

ISAAC ATWATER

By

Penny A. Petersen¹

Isaac Atwater arrived in the fledging settlement of St. Anthony, located on the east bank of the Mississippi River, in November 1850. While his early arrival and professional and civic accomplishments alone would certainly have earned him a mention in any account of early Minneapolis, Atwater ensured his immortality in another way—he wrote his own three-volume history of Minneapolis.²

Atwater was born May 3, 1818 in Homer, in upstate New York, the ninth of eleven children. His parents, Ezra and Esther, were farmers and expected Isaac to follow in their footsteps. However, by the age of sixteen Atwater was certain that he didn't want to be a farmer. What he did want was an education.³

In an 1888 biographical article by Charles Flandrau, Atwater is said to have left the family homestead after an argument with his father. With a few clothes and five dollars in his pocket, he walked 30 miles to Auburn, New York where he had a cousin in the seminary there.⁴

Atwater obtained a vacant room at the school and after furnishing the chamber he had just enough money for a frugal breakfast. Determined to get an education, Atwater found a job, which allowed him to work only four hours a day, leaving the rest for study. Flandrau noted that Atwater's industriousness was noticed by one of the professors who hired him as a gardener at \$5 per week. "With this munificent income all doubts of the future disappeared and young Atwater felt more solidly settled than he has at any subsequent period of his life, when his resources enabled him to contribute thousands to worthy objects of need."⁵

¹ An earlier and somewhat different version of this article appeared in *The Minneapolis Lake Area News* in April 1989. It is posted on the MLHP with the permission of the author.

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² Isaac Atwater, *History of Minneapolis, Minnesota* (New York: Munsell and Company, 1893), I: 424.

³ Charles E. Flandrau, "Judge Isaac Atwater," *Magazine of Western History* (July 1888), 254.

⁴ Flandrau, "Judge Isaac Atwater," 255.

⁵ Flandrau, "Judge Isaac Atwater," 255.

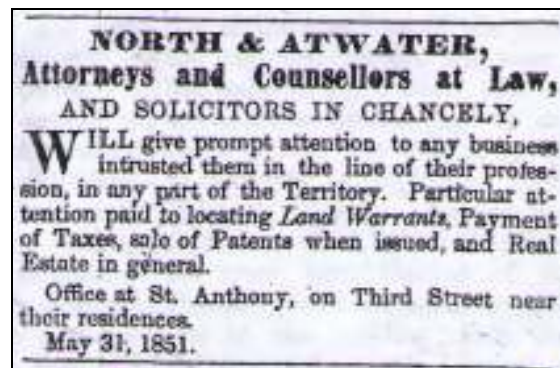
Six months later Atwater had advanced in his studies and managed to save about \$20. He then began a pattern that would continue until he entered law school of alternating teaching in district schools for a term and then returning to his own studies.⁶

For a time Atwater attended the Academy of Cazenovia where he may have first met John North, who would later urge Atwater to relocate in St. Anthony. In 1840 Atwater entered Yale and graduated four years later. After teaching at a private school in Macon, Georgia, he returned to Yale to attend law school, from which he graduated in 1847.⁷

He was admitted to the New York bar and opened a law office on Nassau Street in New York City with another Yale graduate, Robert Benner. Atwater married Permelia A. Sanborn in 1849 and appeared to be headed for a successful legal career. However, in 1850 Atwater was diagnosed as having consumption and advised to seek a healthful climate. At that time Minnesota was, according to Flandrau, considered the world's largest open-air sanitarium and thus a natural choice for Atwater.⁸

Atwater specifically chose to settle in St. Anthony at the urging of John North (who also came to St. Anthony for his own health). North was the second lawyer to set up practice in St. Anthony and was also from upstate New York, and for a time lived in Cortland County, Atwater's birthplace.⁹

In a letter to his in-laws, dated September 3, 1850, North wrote, "I formed a partnership a few weeks ago with a friend of mine from New York by the name of Isaac Atwater. He is a graduate of Yale College, a good lawyer, a man of literary taste and talent and speaks the French language fluently." The firm's notice appeared in the *St. Anthony Express*:¹⁰



⁶ Flandrau, "Judge Isaac Atwater," 255-256.

⁷ Flandrau, "Judge Isaac Atwater," 256-257.

⁸ Flandrau, "Judge Isaac Atwater," 256-257.

