. RIPLEY,
OF FILLMORE.

FOR ATTORNEY GENERAL,
F. R. E. CORNELL,
OF HENNEPIN.

FOR CLERK OF SUPREME COURT,
SHERWOOD HOUGH,
OF RAMSEY.

REPUBLICAN STATE TICKET.

FOR CHIEF JUSTICE SUPREME COURT,
U. G. RIPLEY,
OF FILLMORE.

FOR GOVERNOR,
HORACE AUSTIN,
OF NICOLLET.

FOR LIEUTENANT GOVERNOR,
WILLIAM H. YALE,
OF WINONA.

FOR SECRETARY OF STATE,
HANS MATTSON,
OF MEEKER.

FOR AUDITOR OF STATE,
CHARLES McILRATH,
OF NICOLLET.

FOR TREASURER,
EMIL MUNCH,
OF PINE.

FOR ATTORNEY GENERAL,
F. R. E. CORNELL,
OF HENNEPIN.

FOR CLERK OF SUPREME COURT,
SHERWOOD HOUGH,
OF RAMSEY.

logs, and after considerable discussion, J. Gutzwiller, J. Z. Cochrane and W. W. Brazie were appointed that committee, and after conferring with the other committee they returned and reported the following ticket:

[four Democrats and four "soreheads"]

After some good reasons were presented, the Convention adopted the report, and the nominations were declared unanimous, (under protest.)

St. Cloud Journal, October 28, 1869, at 3.

⁵⁷ Besides the slate of state-wide candidates, newspapers also printed the party's slate for county offices. At this time the parties endorsed candidates for minor county offices, remote from politics, such court commissioner, county surveyor and county coroner.

The Party's slate was published in newspapers serving immigrant communities, such as the following in the German language *Minnesota Staatszeitung* (St. Paul), on September 23, 1869. The Democratic Ticket was published by the *St. Paul Pioneer*, October 8, 1869:

DEMOCRATIC STATE TICKET.

FOR GOVERNOR,
GEORGE L. OTIS,
Of Ramsey County.

LIEUTENANT GOVERNOR,
J. A. WISWELL,
Of Blue Earth.

SECRETARY OF STATE,
T. G. FLADELAND,
Of Fillmore.

AUDITOR OF STATE,
LOUIS A. EVANS,
Of Stearns.


ATTORNEY GENERAL,
SEAGRAVE SMITH,
Of Dakota.

STATE TREASURER,
CASPAR BABERICH,
Of Niccolet.

CHIEF JUSTICE OF SUPREME COURT,
CHARLES E. FLANDRAU,
Of Hennepin County.

CLERK OF SUPREME COURT,
W. T. BONNIWELL,
Of McLeod.

MINNESOTA STAATSZEITUNG



Donnerstag, den 23. September 1869.

Republikanische Staats-Nominationen.

Für Gouverneur:
Horace Austin,
von Nicollet.

Für Lieut. Gouverneur:
William S. Yale,
von Winona.

Für Staats-Secretär:
Hans Mattson,
von Meeker.

Für Staats-Auditor:
Charles McBreath,
von Nicollet.

Für Staats-Schatzmeister:
Emil Münch,
von Pine.

Richter der Supreme Court:
C. G. Ripley,
von Fillmore.

General Anwalt:
F. H. C. Cornell,
von Hennepin.

Für Clerk der Supreme Court:
Herwood Hough,
von Ramsey.

Individual candidates did not published separate campaign ads in 1869. Personal or individual ads appeared occasionally in the late 1890s and regularly after the introduction of primary elections in 1912.

The newspapers also published the schedules of their candidates' speeches and rallies and afterwards accounts of what was said. Republican papers printed the itineraries of Judge Austin and William Yale but not of Ripley. He did not give stump speeches. This may have been due to his natural reticence and to a belief that political speechifying was improper for a judicial candidate. He presided over a Republican political rally on October 18th in Chatfield and said little. It was sparsely attended, which the *Chatfield Democrat* gleefully noted:⁵⁸

The Speaking Monday Night.

On Saturday last posters were circulated in every direction in this vicinity announcing that Honorables THOS. WILSON and WM. H. YALE, would address the people at Chatfield, on Monday evening, the 18th inst. The time arrived and so did the speakers. The school house bell rang, and rang, and rang, and again it rung, and rung, and rung, until 8 o'clock for the faithful, but the response was weak.— There was just 56 persons in the hall, made up as follows from our own personal count :

- 10 Ladies.
- 15 Democrats,
- 9 Boys, not voters,
- 2 Pedler's, non-residents,
- 19 Republican voters,
- 2 Speakers.

Over this vast assembly C. G. Ripley Esq. acted as Chairman, and our "worthy Postmaster," as one of the speakers called him, made himself generally useful as well as ornamental. He said no stamping of feet would be allowed, but all applause should be by the clapping of hands, therefore he assumed a conspicuous position in front of the audience in order that he could indicate to the "large and respectable assembly" the proper time to give the speakers the clap.

Finally and most important, parties relied upon word-of-mouth advertising by loyal members (what is called the "base" a century later) for their ticket—that is, they expected their members to speak favorably to neighbors and friends about their candidates, criticize their opponents, and encourage them to vote a straight party ticket.⁵⁹ Candidates for the office of Chief Justice, however, are usually not the subject of casual political discussion.

⁵⁸ *Chatfield Democrat*, October 23, 1869, at 3. This is an excerpt from a full column article.

⁵⁹ The parties themselves prepared the ballots for voters to use at this time.

The Election

Ripley was elected Chief Justice of the Minnesota Supreme Court on November 2, 1869.⁶⁰ The vote totals were:

Christopher G. Ripley (Republican).....	25,899
Charles E. Flandrau (Democrat).....	22,206
Edward O. Hamlin (Temperance).....	1,440
Scattering.....	492

He received 51.8% of the vote, Charles Flandrau received 44.4% and Edward Hamlin received 2.9%. Chatfield Township voted Democratic except for the post of Chief Justice which Ripley won by a wide margin; of the 285 votes cast, he received 170 to Flandrau's 115.⁶¹

Horace Austin was elected Governor and all other Republican candidates for state-wide offices prevailed. A comparison of the votes in these contests shows that fewer votes were cast for Ripley than other Republican candidates.⁶² The election was closer than many expected—nothing like the landslide the Party won a year earlier when Ulysses Grant was elected President.⁶³

⁶⁰ *Journal of the House of Representatives*, 12th Sess., Wednesday, January 5, 1870, at 11. "Scattering" is today called "write-in" votes.

