

The Work of the Second Minnesota Legislature, 1859-60

Contributor

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**Mr. R. I. Holcombe aided in the preparation of this address,
and also read it at this meeting.**

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THE WORK OF THE SECOND STATE LEGISLATURE, 1859–1860*

BY THE PRESIDENT, GENERAL JOHN B. SANBORN.

The object of this paper is to present concisely but clearly the work of the Second State Legislature of Minnesota and its influence upon the character and destiny of the State.

That this work was honestly, faithfully, and intelligently performed, cannot be disputed; that it was largely and beneficently influential upon the State's welfare is confidently believed. The legislation enacted at this session established wise policies which have been in the main perpetuated, and laid foundations for prosperous conditions which have never been removed or shaken. The precedents inaugurated have often been followed; the lessons taught will for a long time to come be studied.

The First Legislature, chosen in 1857, met December 2, of that year, took a recess March 25 until June 2, 1858, and finally adjourned August 12. In politics it was largely Democratic in both branches, and the Governor and other State officers were also of that political faith. Under the apportionment, as fixed by the Constitution, the Senate consisted of 37 members and the House of 80, although at the time the total white population of the young State was only about 150,000. The effects of the general financial panic of 1857 were being sorely felt by the people. The general conditions were adverse, and in many instances really distressing. Yet with a liberality amounting to recklessness, and an inconsideration well nigh criminal, this Legislature conducted its work on a scale of magnificent proportions. It made lavish expenditures and enacted much unwise legislation. The effect of all this was soon and painfully made manifest, and the people demanded a change.

*** Read at the monthly meeting of the Executive Council, March 14, 1904. Mr. R. I. Holcombe aided in the preparation of this address, and also read it at this meeting, after introductory remarks by the President.**

The election of 1859 for State officers, including members of the Legislature, resulted in a complete victory for the Republicans over the Democrats. Alexander Ramsey was elected governor over our late honored associate, Gen. George L. Becker, by a majority of 3,753, and the other State officers and both branches of the Legislature were Republican. The political canvass of that year had been most spirited. The Democrats were in power in the State and nation, and made the most strenuous endeavors to hold their ground, and especially to control the Legislature, since at its first session many schemes were to be presented for consideration, and there was besides a United States Senator to be elected.

The Republican party was young, but its youth was vigorous and promising. Its members were enthusiastic in their faith and aggressive in their methods to achieve its triumph. The party was fortunate in the selection of the chairman of its State Committee, another of our late associates, Hon. Charles D. Gilfillan, Mr. Gilfillan was not only a very earnest Republican, but a man of great intellect, superior judgment, fine tact, and many other substantial accomplishments. He worked very hard during this campaign, for the opposition had experienced and adroit leaders, but the Democrats lost every contested battle. Every Republican and many Democrats believed that the election and canvass of votes in 1857 (which resulted in the declared election of the Democratic candidates) were fraudulent, and it was Mr. Gilfillan's determination that at the election of 1859 there should be a free vote and an honest count. As a matter of course his political associates seconded his efforts and the result was a great victory. The people seemed especially desirous that a Republican legislature should be chosen to amend and undo the work of the Democrats in the sessions of 1857–8, and Republican members were elected from many Democratic districts.

The Second Legislature convened in the old capitol building at St. Paul, December 7, 1859. The Democratic State officials were still in place, as their terms did not expire until January 2, following. As I have said both Houses of the Legislature were Republican by a strong majority, and so their officers were Republican.

Hon. Amos Coggsell, of Steele county, was elected speaker upon the organization of the House. I was a Republican member of the House, having been elected from St. Paul in the Second representative district. My colleagues from that district were Henry Acker, John B. Olivier, Oscar Stephenson, George Mitsch, and D. A. Robertson. Mr. Acker and myself were the only two Republicans in the House from Ramsey.

Upon the complete organization of the House, I became chairman of the Judiciary Committee. My associates on this committee were William Mitchell, of Winona; George W. Sweet, of Benton; H. E. Mann, of Hennepin; and D. A. Robertson of Ramsey. Of these, Mr. Mitchell was subsequently for many years a judge of the Supreme Court; Mr. Sweet was an old resident of the State, whose wife was of Indian blood; and H. E. Mann was a lawyer of Minneapolis, and at the time a member of the law firm of Cornell and Mann. Subsequently he was clerk of the United States Circuit Court for many years, and removed to St. Paul, where he still resides. Col. D. A. Robertson, of St. Paul, had been bred to the bar, but was not a practicing lawyer. The members of the committee as well as all the other members of the Legislature, with but few exceptions, were comparatively young men; and nearly all were capable, bright, and intelligent, and desirous of doing the State good service.

The situation was, as I have said, most unhappy for the people and the State; and retrenchment and reform in public, as well as in private, affairs were vitally essential. In his message to us the retiring governor, General Sibley, presented the situation and said, "The embarrassed condition of the State finances and impoverished situation of the people imperatively demand retrenchment in expenditures." He knew that the State had afloat nearly \$184,000 in scrip and about \$250,000 in eight per cent bonds, while there was in the treasury, December 1st, but \$1,014.16 in cash. He knew that large sums in taxes were delinquent and could not be collected; that the people were poor, with small resources and smaller incomes. But he also knew that certain expenditures must be made, and that the State, already in

favor with home-seekers, must not be allowed to take one backward step in her progress, but must push steadily onward. When, on January 2, 1860, Alexander Ramsey became governor he said in his inaugural: "A thorough revision of all laws whereby the expenses of town, county, or State governments can be reduced is imperative."

Along these lines, as indicated by the retiring and the new governors, the Legislature, at least the Republican portion, set to work immediately upon its organization. The admonitions of the chief executives were hardly needed. The members themselves knew the situation, and were eager to meet it and improve it. The Republicans had promised the people reforms, and were on their good behavior and trial for the future. The House had a special "Committee on Retrenchment and Reform," designed to point out all dangers to be removed and all benefits to be secured. Of this committee Hon. Henry Acker, of St. Paul, was chairman. As a matter of fact, every member, at least on our side, was a retrencher and reformer. The result was that throughout the entire session the work was done with an eye single to the public welfare. Not a line of class legislation was adopted; no scheme even savoring of graft was countenanced; and amid all of the many bills introduced no "wolf" could find a lair, and no "woodchuck" a burrow.

All of the members worked faithfully and hard, but the labors of the House Judiciary Committee were especially onerous and exacting. I have had the honor to be a member of the Legislature at different times since, and I have never seen so much hard work performed by that body as was accomplished in the second session. As chairman of the Judiciary Committee, I was engaged nearly every night of the eighty days of the session until nearly midnight,—often until in the small hours. The other members of the committee were equally as industrious. Mr. Mann frequently labored with us until a very late hour, then walked to his home in Minneapolis, and walked the distance back the following morning in time to be present at the opening of the daily session at ten o'clock. The reason why so much was exacted of our committee

was that nearly every bill introduced was at some stage of its progress referred to us for opinion as to its constitutionality. Our reports were invariably adopted, and many unwise and improper measures were disposed of by our adverse recommendations. The Senate Judiciary Committee, of which Jesse Bishop, of Goodhue county, was chairman, and C. C. Andrews and Lucas K. Stannard the other members, was doubtless equally hard worked.