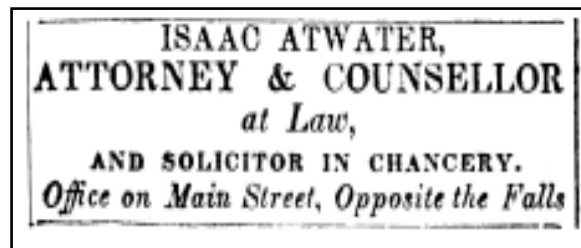
⁹ Atwater asserted North was a native of Onondaga County, New York whereas Stonehouse gives his birthplace as Sand Lake, Rensselaer County, New York (*History of Minneapolis*, I: 423; *John Wesley North*, xi).

¹⁰ Advertisement, *St. Anthony Express*, June 21, 1851.

The Atwaters also boarded with John and Ann North, first in their tiny log house on Nicollet Island and later in the North's new two-story house in present-day Northeast Minneapolis, for the price of \$4 per week.¹¹

Neither the boarding arrangement nor the law partnership lasted very long. The Atwaters seemed to expect more luxuries than the cash strapped Norths could provide. Ann wrote to her parents in April 1851 that since the Atwaters moved to a house of their own, she wouldn't have to make coffee and tea anymore and could economize by drinking water only.¹²

The law partnership with North lasted until August 1851. North expected that Atwater would run the office while he was serving in the territorial legislature and Atwater performed this task only too well. Atwater was busily building the law practice and forming political and personal alliances that would last his lifetime. His fluency in French enabled him to represent fur trade interests (many of the traders spoke French only), whereas North's personal animus and political beliefs had put him in opposition to the fur trading interests.¹³ After the dissolution of the firm, the following advertisement appeared in the *St. Anthony Express*:¹⁴



The two men were divided on other issues as well. North was a staunch abolitionist whereas Atwater was ambivalent on slavery. Flandrau noted that "while he deplored the existence of slavery as much as anyone, he could not lend himself to any be constitutional methods for its suppression." North became a Republican; Atwater, after 1854, declared himself a Democrat. North advocated a "dry" St. Anthony whereas Atwater thought liquor should be legally available. North was a "Woman's Rights" man, whereas Atwater as editor of the *St. Anthony Express* wrote a scathing attack on feminism.¹⁵

¹¹ Merlin Stonehouse, *John Wesley North and the Reform Frontier* (Minneapolis: University of Minnesota Press, 1965), 53.

¹² Ann North to her parents, Dr. George and Mrs. Loomis, April 13, 1851, *John Wesley North Papers* (microfilm), Minnesota Historical Society manuscript collections. The originals are located at in the Henry E. Huntington Library, Riverside California.

¹³ Stonehouse, *John Wesley North*, 53, 36.

¹⁴ Advertisement, *St. Anthony Express*, June 10, 1853.

¹⁵ Stonehouse, *John Wesley North*, 6-7, 11, 19, 65-66, 70, 82, 101; Flandrau, "Judge Isaac Atwater," 258; "Women's Rights," *St. Anthony Express*, August 9, 1851.

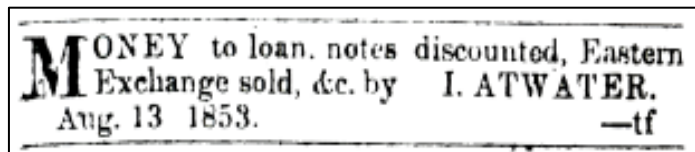
It would appear that Atwater took a large number of North's clients with him after the partnership dissolved and there was a fair amount of personal animosity between the two families. However, the two men would have dealings again in the 1860s and when Atwater wrote his history of Minneapolis, he spoke highly of John North.¹⁶

Within a year of his arrival in St. Anthony, Atwater achieved a series of "firsts." When the University of Minnesota was established by the territorial legislature in 1851 he was named to the first board of regents, a post he held until 1856. That same year, Atwater became the first editor of the first newspaper, the *St. Anthony Express*, all in addition to his law practice. He was the first apprentice to be initiated into the Cataract Lodge, the first Masonic lodge to be established in the city. He was among the first investors of the Minneapolis Bridge Company, which built the first bridge over the Mississippi in 1854.¹⁷

From the first, Atwater began investing (although some might say speculating) in real estate both for himself and on behalf of Eastern investors. According to John North's correspondence, Atwater arrived in St. Anthony with \$3,000 in hard currency for real estate loans.