⁶¹ *Chatfield Democrat*, November 5, 1869, at 3. For Governor, George Otis received 152 votes to 134 for Judge Austin; for Lieutenant Governor, J. A. Wiswell received 155 to William H. Yale's 130; and for Attorney General, Seagrave Smith received 152 to F. R. E. Cornell's 134. The *Democrat* began its account of the election with this declaration:

The late election in this Town must be highly gratifying to the noble band of men who, setting aside all political feeling, stood shoulder to shoulder in support of the Peoples ticket, and by their independence have taught the political shysters of this town and county a lesson that will not be soon forgotten. They have set their seal of condemnation upon the unwarrantable use of the peoples money for speculative purposes by a small band of sharks who claim to own and run the county for their own selfish ends.

⁶² The vote totals for state-wide offices are posted in the Appendix 4, at 54-55.

⁶³ An insightful analysis of the gubernatorial contest was published in the *Saint Peter Tribune* on November 10, 1869. It is posted in Appendix 6, at 59-63.

Ripley Closes His Law Practice.

Ripley had two months to close his law practice before being sworn into office in January 1870. Fortunately Judge Lloyd Barber held the Fall term of the District Court in Preston, the seat of Fillmore County, on November 9, 1869. The proceedings were published in county newspapers, including the *Chatfield Democrat*.⁶⁴

There were thirty-eight cases on the civil calendar and thirteen criminal cases. Because Ripley had not practiced for much of the year due to his illness, he probably had more cases on the docket than usual. He appeared in twelve civil cases and one criminal. He is listed as the sole lawyer in eight civil cases and as co-counsel in four others. He represented the plaintiff in nine civil cases and the defendant in three. He appeared in one criminal case in which the charges were dismissed.

Except for two suits against the County, one against Rushford Township and one against a corporation, the civil cases pitted one individual against another. It is likely that many of these were collection cases—that is, suits to recover small sums. The only corporation on the docket was Union Packet Company, sued by Ripley's client Benjamin Dodge (oddly its attorneys were listed as "Allis, Gilfillan & Williams"). Most cases were settled, dismissed or continued; a few were sent to arbitrator or a referee.⁶⁵ Trials took hours not days. These cases were typical of the ones Ripley handled while practicing law in Chatfield for the past thirteen years. They were not complex lawsuits.

⁶⁴ *Chatfield Democrat*, November 20, 1869, at 3. It is posted in the Appendix 5, at 56-58.

⁶⁵ Trial by referee was similar to arbitration. The law on referees was 1869 Laws, c. 72, at 86 (effective March 5, 1869); codified as Stat., Supplement, c. 53, §12, at 978-79 (1873).

Conclusion

From reading contemporary newspapers it seems that no one was very surprised by the nomination of Christopher Gore Ripley to be Chief Justice of the Minnesota Supreme Court by the Republican State Convention on September 9, 1869, or his election on November 2, 1869. A few newspapers complained about the process but not about him. Party people seemed to accept that this is just the way the political system worked. Judges were elected almost like legislators or county coroners—James Gilfillan was in, then out, replaced by someone from Fillmore County.

Looking closely at the composition of the Court from the mid-1860s to the mid-1870s we see one reason why this feeling may have taken hold. This decade was a period of extraordinary instability on the Court. Between July 1864 and May 1875, there were six Chief Justices: Emmett (1858-1865); Wilson (1865-1869); Gilfillan (1869-1870); Ripley (1870-1874); McMillan (1874-1875) and Gilfillan again (1875-1894). There were five Associate Justices during this period: Wilson, McMillan, Berry, Young and Cornell. Nine different men served on the three-member Court during this decade. Justices came and went. The displacement of a Chief Justice was not unusual.

There have been two other periods of what might be called “compositional instability” on the Court: from the mid-1890s to around 1912, and more recently from about 2008 to the present time. What are the effects of such turbulence on the Court itself, the lower courts, the bar and the administration of civil and criminal justice in the state? That is still another topic for future legal historians and Court scholars.

Christopher G. Ripley took office on January 7, 1870. On October 7, 1873, the Fall Term of the Court was cancelled due to his “sudden illness.” He resigned effective April 1, 1874.

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Preface

The documents reproduced in this Appendix will provide viewers with more information about the politics of the election of 1869. They are cited in footnotes in the foregoing text, and some provide more general background of Republican politics of the period. Judicial contests such as that between James Gilfillan and Christopher Ripley are not mentioned in political memoirs such as Harlan Hall's or in survey histories of the state. The dramas of elections to the District Courts and the Supreme Court in the nineteenth and early twentieth centuries have been overlooked by historians.

1. Ripley is Nominated for District Court Judge, August 31, 1864.

On Wednesday, August 31, 1864, the Republican Party held the Third Judicial District Convention in Winona to endorse a candidate for District Court Judge. There was a vacancy because Governor Stephen Miller had elevated Judge Thomas Wilson to the Supreme Court. Four of the five counties in the Third District sent delegates. Christopher Ripley was not among Fillmore County's eight delegates. Lloyd Barber from Olmsted was nominated as was Ripley and Chauncey Waterman from Winona. After an informal ballot, Ripley picked up Waterman's sole vote but still lost to Barber, 12-11. This account of the convention is based on the following article in the *Winona Daily Republican* on September 5, 1864 (we are fortunate to have this short article as the pages of the papers were filled with war news at the time).⁶⁶

On September 12, the Governor appointed Barber to the District Court. In the November election, Barber received 6,843 votes, Waterman, a Republican nominated by the Democrats, received 4,315 votes and Ripley received 78 write-in votes.⁶⁷

⁶⁶ A slightly different account of the Convention was told by Charles C. Willson in memorial services for Lloyd Barber in Winona County District Court on June 1, 1915. He does not mention Ripley. 1 *Minnesota Historical Bulletin* 200-226 (Minn. Hist. Soc., 1916). Willson, it should be noted, was not listed as a delegate to the Convention in the *Winona Daily Republican* article.

⁶⁷ *Journal of the House of Representatives*, January 5, 1865, at 17-18.

Third Judicial District Convention.

In pursuance of a call by the Union District Committee, this Convention met at the Court House in this city on Wednesday morning at 10½ o'clock. Upon being called to order Judge ABNER LEWIS of Winona was appointed temporary chairman, and E. McMURTRIE of Fillmore chosen Secretary.

After the appointment of the usual committees the Convention adjourned until 2 o'clock p. m.

