

**“The Judicial History of Rice and Steele Counties
During the Territorial Period”
(1910)**

Foreword

By

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In 1910, a hefty, two volume history of Rice and Steele Counties was published. The first volume, following the format of county histories published in the pre-World War I era, was composed of chapters on specific areas or segments of these counties—early settlements, the organization of government, education, churches, industries, and newspapers, among others—written by interested residents.

A chapter on “Judicial History” covered the territorial period, 1849 to 1858, stopping with statehood. By ignoring the next half century, it is an oddity, even by the lax standards of county histories. Its author is not known. It is posted below. It is complete, though reformatted. Page breaks have been added. The title, which more accurately reflects the limits of the piece, has been added by the MLHP, as have all footnotes.

Related articles are: “The Courts, Cases, District Judges and the Bar of Steele County (MLHP, 2008), a chapter in a joint history of Steele and Waseca Counties published in 1887, and Wesley A. Sperry’s “The Legal Profession of Steele County” (MLHP, 2011), another chapter in the joint history of Rice and Steele Counties published in 1910. Histories of the early courthouses and jails of each county, taken from the first volume of their 1910 joint history, are also posted on the MLHP.

**“The Judicial History of Rice and Steele Counties
During the Territorial Period”**

IN

**HISTORY OF
RICE AND
STEELE COUNTIES
MINNESOTA**

COMPILED BY

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Illustrated

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CHAPTER V.

JUDICIAL HISTORY.

Henry H. Sibley and His Extensive Jurisdiction—Judicial Districts — Rice and Steele Counties Under Judicial Jurisdiction of the Court of Washington County in 1849—Under the Judicial Jurisdiction of Ramsey County in 1851—Attached to Dakota County in 1853—Rice and Steele Counties Included in the Fifth Judicial District With Hon. N. M. Donaldson on the Bench.

Henry H. Sibley, living at Mendota, was the first officer of civil justice in the area now including Rice and Steele counties. He received his appointment as a justice of the peace, first from Governor Porter, of Michigan, and later from Governor Chambers, of Iowa. In writing of his early experiences, General Sibley has given us some amusing as well as enlightening side views of frontier justice. A selection from his manuscript is as follows:

"It may seem paradoxical, but it is nevertheless true, that I was successively a citizen of Michigan, Wisconsin, Iowa and Minnesota territories, without changing my residence at Mendota. The jurisdiction of the first named terminated when Wisconsin was organized in 1836, and in turn Iowa extended her sway over the west of the Mississippi in 1838. When the latter was admitted as a state, with very much diminished area, it the country lying outside of the state boundaries was left without any government until the establishment of the Minnesota territorial organization placed us where we now are. It was my fortune to be the first to introduce the machinery of the law into what our legal brethren would have termed a benighted region, having received a commission of justice of the peace from the governor of Iowa territory for the county of Clayton. This county was an empire of itself in extent, reaching from a line some twenty miles below Prairie du Chien, on the west of the 'Father of Waters,' to Pembina, and across to the Missouri river. As I was the only magistrate in this region and the county seat was some 300 miles distant. I had matters pretty much under my own control, there being little chance of

an appeal from my decisions. In fact, some of the simple-minded people around me firmly believed that I had the power of life and death. On one [59] occasion I issued a warrant for a Canadian who had committed a gross outrage and then fled from justice. I dispatched a trusty constable in pursuit, and he overtook the man below Lake Pepin and brought him back in irons. The friends of the culprit begged hard that he should not be severely punished, and, after keeping him in durance vile for several days, I agreed to release him if he would leave the country, threatening him with dire vengeance if he should ever return. He left in great haste and I never saw him afterwards.

"I had the honor of being foreman of the first grand jury ever impaneled on the west of the Mississippi river, in what is now the state of Minnesota. The court was held at Mendota, Judge Cooper being assigned to that district. His honor delivered a written charge of considerable length, and really it was an able and finished production. Unfortunately, out of the twenty odd men who composed the jury, but three, if I recollect rightly, could speak English, the rest being Frenchmen, who were, to a man, profoundly ignorant of any language but their own. As a matter of course, they were highly edified while engaged in listening to the judge's charge."

March 3, 1849, the territory of Minnesota was created by act of congress.¹ By that act the judicial power of the territory was vested in a supreme court, district courts, probate courts and in justices of the peace. It was provided by that act that the territory should be divided into three judicial districts and that a district court should be held in each of the said districts by one of the justices of the supreme court at such times and places as might be prescribed by law. It was also provided that temporarily, or until otherwise provided by law, the governor of said territory might define the judicial districts of said territory, and assign the judges who might be appointed for said territory, to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of the judicial districts by proclamation.

¹ Organic Act (MLHP, 2009).