It is not practicable, in this paper, to do more than summarize the work accomplished by this Legislature. It may be sufficient—as it is the truth—to say that many of the measures which it enacted were virtually original in their character, and the principles they contained were of such force as precedents that they became fairly fundamental. Their influence was immediately beneficial and has always been valuable in its effects upon our State. Only a very few of the laws passed were modified by judicial decisions; and many of them, in word and letter, are yet on the statute books.

Early in the session, December 15, Hon. Morton S. Wilkinson, Republican, was elected U. S. Senator, over and in place of Gen. James Shields, Democrat. Senator Wilkinson was a staunch Free Soiler. He was an intimate personal friend of Abraham Lincoln, and brought a letter of indorsement from him when he came to Minnesota. In the first numbers of the "Minnesota Pioneer" Wilkinson's professional card appears, and among his references are the names of "Wm. H. Seward, Auburn, N. Y., and Hon. Abe Lincoln, Springfield, Ill." He made an excellent war senator, always upholding the administration, and at one time, as the personal friend of Lincoln, exposed and defeated a conspiracy to prevent his nomination for re-election.

January 2, 1860, the newly elected Republican governor and the other State officers were duly inaugurated and installed, and then the legislative machinery rolled smoothly, and steadily. Party spirit was very high and constantly running higher. In the Senate, during the December part of the session, some of the Republicans became so incensed over certain rulings of Lieut. Gov. Holcombe,

the Democratic presiding officer, that they strove to induce the House to impeach him. Our Judiciary Committee promptly decided, and so reported, that the House had no right to interfere with the business of the Senate, suggesting that our aggrieved brethren, who were largely in the majority, might amend their rules so as to make the lieutenant governor do precisely what they wanted him to do. After January 2, Ignatius Donnelly was lieutenant governor, and only Democrats complained then.

About December 16, the Judiciary Committee of the House brought in a new tax bill, the main principles of which may be said to be still in force. It was a complete substitute for the inadequate measure enacted by the previous Legislature. We entitled it, "An Act to provide for the assessment and taxation of all property in this State, and for levying taxes thereon according to its true value in money." All private property, real and personal, was made subject to taxation, excepting \$200 worth of personal property to individuals, and excepting stocks in their ownership which had been already listed by the corporations issuing them. Stringent provisions were made for the collection of taxes without favor to any one. A great deal of care was exercised in framing this bill, and it was believed to be as near perfect as possible. Some of the provisions were opposed by the Democrats, chiefly for partisan reasons, as most of us believed, for they lost no opportunity to criticise the dominant party and to attempt to put us "in a hole."

Early in the session Mr. William Sprigg Hall, a prominent Democratic lawyer of St. Paul, and then a member of the Senate, introduced a series of resolutions strongly denunciatory of John Brown's raid on Harper's Ferry and of all its sympathizers. When the resolutions came before the House, I amended them by adding certain clauses condemning the sentiments of Southern members of Congress in favor of dissolving the Union in the event of the election of a Republican President, declaring that the Union ought never in any contingency to be dissolved; and in the end the resolutions, as amended, were adopted by both Houses.

The Legislature enacted a good practicable road law; a law regulating the business of insurance companies; amended the militia law; provided for the organization of agricultural societies; gave lumbermen a lien for their services on the logs and lumber on which they had worked; provided for the formation of companies for mining, smelting, and manufacturing iron, copper, and other minerals, and to encourage these industries, then not well established, levied no tax on their output. It also enacted a stringent law against bribery, and another prohibiting the sale of liquor to the Indians. After much discussion of the subject, it refused to abolish capital punishment. It established interest rates at seven per cent for legal indebtedness, six per cent for judgments of courts, and at not more than twelve per cent by contract between individuals. At that time those who were compelled to borrow money were glad to get it at twelve per cent per annum. The rate had often been two and three per cent per month.

The most rigid economy was prescribed in every detail of the public expenditure. The governor's annual salary was reduced from \$2,500 to \$1,500; his private secretary was allowed \$400; the lieutenant governor's salary was reduced from \$1,500 a year to a per diem; the Secretary of State was given \$1,200; the Auditor, Treasurer, and Attorney General, \$1,000 each; the clerk of the Supreme Court, and the State Librarian, \$600 each; the Supreme Court reporter, \$500; and the warden of the Penitentiary, \$750. Clerk hire in the offices of the Auditor, Secretary of State, and Treasurer, was limited to \$600 in each office. The expenditure for fuel and lights for both houses of the Legislature and the other State offices was fixed at \$700 per year. At the time, the fuel used was wood, and the lights chiefly candles. The office of prosecuting attorney for each of the several judicial districts was abolished, and county attorneys were substituted. The Legislature created but one new salaried State office, that of Commissioner of Statistics, who was given \$75 per month and allowed \$510 for printing his reports. The commissioner was Joseph A. Wheelock, now the Nestor of Northwestern journalism.

The First Legislature had established a system of county organization and government, which had proved very unsatisfactory and quite ineffective. The county government was vested in a Board of Supervisors, composed of one member from each civil township, who were to be elected by the people of the respective townships. The results generally were that the Boards comprised a dozen or more members each, and that there were a divergence and a multiplicity of views among them on every question acted upon. The system proved cumbersome, unwieldy, and expensive, and the people became disgusted with it.

The Second Legislature repealed the law of 1858, and enacted another in its stead, creating by its provisions a Board of County Commissioners. In counties where eight hundred votes 40 or more had been cast at the previous election, five commissioners were to be chosen by the electors of the entire county; and in counties where less than eight hundred votes had been cast, the Board was to consist of three members. In counties where township organizations had been effected, the governor was to appoint the commissioners. The salaries of the commissioners were fixed at \$1.50 a day, when actually engaged in their official duties, with six cents mileage for every mile actually traveled in attending sessions. This was the inauguration of the County Commissioners system, which is practically in operation today, and which has always worked so well.

A township organization was effected providing for town clerks, assessors, and supervisors in each civil township. These officers were each to receive \$1.50 a day for services actually rendered, but no town supervisor was to receive more than \$20 in a single year. This system was well adapted to conditions as they then existed, and proved generally popular for a long period of time.