On re-assembling in the afternoon the following delegates were found to be present and entitled to seats:

Fillmore County—N. P. Colburn, Luke Miller, W. P. Belding, M. McLarty, J. Day, H. A. Billings, A. H. Butler, E. McMurtie.

Olmsted County—J. V. Daniels, G. W. Baker, L. B. Bliss, A. Harkin, H. Loomis, M. W. Clay, Chas. Morrill.

Houston County—D. Cameron, G. F. Potter, — Prentiss, — Craig.

Winona County—Abner Lewis, William Mitchell, E. A. Gerdtzen, S. H. Brown.

The county of Wabashaw was without a representation, owing no doubt to the delay in the arrival of its delegates. Only one half of the delegates from Winona county were in attendance. After some preliminary proceedings and considerable discussion upon receiving substitute delegates from the county of Wabashaw the Convention proceeded to the nomination of a candidate for Judge of the Third Judicial District. On the 1st, an informal ballot, the result was as follows:

L. BARBER, of Olmsted.....12
 C. G. RIPLEY, of Fillmore.....10
 C. N. WATERMAN, of Winona..... 1

The first formal ballot resulted as follows:

L. BARBER.....12
 C. G. RIPLEY.....11

Whereupon L. BARBER, of Olmsted county, was declared the nominee of the Convention.

The chairman was instructed to make the appointment of a District Committee, when the Convention adjourned.

2. Announcements of State Conventions.

Mower Co. Transcript

AUSIN, MINN., SEPTEMBER 2, 1869.

Republican State Convention.

The Eleventh Annual Republican State Convention will be held at St. Paul on Thursday, the ninth day of September, A. M. 1869, for the purpose of nominating candidates for the following State officers to be filled at the next General Election, viz :

Chief Justice of the Supreme Court;
Governor;
Lieutenant Governor;
Secretary of State;
Attorney General;
Auditor of State;
State Treasurer;
Clerk of the Supreme Court.

The ratio of representation as determined by the last State Convention, is based upon the Presidential vote, and entitles the several counties to the following apportionment :

Anoka,	3	Meeker,	3
Benton,	2	Mille Lac,	1
Blue Earth,	8	Monongalia,	3
Brown,	4	Morrison,	1
Carlton,	1	Mower,	7
Carver,	4	Nicolet,	4
Cass,	1	Olmsted,	10
Chippewa,	1	Otter Tail,	1
Chisago,	3	Pine,	1
Crow Wing,	1	Pope,	2
Dacota,	7	Ramsey,	8
Dodge,	5	Redwood,	2
Douglas,	3	Rice,	8
Faribault,	7	Renville,	2
Filmore,	12	St. Louis,	1
Freeborn,	7	Scott,	3
Goodhue,	13	Sherburne,	2
Grant,	1	Sibley,	3
Hennepin,	14	Stearns,	5
Houston,	7	Steel,	6
Isanti,	2	Stevens,	1
Jackson,	2	Todd,	2
Kanabec,	1	Wabashaw,	8
Kandiyohi,	2	Waseca,	4
Lake,	1	Washington,	5
Le Sueur,	5	Watonwon,	2
Manomin,	1	Winona,	11
McLeod,	3	Wright,	5
Martin,	3		

For the purpose of more thoroughly perfecting the Republican organization within our limits, The State Central Committee hereby recommends the appointment of a County Committee consisting of one active Republican from each election precinct in the county, who shall act as chairman of his precinct committee, and be elected at the primary meetings held pursuant to this call.

All who supported the nominees and principles of the Republican party at the last Presidential election are cordially invited to take part in sending delegates to this Convention.

F. DRISCOLL,
H. A. KIMBALL,
S. R. THAYER,
D. SINCLAIR,
M. S. CHANDLER,
L. W. COLLINS,
W. H. SIEGLER.
Committee.

Saint Paul Pioneer.

A DEMOCRATIC JOURNAL.

PUBLISHED

Daily, Tri-Weekly and Weekly,

BY THE

PIONEER PRINTING COMPANY

ST. PAUL, THURSDAY, SEPT. 23.

Democratic State Convention.

A State Democratic Convention will be held in St. Paul, on the 23d day of September, 1869, at Ingersoll's Hall, at 11 o'clock, A. M., to place in nomination candidates for the following offices to be filled at the next General Election:

GOVERNOR.
LIEUTENANT GOVERNOR.
CHIEF JUSTICE OF SUPREME COURT.
SECRETARY OF STATE.
ATTORNEY GENERAL.
AUDITOR OF STATE.
STATE TREASURER.
CLERK OF THE SUPREME COURT.

Representation in the Convention has been appointed as follows:

Anoka	2	Mille Lac.....	1
Benton.....	2	Morrison.....	1
Blue Earth.....	6	Nicollet.....	4
Brown.....	2	Ousted.....	8
Carver.....	6	Pine.....	1
Cass.....	1	Ramsey.....	14
Chicago.....	1	Rice.....	7
Crow Wing.....	1	Scott.....	10
Dakota.....	12	Sherburne.....	1
Dodge.....	3	Sibley.....	6
Douglass.....	2	Steele.....	2
Faribault.....	2	St. Louis.....	1
Fillmore.....	10	Stearns.....	9
Freeborn.....	2	Todd.....	1
Goodhue.....	7	Wabashaw.....	6
Houston.....	6	Waseca.....	3
Hennepin.....	12	Washington.....	5
Isanti.....	1	Watsonwan.....	1
LeSueur.....	7	Winona.....	10
Manomin.....	1	Wright.....	4
Martin.....	1	Jackson.....	1
Mower.....	1	Kanabec.....	1
McLeod.....	2	Red Wood.....	1
Meeker.....	2	Pope.....	1
Otter Tail.....	1	Monongalia.....	1
Lake.....	1	Carleton.....	1
Renville.....	1	Kandiyohi.....	1

By order of the Democratic State Committee.
CHARLES E. FLANDRAU,
Chairman.

JAMES J. GREEN, Secretary.

St. Paul Pioneer,
September 23,
1869.

There are no newspaper
accounts of this convention.
It may not have
been held.

Saint Paul Pioneer

PEOPLE'S STATE CONVENTION.

To the People of the State of Minnesota.

Acting upon the authority voted by the People's Convention of Goodhue County, held at Hader on the 11th September inst., the undersigned invite you, without regard to party names or party political associations, to meet in convention at Ingersoll Hall, in the City of St. Paul, on Thursday, the 7th day of October next, at one o'clock, P. M., to nominate candidates for State offices, by the election of whom the People may rebuke the abuses of party management, and reform the administration of our State affairs.