As editor, Atwater used the *Express* to promote emigration to St. Anthony and to boost civic enterprises—if more people settled in St. Anthony, real estate would become more valuable increasing the chances that his investments would prosper along with the general rise.¹⁸

Apparently Atwater's tactics worked as an 1853 advertisement in the *Express* proclaims that "I. Atwater" has money available for loans.¹⁹



During the same period, Atwater like many other St. Anthony residents was eagerly anticipating that the land on west side of the river would soon be legally open to settlement. At the time the area was part of the Fort Snelling reservation and supposed to be inhabited only by military personnel and Native Americans. In fact, Atwater like a number of others

¹⁶ Stonehouse, *John Wesley North*, 59, Atwater, *History of Minneapolis*, 424.

¹⁷ Atwater, *History of Minneapolis*, 126, 355-357, 963, 349.

¹⁸ For example, "St. Anthony," *St. Anthony Express*, April 29, 1853. Atwater frequently pointed the health advantages offered by young town as well as its cultural and commercial offerings.

¹⁹ "Money to Loan" (advertisement), *St. Anthony Express*, August 13, 1853.

did more than anticipate. He crossed the river and staked several claims on what would later be called Minneapolis. In June 1851 Atwater made a claim on the reserve and sold it two days later for \$10. Historian Marion Shutter observed that had Atwater held on to his claim he would have been a millionaire as the claim was a large section of what later was downtown Minneapolis. However, since Atwater never held legal title to the land in the first place, \$10 would seem to be a rather good price.²⁰

Permelia, Atwater's wife, wrote forty years later that settlers who took to “blazing claims on the west bank” often got lost in the dark and nearly froze to death before the sound of the Falls guided them back to the familiar landmark. Once a claim was made, a shanty was built and the claimants would have to occupy it constantly. Even a ten-minute absence would enable claim jumpers to take possession. Permelia commented, “Of course such a settlement was boldly illegal, but it formed an interesting picture to look upon.” During this time the Atwaters were occupying a “pre-emption shanty” at what is now Seventh Street and Twelfth Avenue South.²¹

The Atwaters, like many others, continued to make, buy, and sell claims during the 1850s even though the area was not legally open to settlement until 1855 and the Atwaters did not get legal title to some of their claims until 1856.²²

In 1852 the illegal settlers formed a self-help group first called “The Equal Rights and Impartial Protection Claim Association, of Hennepin County M.T.” but later known as the Hennepin County Claim Association. With tortured logic the Association argued that the first (illegal) claimants had the “right” to their claims, but subsequent claimants for the same land were “trespassers.” Atwater recalled “the secret understanding between the men composing this organization” that a certain price would be agreed upon and the “actual holder or occupant of the land should bid that amount and that no outside wolf should be allowed to bid against him.” Outsiders who dared to breach these unwritten rules would receive one warning and if that failed, they would be removed by force. Legal questions aside, the Association illustrated the importance of organized political power as for the most part the illegal settlers eventually got title to their claims.²³

In 1854, the Town of Minneapolis was laid out and platted, however it was not recorded until the following year after the various claims had been

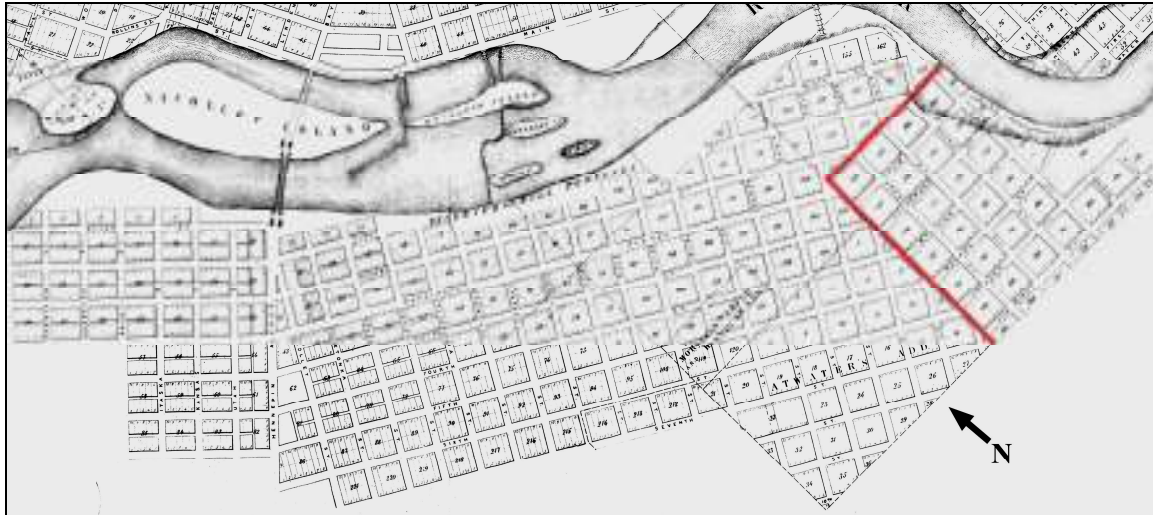
²⁰ Marion D. Shutter, *History of Minneapolis; Gateway to the Northwest* (Chicago: S. J. Clarke Publishing Company, 1923), I: 92, 95.