The general election of 1857, as I have stated, gave great dissatisfaction to the Republicans. They believed that it had been illegally and fraudulently conducted, with the result that the State officers declared elected had not received a fair majority of the legal votes cast. However this may have been—and of course

there were two distinct and differing opinions regarding the fact,—the Second Legislature determined to amend the rather loose election law so as to reduce illegal and fraudulent voting to the minimum in extent, and to prevent it altogether if possible. An entirely new law on this subject was enacted. The most important provision of this law was the requirement of a registration by voters. No person not registered could vote. The manner of establishing the eligibility of voters, of counting the vote, of making returns, and many other paragraphs of the law, are actually in the election laws of today. The Australian ballot system was not adopted until thirty years later.

The statutes relating to common schools were amended, and substantially a new system was adopted. The Chancellor of the State University was made ex-officio State Superintendent of the schools, and his duties were prescribed. No county superintendents were to be chosen. Each civil township, at the annual town meetings, was to choose a town school superintendent, who might grant teachers' certificates, which were to be valid only in his town. Teachers' certificates from the chairman and secretary of the State Normal School at Winona were to be valid throughout the State. Township superintendents were to be paid by the town supervisors. This law was good only for the time and the prevailing conditions. The present system, in the then sparsely settled condition of many of the counties, was not practicable.

This Legislature passed a new law for the government and regulation of the State University. By its provisions the foundations of the institution were securely laid and its future upbuilding provided for. Its affairs were to be managed and controlled by a Board of Regents, to consist of the governor, lieutenant governor, the chancellor, and five other members, to be appointed by the governor. One section of the act read: "The University shall never be under the control of any religious denomination." No sales of lands belonging to the University were allowed unless ordered by the Board of Regents. When sales were made, the surplus income arising therefrom was to be invested in United States securities or other well established interest-bearing stocks, as a fund for

defraying the current expenses of the institution. The chancellor's term of office was to be that of a district judge of the state, and the Legislature was to fix his compensation. The chancellor then in office was the late Rev. Dr. Edward D. Neill.

The Legislature of 1858 had provided for establishing three state normal schools, one to be built every five years, upon the donation of \$5,000 in money or lands. There was no imperative or immediate need of these schools, and in view of the general adverse conditions, the limited resources of the state and of its people, it was then practically impossible to provide for them. So the Second Legislature suspended the act on the subject for five years. It was expressly provided, however, that this suspension should not apply to the normal school at Winona, which was already established.

In order to erect the necessary buildings for the Winona Normal, the Board of Directors of that school was empowered to sell all the property that the state had donated to the institution, except so much as might be necessary for other aids to its completion.

The particular attention of the Second Legislature was from the first to the last day of the session directed to the condition of the projected railroads in the state. Under the land grants and the Five Million Loan bill, the grading of certain roads had been commenced a year and more previously. Detached pieces of grading had been made on different lines, when the constructing companies became wholly unable to procure funds to prosecute their work, and it was stopped. The State issued its bonds only upon completed work, and the companies seemed powerless to go ahead. There was great dissatisfaction, amounting to indignation, among the people at this unhappy and damaging condition of affairs. They greatly desired and needed railroads, but the companies with franchises to build them were practically bankrupt and powerless; and the incomplete condition of their roads, and the loan bill, the bonds, etc., constituted menaces and obstacles to the building of other roads by other companies.

There was a well nigh universal demand that all further aid to the railroads already projected be withheld and refused. The Legislature was compelled to act. The State had issued to the railroad companies its seven per cent bonds to the amount of \$2,275,000, and less than fifty miles of grading had been done. The situation was intolerable. After many protracted and spirited discussions of the subject, a joint committee of both Houses reported in favor of a most heroic remedy. Dr. J. H. Stewart, of St. Paul, was chairman of the Senate Committee, and G. K. Cleveland was at the head of the Committee of the House. On the lines of this report, the Legislature, by a concurrent resolution of both houses, submitted to the people an amendment to the State Constitution regarding tax levies, with this important reservation:

But no law levying a tax or making other provisions for the payment of the interest or principal of the bonds denominated "Minnesota State Railroad Bonds" shall take effect or be in force until such law shall have been submitted to a vote of the people of the State, and adopted by a majority of the electors of the State voting upon the same.

Another amendment to Section 10 of Article 9 of the Constitution was also proposed to the people for their ratification or rejection, and this amendment read:

The credit of the State shall never be given or loaned in aid of any individual, association, or corporation; nor shall there be any further issue of bonds denominated "Minnesota Railroad Bonds" under what purports to be an amendment to Section 10, Article 9, of this Constitution adopted April 15, 1858, which is hereby expunged from the Constitution, saving, excepting and reserving to the State, nevertheless, all rights, remedies, and forfeitures accruing under said amendment.

The land grant railroad companies, as security for the State bonds which they had received, had issued and delivered to the State their bonds, which were secured by deeds of trust on the lands donated them. Default had been made in the payment of

interest on these bonds, and the trustees under the trust deeds had failed to foreclose on them, as they were directed to do. The Legislature, therefore, empowered the governor to foreclose them and to bid them in for the State upon their sale. Subsequently this action was taken by the chief executive in many instances.

Both of the proposed amendments to the Constitution were adopted by the people at the presidential election in 1860, by an overwhelming majority. The vote in favor of the expunging amendment was 19,308; against, 710. After about twenty years of discussion on the subject, a compromise was effected with the holders of the bonds, and they were paid fifty cents on the dollar on their claims. The action of the Legislature and the people in the so-called repudiation of the bonds apparently never impaired the credit of the State in the slightest degree. Two years after the legislature adjourned, work on the old St. Paul and Pacific railroad was commenced, and the same year it was completed between the capital and St. Anthony. Nearly all the main lines now in the state were projected and a great portion of them built before the alleged "stain of repudiation" was removed. Railroad-building was carried on in Minnesota during the dark days of the War of the Rebellion, while it was wholly suspended in other Northwestern states.

In pursuance of its policy of rigid retrenchment and economy, the Legislature reformed the composition of that body itself. Under the apportionment made by the First Legislature, the House was composed of 80 and the Senate of 39 members, a total of 119. By a new apportionment the Second Legislature reduced the total membership to 63, or 21 in the Senate and 42 in the House, a total reduction of 56 members. At the same time legislative sessions were reduced to sixty days for regular sessions, and thirty days for special sessions. This reform was effected by the force of an act providing that members should not be paid for a longer time. The First Legislature, including the adjourned session from July 2 to August 12, 1858, had met for about 150 days. The second was in session for 80 days.

One very practical result of this Legislature's work was a great reduction of the State's expenses. As shown by the reports still of record, the expenditures for 1859 had been about \$281,400, leaving, as I have said, a balance in the treasury subject to draft of \$1,014.16. The total disbursements from the State treasury from December 1, 1859, to January 1, 1861,—thirteen months—was \$138,846.84. The reduction in the State's expenses in 1860 over those of 1859 was thus about \$142,500, a very large sum at that time under all the circumstances. In 1860 there were probably not in the State twenty men worth \$50,000 each.