We suggest, as a fair basis of representation for the several Counties, the following apportionment of Delegates.

FRANK IVES,
E. ELLSWORTH,
T. E. COOPER,
WM. S. GROW,
Central Committee.

September 14, 1869.

Anoka	3	Mecker	3
Benton	2	Mower	3
Blue Earth	7	Mille Lac	1
Brown	3	Monmouth	2
Carlton	1	Morrison	1
Carver	5	Nicollet	4
Cass	1	Olmsted	9
Chippewa	1	Otter Tail	1
Chisago	2	Pine	1
Crow Wing	1	Pope	1
Dakota	10	Ramsey	10
Dodge	4	Red Wood	1
Faribault	5	Rice	8
Douglas	2	Renville	1
Fillmore	11	St. Louis	1
Freeborn	5	Scott	6
Goodhue	10	Sherburne	1
Houston	7	Stevens	2
Heanepia	13	Sibley	3
Isanti	1	Stearns	7
Le Sueur	6	Steele	2
Manomin	1	Tood	4
Grant	1	Wabashaw	7
Jackson	1	Waseca	5
Handyohi	2	Washington	5
Kanabec	1	Watonwan	1
Lake	1	Winona	11
McLeod	3	Wright	5
Martin	2		

Those interested are requested to call County Conventions to elect Delegates accordingly.
State papers please copy.

3. The Erroneous Endorsement of the *Mankato Weekly Union*.

In its September 17, 1869, issue the *Mankato Weekly Union* endorsed the Republican ticket. Here is its commentary on Ripley:

C. G. RIPLEY,
the nominee for Chief Justice, is like Judge Austin, a young man, though an old resident of the State. For the past ten years he has devoted himself assiduously to the study and practice of law and to the demands of a large private business. Yet before his coming to Minnesota, Mr. Ripley had won a solid reputation in Boston, as a lawyer of rising fame. The slang epithet, "pettifogger," applied to such a man by Democratic papers argues either the imbecility or the contemptibility of their editors. Why, don't these fellows know that Mr. Ripley has plead a great suit and won it, before a court where the judge was a King? It was in 1861, if we mistake not, that our government pressed to settlement certain claims against the government of Chili. By consent of both powers, the King of Belgium was chosen arbitrator. Certain Boston merchants were the owners

of these claims: Who should present their case before the King of Belgium? They said to Mr. Lincoln, we want a young lawyer of Minnesota, one C. G. Ripley, to argue our cause. He knows the merits of the whole case and we have confidence in his ability and integrity. Therefore Mr. Lincoln appointed Mr. Ripley Secretary of Legation to Belgium, that he might officially represent our government at a foreign court. Mr. Ripley went to Belgium and discharged his responsible duties to the full satisfaction of the President and the claimants. Added to Mr. Ripley's ability as a lawyer, he is the possessor of liberal and scholarly attainments second to no citizen within the State. Col. Gilfillan's remark, when told of the nomination of his rival, was: "A very competent gentleman!" Such, we predict will be the verdict in of the people in November.

In truth Abraham Lincoln did not appoint Christopher Ripley Secretary of the U. S. Legation to Belgium; and Ripley never appeared as an advocate in an arbitration proceeding in Belgium in 1861. That year he was at home with his wife in Chatfield, Minnesota, where he practiced law. The editors of the *Mankato Weekly Union* confused Ripley with Aaron Goodrich (1807-1887), the former Chief Justice of the Supreme Court of Minnesota Territory, who was appointed Secretary of the American Legation in Brussels by President Lincoln in 1861 and served until 1869. This seems to be the only reference before, during or after the 1869 election campaign to this falsehood.

4. Elections Results, November 2, 1869 ⁶⁸

Chief Justice:

Christopher G. Ripley (Republican).....	25,899
Charles E. Flandrau (Democrat).....	22,206
E. O. Hamlin (Temperance).....	1,440
Scattering.....	492

Governor:

Horace Austin (Republican).....	27,348
George L. Otis (Democrat).....	25,401
Daniel Cobb (Temperance).....	1,764
Scattering.....	12

Lieutenant Governor:

William H. Yale (Republican).....	29,456
James A. Wiswell (Democrat).....	21,745
John H. Stevens (Temperance).....	1,428
Scattering.....	30

Secretary of State:

Hans Mattson (Republican).....	29,287
T. G. Fladeland (Democrat).....	24,188
T. J. Thompson (Temperance).....	1,133
Scattering.....	242

State Auditor

Charles McIlrath (Republican).....	29,552
Louis A. Evans (Democrat).....	23,030
J. S. Randolph (Temperance).....	1,242

⁶⁸ Journal of the House of Representatives, January 5, 1870, at 11-12.

State Treasurer

Emil Munch (Republican).....29,691
Casper Baberich (Democrat).....23,328
Robert Stewart (Temperance).....1,479
Scattering.....35

Attorney General

F. R. E. Cornell (Republican).....29,300
Seagrave Smith (Democrat).....23,812
J. Ham. Davidson (Temperance).....1,348
Scattering.....49

Supreme Court Clerk

Sherwood Hough (Republican).....29,815
W. T. Bonniwell (Democrat).....23,279
A. P. Connolly (Temperance).....383
Scattering.....7

6. The District Court Calendar, Preston, Fillmore County, November 1869.

(As reported by the Chatfield Democrat)

THE DEMOCRAT

Saturday Morning, November 20, 1869.

District Court Calendar, Nov. Term '69, For Fillmore County.

	<i>Attorneys.</i>
1 Francis Bergenthal <i>vs</i> John Rank.	Lynds & Burroughs Attys: for Plff. Colburn and Wells for Def't.
Continued.	
2 S. L. Sheldon Alf. Sheldon <i>vs</i> Joanas Larson.	Colburn & Wells for Plf. J. R. Jones, for Deft.
Continued.	
3. Catharine Andrews <i>vs</i> T. S. Slingerland	Ripley, Colburn & Wells. Berry & Water- man.
Jury disagreed and cause continued.	
4. Elfif L. Tollifson <i>vs</i> James Rickard Settled.	Colburn & Wells Ripley & Jones.
5 Mary Manny <i>vs</i> Sam'l Huston	Colburn & Wells G. E. Dexter.
Defendent allowed to amend ans. on pay't of costs—continued.	
6 W. L. Crawford <i>vs</i> Miles W. Dodd Referred to H. R. Wells to try	J. R. Jones. C. G. Ripley. and report judg't
7 John Collins <i>vs</i> James McAdams continued by consent.	C. G. Ripley. J. R. Jones.