²¹ Atwater, *History of Minneapolis*, 79, 72.

²² Atwater, *History of Minneapolis*, I: 38.

²³ Atwater, *History of Minneapolis*, I: 29; III: 1145-1147; “Hennepin County Claim Association,” *St. Anthony Express*, April 8, 1853.

secured. Atwater's claims along with twenty others formed the original plat for the Town of Minneapolis, totaling 221 blocks.²⁴ This is a map of Minneapolis in 1856.²⁵



The town plat also graphically illustrates two different philosophies of town planning and the importance of the river. Permelia stated, “It is interesting now to recall how the river then dominated the town. It was *everything*.” The majority of the streets run either parallel or perpendicular to the Mississippi and thus the town “faces” the river. This system of town planning is the older of the two and tends to accommodate or grow around rather than ignore geographic features. However, there is an abrupt change in the street grid where Washington meets Cedar. The streets are lined up on an east-west, north-south orientation. This is the newer system of town planning as mandated by the Northwest Ordinance.²⁶

The Atwaters moved permanently to the west side of the river in 1853. Sometime in the 1850s they built a large house at Jackson and Elm (the 2200 block of Sixth Street South presently the site of Fairview Hospital)

²⁴ Atwater, *History of Minneapolis*, I: 35; *1856 Map of St. Anthony and Minneapolis*, Hennepin County Library; Town of Minneapolis Plat, dated August 2, 1855, Hennepin County Recorder's Office.

²⁵ This is the Minneapolis portion of “*Map of the City of St. Anthony/Map of the Minneapolis, 1856*,” the original of which is in the Central/Downtown Hennepin County Library. The black arrow indicating “north” and the red lines on Cedar and Washington Avenues emphasize how most of the city blocks were oriented to the river, and not based on the more usual north-south and east-west plan. It is posted courtesy of the Hennepin County Library.

²⁶ Atwater, *History of Minneapolis*, I: 69, 414; III: 1144-1147.

where they lived until 1884 when they took up residence in the West Hotel.²⁷

Atwater's real estate holdings were hard hit by the Panic of 1857. A number of factors such as wildcat currency and frenzied speculation had caused a financial crisis that spread across the country. Historian Theodore Blegen cited a pioneer who "reported that business lots in Minneapolis that were worth as much as \$3,000 in the spring of 1857 could not be sold for a tenth of that sum in the fall."²⁸

In a letter to Col. John Stevens dated Oct. 31, 1857, Atwater complained, "Martin [Richard Martin, St. Anthony's first banker] has returned dead broke. Instead of bringing out more money, [from New York] he has been obliged to borrow money to send there. It is utterly impossible to collect a dollar. For my own part I have entirely suspended. I have between two and three thousand dollars now due on the last payment on my house, and where it is to come from I don't know. I cannot get money enough to buy provisions for my family. You are a lucky dog if you have raised enough to eat to get you through the winter! It is because I have been so harassed about money matters that I have not been out to see you."²⁹

Atwater also had to contend with his eastern investors who expected returns on their investments; even the local real estate market had collapsed. According to Flandrau, Atwater had only advised these investors, not guaranteed the loans. But his sense of responsibility led him to offer the investors his personal note at 1 per cent interest per month in exchange for their mortgages that were supposed to pay 2-1/2 per cent per month. Atwater in effect bought their notes at a discount, which gave him large real estate holdings (as the mortgagees often defaulted) but also put Atwater deeply in debt.³⁰

During these same years Atwater was also building his law practice. In 1852 he was appointed reporter for the territorial Supreme Court by Governor Ramsey. In 1853 he was elected Hennepin County Attorney. In those days the public prosecutors did not give up their private practices, so sometimes Atwater appeared before the court as district attorney and at other times as a private attorney.³¹

²⁷ Isaac Atwater, "Autobiographical Answers," Minnesota Historical Society Manuscript Collections.