Governor Ramsey arrived at St. Paul, May 27, 1849, and on June 11, issued his proclamation dividing the territory into three judicial districts.² The third district had no definite boundaries, but in general included all that part of the territory south of the Minnesota, and south to the Mississippi from where it receives the waters of the Minnesota to the Iowa line. This included the present Rice and Steele counties. Court was ordered to be held at Mendota on the fourth Monday in August and the fourth Monday in February.

At the first session of the territorial legislature only Washington, Ramsey and Benton counties were fully organized for all county purposes. The other counties in the territory were [60] attached to some one of these counties for judicial purposes. Wabasha county, then including the present Rice and Steele counties, was attached to Ramsey county for that purpose.

March 5, 1853, Dakota county was fully organized and terms of court were appointed to be held therein, on the second Monday of September in each year, and lion. David Cooper was assigned as judge thereof. Rice county, which had been created and included the present Steele county, was attached to Dakota county for judicial purposes.³

Judge Cooper held court in Mendota the fourth Monday in August, 1849.⁴ H. H. Sibley was foreman of the grand jury, the first ever impaneled west of the Mississippi, in Minnesota. Judge Cooper delivered a written charge, able and finished, but as appears in General Sibley's reminiscences, only three of the twenty odd men composing the jury understood a word of the language he was speaking. Major Forbes served as interpreter through the term, but no indictments were found. The court was organized in a large stone warehouse belonging to the Fur Company. Judge Cooper's term of

² See "Gov. Ramsey's "Proclamation establishing judicial districts" (MLHP, 2011).

³ Dakota County was established October 27, 1849; Rice County established March 5, 1853, and Steele County formed February 20, 1855.

⁴ Justice Cooper's grand jury charge is reprinted in Hiram F. Stevens, *I History of the Bench and Bar of Minnesota* 20-29 (Legal Pub. and Engraving Co., 1904), which will be posted on the MLHP in the near future.

office was from June 1, 1849, to April 7, 1853. ⁵

The first district court for the county of Dakota, to which Rice county (which included the present Steele county) had been attached, was held in Mendota on the second Monday of September, 1853 (September 12), as appointed to be held by the law organizing the county. Judge Andrew G. Chatfield (who went on the bench April 7, 1853) presided.⁶ The officers of the court present were: W. W. Irwin, marshal of the United States for the district of Minnesota; J. C. Dow, district attorney; A. R. French, sheriff of Dakota county; J. J. Noah, clerk, represented by Dwight Downing, his deputy. Edmund Brisette was appointed interpreter and James McShane, crier. Henry H. Sibley was foreman of the grand jury. The grand jurors were: Henry H. Sibley, James McBoal, Claude Cournoyer, James M. Griggs, Thomas Odell, Baptiste Cudet, James Locke, Patrick Quigley, William L. Batley, Louis Martin, Henry Coleoff, George Faribault, Andrew Robertson, O. P. Bromley, John W. Brown, Elias Cope, Horace Dresser, William Bissell, Michael Lemell and Francis Gamell. The petit jurors were: James Thompson, Peter M Califf, Albert Webster, Warren Woodbury, John McShane, Patrick A. Moran, Duncan Campbell, Louis Fourcier, Hugh Kirkpatrick, Sylvester M Cook, George Bell, David Cope, William Quinn, Baptiste Campbell, Peter St. Antoine, Norbest Paquin, Joseph Gervais, Louis Lendivche, Alexander McCloud, Franklin J. Bartlett, Joseph R. Brown, Annable Turpin and James Bruce. [61]

The grand jury was in attendance six days and the petit jury five days.

On March 6, 1854, Judge Chatfield ordered a special term of court to be held on the thirteenth day of April, 1854, in said county; and a

⁵ In fact, Cooper's four-year term ran from March 19, 1849, when he was commissioned by President Taylor, to March 18, 1853, when it expired. He actually served in the Territory from June 9, 1849, when he took the oath of office, to March 18, 1853. See "Documents Regarding the Terms of the Justices of the Supreme Court of Minnesota Territory, 1849-1858 (Justices Goodrich and Cooper): Part Two-A" 13-15 (MLHP, 2009-2010).

⁶ Less than three months earlier, on June 27, 1853, Justice Chatfield held court in Winona County. See "Justice Chatfield's First Court Session in Winona County" (MLHP, 2009).

panel of grand and petit jurors to be drawn and summoned for the same. The special term was held on that date at Mendota and the officers present were: Andrew G. Chatfield, judge; Andrew J. Whitney, acting United States marshal; Franklin J. Bartlett, sheriff; J. J. Noah, clerk. Dr. Thomas Foster was appointed foreman of the grand jury. The grand jury was in attendance four days, and there is no record that it found any indictments. The petit jury was in attendance, but there is no record of the trial of any case by it.