- 8 J. R. Griswold vs C. G. Ripley.
W. H. Richards & A. Kalder vs Colburn & Wells.
Settled.
- 9 Peder Nilson, resp't. vs Halver Peterson, appl't. E. Donaldson for resp't Colburn & Wells, for appl't. Judgment reversed.
- 10 John Benson, Resp't. vs John Faley, Apl't Colburn & Wells for Appl't. Continued
- 11 Ann Goodrich vs W. W. Beers. E. Donaldson, for plff. Colburn & Wells, for dft.—Settled.
- 12 W. H. McLard, vs Board of Co. Com'rs. J. D. Farmer, Co. Atty. for dft's. Dismissed.
- 13 James Crowley vs Perry Long. C. G. Ripley, for plff. Colburn & Wells for dft.—Verdict for Def't.
- 14 James Crowley vs Perry Long. C. G. Ripley, for plff. Colburn & Wells for def't.—Verdict for Def't.
- 15 Benj. Dodge vs N. W. Union Packet Co. C. G. Ripley and J. R. Jones, for plff. Allis, Gilfillin & Williams for def't. Continued by Def't.
- 16 Jos. T. Mulverhill vs John C. Drewes. C. G. Ripley for plff. Colburn & Wells for def't. Referred to Arbitrators.
- 17 Catharine McCabe vs Luke Miller. C. G. Ripley for plff. Colburn & Wells for def't. Submitted.
- 18 Ebin Novich vs Alex. Black, J. R. Jones for plff. W. H. Miner for def't. Continued.
- 19 Lars Toliffson vs John Nelson, J. E. Atwater for plff. E. N. Donaldson for def't.—Settled.
- 20 Lawrence Murphy vs Thos. Murphy.—Colburn & Wells for plff. J. R. Jones for def't. Continued.
- 21 Adam Drum vs Hugh Kennedy. Colburn & Wells for plff. J. R. Jones for def't. Continued.
- 22 C. Loging vs C. Hintze. Colburn & Wells for plff. J. Q. & J. D. Farmer, for def't. Continued.
- 23 Thos. Murphy vs C. W. Thompson Atwater & Donaldson for plff. Cameron & Losey for def't. Settled.
- 24 Rolland Williams, resp't. vs Arman Oleson, appl't. Colburn & Wells for Appl't. Return ordered.
- 25 Rezen Sherbondy vs Fred Welman.—Colburn & Wells for plff. C. G. Ripley for dft. Settled.

26 P. J. Love vs W. F. Gates. Colburn & Wells for plff. J. E. Atwater for def't. Discontinued.

27 J. P. Sharp vs A. H. Trow. J. R. Jones for plff. Colburn & Wells for def't. Settled.

28 Betsey Olson vs John Campbell. Jones & Ripley for plff. Berry & Waterman for def't. Settled.

29 Jacob McQuillan vs J. J. & Harvey A. McQuillan & Emillus Parsons. Colburn & Wells for plff. J. Q. & J. D. Farmer for def't.—Continued.

30 C. A. Wellman vs Fillmore County — R. Wells for plff. J. D. Farmer, Co. Atty.—Judgment for Plff.

31 same vs same. Judgment for Plff.

32 Daniel Morgan appl't vs Oscar E. Gail resp't. R. A. Murry for appl't. J. E. Atwater for resp't. Appeal dismissed.

33 Asa Demers & S. S. Stebbins vs The Town of Rushford, J. E. Atwater for plff. Colburn & Wells for def't. Judgment for def't.

34 Niles Johnson vs B. W. Benson, Colburn & Wells for plff, J. E. Atwater for def't, settled.

35 Alex Holley vs L. Woodell, Colburn & Wells for def't, continued

36 Philo Morse, resp't vs O. B. Morse, apl't Farmer for resp't, J. R. Jones for apl't, order for return

37 Columbia French vs Esther and John Payne, Colburn & Wells for plff, R. A. Murry for def't, referred to E. N. Donaldson

38 Wm Hazelton, resp't, vs E. Whitman, appl't, J. R. Jones for resp't, J. D. Farmer for appl't.

CRIMINAL CALENDAR.

State vs Mad. Harper Conrad Harper—J. D. Farmer, Co. Atty, C. G. Ripley for def'ts—dismissed

State vs Moeb and Zoska, lewdness—continued—Colburn and Wells for def'ts.

State vs Helleck Hellockson—Bastardy—not guilty. J. Q. Farmer for def't

State vs Jacob Jacobson—Bastardy—continued—Colburn and Wells for def't

State vs Alfred Weymouth—Bastardy—guilty—Colburn and Wells for def't

State vs B. Scoonover—Assault—continued—Colburn and Wells for def't

State vs D. M. Pitts—Larceny—continued—J. E. Atwater for def't

State vs D. M. Pitts—Larceny—continued—J. E. Atwater for def't

State vs Oleson & Helgesdatter—Incest—contin'd

State vs Geo. Lang—Larceny—continued—Colburn and Wells for def't

State vs M. Maloney—Assault—continued—J. R. Jones

State vs A. J. Welch—Larceny—Bail

State vs Freeman—Arson—continued—Colburn & Wells for def't

7. Analysis of the 1869 Election

**From the *Saint Peter Tribune*
November 10, 1869, page 2.**

THE LATE ELECTION.

The great annual agony is over, and as a smoke of the battle lifts from the face of the field of conflict, the dead, the dying, the crippled and badly wounded may be seen in all directions; some flat on their backs, some limping off the field, others struck with astonishment or writhing in agony, others again whistling as they limp along to make spectators think 'there's nobody hurt,' and still others hobbling off, grating their teeth, and turning to shake their fists "defiantly at the foe," as they leave the field, as much to say "I'll remember *this*, and you'll catch it next time." Even our gallant leader of the Republican forces got badly scattered (though not demoralized) and went to the rear to "rally." He may still be found very near his base of supplies, but yet a little in advance of "Gov. Otis," we believe.

The Democracy came near surprising us this time. The attack was made on all parts of our line, especially from the "rear," and we came near being forced to give way, but the panic has passed and the danger must not be allowed to recur.

What are the chief causes that have been conspired to so nearly defeat the Republican Party?

First: the general apathy and indifference of the people on all political matters during the campaign following the

Presidential election and the high political excitement which is swept the country like a prairie fire ever since the great rebellion broke out.