By a joint resolution of both houses, originally introduced by Senator C. C. Andrews, the State's representatives in Congress were instructed to vote for a national homestead law, which would give to each actual settler, after an occupation of five years, 160 acres of the public land. A little more than a year thereafter the homestead law was enacted.

Another joint resolution demanded the removal of the Winnebago Indians from the State, and the opening to white settlement of their reservation in Blue Earth county. The removal was not effected, however, until in 1863.

A memorial to Congress asked for the acquisition, by treaty with the Chippewas, of the lower part of the Red River valley, and the opening of the territory acquired to settlement. The treaty was made on the part of the government by Governor Ramsey in 1863, and the adoption of the memorial referred to was the first authoritative and important action taken in the matter.

Another memorial to Congress, introduced by Representative William Nettleton, was adopted, asking for the establishment of lighthouses at "Beaver Bay, the Grand Portage, and the mouth of the Pigeon river," all on the Minnesota coast of lake Superior. No lighthouses had been erected in that quarter before that time. The memorial recited that during the season of 1859 "four steam-boats had made regular trips" to the Minnesota ports named, and that "more than forty sailing crafts" had been engaged in fishing and coasting. It was further stated that the prospects were that

this commerce would be increased, because of the important and significant fact that the abundant evidences of the existence of valuable mines and mineral deposits along and near the lake was already engaging the attention of immigrants and capitalists.

It may with propriety be said by one of its humblest members that the personnel of the Second Legislature was of high order. Almost without exception, the members were men of intelligence, character, and righteous purpose. Their work was performed under the influence of unselfish and patriotic impulses. In after years they exemplified their dispositions by right living, by conspicuous and valuable public service, and by heroic and gallant endeavor on the battlefield. Some of them became members of Congress; others held judicial, diplomatic, and other responsible positions under the Federal and State authority. In the War of the Rebellion, many served with high rank and distinction, some coming out of that conflict with the stars of a general, while others gave their blood and their lives that the Union might live and not die.

Of the members of the Senate, Dr. Jacob H. Stewart was surgeon of the First Minnesota regiment, and subsequently mayor of St. Paul for two or three terms and member of Congress. Michael Cook became major of the Tenth Minnesota, and was mortally wounded at the battle of Nashville. Robert N. McLaren was colonel of the Second Minnesota Cavalry, and was brevetted brigadier general; after the war he was collector of internal revenue, United States marshal, etc. John T. Averill was lieutenant colonel of the Sixth Minnesota, and was brevetted a brigadier; and after the war he served four years in Congress. Henry C. Rogers became lieutenant colonel of the Eighth Minnesota, and died from wounds received in the "Battle of the Cedars," near Murfreesboro, Tenn. Alonzo J. Edgerton was a captain in the Tenth Minnesota, and colonel of a regiment of colored troops; and after the war he was a judge of the United States District Court, U. S. senator from Minnesota, and governor of South Dakota. Christopher C. Andrews became colonel of the Third Minnesota, and was promoted to brigadier and brevet major general, and in

time of peace represented the government as minister to Sweden and consul general to Brazil. Oscar Taylor was a captain in the Minnesota Mounted Rangers. John H. Stevens was always a prominent and useful citizen and one of our best associates.

Of the House, John B. Sanborn was colonel of the Fourth Minnesota regiment, and became a brevet major general. Dr. Moody C. Tolman was a surgeon of the Second Minnesota regiment. William Mitchell served nineteen years on our Supreme Bench, and was an able and eminent jurist. William Pfaender was a lieutenant in the First Minnesota Battery at Shiloh, became a lieutenant colonel of one of our cavalry regiments, and after the war served two years as State Treasurer. John B. Olivier was a good soldier in the Eighth Minnesota regiment.

But for the disastrous fact that the year after its adjournment the War of the Rebellion came, the valuable work of the Legislature of 1860 would have been more apparent. As the condition was, however, the work was serviceable, for the State was able to meet the emergencies thrust upon it, which it would have been sorely pressed to do had the over-liberal, if not reckless and extravagant, policy of the First Legislature been continued by the Second.

The great value of the work of the Legislature of 1860 was that it established sound and safe policies for the government of the commonwealth, which, in the main, have ever since been followed. Its actions have often served as precedents and been cited as proper models by subsequent Legislatures. The result is that Minnesota, after the most bountiful expenditures in aid of her institutions and her people, is, and for a long time has been, in a most enviable condition financially, meeting all demands upon her treasury at maturity.

The progress and development of the State have been unexampled. No other State in the Union has such a record in these respects. In forty years, or from 1860 to 1900, our population increased from 172,000 to 1,751,000; the taxable value of property from about \$30,000,000 to \$786,869,809; and

the number of miles of railway from none to 7,000. An important factor in the promotion of this admirable condition has been the system of laws under which we have lived and whose foundation was laid by the Second Legislature. The labors of the session were performed with the single purpose of promoting the public welfare, not alone for the then present, but for the future, and the consummation was most happy. A valuable and glorious ending crowned a season of hard and faithful work.



Appendix

Several years after General Sanborn delivered his address on the Second Legislature to the Historical Society, Lucius F. Hubbard and Return I. Holcombe edited a four volume history titled *Minnesota in Three Centuries*. It was subtitled "Semi-Centennial Edition." The set was published in 1908. The Third volume contains an account of the Second Legislative Session. It follows:

MINNESOTA IN THREE CENTURIES

BY

LUCIUS F. HUBBARD RETURN I. HOLCOMBE

Editorial Board

LUCIUS F. HUBBARD
WILLIAM P. MURRAY

JAMES H. BAKER
WARREN UPHAM

Semi-Centennial Edition

Volume Three



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Chapter III.

SECOND STATE LEGISLATURE.

IN the campaign for the election of State officers and members of the Legislature in 1859, the Republican party, though young, its growth had been vigorous and promising. The members were enthusiastic in their faith and aggressive in their methods to secure its triumph. Every Republican and many Democrats believed that the election and canvass of the votes in 1857 had been fraudulent. There was also opposition to the general work of the last Legislature, which was deemed lavish in its expenditures and unwise in some of its legislation; there was also a United States Senator to be elected in place of Senator Shields. The Republicans were determined, that there should be a free vote and an honest count. Their efforts resulted in a complete victory. They not only elected their State officials, but obtained control of the Legislature, Republican members being elected in Democratic districts.

The Republican candidate for Governor was Alexander Ramsey, who received 21,335 votes; his Democratic opponent, George L. Becker, had 17,582. The State officials elected with Governor Ramsey were Ignatius Donnelly, Lieutenant Governor, James H. Baker, Secretary of State, Charles Scheffer, Treasurer and Gordon E. Cole, Attorney General.