²⁸ Theodore C. Blegen, *Minnesota: A History of the State* (Minneapolis: University of Minnesota, 1963), 208.

²⁹ John H. Stevens, *Personal Recollections of Minnesota and its People and Early History of Minneapolis* (Minneapolis: Tribune Job Printing Company, 1890), 418-419.

³⁰ Flandrau, "Judge Isaac Atwater," 258-259.

³¹ Hiram F. Stevens, *History of the Bench and Bar of Minnesota* (Minneapolis: Legal Publishing and Engraving Company, 1904), II: 20.

Atwater wrote a number of articles that described the early courts and the life of frontier lawyers. He wrote that the first court in Minneapolis was held in July 1849 in an old government building near the corner of the present day Second Street and Eighth Avenue South. Judge Meeker presided. Apparently no record of the proceedings were kept, however Atwater gets to the heart of the matter: “But tradition records that ‘suitable refreshments’ were furnished by the sheriff, and were liberally partaken of by bench, bar and jury, and it was unanimously adjudged and decreed that they had had a ‘royal good time.’”³²

Perhaps it was the lack of formal courtroom settings that contributed to the nonchalant atmosphere of pioneer proceedings. George Longsdorf’s account of the Minnesota Supreme Court notes that its first session was held January 2, 1850 at St. Paul in the American House, as no courthouse had yet been built. The American House offered food and drink. It was not until the court fourth term that “the town of St. Paul had grown to that civic dignity” to provide a courthouse and “the court was no longer dependent on a borrowed habitation.”³³

Atwater’s accounts of court room decorum (or lack thereof) is corroborated by writer Russell Gunderson who stated “one term of the district court presided over by one of the supreme court justices, and held in a hall over a saloon on upper Third Street, [in St. Paul] a case was being argued by William Hollinshead who suddenly stopped in the middle of his argument at eleven o’clock and moved that the court take a recess of fifteen minutes.” His motion was granted “and the object of the recess soon became apparent. The bench, counsel, jury and every person in the room bolted for the door, crossed the street to the American House, where it is said, extensive irrigation immediately followed. The ceremony over, all returned to the court room” and regular proceedings resumed.³⁴

Gunderson observed unlike eastern courts where formality was expected, “free and easy familiarity was the rule” in the territorial supreme court. “It was not uncommon for the judge, while waiting for a witness, to descend from the bench, and taking a seat at the bar with his legs cocked up on the table, a cigar in his mouth, join in the jokes, stories, and laughter at the counsel table.”³⁵

Even if Minnesota courts lacked the dignity of those he was familiar with back in New York, Atwater thought they got the important things right. In

³² Atwater, *History of Minneapolis*, I: 427.

³³ George F. Longsdorf, *Historical Sketch of the Supreme Court of Minnesota*, reprinted from *Case and Comment*, Vol. 19, No. 1.

³⁴ Russell O. Gunderson, “History of the Minnesota Supreme Court,” manuscript, 1937, 30-31; Minnesota Historical Society collections.

³⁵ Gunderson, “History of the Minnesota Supreme Court,” 30.

an article in the *Express Atwater* compares the Minnesota courts favorably to other parts of the country. “That spirit of mob law and disregard of the constituted authorities, which too often prevails in Territories and new states, is wholly unknown in Minnesota---the law here is omnipotent.”³⁶

Taken at face value, *Atwater* often chose stories that implied that frontier law was practiced mostly for amusement, such as those of his fellow lawyer William Lochren, who settled in the city in 1856. Lochren recalled, “Money was scarce and the chances of the younger lawyers for fees not very promising, but good feeling and love of fun prevailed generally.” He noted “the love of fun and practical jokes among the boys gave rise to many ludicrous scenes in this court.” He remembered an elaborate prank played on a Doctor Jodon, who “was for some reason not a favorite with the boys,” that resulted in the doctor bringing his supposed tormentors in court. In time it became clear that the defendants had nothing to do with the incident and were also victims of the practical joke. In another instance, Lochren recalled Stewart Harvey, who with the generous help of several young attorneys, managed to successfully defend himself at a trial. But Harvey, “a man of phenomenal vanity,” apparently could not be satisfied with one victory. He asked the attorneys to help him gain admission to the bar. Sensing an opportunity for fun, “nearly the entire bar participated in preparing about 50 questions” with absurd answers for Harvey to memorize. When examination day arrived, two young men offered to serve as “candidates” so as to continue the charade. Harvey’s answers to the questions “kept the audience in a roar of merriment, while the examiner by running comment on the answers of the other candidate kept Harvey in the belief that all the laughter was at their expense.” For example when asked to define escrow, Harvey parroted back, “an escrow is an incorporated hereditament. It is the right which a man hath to set up a scarecrow upon another man’s land to scare the crows from his own corn.” Harvey was delighted at his evident accomplishment, and learned much later that he had been deceived.³⁷