Second: the overconfidence of the Republican voters, inspired by the large majorities of last year, and the confident but delusive expectations that the “Democrats would not turn out to vote.”

When in the course in the history of the party were they ever known to fail? As soon expect a rattlesnake not to come out of his hole in the spring time, as to hope that a democrat will not instinctively find his way to the polls with all the certainty that the needle will point to the magnet. Verily, and the “Donnelly men” sometimes. Aye. and our “New Ulm friends” *occasionally*.

The special causes that tended to reduce Judge Austin’s vote and run him behind the balance of the ticket, may be enumerated as follows: 1st. A report industrially circulated by the Democrats in St. Paul and all that part of the State tributary to that city, that the Republican candidate for governor was *pledged* to a removal of the state capital.

Although the truth of this report was specifically denied by Judge Austin, the friends of Mr. Otis continued diligently and unscrupulously to apply it to all parts of the State where its influence would promote Democratic success. This charge was either believed or the truth of it feared by many Republicans were opposed to the removal, and this fact told fearfully on the Republican vote of St. Paul and vicinity. It was not enough for them that Austin was *not* pledged for or against the removal, but would act upon the merits of such a bill as upon other bills of general

importance; but he must be pledged *against* it, and to veto any bill for that purpose without regard to its merits. No candidate could give such assurances; no man would be fit for Governor who would make any such pledges. But the next best thing was to elect "a St. Paul man," and he could be relied upon to protect "St. Paul interests," with the veto power if necessary. Upon this policy at least a thousand voters, whose local interests were stronger than their loyalty to principles, deserted their party and voted directly for Mr. Otis. But we are not disposed to criticize these Republicans too severely for their adherence to what they called "local interests." It is not the highest principle of action, but is much more noble than, and hence to be preferred to, the little, petty, contemptible personal jealousies and blind envy which convert the people of smaller towns into such fools as to destroy all local pride and set their own interests at defiance for the sake of gratifying their envy and littleness. The weakness of such men is the advantage of their stronger and wiser neighbors.

The second cause to which we alluded as contributing to diminish Austin's vote, is the well understood disaffection of Mr. Donnelly and his friends. Mr. D. had no reason for any personal ill-will against Judge Austin, unless the mere fact that Austin being his successful rival for the nomination be conceded as a justification for hatred, for the Judge had always been numbered among Mr. D.'s friends, up to the time of the nomination, and by Mr. D. himself, we believe.

Yet it is true that Mr. Donnelly left the convention soured and bent on mischief to the party. He desired to have it to

say, in substance, to the people of Minnesota, when the return should come in, "Next time nominate Donnelly or take the consequences."

To further this purpose, his Farmington speech on the tariff was brought forward at a time when it would do most damage, and was used as a Democratic electioneering document, for which, no doubt, it was intended. His active partisans in St. Paul openly declared at the polls, to a high State official, that it was the purpose and *plan* of the "Donnelly men" to beat Austin in retaliation for Mr. Donnelly's treatment by the party. The vote in Ramsey, Dakota and Washington counties attests the fact.

The third cause is the disaffection among the German Republicans for Judge Austin's management of the so-called "New Ulm murder trials," of which reference is made in another column. We believe there is not another people in the State who would clanishly and almost unanimously oppose a man who, as a public officer, had faithfully and honestly done his official duty as these New Ulm people opposed Judge Austin. We shall see whether their course will deter other officials from doing their duty, or prove profitable politically to the bolters.

Fourth: the temperance movement tended much more to reduce the Republican vote on Governor than on any of the other Republican nominees, as many temperance Republicans who desired to record their votes for prohibition, and who at the same time felt bound to vote the Republican State and county tickets, compromised the matter by inserting Cobb's name in the regular ticket, and voting that as "amended."

Besides these bolts for the specific causes, there was more or less cutting done by reason of the bitter and systematic personal abuse of Judge Austin by the Democratic papers. It should have been a sufficient answer to all this, that in his large judicial district, where he had practiced as an attorney and been on the bench for twelve years, and is very generally known, he received the support of every delegate in the convention (with the sole exception of Brown County) for the position for which he was nominated.

The people of this district are as intelligent and as moral as those of any other in the State, (to institute no comparison with communities more strongly Democratic,) and give their voluntary and unanimous support to neither fool nor knave.

The greater number of the causes that have operated to run Judge Austin behind his ticket, would have been brought to bear against any other man who might have been nominated.

We will venture to say for Judge Austin that he will succeed as Governor, as he has for Judge; that is, in convincing all honest men who opposed them that they made a mistake — that, in the language of his acceptance speech, it will be his aim to do justice to every person, interest, locality and nationality in the State.

8. Donnelly's Resurrection as a Republican.

The following is an excerpt from Chapter Fifteen of Harlan P. Hall's political reminiscences, *Observations: Being More or Less a History of Political Contests in Minnesota from 1849 to 1904* (St. Paul, 1904). Hall (1838-1907) was a newspaper publisher, editor, writer and owner at various times of the *Pioneer*, the *Dispatch* and the *Globe*.

Donnelly's Resurrection as a Republican.

One of the anomalies of the campaign of 1869 in Minnesota was the bringing out of Ignatius Donnelly as a Republican candidate for governor by the St. Paul Press. The Press had been a prominent factor in 1868 in forcing a split in the party, and, by securing a Republican candidate against Donnelly, had elected a Democrat to Congress, and retired Ignatius to private life. Donnelly had brought the battle to its logical conclusion by endeavoring to defeat Ramsey for re-election to the senate in the winter of 1869, and had failed. The defeat of Donnelly for the house was secured to prevent his defeating Ramsey for the senate. The Press was a thick and thin Ramsey organ, and during both the congressional and senatorial fight had excoriated Donnelly, and he, in turn, had on the stump flayed the editor and proprietor of the Press alive. It had been war to the knife and knife to the hilt, and then they removed the hilt so that the knife could go farther toward the vitals.

The Republican state convention was called for Sept. 9, 1869, and the public were edified on September 4th by an elaborate editorial in the Press, urging the nomination of Donnelly for governor. In view of what had previously occurred between Mr. D. and that party organ, the following extract from that editorial will be found of amusing interest:

"Aside from Donnelly's brilliant personal qualities, and the distinguished claim which a long course of useful public service gives him to honorable recognition by the state convention, there can be no doubt in view of his position as the leader of a powerful wing of the Republican party in this district, whose enthusiastic wishes were so disappointed in his defeat, his nomination at the head of the state ticket, with the cordial concurrence of those heretofore opposed to him, would do more than anything else to extinguish the factious animosities and disaffections occasioned by the events of last fall."