The next general term of the district court for Dakota county was held at Mendota, August 28, 1854. The officers present were: Andrew G. Chatfield, judge; W. W. Irwin, marshal; F. J. Bartlett, sheriff; J. J. Noah, clerk. Two indictments were found by the grand jury against James Grant for selling liquor without a license, both of which were dismissed on motion of the defendant's attorney. One civil case was tried by the jury at this term. The jurors were in attendance four days and the court was in session six days.

The next term was held at Mendota, February, 26, 1855. The officers present were: Andrew G. Chatfield, judge; A. C. Jones, marshal, F. J. Bartlett, sheriff; J. J. Noah, clerk; J. C. Dow, prosecuting attorney. This term was in session five days. No indictments were returned and no jury cases were tried.

The next term was held at Mendota, August 27, 1855. The officers present were: Andrew G. Chatfield, judge; A. C. Jones, deputy United States marshal; Norman Eddy, United States district attorney; F. J. Bartlett, sheriff; J. J. Noah, agent. A. M. Hayes was appointed by the court as district attorney for the term. Court was in session six days.

The next term of the court was held in Mendota, February 25, 1856. The officers present were: Andrew G. Chatfield, judge; W. W. Irwin, United States marshal; Norman Eddy, United States district attorney; E. F. Parker, prosecuting attorney; John Devlin, sheriff; J. J. Noah, clerk. The term was in session seven days.

The next term was held at Mendota, August 13, 1856. The officers present were: Andrew G. Chatfield, judge; John Devlin, sheriff; J. J.

Noah, clerk. The term was in session eight days. John J. McVay was admitted to the bar at this term.

Judge Chatfield's term expired April 23, 1857, and he was succeeded by Judge Charles E. Flandrau, whose distinction as a [62] soldier, citizen and historian was equal to his reputation as a jurist.⁷

A special term of court was held in Smith's hall, Hastings, August 31, 1857, and was in session one day. The officers present were: Charles E. Flandrau, judge; George S. Winslow, clerk; Edward F. Parker, district attorney.

A general term of the district court was held in Burgess hall, Hastings, December 27, 1857. The officers present were: Charles E. Flandrau, judge; George S. Winslow, clerk; E. F. Parker, district attorney; John Devlin, sheriff. This term remained in session until January 15, 1858.

By an act of congress passed February 26, 1857,⁸ the people of the territory of Minnesota were authorized to form a constitution and state government, preparatory to their admission into the Union, and it provided for the election of delegates on the first Monday in June, 1857, to a constitutional convention to be held on the second Monday in July, 1857. Such a convention was held and a constitution formed on August 29, 1857, which was submitted to a vote of the people at an election held on the thirteenth day of October, 1857, and adopted.

⁷ In fact, Chatfield's four-year term ran from April 6, 1853, when he was commissioned by President Pierce, to April 5, 1857, when it expired. He actually served from May 31, 1853, when he took the oath of office, to April 5, 1857. See "Documents Regarding the Terms of the Justices of the Supreme Court of Minnesota Territory, 1849-1858 (Justices Welch and Chatfield): Part Two-D" 10-13 (MLHP, 2009-2010).

Flandrau's term ran from July 17, 1857, when he received a recess appointment from President Buchanan, to May 24, 1858, when Minnesota became a state. He actually served from August 8, 1857, when he took the oath of office, to statehood. See "Documents Regarding the Terms of the Justices of the Supreme Court of Minnesota Territory, 1849-1858 (Justice Flandrau): Part Two-F" 11-14 (MLHP, 2009-2010).

⁸ Enabling Act (MLHP, 2009).

That instrument provided that every free white male inhabitant over the age of twenty-one years, who had resided within the limits of the state for the ten days previous to the day of said election, might vote for all officers to be elected under the constitution at such election, and also for or against the adoption of the constitution. It also provided for the election at such election time of members of the house of representatives of the United States, governor, lieutenant-governor, supreme and district judges, members of the legislature and all other officers designated in that constitution. It also, for the purposes of first election, divided the state into senatorial and representative districts. The constitution also divided the state into six judicial districts until the legislature should otherwise provide. The counties of Washington, Chisago, Anoka, Pine, Buchanan, Carlton, St. Louis and Lake were made to constitute the first judicial district and the counties of Dakota, Goodhue, Scott, Rice, Steele, Waseca, Dodge, Mower and Freeborn the fifth judicial district.

At the election, Hon. S. J. R. McMillan was elected judge of the first judicial district, and Hon. N. M. Donaldson, of Owatonna, judge of the fifth.

The judicial history of Rice and Steele counties, individually, is continued in Parts II and III of this work.⁹ ■

⁹ There are no separate chapters on the “judicial history” of either county in this two-volume history; however, Volume I has a chapter on “The Legal Profession” of Steele County by Wesley A. Sperry, which is posted separately on the MLHP.

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