In the First Congressional District William Windom, Republican, received 21,061 votes, while Christopher Graham, the Democratic nominee, had only 17,417. In the Second District J. M. Cavanaugh was defeated for re-election by his Republican competitor, Cyrus Aldrich, by a vote of 21,300 to 17,688. At this time the two Congressmen were elected from the State at

large, the division by districts being merely a matter of propriety.

Cyrus Aldrich, of Minneapolis, was born at Smithfield, Rhode Island, June 18, 1808. His education was limited to the common schools; at the age of eighteen he engaged in a seafaring life. This life not proving to his taste, he abandoned it and in 1837, he emigrated to Illinois locating at Alton; four years later he removed to Galena and became interested in staging and mail contracts. He was elected to the Illinois Legislature in 1845, was appointed register of deeds of Jo Daviess County in 1847, and two years later receiver of the land office at Dixon, Illinois. In 1852, he ran for Congress on the Whig ticket against "Long John" Wentworth, but was defeated by a small majority. He located at Minneapolis in 1855, and was elected a member of the constitutional convention, where his ability for leadership brought him to the front. In 1860, he was elected to Congress; in 1862 declined a re-nomination. President Lincoln appointed him a member of the indemnity committee, to adjust claims of settlers who had suffered during the Indian outbreak of 1862. In 1865 he was elected to the State Legislature, and was appointed postmaster of Minneapolis in 1867, which position he held four years. He died at Minneapolis, October 5, 1871.

The Legislature assembled December 7, 1859. The Senate was presided over until January 2, 1860, by William Holcombe, for the reason that the Democratic State officials' terms of office did not expire until that date. During the early part of the session, some of the Republicans in the Senate became incensed over certain rulings of the presiding officer and appealed to the House to have him impeached. The Judiciary Committee of that body, reported that the House had no right to interfere with the business of the Senate, and advised the Republican members of the Senate, who were largely in the majority to amend their rules, so as to make the Lieutenant Governor do precisely what they wanted him to do.

In the Senate William Sprigg Hall, Michael Cook, Emerson Hodges, George Watson, Thomas Cowan and Samuel E. Adams had been re-elected.

Of the thirty-seven members all were natives of the United States, with the following exceptions: Thomas Cowan, of Traverse des Sioux, an attorney, a native of Scotland, representing Nicollet and Brown Counties. D. C. Evans, of South Bend, a farmer, a native of Wales, who represented the district comprising Blue Earth and Le Sueur Counties. Frederick Gluck, of Brownsville, a farmer, a native of Germany, representing Houston County, and John H. Stevens, of Glencoe, a farmer, a native of Canada, representing McLeod, Sibley, and Renville Counties, and who one of his associates says was always a prominent and useful citizen, indeed, one of the fathers of the State.

Among those who were serving their first term in the State Legislature that afterwards became prominently identified with the political and military affairs of the State were, William McKusick, of Stillwater, Jacob H. Stewart, of St. Paul. Robert N. McLaren, of Goodhue County, was made Major of the Sixth Minnesota Infantry and afterwards became Colonel of the Second Minnesota Cavalry and was brevetted Brigadier General. John T. Averill, of Lake City, who later became Colonel of the Sixth Minnesota Infantry. Henry C. Rogers, of Austin, became Lieutenant Colonel of the Eighth Minnesota Infantry, and after long suffering, died from wounds received in the Battle of the Cedars near Murfreesboro, Tennessee. Alonzo J. Edgerton is mentioned elsewhere in this work. Christopher C. Andrews, of St. Cloud, who became Colonel of the Third Minnesota Infantry, was promoted to Brigadier General and Brevet Major General. He was after the war, representative of the United States at the Court of Sweden and was Consul General to Brazil. Michael Cook, of Rice County, had been a member of the First Legislature, was afterwards Major of the Tenth Minnesota Infantry, and was mortally wounded at the Battle of Nashville, a brave and meritorious officer.

The pioneers of the Northwest were represented by Socrates Nelson of Stillwater. He was born in Conway, Massachusetts, January 11, 1814, and received an academic education. In 1839 he came to Illinois and engaged in merchandising. He subse-

quently removed to St. Louis, Missouri; in 1844 came to Stillwater, and became the first merchant of that locality. He was Territorial Auditor from 1853 to 1857, was interested in lumbering, and died at Stillwater, May 6, 1867. Charles N. Mackubin, of St. Paul, was interested in banking; and for him one of the principal streets of the city is named. His death occurred in that city, July 10, 1863.

The House organized and elected Amos Cogswell, of Steele County, Speaker. Of the eighty members but one had been re-elected, F. Rhefeld, from the district comprising Nicollet and Brown Counties. There were seventeen foreigners in the membership of the House, four being natives of Ireland, five of Germany, two of Norway, three of Canada, one each of England, Scotland and Saxony. Two of the members from Washington County were Andrew Jackson Van Vorhees and Orange Walker. The former was the second son of Major Abraham Van Voorhees, who was appointed in 1849, by President Taylor, register of the United States Land Office at Stillwater. Andrew J. came to Stillwater in 1855; the following year founded the *Stillwater Messenger*, which he conducted until 1868, excepting two years, when he served as quartermaster in the army during the Civil War. Orange Walker was born in St. Albans, Vermont, September, 1801. In 1834 he came west, locating at Jacksonville, Illinois, where he worked at his trade of tanner and currier, also at farming. In 1839 he became a member of the Marine Lumber Company, and came to Marine, where he resided until his death, August 17, 1887.

Ramsey County had elected two Republicans, Henry Acker, who was afterwards secretary of the St. Paul and Chicago Railway, and died in St. Paul, August 31, 1875. He was the father of the distinguished captain, William H. Acker, who was killed in the Battle of Shiloh.

It was the first appearance of another Republican member from St. Paul into the political life of the State. John Benjamin Sanborn was born at Epsom, New Hampshire, December 5, 1826. He was the youngest of five children, his early life was spent on his father's farm. Arriving at the age of twenty-three,



John B. Sanborn.

on the advice of Franklin Pierce, afterwards President of the United States, he decided to prepare himself for the legal profession, accordingly fitted himself for college by an academic education and entered Dartmouth College in the fall of 1851. He severed his connection with this college at the close of his first term and entered the law office of Asa Fowler, of Concord, New Hampshire. He was admitted to the bar in 1854, and opened an office at Concord. A few months later, he formed the acquaintance of Theodore French, of Concord, and both of these young men began casting glances at the undeveloped domain of country lying west of the Mississippi River. The twain finally reached St. Paul in December, 1854, and the first day of the following year opened a law office under the firm name of Sanborn & French. This firm was prominently identified with the Territorial courts; a dissolution occurred in 1860, owing to the death of Mr. French. To fill the vacancy caused by the resignation of William H. Acker, Governor Ramsey appointed General Sanborn, Adjutant General. He, however, preferred active service, November 5, 1861, he was commissioned Colonel of the Fourth Minnesota Infantry, and resigned as Adjutant General to assume its command January 1, 1862. His regiment became identified with the Army of the Mississippi in the early summer of 1862. At Iuka, he commanded a brigade where he repeatedly repelled the assaults of the enemy though confronted with greatly superior numbers. A few days later, at the Battle of Corinth, he acted with equal ability and courage. For these services he was early in December, 1862, nominated for a Brigadier General, but was not confirmed until in August, 1863.