I am not prepared to say that this was not "good politics"— if the scheme had worked. But it didn't, and that's different.

The convention duly assembled September 9th, and Dana E. King of Meeker county was called to preside over its destinies. There had not been the usual preliminary scrimmages for offices. Judge Horace Austin, of the Sixth Judicial district, residing at St. Peter, was a prominent but not aggressive candidate for governor. John McKusick of Stillwater was in the field, and at the eleventh hour Donnelly had appeared. After the usual preliminaries the candidates were very tamely named by the orators. It was, in fact, a convention especially conspicuous for its dullness. It only took one ballot to settle the governorship, the vote standing Austin 147, Donnelly 64, McKusick 17. The support of the Press, under the circumstances, was too magnanimous for human credulity. The delegates concluded to take no chances, and nominated the other man.

There was really more contest for the lieutenant governor than for governor. A. J. Edgerton of Dodge county, Jared Benson of Anoka, W. H. Yale of Winona, W. R. Kinyon of Steele and H. L. Gordon of Wright being the candidates. Yale, Benson and Gordon were the only candidates polling

many votes. The first ballot stood Yale 83, Gordon 63 and Benson 50. The third and last ballot stood Yale 139, Gordon 57 and Benson 29. Aside from Austin and Yale the rest of the ticket made by the convention without much contest was:

Secretary of State—Hans Mattson of Meeker county.

State Auditor—Charles McIlrath of Nicollet.

State Treasurer—Emil Munch of Pine.

Attorney General—F. R. E. Cornell of Hennepin.

Chief Justice—C. C.(sic) Ripley of Fillmore.

Clerk of Supreme Court—Sherwood Hough of Ramsey.

The campaign which followed was as dull and lifeless as the convention itself. The next morning after the convention the Press expressed regret over Donnelly's defeat, and promised to give a cordial support to the ticket, but it did not do so. The result was the ticket received the smallest majority any Republican state ticket has had in the history of the state, having but 183 majority over the Democrats and Prohibition, and but 1,947 plurality over the Democratic nominee.

There was one incident of the convention which subsequently became of considerable importance. W. D. Washburn of Minneapolis was a member of the committee on platform, and when the platform was reported he announced that two members of the committee desired to have a resolution included, but were overruled by the majority. It was accordingly agreed that the resolution should be reported separately. It was as follows:

Resolved, That the Republican party of the state insist that the 500,000 acres of land granted to the state for internal improvements be set apart for the liquidation of the Minnesota state railroad bonds, and that they be held for that purpose solely; that when the holders of said bonds

shall agree to take these lands and fully and finally surrender all the bonds to the state that said lands be made over to said holders or their assigns or trustees as they may elect.

The resolution, after some debate, was voted down by 79 to 47. At that time the so-called repudiated Minnesota state bonds were a nightmare. The time was when the 500,000 acres of land could have settled the whole bill, which subsequently was adjusted by an expenditure of between \$4,000,000 and \$5,000,000.

On the very threshold of statehood Minnesota had by legislative and popular vote decided to guarantee an issue of \$5,000,000 in bonds to secure railroad development. After \$2,275,000 had been issued and floated the inevitable crash came, and the state not only refused to issue more, but declined to pay those already outstanding. Mr. Washburn's resolution was a proposition to make an even trade of the lands for the bonds, and after ranking in the category of the states with dishonest credit for over 25 years, by a semi-legerdemain enactment we gave the lands and several millions in money besides.

Moral—Sometimes it pays, as a financial investment, to be just a little bit honest. In noting the small majority secured by General Austin it is also worthy of note that the only person really alarmed was Austin's Democratic opponent who, for a time, feared he was elected.

The late George L. Otis, at that time one of the prominent attorneys of the state and a resident of St. Paul, had been prevailed upon to take the Democratic nomination for governor. It was supposed to be only a matter of form without the remotest chance of an election. Otherwise Mr. Otis would not have accepted the nomination. Mr. Otis had just two aims in life—the enjoyment of the society of his

family, and the practice of his profession. Public life was entirely distasteful, and, though he was forced to mingle some in public affairs, it was always under protest.

Horace Austin of St. Peter, then on the district bench, was the Republican nominee for governor. The party at that time, and for several years after, could scarcely be called the Republican party, as it more properly should be termed the Ramsey and anti-Ramsey factions. The terms I name for the elements of the party simply indicated that if Senator Ramsey's friends won, all the public pickings went to them, and it was necessary to keep up a serried front at all times. If an occasional break was allowed it would be dangerous, and hence, woe to the anti-Ramsey man who got a nomination. The Ramsey men were the shrewdest politicians in the state, and when they lost in a convention they generally administered a lesson to the successful nominee. They did not really want to turn the state over to the Democrats, but wished to sufficiently frighten the recalcitrant candidate to bring him into the fold as a repentant sinner, feeling that he must rely upon their gracious favor for his future political life. That was the discipline which the Ramseyites endeavored to administer to Horace Austin in 1869, with the view of forcing him into the Ramsey camp.

The election returns came in very slowly. Only a small portion of the state could be reached by telegraph, and a great deal of territory was dependent upon semi-weekly, tri-weekly and even weekly stage coaches. As the returns first came in from the more accessible cities and towns, Mr. Otis' election seemed almost certain. The first real interest he had shown in the campaign was when these returns were being received. His practice was worth at least five times the beggarly salary then allowed the governor, and this, added to his distaste for office, caused his alarm. It was, perhaps, ten days or two weeks before the result was

absolutely known, and Mr. Otis would come to my office every day, before my paper was issued, hoping to obtain news favorable to his defeat. I never saw a candidate hoping for success have more anxiety than he did hoping for defeat.

That was the first campaign when the Prohibitionists put a state ticket in the field. The official canvass gave Austin 27,348, Otis 25,401, Cobb (Prohibitionist) 1,764. This left Austin only 183 majority, and his plurality over Otis was but 1,947. That was an exceedingly small margin for the Republicans in those days.

In spite of the intended castigation by the Ramseyites, it did not conquer Governor Austin, and his gubernatorial career of two terms was in the anti-Ramsey interest, and led up to the final overthrow of the Ramsey dynasty, when Senator C. K. Davis came into his kingdom.