Atwater reported that the first district court held in what would become Hennepin County (established 1852) “was in the old mill erected by the United States for use of Fort Snelling. It convened in July 1849, and was presided over by Judge Meeker. It is unfortunate that there are no written records of the same preserved.” He also related that the first district court in Hennepin County convened April 14, 1853. There was no courthouse then so the county commissioners rented the parlor and two bedrooms in

³⁶ “Minnesota as Compared with Other Territories,” *St. Anthony Express*, April 10, 1852.

³⁷ William Lochren, “Old Court Days,” *Minneapolis Tribune*, June 1, 1889, later included in *Atwater’s History of Minneapolis*, I: 481-483.

Anson Northrup's house on First Street (near the present-day Crown Roller Mill).³⁸

Many cases before the early courts involved disputes over claims. Joel Bassett hired Atwater, who had personal experience in these matters, in a claim jumping case against David Bickford. After a tedious session, the jury couldn't agree on a verdict. According to Atwater one impatient juror jumped out of a second-story window of the jury room and was never seen again. Col. John Stevens recounted the incident differently—the jury was forced to meet outside because no jury room was available, and the impatient juror “declared he had been out in the cold long enough and he would not be frozen into a verdict contrary to his understanding of the matter . . . and went home.” After the trial ended Atwater could not get the judge to take action against the juror. Stevens related “the ending of it (the trial) was so ludicrous and so different from what the plaintiff had been familiar with in conducting cases in the courts of his New England home that he never had the courage to move for a new trial. He obtained slight satisfaction in an encounter with the trespasser, in a snow drift on the disputed claim, not long after the farce of the trial.”³⁹

Atwater wrote that even a body as august as the territorial Supreme Court conducted trials in an unorthodox manner. “At one term the writer [Atwater] had four cases, in all of which his opponent was Mr. North. Three of them were fairly doubtful cases, but of one I felt perfectly sure, as the authorities were unanimous in favor of my client. In due time the three questionable cases were decided in my favor. Some time later the other was decided, and to my astonishment, for my opponent. Meeting the chief justice shortly afterwards I returned to ask him the grounds of the decision, as no reasons were on file with the same, and how the court disposed of the authorities cited. He had utterly forgotten the case, nor could I refresh his memory in regard to it.”⁴⁰

“Finally he said, ‘Well, perhaps a mistake might have been made, but as Mr. N. had lost every case that term, we thought we would give him one, as it did not seem to be of much importance anyway.’ The answer was of course conclusive.” We do not know whether the Chief Justice revealed the inner deliberations of his court or, more likely, gave an absurd explanation to extract himself from the awkward situation Atwater had placed him. In 1857 Atwater was elected to serve as associate justice on

³⁸ Isaac Atwater, “Minnesota Courts and Lawyers, in the Days of the Territory,” *Transactions of the Department of American History of the Minnesota Historical Society* (Minneapolis: Johnson, Smith and Harrison, 1879) 129.

³⁹ Stevens, *Personal Recollections of Minnesota*, 137-138.

⁴⁰ Atwater, *History of Minneapolis*, I: 426.

Minnesota's first state Supreme Court [statehood came in 1858] and presumably his decisions were made on sounder legal principle.⁴¹

By this time the Supreme Court met at the newly built state capitol building. The first Minnesota Supreme Court was held at American House in St. Paul in a room adjoining the saloon. Although the court convened in more dignified quarters, it still lacked the tools of its trade. The majority of books in the state law library (lost in the 1881 fire, which destroyed the capitol) were not law books and the library itself was disorderly with books strewn around the room in no particular order according to Honorable Thomas Scott Buckham.⁴²

Atwater reminisced, "There was at that time no law library for the use of the judges, and were necessarily much hampered in our work by the lack of that facility. Often we would have brief references to decisions, which might be of controlling weight upon a case under consideration, but it was impossible for us to obtain any full report of those decisions. Many cases came before us, especially in real estate and railroad law, which were of first impression and we were obliged to struggle with the questions presented with practically no aid from the textbooks or prior decisions."⁴³