He was also in the Battles of Port Gibson, Raymond, Jackson, Champion Hills, and the assault on Vicksburg. After the surrender of the latter post, he was assigned to the command of the Southwest District of Missouri. In the fall of 1864, Missouri was invaded by a large cavalry force of Confederates under General Price. This gave General Sanborn an opportunity to display again his qualities as a commanding officer in the field. He fought and repulsed the enemy at Jefferson City, at Boonville, led an intrepid cavalry charge at Independence, did effec-

tive work at Mine Creek, while at Newtonia his march of one hundred and two miles in thirty-six hours changed the fortunes of the day. "So ended the last Rebel invasion of Missouri," and the last battle in which General Sanborn participated. He relinquished his command in Southwestern Missouri, June 7, 1865, and assumed command of the District of the Upper Arkansas, where he was engaged in Indian expeditions, and became one of a commission to treat with the various Indian tribes. This closed his active service, he was brevetted Major General of volunteers February 10, 1865, and was mustered out of military service, May 31, 1866.

His thorough familiarity with the Indian character, led to his appointment as a member of the Peace Commission to treat with the Cheyennes, Comanches and other hostile tribes, in which duties he was engaged upwards of a year. The remaining years of his life were devoted to professional work. He was an active member and at one time President of St. Paul Chamber of Commerce, represented Ramsey County in both houses of the Legislature. His death occurred at St. Paul May 6, 1904, at which time he was President of the Minnesota Historical Society. General Sanborn was one of the state's most conspicuous citizens, and his army record was indeed illustrious.

One of the Democratic members from Ramsey County, was Daniel A. Robertson, a native of Philadelphia, Pennsylvania, of Highland Scotch descent. He was admitted to the practice of law in New York in 1839, shortly afterwards removed to Ohio, where he engaged in journalism, being editor of the *Cincinnati Enquirer*. He afterwards removed to Mount Vernon, Ohio, and edited the *Mount Vernon Banner*; he was a member of the constitutional convention of Ohio. He resigned the office of United States Marshal of that State on his coming to St. Paul in the fall of 1850, where he established the *Minnesota Democrat*. He was mayor of St. Paul in 1860 and sheriff of Ramsey County for two terms.

Another Democratic member from Ramsey County was Oscar Stephenson, a Virginian, a graduate of the University of Michigan; in 1854 he came to St. Paul and became a member

of the legal profession. He was Probate Judge of Ramsey County for several years.

H. G. O. Morrison, of Dakota County, was born in Livermore, Maine, read law and was admitted to practice in 1848. He was a member of the Maine Senate in 1841, and came to St. Anthony Falls in 1855, removing to Dakota County soon afterwards. Later he lived in St. Paul and in 1873 became a resident of Minneapolis. Henry E. Mann was a prominent attorney of Minneapolis. Charles D. Sherwood, of Fillmore County, was afterwards Lieutenant Governor. William Mitchell, of Winona, a native of the Province of Ontario, Canada, settled in the United States in 1848, received a collegiate education, studied law and came to Minnesota in 1857. He was afterwards Judge of the Third Judicial District from 1874 to 1881, and Associate Justice of the Supreme Court from 1881 to 1900, in which position he achieved just fame as a jurist. William Pfaender, of New Ulm, was afterwards Lieutenant Colonel of the First Minnesota Cavalry and State Treasurer from January 7, 1876, to January 10, 1881.

Dr. Moody C. Tolman, of Anoka, afterwards became surgeon of the Second Minnesota Infantry. Peter Roy, of Belle Plaine, was a native Minnesotian, a mixed-blood of French and Chipewa parentage, born at Rainy Lake in 1829. He was educated at La Pointe, Wisconsin. At the age of twenty-one, he came to the agency at Long Lake, served as interpreter until 1853, when he was elected to the Territorial Legislature. He opened a farm at Belle Plaine in 1855, removed to Little Falls in 1866, where he died in 1883.

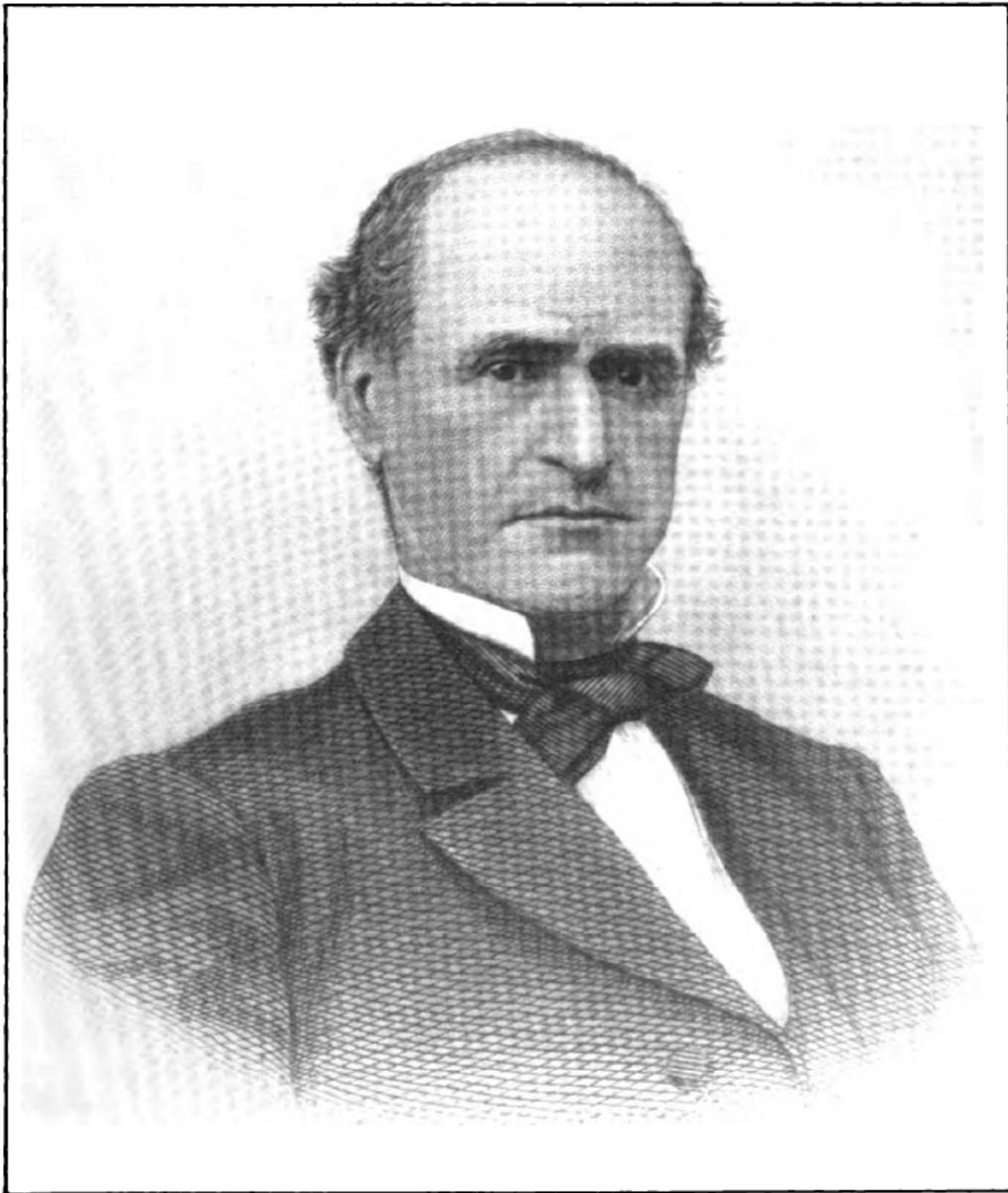
Patrick Fox, of Taylor's Falls, a native of Tipperary County, Ireland, who came when four years of age with his parents to America, and in 1836 to Davenport, Iowa. In 1841, he came to St. Croix Falls, three years later to Stillwater and in 1851 to Taylor's Falls, where he engaged in lumbering and mercantile business.