9. The Origins of the Donnelly-Washburn Feud.

The following is an excerpt from volume 3, *Minnesota in Three Centuries*, edited by Lucius F. Hubbard and Return I. Holcomb, published in 1908.⁶⁹

THE PRESIDENTIAL ELECTION OF 1868.

In the Presidential election of 1868 there were 71,818 votes cast, Ulysses S. Grant, Republican, receiving 43,732 votes and Horatio Seymour, Democrat, 28,096. Grant's majority 15,626. In the Congressional election in the First District Morton S. Wilkinson, Republican, was elected receiving 23,725 votes to George W. Batchelder, Democrat, 14,646.

The Second District was the scene of an exciting contest. Ignatius Donnelly had been in Congress three terms and was a candidate for the fourth. The followers of Senator Ramsey feared if he was elected again he would prove to be a formidable competitor for senatorial honors. During his last term in Congress Donnelly had antagonized Elihu Washburne, a member of the House of Representatives from Illinois. Washburne was a brother of William D. Washburn of Minnesota, also of Cadwallader C. Washburn, afterwards Governor of Wisconsin, and by his efforts in Congress in preventing the success of many extravagant schemes of expenditures, had gained for himself the soubriquet of "The watch dog of the treasury."

William D. Washburn was the natural successor of Donnelly for congressional honors, and was the candidate of the Ramsey element of the Republican party. His brother

⁶⁹ See also William Watts Folwell, "The Donnelly-Washburne Controversy of 1868," 3 *A History of Minnesota* 325-332 (Minn. Hist. Soc. Press, 1969) (published first, 1926).

wrote a letter to the land department at Washington concerning the Taylor's Falls land office in which allusions not complimentary to Donnelly were embodied. This letter, the latter interpreted, was written to support his brother's candidacy for Congress, where upon Donnelly donned his war paint. With his keen wit and ready tongue, he made in Congress what became known as his famous Anti-Washburne speech, in which with cutting sarcasm for over an hour he denounced the Representative from Illinois to the great amusement of an applauding audience. This untimely speech however reacted upon Donnelly and seriously marred his political future. The trend of his political fortunes would probably have been different if the incident had not occurred and but for his indiscretions of this character he might have realized the ambition of his life and reached the United States Senate. He subsequently became embittered against his associates in the Republican party, seeking means of revenge against his political persecutors by connecting himself with all the fads of political fanaticisms, lending his abilities as an orator to the promulgation of their eccentric and unstable doctrines.

After the adjournment of Congress, Donnelly made a speech at an Ingersoll Hall meeting at which the audience became wildly hilarious and resolutions were passed endorsing his nomination for another term. The supporters of Donnelly were among the younger element of the party, and there would not have been any serious contest over his re-election but for his senatorial ambitions. He was recognized as an able party leader but to the old and experienced politicians, who were followers of Senator Ramsey, his aspirations to become a member of the upper house of Congress was a serious menace to their interests.

The primaries that were held in St. Paul, to chose Republican delegates to a county convention for the election of delegates to attend the convention for the

nomination of a Congressional representative from the Second District, were spirited and exciting, the county convention was held August 29, 1868, and was to consist of thirty-five members. The Donnelly and the Ramsey-Washburn factions each appeared with thirty-five delegates, the full number to which the convention was entitled.

Thus, every seat in the convention was contested, and there were no delegates left to decide on the credentials of its members.

The hour for calling the convention to order came, and a mob reigned supreme in the old court house, which occupied the site of the present court house and city hall, the place of meeting. There was not the semblance of preserving order, the followers of the two factions simply shouting their defiance to each other. The Donnelly forces being composed of younger men carried off the honors along this line.

Two chairmen as well as a double set of secretaries were elected and amid a great uproar in which not a motion or resolution could be heard, the business of the convention was undertaken. Motions, were written, handed to the chair, and if they met with his approval, were duly recorded by the secretaries. Two sets of delegates were elected and the scene of the contest was therefore transferred to the district convention.

This convention was held in Ingersoll Hall, September 3, 1868. The majority of the district committee was Anti-Donnelly. A formal plan was inaugurated by the majority of this committee to issue only to delegates opposed to Donnelly, admission tickets to the convention hall which were to be signed by the chairman and countersigned by the secretary. The hall was also put under police protection

and the key given to the chief of police of St. Paul, with instruction not to open the hall until 11 A. M., of the morning of convention day.

The chairman of the district committee, who was a Donnelly adherent, issued a proclamation that he would issue tickets to all claiming to be delegates, regardless of contest. The Anti-Donnelly delegates on receiving their tickets had them countersigned by the secretary, but the Donnelly delegates would not ask for his signature. On the morning of the day of the convention the Donnelly forces met at Armory Hall a block distant from where the convention was to be held and from whence they proceeded in a body to Ingersoll Hall. On the presentation of their tickets they were denied admission and after some wordy altercations they returned to their former meeting place. Here a harmonious and enthusiastic convention was held and Mr. Donnelly was nominated by acclamation.

The Anti-Donnelly convention at Ingersoll Hall was just as determined as the other, but the proceedings were not nearly as cheerful. William D. Washburn of Minneapolis, Lucius F. Hubbard of Red Wing and Christopher C. Andrews of St. Cloud were named as candidates. The first ballot stood Washburn thirty-one, Hubbard fifteen, Andrews thirteen. Washburn would have been nominated on the next ballot but knowing with a split in the party he could not be elected, he withdrew his name. General Hubbard then became the recipient of the honor but early in the canvass positively withdrew his name.

Then, with considerable effort on the part of the Ingersoll Hall district committee, General Andrews was prevailed upon to allow his name to be used to champion a forlorn hope.

In the meantime the Democrats had nominated Eugene M. Wilson of Minneapolis. The triangular fight resulted in his election to Congress by a vote of Wilson 13,506, Donnelly, 11,229 and Andrews 8,595. The other direct results of the election were the retirement of Mr. Donnelly from the Republican party and the rewarding of General Andrews by Elihu B. Washburne, when he became Secretary of State under Grant. Andrews was made Minister to Sweden, which position he held twelve years, and later Consul to Rio Janeiro, where he was continued until a change in National politics placed Governor Cleveland in the Presidential chair. ■

Related Article

This article is the second of a series on Supreme Court elections in the nineteenth and early twentieth centuries. The first is: Douglas A. Hedin, “Now on the Ballot for Candidates for the Minnesota Supreme Court: “Calvin L. Brown (Republican- Democrat)” — The Story of *In re Day* (1904).” (MLHP, 2017).



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