Lack of a proper law library presented a problem for early courts, but also the very nature of the incoming settlers led to confusion. Gunderson noted that legal profession in the territory had been drawn from many states "and each had brought with him certain ideas and practices favored in his native state, and ones which he himself had come to consider as being the most approved." In time there was "an increase in court dignity, but the fascinating flourish and flavor of territorial time was passing away. And never again did any clerk, who could not write the simplest record without instruction and help from the presiding judge, ever become attached to any court."⁴⁴

Many years later, Atwater wrote an article offering "practical suggestions" to those contemplating a law career. Some of his advice was straightforward such as the warning against ever using money belonging to clients: "Make it a rule never to hold your client's money over night where it is possible to remit." Other recommendations seem to reveal his legal philosophy such as being in no hurry to seek admission to the bar, especially

⁴¹ North's biographer, Stonehouse disputes Atwater's claim that he bested John North in court. Stonehouse asserts that North "beat Atwater in almost every case in which they opposed each other as attorneys." (*John Wesley North*, 69).

⁴² Nahman Schochet, "Minnesota's First State Supreme Court (1858-1865), and the Introduction of the Code of Civil Procedure," *Minnesota Law Review*, January 1927, 124-125.

⁴³ Schochet, "Minnesota's First State Supreme Court," 125.

⁴⁴ Gunderson, "History of the Minnesota Supreme Court," 33, 31.

in places where “the standard for admission is so low” that only a couple of years study would allow a student to pass. However, “what is apparently gained in time will prove an irreparable loss in all after life.” Once admitted to the bar, will “cause the young lawyer to relax his diligence in study, whereas, whatever may have been his preparation, his legal studies have only commenced.” Atwater concluded these individuals “are doomed all their lives to a position of mediocrity when, had they devoted a year or two longer to a more thorough preparation, they might have achieved success in their profession.”⁴⁵

Charles Flandrau also served on the Supreme Court at the same time as Atwater. A 1927 *Minnesota Law Review* article states that Flandrau and Atwater, who had both practiced in New York prior to coming to Minnesota, set the course for Minnesota commercial law by following New York precedents.⁴⁶

Atwater served on the Supreme Court until 1864, when he resigned to accept a lucrative offer to practice law in Carson City, Nevada. As an associate justice, Atwater’s yearly salary was \$2,000, but apparently he could earn much more as a real estate lawyer. Silver had been discovered in Nevada and disputes over claims were very common. Flandrau soon resigned his seat on the Supreme Court and followed Atwater to practice real estate law in Nevada.⁴⁷

Flandrau claimed that Atwater’s massive real estate related debts were the impetus that led him to Carson City. It is also possible that John North informed Atwater of the opportunities offered by Nevada. North left St. Anthony by 1854 and by 1861 he had been appointed Surveyor General of Nevada Territory by President Lincoln. The following year he was named associate justice of the Nevada Territory Supreme Court and was a judge of the district court as well.⁴⁸

Atwater stayed in Nevada for only two and a half years by which time all of his debts had been repaid.⁴⁹

Atwater returned to Minneapolis in 1867 and opened a law office with Flandrau in the Pence Music Hall building on Bridge Square. He also was elected as an alderman to the Minneapolis City Council, a post he held until 1874. From 1867-72 Atwater also served on the Board of Education. During these years Atwater was also a member of the Board of Trade, which was

⁴⁵ Isaac Atwater, “Practical Suggestions to Students and Young Lawyers,” *Yale Law Journal*, March, 1893, 136, 133.

⁴⁶ Schochet, “Minnesota’s First State Supreme Court,” 93, 112, 120-123.

⁴⁷ Flandrau, “Judge Isaac Atwater,” 258-259; Atwater, *History of Minneapolis*, 1:109.

⁴⁸ Stonehouse, *John Wesley North*, 131, 150-155.

⁴⁹ Flandrau, “Judge Isaac Atwater,” 259.

neither a trade organization nor did it represent a particular line of businesses, but was very influential in the political and commercial affairs of the city. He served on the board of directors of the Minneapolis and St. Louis Railroad and for St. Barnabas Hospital as well.⁵⁰



Portrait of Isaac Atwater (ca. late 1860s - early 1870s)
(Courtesy of Minnesota Historical Society)

⁵⁰ Flandrau, "Judge Isaac Atwater," 259; Atwater, "Autobiographical Answers."