On December 15, Morton S. Wilkinson was elected United States Senator. The Democratic candidate was James Shields. The vote was 79 for Wilkinson, 33 for Shields and 1 for Willis A. Gorman.

Morton S. Wilkinson, of Wells, the third United States Senator to be elected from Minnesota, was born in Skaneateles, Onondaga County, New York, June 22, 1819. He received an academic education in his native town; read law, was admitted to the bar at Syracuse, New York, in 1842; commenced practice in Eaton Rapids, Michigan, and in 1847 came to Stillwater. He was among the first practicing lawyers of the Territory, and prosecuting attorney in the early Territorial courts. He was a member from Washington County of the First Territorial Legislature. He removed to St. Paul in 1850, the following year was elected register of deeds for Ramsey County, and in 1853 was defeated on the Whig ticket by five votes for Territorial Councilor. In 1857, he removed to Mankato, of which city he was a resident at the time of his election to the United States Senate. Senator Wilkinson was a staunch Free Soiler, an intimate personal friend of Abraham Lincoln, from whom he brought a letter of endorsement when he came to Minnesota. On his professional cards appeared the name of William H. Seward, Auburn, New York, and "Honorable Abe Lincoln," Springfield, Illinois, "as references." In the Senate he was always an effective and firm supporter of the Union, and at one time exposed and defeated a conspiracy to prevent the nomination of President Lincoln for reelection. In 1860 he was one of the Commissioners to compile the State Statutes. In 1868 he was elected Representative to Congress by the Republicans. From 1874 to 1877, he served as State Senator from Blue Earth County, having been elected as a Democrat. Senator Wilkinson was an eloquent and forcible speaker, a man of unusual ability, a sound and logical reasoner. He died at Wells, February 4, 1894.

The Republican State officials assumed their duties January 2, 1860. William Holcombe was succeeded by Ignatius Donnelly and in the future only Democrats were to complain of the rulings of the presiding officer of the Senate.

Ignatius Donnelly was born in Philadelphia, Pennsylvania, November 3, 1831. His father, a native of the Green Isle, settled in that city in 1817 and was an eminent physician. Igna-



M. S. Wilkinson

Senator Morton S. Wilkinson

tius graduated in 1849 from the high school of his native city. He read law with Benjamin Harris Brewster, afterwards Attorney General of the United States in President Arthur's Cabinet. He was admitted to the bar in 1852 at Philadelphia, practiced with great success until 1856, when he purchased a large tract of land at Nininger, in Dakota County, Minnesota. Here he laid out a townsite, built a large house and at the time of the panic of 1857, found himself bankrupt. The following year he resumed the practice of his profession, and in 1859 appeared on the lecture platform. In the same year he was elected Lieutenant Governor on the Republican ticket, he having previous to this been defeated in two elections for a seat in the State Senate. He served as Lieutenant Governor from January 2, 1860, to July 10, 1863, but before the expiration of his term, he was elected to the Thirty-seventh Congress. He immediately gained prominence in that body by writing a letter, charging that graft was concealed in the expenses estimated to carry out the stipulations of the treaty made with the Chippewa Indians. He was re-elected to the Thirty-eighth and Thirty-ninth Congresses, and during his Congressional term advocated many important measures taking an advanced position in regard to popular education, and the cultivation and preservation of timber on public lands. He became embroiled in a wordy debate with Elihu B. Washburne, a Representative from Illinois, which though it gave him a national reputation as a witty and humorous speaker, was one of the prime causes that defeated him in 1868 for re-election. The following year he became a candidate for United States Senator. When he entered Congress he gave up his law practice, devoting himself chiefly to farming, politics, journalism and literature. He continued to act with the Republican party until 1870, in that year he ran for Congress, at the solicitations of a number of Republicans, on a low tariff platform. Governor Donnelly supported Horace Greeley in 1872. In July, 1874, he became editor and proprietor of the *Anti-Monopolist*, an exceedingly radical paper, which he conducted several years. He also became prominent in the organization of the State Farmers' Alliance, later of The People's Party. He served a number of

terms in the State Legislature, and in 1878 was again candidate for Congress on the Greenback-Democratic ticket; the result was close and he made a sensational and unsuccessful contest, before the Congressional Committee on Elections.

Governor Donnelly during all this time was not idle, he was almost continually editor of some kind of a newspaper. In 1880-81 he wrote "Atlantis," by far his ablest book, which has been re-printed in England, and translated in French and German. More than twenty editions of his "Ragnarok" have been printed in different languages. His greatest bid for literary celebrity was due to his "Great Cryptogram," in which he endeavored to establish Lord Bacon's authorship of Shakespeare's plays. The consensus of opinion is that his theory is incorrect. Later he wrote "Caesar's Column," his best novel, "Dr. Huguet," "The Golden Bottle," and others. He died while on a visit at Minneapolis, January 1, 1901.

The Second Legislature had been elected on a platform of retrenchment and reform in public affairs, which were vitally essential to the welfare and prosperity of the State. The retiring Governor, General Sibley, in his message presented the situation in the following words: "The embarrassed condition of the State finances and impoverished situation of the people imperatively demand retrenchment in expenditures."