After Flandrau moved to St. Paul in 1871, Atwater had a number of law partners, among them Charles Babcock, his nephew, and John B. Atwater, his son, also a graduate of Yale. Atwater retired from his practice in 1886, turning it over to his son, although he still went to his office daily until his death in 1906.

Atwater began work on the *History of Minneapolis, Minnesota* in 1889. He served both as a writer and as editor on the work that was published in 1893. Others wrote several chapters of the book, particularly if the subject was outside Atwater's area of expertise. Atwater's history of Minneapolis was not the first published, his friend Col. John Stevens published his own account, *Personal Recollections of Minnesota and Its People and Early History of Minneapolis* in 1890.

Apparently, Atwater had a long-standing interest in history. In one of the early editions of the *St. Anthony Express* he wrote an account of St. Anthony history (which was only a few years old at the time) and used the same words in his preface forty years later as to why such an endeavor was necessary. "The early history of every city has a peculiar interest, not only to its founders, but hardly less to those who come later. Even incidents, considered at the time of their occurrence unimportant, later assume a value unsuspected to those connected with them."⁵¹

As an early pioneer and as a person who was active in the civic and commercial affairs of Minneapolis, Atwater was good candidate for historian. However, it is important to consider Atwater's point of view as his stories become the source of our view of early Minneapolis and in some cases the only source for some incidents.

Sometimes Atwater's historical accounts are contradicted by his own career. In an 1887 article regarding the early courts he writes, "Of all the appointments in the gift of the administration for a territory, scarcely any are less desirable for a man of average ability than a seat on the territorial bench." He described them as too uncivilized and cuts off future career advancement. "There can be no dallying with politics or politicians" so when an appointee leaves the bench he is so out of touch that no one is interested in hiring him as an attorney. However, neither Atwater nor Flandrau suffered any professional or financial harm by their public service. In fact, the size of Atwater's estate listed in probate court would suggest quite the opposite. One account listed his total estate at \$33,138 or the equivalent of \$833,803 in 2012 dollars.⁵²

⁵¹ Atwater, *History of Minneapolis*, iii; "History of St. Anthony," *St. Anthony Express*, January 28, 1854.

⁵² Isaac Atwater, "The Territorial Bench of Minnesota," *Magazine of Western History*, 1887,207; "Atwater Will Filed," and "Pays \$62.47 Income Tax," *Minneapolis Journal*,

Atwater's history is colored by his own views and the times in which he lived. In the August 9, 1851 issue of the *Express* Atwater wrote a long piece on women's rights. He was outraged by feminist Elizabeth Cady Stanton whom he calls, "a leading Women's Rights man." Cady (Atwater quotes her own words) would have women "go to the polls, at each returning election, bearing banners with inscriptions thereon . . . become merchants, postmasters, silversmiths, preachers . . . even Sheriffs and Constables . . . and become independent of public sentiment, for public sentiment is false on every subject." If women take on these "masculine" tasks, who, Atwater asks, will do the housework and rear the children?⁵³

Atwater concludes, "Stop your authorship, still your speeches, keep to the modest attire of your gender, attend to your maternal duties, and if the men you rear do not render you homage and justice, it will be because you are unworthy to receive it." His views on women were fairly common for the time (and not unknown even today). Although Ann North wrote that this article proved that Atwater was "low and vulgar." She was also embarrassed that such a newspaper would represent St. Anthony.⁵⁴

Apparently, Atwater must have modified his opinion of women writers somewhat as his own wife wrote a chapter of his *History of Minneapolis*. His history included dozens of special biographies of prominent men, but only a few of women such as Adele Hutchison and Martha Ripley (both physicians), Abby Mendenhall, and Harriet Walker.⁵⁵

Sometimes, it is possible to go to other primary sources of Minneapolis history and find different accounts and points of view, so it isn't necessary to rely on Atwater's history alone. However, for some incidents we can only take Atwater's word for it. In this way, Atwater left a more permanent legacy than bricks and mortar, he determined that way in which we view our past. ■

September 13, 1907; (The Inflation Calculator, www.westegg.com). One article estimated the estate at \$50,000, while the other noted the state auditor listed it as \$33,138.

⁵³ "Women's Rights," *St. Anthony Express*, August 9, 1851.

⁵⁴ "Women's Rights;" Letter from Ann North to her grandmother, August 11, 1851, North Papers.

⁵⁵ Atwater, *History of Minneapolis*, II: 929-930, I: 260-262, II: 977-979, I: 250-252.