He well knew that the State had afloat nearly \$184,000 in scrip, and about \$250,000 in eight per cent bonds, while there was in the State treasury, on December 1, 1859, only six cents in cash. He also knew that large sums in taxes were delinquent and could not be collected; that the people were poor with small resources and smaller incomes. Certain expenditures had to be met in order that the State now in favor with home-seekers, should suffer no check in her onward course.

The newly elected Republican Governor, Alexander Ramsey, in his inaugural said: "A thorough revision of all laws whereby the expenses of town, county or State government can be reduced is imperative." The admonitions of the chief executives were hardly needed, the members of the Legislature in which the Republicans were in the majority, had been elected on promises to the people of reforms and retrenchment.

In summarizing the work accomplished by the Legislature, it is only fair to say that many of the measures it enacted were original in their character, and the principles they contained were of such force as precedents that they became fairly fundamental. Their influence was immediately beneficial, very few of the laws passed were modified by judicial decrees; and many of them, in word and letter, are yet on the statute books.

A new tax law was passed to take the place of the inadequate measure enacted by the previous Legislature, the main principles of which are still in force. All private property, real and personal, was made subject to taxation, excepting \$200 worth of personal property to individuals and excepting stocks in their ownership which had already been listed by the corporations issuing them. Stringent provisions were made for the collection of taxes without favor to any one.

A good practical road law was enacted; also a law regulating the business of insurance companies. Other enactments amended the militia law; provided for the organization of agricultural societies; gave lumbermen a lien for their services on the logs and lumber on which they had worked; provided for the formation of companies for mining, smelting, and manufacturing iron, copper and other minerals; and to encourage these industries, then not well established, levied no tax on their output. It also enacted stringent law against bribery, and another prohibiting the sale of liquor to the Indians. The Legislature refused to abolish capital punishment; and established interest rates at seven per cent for legal indebtedness, six per cent for judgments of courts, and at not more than twelve per cent by contract between individuals.

The system of county organization and government provided by the First Legislature had proved ineffective and unsatisfactory. The county government was vested in a Board of Supervisors, composed of one member from each civil township, elected by the people of the respective townships. This made the Board composed of a dozen or more members, and there was a divergence and multiplicity of views among them on most questions acted upon. The system proved cumbersome, unwieldy, and

expensive. The Second Legislature repealed the law and in its stead created a Board of County Commissioners. In counties where eight hundred votes or more had been cast at the previous election five commissioners were to be chosen by the electors of the entire county; and in counties where less than eight hundred votes had been cast, the Board was to consist of three members. In counties where township organization had not been effected the Governor was to appoint the commissioners. A township organization was provided for, a clerk, assessor, and supervisor to be elected in each civil township. Stevens County was established February 20, and Watonwan County November 6, 1860. An entire new election law was enacted, the most important provision of this law was a requirement of a registration by voters. Only persons registered could vote.

Substantially a new system was adopted relating to common schools, the statutes being so amended. The Chancellor of the State University was made ex-officio State Superintendent of Schools. No county superintendents were to be chosen. Each civil township was to choose a town superintendent who might grant teacher's certificates, which were to be valid only in his town; to have legal force throughout the State the certificates were to be signed by the chairman and secretary of the State Normal School at Winona. The State University was to be managed and controlled by a Board of Regents, to consist of the Governor, Lieutenant Governor, and five other members appointed by the Governor. The Legislature of 1858 had provided for establishing three Normal Schools, one to be built every five years, upon donation of \$5,000 in money or lands. The Second Legislature suspended the act on the subject for five years; except as it applied to the school at Winona which was already established.

In pursuance of its policy of rigid retrenchment and economy, the Legislature reformed the composition of that body itself. By a new apportionment, the total membership was reduced to sixty-three, or twenty-one in the Senate and forty-two in the House, a total reduction of fifty-six members. The sessions were reduced to sixty days for regular sessions, and thirty

days for special sessions. The Governor's annual salary was reduced from \$2,500 to \$1,500; the Lieutenant Governor's was reduced from \$1,500 to a per diem. The Commissioners of Statistics was created at a salary of \$75 per month, with an allowance of \$510 for printing his reports. The first commissioner was Joseph A. Wheelock, so long the distinguished editor of the *Pioneer Press*.

A joint resolution, originally introduced by Senator C. C. Andrews, instructed the State's Representatives in Congress to vote for a national homestead law, which would give to each actual settler, after an occupation of five years, one hundred and sixty acres of the public land. A little more than a year thereafter, the homestead law was enacted. Another joint resolution demanded the removal of the Winnebago Indians from the State, and the opening of their reservation in Blue Earth County to white settlement. This removal was not effected until 1863, when it followed as a result of the Sioux massacre.

Congress was memorialized for the establishment of lighthouses on the Minnesota coast of Lake Superior as during the season of 1859 four steamers had made regular trips and more than forty sailing crafts had been engaged in fishing and coasting from ports in that locality. It further stated, that the prospects were that commerce would increase owing to abundant evidences of the existence of valuable mines and mineral deposits, that were attracting the attention of immigrants and capitalists. Another memorial asked Congress for acquisition by treaty with the Chippewas of the lower part of the Red River Valley and the opening of the territory acquired to settlement. This was accomplished in 1863, by the Government, but the adoption of the memorial referred to was the first authoritative and important action taken in the matter.

The particular attention of the Second Legislature was, from the first to the last day of the session, directed to the condition of the projected railroads of the State. The State had issued to the railroad companies \$2,275,000 in bonds, detached pieces of grading had been made on different lines, the companies with franchises to build the railroads were practically

bankrupt, and though the people greatly desired and needed railroads, there was a well nigh universal demand, that all further aid to railroads already projected be withheld and refused. By a concurrent resolution the Legislature submitted to the people the following amendments to the State constitution:

But no law levying a tax or making other promises for the payment of the interest or principal of the bonds denominated "Minnesota State Railroad Bonds" shall take effect or be in force until such law has been submitted to a vote of the people of the State, and adopted by a majority of the electors of the State voting for the same.

The other amendment was:

The credit of the State shall never be given or loaned in aid of any individual, association, or corporation; nor shall there be any further issues of bonds denominated, "Minnesota State Railroad Bonds" under what purports to be an amendment to Section 10, Article 9, of this Constitution, saving, excepting and reserving to the State, nevertheless, all rights, remedies, and forfeitures, accruing under said amendment.

Both of the proposed amendments to the Constitution were adopted by the people, at the annual election in 1860, by an overwhelming majority. The vote in favor of the expunging amendment was 19,308; against 710.

The practical result of this Legislature's work was a great reduction of the State's expenses. The expenditures for 1859 had been \$281,400. The total disbursements from the State treasury from December 1, 1859 to January 1, 1861—thirteen months, was \$138,846.84, a reduction over those of 1859 of about \$142,500, it is, however, only fair to say that in 1859, there was paid the expenses of the constitutional convention, which amounted to about \$60,000.

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